

U. S. DEPARTMENT OF LABOR
JAMES J. DAVIS, Secretary
BUREAU OF LABOR STATISTICS
ETHELBERT STEWART, Commissioner

BULLETIN OF THE UNITED STATES } { **No. 304**
BUREAU OF LABOR STATISTICS }

WORKMEN'S INSURANCE AND COMPENSATION SERIES

PROCEEDINGS OF THE EIGHTH ANNUAL MEETING
OF THE
INTERNATIONAL ASSOCIATION
OF INDUSTRIAL ACCIDENT
BOARDS AND COMMISSIONS

HELD AT CHICAGO, ILL.
SEPTEMBER 19-23, 1921



AUGUST, 1922

WASHINGTON
GOVERNMENT PRINTING OFFICE
1922

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MONDAY, SEPTEMBER 19—MORNING SESSION.

CHAIRMAN, GEORGE A. KINGSTON, COMMISSIONER WORKMEN'S COMPENSATION BOARD OF ONTARIO, CANADA.

PROGRESS OF COMPENSATION LEGISLATION.

Mr. ANDRUS, president of the association. The eighth annual meeting of the International Association of Industrial Accident Boards and Commissions will please come to order. I take great pleasure in introducing to you as chairman this morning, Mr. George A. Kingston, commissioner of the Workmen's Compensation Board of Ontario, Canada.

The CHAIRMAN. I take it as a compliment, Mr. President, that you have invited me to preside at this opening session of this very important convention. Perhaps it is because of the way we are organized in the Canadian Provinces as distinguished from the organization in the States that it has been possible for me to take this continued interest in the work of this association. The Canadian commissioners—I mean the commissioners of each of the Canadian Provinces—are appointed the same as our judges are, for life, subject of course to be removed only for cause, and so when this work was undertaken some years ago Ontario decided that it was important to link up with the work of this association.

This association is, as are all associations of this sort, simply a clearing house for ideas on workmen's compensation. We are all more or less circumscribed in our practice. We live in the atmosphere of our own jurisdiction. We get certain ideas in our own place as to how this or that shall be done, but it is necessary for us to come to a convention such as this and such as we have been holding for the past five or six years to broaden our ideas and to get ourselves out of ourselves, so to speak, and to learn what the other fellow is doing.

Personally, I have derived wonderful help in my work from what I have learned in association with the men who have had so much to do with the administration of the work in the various States of this Union and in the other Provinces of Canada.

Now, we welcome the younger members of this association, and I am sure those of us who have been attending the previous conventions join with me in extending to you a very hearty welcome. I hope that you will feel that this is your meeting just as much as that of the older ones. I don't want to have Duffy and Pillsbury and Lee and Armstrong and those fellows do all the talking. I want you to feel that it is your meeting, that you have just as much a place in it as those who possibly feel a little more at home than perhaps you do, but you will not be here long before you feel at home.

The morning program is devoted very largely to the consideration of new legislation passed since the last meeting of the association in the various States of the Union and the Provinces of Canada. There is no need to suggest that it is not important to discuss every little detail and change, for there are a lot of little changes always taking place, but it is important that you who are dealing with this subject emphasize the high spots where important legislative changes have been engrafted upon your law, and an opportunity will be given to all the representatives here this morning, even though not on the program, to say what has happened in their States during the last year. The chairman has given me a limitation on the various speeches, but I fancy that it will not be necessary to impose that limitation. We want to hear from as many as possible, and I am going to call on Mr. Andrus, the president of the association. He is going to deal generally with the whole trend of legislation, and after that the other speakers will be dealing with problems in their own particular States.

PROGRESS OF WORKMEN'S COMPENSATION LEGISLATION.

BY CHARLES S. ANDRUS, PRESIDENT I. A. I. A. B. C.

It is not the province of this paper to note detailed changes in workmen's compensation legislation in the different States. This work has been done by the office of the United States Commissioner of Labor Statistics, and those of you who have seen the digest of this legislation will certainly congratulate our secretary, Hon. Ethelbert Stewart, the commissioner, on the excellent result obtained.

Though the matter has been discussed among us many times privately, I do not believe we have given enough public credit to the assistance we have received in our work from the office of the United States Commissioner of Labor Statistics. This office has been held, in the lifetime of this association, by Dr. Royal Meeker and the Hon. Ethelbert Stewart.

Each of these commissioners has acted as secretary of our association. Each has printed the reports of our annual association as a publication of his office. Each has collected information concerning workmen's compensation laws from every State of the Union, and from the Canadian Provinces, and we have only had to write them to obtain detailed information of any law in any State or Province.

This office has proceeded on the theory that workmen's compensation was the most important subject upon which it could gather statistics, and that such statistics when gathered would be of practical information to other States and Provinces and to commissions

engaged in the administration of such laws. I don't suppose that either Stewart or Meeker could carry their precinct in a primary or election. The misanthrope who alleges that appointments are made for political reasons, and not because of ability, should have his attention called to this office, that he may realize how false and malicious have been his slanderous statements.

I consider that this association has done more than any other one agency to assist in the progress of compensation laws and administration. The proceedings of its meetings are the only printed sources with which I am familiar where any information can be obtained as to the practical administration of such laws. We have law books, historical, and philosophical books on the subject, but I have never been able to find anything except the proceedings of this association that give any practical help in dealing with administrative problems.

When I became chairman of the Illinois Industrial Commission, July 1, 1917, I realized thoroughly that I knew very little about workmen's compensation. I had been practicing law in Springfield for several years, and had had in my practice few compensation cases, not very many. I commenced to grope around for information. Fortunately, two of the old members had been returned to the commission with me, Peter J. Angsten and Robert Eadie. The State of Illinois is to be congratulated upon the eight years of conscientious service that these two men have given it, and I know I shall be pardoned for digressing a moment to pay my respects to these high-minded public servants and to acknowledge the great help that they have given me.

To return to my subject, I was groping around for information. I found the proceedings of this association, and I read them through from cover to cover. Confidentially, I did not read very thoroughly some of the medical papers, but everything else I carefully read. These proceedings not only were of great assistance to me, but they interested me in the work of this association. I have attended every meeting since, and have at each meeting gained valuable information, as well as meeting the finest body of men it has ever been my good fortune to meet.

No honor has ever come to me that I have prized more highly than my election as president of this association. I want to thank you all most heartily for this great honor you have conferred upon me, and I want to assure you that I have done everything within my power to make this meeting a success.

No laws enacted on any subject have ever made such progress in this country as laws on workmen's compensation. It has only been 10 years since the first permanent constitutional law on this subject was passed, and now we have 43 States in which such laws are in force. When we think how many years it took to dethrone the demon rum and to enthrone the angel woman, we marvel at the rapid progress these laws have made.

Before the passage of workmen's compensation laws nothing in the law's procedure was so unsuccessful as the scheme of personal injury litigation. Burdened with the defenses of fellow servant, assumed risk, and contributory negligence, it was in few cases that the injured workman could recover damages, and if such damages were recovered in any substantial amount, it was usually years after the accident.

Many States had abolished in whole or in part these common-law defenses, as had the Federal Government in the passage of the employer's liability act, which applied only to railroad employees engaged in interstate commerce. This did not solve the problem, as it was shown that very many accidents happened through nobody's demonstrable negligence, and the employee had still to prove the employer guilty of negligence in order to recover damages.

This country was far behind England and continental Europe in enacting workmen's compensation laws. But, as before stated, the progress was rapid when once the start had been made. That these laws are still in their experimental stage seems to be proven by the changes that are continually being made in them by the different States. Hardly a legislature meets that does not amend the compensation act.

However, this seems not to be so true this year as it has been in the past, as nine States whose legislatures met this year made no changes in their laws on this subject. One of these States has the court system of administration, and this rather detracts from the argument that no changes were made in these laws in nine States, because they already had ideal laws on this subject.

The majority of the changes in these laws in the different States relate to the amount of compensation to be paid. In practically all of these cases the compensation has been increased, 65 per cent of the wages seeming to be the favorite rate of compensation. In this connection it is well to note that in few cases does the workman actually receive 65 per cent of his wages, as the maximum allowed usually makes the percentage much less. Nine States have increased the maximum, the lowest being \$14 per week, and the highest \$84.50 per month. Seven of these States base their maximum upon a weekly basis and two upon a monthly basis. The weekly average is \$16 $\frac{1}{2}$, and the monthly average, \$72.25. In some of these States these maximums are increased when there are children under certain ages.

Three States have reduced the waiting period, one to 10 days, and two to 7 days. Several States have increased the medical benefits, the lowest prescribing a 30-day limit and a \$100 maximum, and the highest providing that the commission may allow more medical aid than the old maximum of \$500. One State that reduced the waiting period also reduced the medical benefits to correspond. If politics makes strange bedfellows, compensation acts certainly make strange correspondents.

An important addition to compensation legislation was made in two States by bringing occupational diseases under the law. These States are Ohio and Minnesota. These States follow the British system of enumerating certain occupational diseases for which compensation will be paid, instead of the Massachusetts system, which does not enumerate them. Ohio lists 15 such diseases, and Minnesota, 23. Illinois also has included occupational diseases arising from some occupations. This law is not contained in the compensation act, but is a separate act.

One State provides that compensation for specific injuries shall be in addition to other compensation. A large number of States continue to be of the opinion, evidently, that an injured workman who has lost his arm should be paid for the arm only, and not for

the time that he has lost because of the injury. Such States probably proceed on the theory that the loss of an arm or leg should not compel a workman to lose any time.

Usually the trend of all compensation legislation is in the same direction, but a notable exception is the method of dealing with alien dependents. One State by recent legislation admits alien dependents to compensation. Such dependents had been excluded in their original act. Another State by recent legislation excludes such dependents. One State provides that alien dependents shall receive one-half the normal amount, except residents of Canada and dependencies of the United States. Another State makes the same provision, that benefits shall be only half in case of alien dependents, unless otherwise provided by treaty. If the law of the country of the residence of the beneficiary would debar citizens of the United States from compensation rights, this State provides that no compensation whatever shall be paid.

Missouri and Arizona have entirely redrafted their compensation acts. The former State enacted such an act before, but it was defeated by referendum, and this State never has operated under such a law. I understand that referendum petitions are now being circulated in Missouri, and that the future of the law is in doubt. I also understand that the law of Arizona has been declared unconstitutional. The officials of that State were very painstaking in securing information from other States in regard to compensation laws, and it is to be regretted that their diligent efforts have failed to produce a constitutional law.

Minnesota also has redrafted its law and established a commission of three members for its administration. In this State the administration had previously been intrusted to the courts, though the bureau of labor and industries had been given considerable power to aid in the enforcement of the law. The law of Arizona also provided for an industrial commission.

One State has given the industrial commission the right to fix attorney fees. Such provision has been included before in many States. One State provides that every employer and insurance carrier shall establish a medical panel, from which workmen may select a physician, the number of physicians included in this panel varying in different localities. The same State varies the compensation in certain cases with the age of the injured employee. Another State assesses an insurance carrier \$5 for each adjourned hearing held at its request. One State enacts a provision that the clerk of the court to which compensation cases are appealed shall notify the commissioner of any change made in the award. Let us hope that this State has better success with this provision than did Minnesota.

A rather novel provision is contained in the amendments to the law in one State. This provision requires written notice of the accident to be given. Equivalent to such notice is any actual notice given within 30 days. The name of such person must be posted by the employer in one or more conspicuous places about the premises.

The States of New York and Washington have entirely changed their administrative system. In New York instead of a commission intrusted with the administration of all so-called labor laws, including the compensation act, this State now has one commissioner as

the administrative head, and an industrial board that is intrusted with the enforcement of the compensation act, except purely administrative functions, and the law enumerates certain of these functions. In Washington the administration is placed in the hands of a director, to be known as the supervisor of industrial insurance, and who takes the place of the industrial commission. The assistant director supersedes the medical aid board.

Probably the most important change in the law in Illinois was a change in the provision that when compensation cases were reviewed by the courts the court could pass on matters of law only, and must sustain the decision of the commission if there was competent legal evidence in the record to sustain such decision.

The United States Supreme Court in the case of *Ohio Valley Water Co. v. Ben Avon Borough*, 253 U. S. 287, decided June 1, 1920, held that withholding from the courts the power to determine the question of confiscation according to their own independent judgment, when the act of a State public service commission, in fixing the value of a water company's property for rate-making purposes comes to be considered on appeal, as is done by the Pennsylvania Public Service Commission Law as construed by the highest State court, must be deemed to deny due process of law.

Some of the ablest lawyers in Illinois were of the opinion that the United States Supreme Court in the above case laid down a principle that would make the Illinois constitutional act unconstitutional in denying the reviewing court the right to pass on the law as well as the facts, and it was strongly intimated that the Illinois Supreme Court would so hold.

Realizing that such a result would be most disastrous, an amendment was passed by the last legislature, providing that the court shall have power to review all questions of law, as well as of fact, but that the findings of fact made by the commission shall not be set aside unless contrary to the manifest weight of the evidence, and providing also that no additional evidence shall be heard by the court. As far as I have been able to determine, no other State has changed its law by reason of this decision of the United States Supreme Court.

We should congratulate ourselves upon the fact that nearly every amendment has been in the direction of liberalizing the law and increasing the benefits. No one has any just reason to complain of the progress of this legislation. This association has done its share toward disseminating the gospel of more liberal compensation laws, and I hope that its future will be more useful, if possible, than its past.

To you, members of this association, I want again to express my heartfelt thanks for the confidence you have reposed in me. I have discharged my duties to the best of my ability. The meetings of this association are the bright spots of my official life as a commissioner. Now that I have retired from official life, and returned to the practice of law, I trust that I may not be less welcome at the meetings of this association. My heart will always be with you in your work, and I shall always be thankful that I have been allowed to mingle fraternally with such a fine body of men as comprise the membership of this association.

The CHAIRMAN. I now have the pleasure of calling upon Mr. Henry D. Sayer, industrial commissioner of New York, who has for his subject "New Legislation and Administrative Reorganization in New York."

NEW LEGISLATION AND ADMINISTRATIVE REORGANIZATION IN NEW YORK.

BY HENRY D. SAYER, INDUSTRIAL COMMISSIONER OF NEW YORK STATE.

The outstanding feature of new legislation in New York is the change in administrative method. One of the first to adopt the commission form of administration of the laws relating to labor and industry, including, of course, the workmen's compensation law, New York has discerned in practice the dangers and defects in a system that calls for a division of administrative responsibility and has definitely set that system aside in favor of a centralized single administrative responsibility.

Under our laws the former industrial commission had three distinct kinds of functions, namely, administrative, legislative, and judicial. These three functions are different in nature and process. The administrative function calls for the exercise of prompt and sound judgment on the facts available. The need for harmonizing the views of three or five members of a commission and the delays consequent upon weekly or other stated meetings is often fatal to administrative decisiveness.

On the other hand, the legislative function of establishing industrial rules and regulations and the judicial function of hearing and determining claims for workmen's compensation are functions calling for deliberation and the exercise of the more orderly, perhaps, but necessarily slower, process of commission meeting and public hearing. These functions, likewise, more clearly call for representation of the different elements in industry, as well as the general public, and the presentation of the points of view of these different elements by those of their own number.

Gov. Miller accordingly recommended and the legislature adopted a new form of organization for our department of labor. This consists of the industrial commissioner, who is the sole administrative head of the department, and an industrial board of three members who hear compensation claims, make rules and regulations constituting the industrial code, and have the power, on appeal of a party in interest, to set aside an order of the commissioner if it be found to be invalid or unreasonable. On this board the governor appointed a representative manufacturer, a representative of labor, and a lawyer.

So far as the administration of the compensation law is concerned, the commissioner appoints and may remove all officers and employees, is responsible for the receiving, filing, and docketing of all papers, and the examination and preparation of claims for hearing. He also is custodian of the records of the board and gives all notices of hearing and of decisions. He also has the duty of enforcing all orders and awards of the industrial board and the administration of the several funds created under the law, including the State insurance fund.

The commissioner has power to appoint such number of referees as may be necessary to carry out the provisions of the law, who have power, under rules of procedure prescribed by the board, to hear and determine claims for compensation. The decision of a referee shall be deemed the decision of the board unless the board of its own motion or on application of either party and after a hearing otherwise determine.

This new form of administration has been in effect since the middle of last April, and already important administrative changes have been effected. Perhaps the most important has been the reduction in the expense of operation of the department. No one likes voluntarily to assume the task of effecting economies at the expense of others' jobs or by interfering with the pet plans or projects of a colleague. The natural result is that in a commission of divided responsibility there is bound to be a degree of irresponsibility and a less efficient use of the pruning hook. By centering the responsibility, so that the governor and the legislature know exactly with whom to deal, there can be no evading of the task, and in New York, in consequence, there has been a saving of a million dollars in administrative expense without any loss of efficiency or the undue curtailment of any necessary function. With the increasing cost of government in every branch, such a saving in a single department is not to be lightly esteemed.

In addition to these changes in the organization of the department and the administrative machinery set up under the law, other changes in the law have been made in regard to the method of payments under the compensation law.

The New York workmen's compensation law is admirable in its schedule of benefits and its provisions for safeguarding the rights of the injured workman or his dependents. It leaves little to be desired on those points. If it could be criticized at all, it seems to me that criticism could most justly be leveled at the delays in compensation payments that were inherent in a system of such highly supervised claim payments.

At one time an effort to expedite claim payments led to the enactment of the so-called "direct settlement law." Under this provision it was made possible for the injured workman and the employer to come to an agreement for the payment of compensation on the basis of and in the amounts called for in the compensation law. These agreements were filed with the commission and where found to be in strict accord with the law were approved; otherwise they were disapproved and the claim adjudicated by the commission. This agreement plan came into very general use and certainly led to a very greatly reduced period of time between the accident and the first payment of compensation in the average case. The system apparently worked admirably for a time. The fatal defect in that law, however, proved to be a failure to adequately safeguard the closing of a claim, notwithstanding the close supervision of the commencement of payments under the agreement. An investigation of a large number of closed cases, selected at random, disclosed a number in which payments had been stopped upon the return to work of the claimant, although ankylosed joints or other permanent defects were present, which entitled the claimant to considerable additional sums of compensation. It might have been argued that in these cases the claim-

ants were at fault in not calling attention to these conditions, and that they could all have been remedied by bringing the facts to the notice of the commission. It would seem that the defect in the law could easily have been remedied by a slight amendment. But such was the popular dissatisfaction, brought about by the disclosure of a few flagrant cases of abuse, that the whole system of direct settlements was practically wiped out. The inevitable result was a great slowing up in the process of claim adjustment and payment. The new law practically required a full hearing in every case, and this resulted in a tremendous increase in the number of hearings, and seldom was compensation paid in advance of an award. This also tended greatly to increase the cost of administration.

In his message to the legislature this year, Gov. Miller recommended that the law be made to provide that compensation should be payable in like manner as wages, promptly and as due. The legislature passed an act amending the compensation law by providing that the employer, or insurance carrier, shall pay the first week of compensation on the twenty-first day of disability and every two weeks thereafter. Taking into account that we have a 14-day waiting period, the first week of compensation would be payable on the twenty-first day of disability. If the employer or insurance carrier intends to controvert the claim for compensation, he is required to serve a notice to that effect upon the commissioner. Failure either to pay compensation or to file a notice of intention to controvert the claim by the twenty-fifth day of disability renders the employer or insurance carrier liable to a penalty of 10 per cent of the amount of compensation. The statute also provides that the commissioner shall prescribe forms for carrying into effect these provisions and gives full power to the industrial board to adopt rules of procedure.

Following the passage of this act and before the date when it went into effect, it seemed advisable to me to call into conference with the commissioner and the industrial board representatives of all the insurance companies doing compensation business in the State, as well as representative self-insured employers, the Federation of Labor, and the Associated Industries, thus bringing together representatives of all the parties directly in interest. The invitations to this conference were sent directly to the home offices of the insurance companies and requested representation by responsible officials, it being my desire to keep away as much as possible from the claim adjuster and his narrower point of view. The response to the invitation was excellent, most, if not all, of the companies appearing by one or more responsible officials. These representatives for the most part were general managers, counsel, or other responsible officers, empowered to speak for their companies and to commit them by their agreement, and they were able to call for the advisory service of their experts in particular fields. Nor were they confined to New York State. Some were sent from home offices in other States, and many were quite as familiar with the advantages and defects of systems in other States. Through their eyes we had a somewhat composite picture of compensation administration in the States in which they operated. The conference was invited to consider the whole question of compensation law administration, and to review the forms and procedure then in use, and to that end all the facilities of the department were placed at their disposal.

This conference, which was much too large for effective work, after pledging hearty support to the movement, resolved itself into a plan and scope committee of five, representing the stock and mutual companies, the self-insurers, labor, and employers. This committee was given power to enlarge itself and to create additional committees to consider separate problems. They decided upon three separate committees of seven each, to consider procedure, forms, and office administration respectively. The committee of five canvassed the different companies for men who were especially well fitted to deal with these various subjects and we drafted the services of these men. In no case were we refused the service of a qualified individual, but on the contrary most of them were assigned to work exclusively on the committees and relieved by their companies of any duty that would interfere with such service.

The committees went immediately to work, and were assisted by the director of the bureau of workmen's compensation of the department and by such of the claim examiners as were required.

The work of the committees lasted about three weeks, after which they reported to a general conference of all the three committees and the committee of five. As a result of their work there was presented to the commissioner a very careful and painstaking report on office administration, in which were pointed out duplications of effort, methods which could be improved, and in general a complete revision of the system of the receipt, filing, and examining of claims, by which it is believed the work can be more expeditiously done with a smaller force than was required previously; a report of a set of revised forms together with the new forms called for under the amended law. These forms were simplified and standardized and reduced to the simplest and most understandable terms. Most important of all, perhaps, was the report of a draft of rules of procedure, which provided for uniformity, where before was a lack of system, and for a simple but dignified procedure, taking account not of technicalities but rather of substantial rights. These rules, devised in large part by those who have to pay the compensation, put the burden more strongly on the insurance carrier to pay promptly and without quibbling, or else to prepare his case promptly and fight with his cards all on the table, than we could ever have hoped to do without the voluntary acquiescence of the companies. Just in the measure that we placed confidence in the companies and invited their cooperation, did they justify the confidence and give their full cooperation.

A public hearing was held by the board on the proposed rules, after full advertisement and public notice. Complete harmony was voiced at the hearing, save on one point in the rules, but an amendment subsequently suggested by the committee, modifying certain language but not the intent, met with the unanimous approval of all, including the representatives of the State Federation of Labor. Under the rule in dispute, the companies have agreed to go further even than the law, for they provide that the payment of compensation in advance of an award shall be deemed a waiver of notice of an accident and also waiver of the requirement for filing a claim within the statutory time. The rules also supplement the statute and provide that an insurance carrier that pays compensation in advance of an award shall continue so to pay until it gives notice to the commissioner and the injured employee either that it has ceased to

pay, with the reasons therefor, or that it contests the right of the claimant to further compensation. The case is then noticed for a hearing and the issue is squarely raised by the insurance carrier's notice. If, however, the case is closed, so far as compensation is concerned, and the injured has returned to work at his regular wages, and no question arises, the injured need not be brought in for a hearing, as has heretofore been done, causing him needless expense and loss of a day's time. The notice is so worded, however, that it is made clear to him that his case is called for closing and that he may appear to object or for any explanation that seems desirable. Failure to appear, however, when such opportunity is offered does not and, under our law can not, close the door upon the claimant who has the right of compensation. The rules specifically provide for the reopening of any case and for the presentation of the injured workman's claim for further compensation at any time. His failure, of course, to appear on the original hearing, if it be shown that he had notice thereof and no good reason is presented for his failure to appear, might be given weight in considering the good faith of his claim and his allegation that during a given period of time he was unable to work.

Just now the committee of five has been called again to meet and consider whether it will take up for consideration and study the whole medical question involved in the administration of the compensation law. If through this agency a committee could be created that would be able to solve, even in part, that most troublesome question, its work would indeed be worth while.

Some may question the wisdom of calling into conference the insurance carriers and practically giving to them a voice in the administration of the compensation law. Certain it is that in the past they have not been regarded as being particularly solicitous of the workman's interests. But let me say that in the conferences we held and in the meetings of our committees there was at no time apparent the slightest desire to take advantage of the workman, but, on the contrary, the conferences were marked by a spirit of fairness and desire to cooperate that augured well for the future in New York. While sharp differences of opinion were at times voiced, in the end all was harmonious and unanimous. In taking up the task, it became a matter of pride and honor with the companies to put forth the best they could, and in accepting a hand in compensation administration they have pledged their loyal efforts to make it work and to hold their own members up to the highest form of cooperation.

This, then, is what we have in a few months accomplished in New York. It is what I call cooperative administration. If to the liberal benefits of the New York law we are enabled to add simple procedure and speedy payments, the lot of the injured workman will be indeed a more happy one and our administration will bring forth the condition that the law has always intended.

DISCUSSION.

The CHAIRMAN. With these two particular papers I have taken the liberty of allowing a little longer time than, strictly speaking, was allotted for papers, but our time is running, and there are a number of State representatives here that we want to hear from very shortly.

I will ask to hear from the newest jurisdiction which has come into the compensation field, Georgia. I believe Mr. Slate is here.

Mr. SLATE. I expect most of you have had copies of the Georgia act, and I will talk only upon the high spots. That is all that it is necessary to do. Our act was passed by the legislature of 1920 and became effective March 1, 1921. The commissioners were appointed on October 1 and were given a period of five months in which to familiarize themselves with the conditions and the experiences of other industrial commissions. As one of the commissioners from that State, I visited several commissions, where I was received with the utmost courtesy, and I have received a great deal of information from the secretaries of the various commissions throughout the United States.

Our act is largely drafted upon the Indiana act and upon the Virginia act. We had a good deal of difficulty in arriving at a satisfactory compromise between the different elements and these two acts seemed to come the nearest. We have not succeeded in getting in the compensation act all we desired or all we hoped to have when we started. I suppose some of you gentlemen passed through similar experiences with your legislatures, and we only succeeded in making a start. Our industrial commission consists of four members, who are appointed by the governor. One, the chairman, is the commissioner of commerce and labor, and the attorney general of the State serves with us. Our industrial commission is charged practically, as in most States, with making rules and methods of procedure. Appeals from decisions of the industrial commission can be made to the superior court of our State, and from that direct to the court of appeals.

Our act provides, in brief, for 50 per cent of the average weekly wages, with a maximum of \$12 and a minimum of \$6 per week. The maximum benefits are \$4,000, and we have certain sections setting forth specific injuries. We have \$100 medical benefits, and 30 days' medical treatment not in excess of \$100; and I would state that if there are any questions that you would like to ask at any time about our law I will be glad to answer them.

In the succeeding session of the legislature in 1921 we held a conference. The act had been in effect only 60 days and we had secured no information upon which to base any ideas of change. My advice to the board was to wait for a period of 12 or 15 months, so as to have experience and so that we could thoroughly understand before we attempted to make any legislative changes. So the act that we have is the law of 1920, with no changes made by the 1921 legislature.

The CHAIRMAN. Is there any representative here from Kansas or Maine? If not, we will call upon Mr. Brown, of Michigan.

Mr. BROWN. I did not come here prepared to discuss the amendments to the acts in Michigan during the past year, during the last session of the legislature. That was originally assigned to our chairman, Mr. Kennedy, but he being unable to be here, I had expected that Mr. Gloster would discuss that, but unfortunately he has not arrive yet, but I think he will be here later during the session.

We have had several changes in our law during the last session of the legislature, none of them radical and none of them in any very great measure affecting the operation of the act.

The first change probably that many of you have noticed is that the legislature has changed the name from industrial accident board to commission of labor and industry. That came about through the general program of our last legislature of reducing the number of commissions and boards in the State to a few general commissions; and as a result of that the old commission of labor and the industrial accident board, the commission of boiler inspectors and another small commission which never functioned and which by the terms of the act creating it probably has passed out of existence were consolidated into one department. That was indeed wise for several reasons, one of which was reducing the number of commissions and the other was because of the fact that the department of labor had inspectors about in the factories who were in touch with the workmen, and doing considerable work, and were in a position to obtain information and render other services that were valuable to the industrial commission, and the industrial accident board from its point of view could come in contact with the needed remedies and changes of conditions; so the several departments were consolidated into one. That did not in any material manner affect the operation of the workmen's compensation statute, strictly speaking.

There were some other minor changes, one of which was to increase the maximum total disability payment from \$6,000 to \$7,000. There was an amendment offered to increase the maximum weekly benefit from \$14 to \$18, but that did not pass.

The question of funeral expenses had been a matter of some little uncertainty in our State. The act originally provided for funeral expenses not to exceed \$200 in the case of no dependents, but inasmuch as sometimes an injured man or a man who was killed had a family, had dependents in a foreign country, or some other State, that led to much delay in paying funeral expenses in some cases, and the legislature remedied that by providing that funeral expenses not to exceed \$200 should be paid in all cases where death resulted from accident.

We had had some trouble in our State with reference to the question of officers of municipalities and municipal corporations. The definition of employee under the act was not broad enough to include the officer, and the question of whether an employee of a municipality was really an officer or an employee gave considerable trouble. That was amended so that all appointive officers are entitled to compensation the same as any other employee.

We had had considerable trouble over the question of independent contractors in Michigan. That was especially true in the northern part of the State where men were engaged in lumber operations in the woods; where a man would be given a contract to do a certain piece of work and would employ a few to help him, and he or they would be injured and not entitled to the benefits of the act; so that statute was amended to provide that the original contractor would be held responsible for the injuries to employees of subcontractors in all cases where the subcontractor was not under the act and properly covered.

Those are substantially the changes that were made with reference to the substantive side of the compensation law. Some changes

were made with reference to the mode of procedure. We had up to 30 days ago a system that provided for arbitrators. The member or deputy member went to the locality in which the accident occurred, and each side had a right to choose an arbitrator. That was somewhat cumbersome, and as time went on it came to be a very common thing for arbitrators to be waived. As a matter of fact in practice we generally found that the man made a very poor job of presenting the case, if he was unable to choose an arbitrator to decide with him. Anyhow, the arbitrators were eliminated so that the case is heard in the first instance by the member or deputy member alone without any arbitrator.

Then our act originally provided for arbitrators where a claim was filed. Where no agreement had been entered into they were entitled to petition and have arbitrators appointed, and the matter was heard by the deputy or the deputy and arbitrator, and no provision was made in the act for treating in that manner a case that arose upon petition. For instance, the question arose as to when the disability ended, or the case having been closed, whether it should be reopened. Many of those things were taken up by petition under the statute before the full board, but the act was amended so that petitions of that nature might be heard by a member or deputy member in the location in which the accident occurred.

The CHAIRMAN. One State that has turned its administrative methods upside down is Minnesota. We have with us for the first time Senator Duxbury, chairman of the Industrial Commission of Minnesota, and we will be glad to hear from him.

Senator DUXBURY. New at the business as I am, I am rather perplexed with the many problems which I have had during the short period that I have been interested in this work, but I can agree very heartily with what was said by the chairman in opening this meeting as to the great benefits that may be derived from this kind of association with men engaged in this class of work, because already I have had some light thrown upon places that were before seriously dark for me. I remember quite distinctly when the New York law was held unconstitutional, and the fact of the holding of the unconstitutionality of that law, which was passed in 1910, had a serious and somewhat important effect upon the matters that were then pending before the Minnesota Legislature, the bill that was pending for workmen's compensation. The State bar association in 1909 appointed a committee to bring before the legislature the question of the workmen's compensation laws, and that legislature provided for a commission which went to Europe and some other places and investigated the working of the compensation laws there. That was done upon their recommendation, and if it had not been for the unfortunate experience in New York in having the law held unconstitutional Minnesota might have had the workmen's compensation law in 1911. But the first law was passed in 1913, and it continued without any very material change until the legislature of 1921. The administrative feature of that law was that it was a court administration. It had its merits and demerits, but the legislature of 1919 appointed a commission which traveled quite extensively and investigated the workings of the compensation law

in the various States and made a rather elaborate report to the 1921 legislature. As a result of this report the commission system of administration was adopted in Minnesota.

The Industrial Commission of Minnesota was charged with several other duties besides that of administering the compensation law. It dealt with the question of factory inspection, the enforcement of labor laws generally, and also included a division of women and children, the minimum wage law enforcement, the division of boiler inspection, and the division of arbitration in industrial disputes, the last of which is fraught with great possibilities and some dangers. The idea was, as was mentioned by the gentleman from Michigan, to combine these various activities that were related in their nature and probably to make some saving with reference to the inspection work necessary to carry it out.

There was also another feature of the law that was modified fundamentally, and that is with reference to the insurance feature. We adopted what is commonly known as the compulsory insurance features—that is, all employers in the State who elect not to be bound by part 2 of the act, which is the compensation provision, must either insure the risk in a company authorized to do compensation insurance in the State, or be granted what is known as the right to self-insurers. This administration of the self-insuring feature is also a part of the business and duty of the commission. There is also provided a compensation insurance board whose duty it is to fix insurance rates. This board is related somewhat to the work of the commission, in that a member of the commission, to be selected by the commission, is a member of that board; and that the board is composed of a member of the industrial commission, an insurance commissioner, and an actuary appointed by the governor.

These are the outstanding features of the changes in the law. There were also detail changes with reference to the amount and the term of compensation and other details of that kind. But the thing that has perplexed me more than any other thing is the questions which were suggested in the paper of Mr. Sayer, of New York, the method of procedure, how to accomplish those things which are largely left to be provided for by the rules of the commission. Just exactly the nature of those rules and how they should be carried out are matters that are more or less in the formative state with us and at present the subject of most of our perplexities. You men have been through the same stage and probably appreciate the situation. We have this advantage over some of you early pioneers in that we can get the benefit of the experience of those who have gone before us, and this meeting indicates to me a source of some of that information, and I feel very much gratified already that I have been able to be here, and I think I will stay right with you and my business will be chiefly to listen, because there are few things I can say that will help you, but you can help me a great deal.

The CHAIRMAN. We will be very glad to hear from Mr. Buttles, of Vermont.

Mr. BUTTLES. I am very glad again to be present at your convention, and I assure you it won't be necessary for me to exceed the 10 minutes which is allotted in discussing the new compensation legislation in Vermont, for we have practically no new legislation.

The maximum compensation payable in all cases of total disability has increased from \$12.50 to \$15 a week and the minimum from \$3 to \$6. The only other changes made in our compensation law by the 1921 legislature was one enabling the commission to obtain medical assistance (especially designating physicians to make examinations on behalf of the State) from the director of the State laboratory of hygiene, and also one designed to clear up possible ambiguity in the law with reference to the payment of temporary total disability benefits.

I may perhaps be permitted to say that while Vermont is an agricultural State, and one of the smallest of the States, we think we have a very good and very workable act, so far as the administration features are concerned. The original act of 1915 provided for a commission of three. In 1917 the act was changed in that respect and the administration was vested in a single commissioner and such deputies as might be necessary for the purpose of working out the act. We are somewhat conservative in Vermont and in some respects we have not progressed so far along the lines that are followed by our neighboring industrial States, and we are perhaps rather behind most of the other jurisdictions in the matter of medical aid. Medical aid as now given by Vermont is, in my opinion, inadequate in a great many of the most serious cases, and I wish that that might be remedied.

Another respect in which I believe there is room for improvement is in the matter of compensation in fatal cases where there is a large family. Our maximum is still \$3,500, as it was in the original act, and in cases where a large number of children are left dependent it is in my opinion entirely inadequate in these times.

During the last season a sort of omnibus bill was introduced, which undertook to bring our act in all respects up to a par with States which have gone further and given the largest benefits, notably our neighbors in New York and Massachusetts, but they overloaded the bill and undertook to do too much. Incorporated in the bill was a provision for including industrial disease, for increasing the percentage from 50 to 66%, and increasing practically everything up to the standard of the highest State. This developed into a scrap in the senate between labor and the employer, with the result that the whole thing was killed, and, as I say, the only legislation we have had was a slight increase in the compensation for total disability.

The CHAIRMAN. Another State which pretty nearly made the right-about-face last year in administrative machinery is Washington, one of the earliest States in the field, and we would like to hear from Maj. Gill as to the changes that have been made.

Maj. GILL. Mr. Edward Clifford, commissioner of the new Department of Labor and Industries of Washington, was asked to give something with regard to the changes in the law, and prepared a paper which he requested me to read before you with regard to the administrative features of the law; but he did not touch upon some minor amendments made as regards the industrial insurance medical aid, and safety laws, and these I will probably bring out later on during the discussion of these matters, but if you will pardon me I will read this and I will be as brief as I can.

Mr. CLIFFORD. The 1921 session of the Washington Legislature made but slight change in the labor laws of the State; it did, however, revolutionize methods of administration by passing the Civil Administrative Code. For 25 years the State had from time to time enacted laws dealing with industrial problems. Succeeding legislatures considered different aspects of the labor question; a new law generally meant a new board or commission. These separate governing bodies, all dealing with the one common labor problem, increased and multiplied. Each board, jealous of its own prerogatives and anxious to be a self-governing body, duplicated the work of some other board. This overlapping of jurisdiction and working at cross purposes made for actual disagreement, resulting in high cost and inefficiency. The growth and organization of labor laws and the creation of different boards will be reviewed briefly.

First there was created the labor department, at the head of which was the labor commissioner. The duty of this department was to enforce the general labor laws; such as collection of wages, 8-hour law on public works, 8-hour law for women and children in certain industries, child-labor law, factory and steamboat inspection. In addition the labor department was charged with the duty of gathering industrial statistics.

Next there was the industrial insurance act, providing insurance for workmen injured in extrahazardous employment. The industrial insurance commission was created to administer this law. Following this was the State medical aid act. This law provided medical, surgical, and hospital treatment for injured workmen coming under the industrial insurance act. The State medical aid board administered this law.

In 1913 the minimum wage law passed. This law provides for a living wage for women and minors in industry. This law created the industrial welfare commission.

Finally, in 1919 the legislature passed the State safety act. This law created the State safety board, which had supervision of all safety work in industries under the industrial insurance act. This board consisted of two members, one representing the employers, and one representing the employees. In addition there were three district boards of two members with a field force of inspectors.

Here was a case of three separate administrative bodies, the industrial insurance commission, the State medical aid board, and the State safety board, all resting upon the common ground of protecting the interests of employer and employee coming under the industrial insurance act. It is needless to point out the duplication of work, and the confusion of employers, due to reporting to separate boards on the same general subject. However, this multiplicity of boards was not confined solely to labor affairs. Legislatures had created boards and commissions dealing with various problems in State government until there was a total of 229 bodies having more or less jurisdiction under the State. The cost of government increased, placing a serious burden on the taxpayers.

With these facts in mind, Gov. Louis F. Hart, at a special session of the legislature in March, 1920, called attention to this condition of affairs and suggested that some remedy be devised. It was suggested

that these boards and commissions be consolidated under a few responsible heads to be appointed by the governor. The legislature acted favorably upon this idea and created the civic code commission, with the governor as its head, to plan a reorganization of the State government along the lines of his suggestion. The commission completed its work and submitted what is known as the administrative code bill to the 1921 legislature. This bill was passed by the legislature in practically the form it came from the commission. Section 2 of this bill provides:

There shall be, and are hereby created, departments of the State government which shall be known, respectively, as (1) the department of public works, (2) the department of business control, (3) the department of efficiency, (4) the department of taxation and examination, (5) the department of health, (6) the department of conservation and development, (7) the department of labor and industries, (8) the department of agriculture, (9) the department of licenses, and (10), the department of fisheries and game; which departments shall be charged, respectively, with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Section 3 provides:

There shall be a chief executive officer of each of the departments of the State government created by this act, to be known, respectively, as (1) the director of public works, (2) the director of business control, (3) the director of efficiency, (4) the director of taxation and examination, (5) the director of health, (6) the director of conservation and development, (7) the director of labor and industries, (8) the director of agriculture, (9) the director of licenses, and (10) the director of fisheries and game; who shall be appointed by the governor with the consent of the senate; and hold office at the pleasure of the governor: *Provided*, That, if the senate be not in session when this act takes effect and in case a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to the senate his nomination for the office.

These 10 heads of departments act as advisers to the governor in all matters pertaining to their departments and sit with the governor at regularly stated meetings as a sort of cabinet, so that the whole scheme of State government in so far as it is affected by the administrative code is highly centralized and all parts in close working agreement for efficiency and economy.

The plan for the organization of the department of labor and industries is set forth as follows in the administrative act:

The department of labor and industries shall be organized into, and consist of, three divisions, to be known, respectively, as (1) the division of industrial insurance, (2) the division of safety, (3) the division of industrial relations.

The director of labor and industries shall have the power to appoint and deputize an assistant director, to be known as the supervisor of industrial insurance, who shall have charge and supervision of industrial insurance, and, with the approval of the director, appoint and employ such adjusters, medical and other examiners, auditors, inspectors, clerks, and other assistants as may be necessary to carry on the work of the division.

The director of labor and industries shall have the power (1) to appoint and deputize an assistant director, to be known as the supervisor of safety, who shall have charge and supervision of the division of safety, (2) to appoint the State mining board, the members of which shall have the qualifications provided by law, and (3) to appoint and deputize a chief inspector of mines, who shall have the qualifications provided by law for the office of the State mine inspector. The supervisor of safety, with the approval of the director, shall have the power to appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on the work of the division. The chief mine inspector, with the approval of the director, shall appoint such qualified deputies as are provided by law.

The director of labor and industries shall have the power to appoint and deputize an assistant director, to be known as the supervisor of industrial relations, who shall be the State mediator, have charge and supervision of the division of industrial relations, and, with the approval of the director, shall appoint an assistant to be known as the industrial statistician, and a female assistant to be known as the supervisor of women in industry, and have power to appoint and employ such assistant mediators, experts, clerks, and other assistants as may be necessary to carry on the work of the division.

Under this plan of organization the director of labor and industries has the power, and it is his duty through and by means of the industrial insurance division to exercise all of the powers and perform all of the duties heretofore required to be performed by the industrial insurance department and by the State medical aid board and the local aid boards.

Through and by means of the division of safety the director exercises all of the powers and performs all of the duties heretofore required of the State safety board; inspects all factories, mills, and workshops; has charge of State mine inspection and the inspection of tracks, bridges, structures, machinery, equipment, and apparatus of railroads, street railways, gas plants, telephone and telegraph lines; has charge of the enforcement of laws relating to the direction, use, and maintenance of electrical apparatus of high-power lines, and also has charge of State hotel inspections.

Through and by means of the division of industrial relations the director of labor and industries has the power, and it is his duty, to promote mediation in, conciliation concerning, and the adjustment of industrial disputes; to study and keep in touch with problems of industrial relations; to maintain a department of industrial statistics; to collect and tabulate statistical information relating to labor within the State; to make special industrial investigations, and, with the assistance of the supervisor of women in industry, supervise the administration and enforcement of all laws respecting the employment and relating to the health and sanitary conditions, surroundings, hours of labor, and wages of women and minors. In addition to these duties the director appoints a supervisor of industrial aid to the adult blind. This law provides for the industrial education of the blind, and also assistance in marketing their products.

This plan consolidates all labor boards and commissions under one directing head. By eliminating duplication of work, both in field and office, the number of employees has been reduced from 173 in March to 140 in July, 1921, the consolidation taking effect April 1, 1921. The new order of things places more responsibility on all employees, especially the field force. Prior to April, 1921, auditors for the industrial insurance commission would visit a plant and take an audit of the pay roll to ascertain the amount of insurance premium. The State safety board would then send an inspector over the same ground and to the same firm to make an inspection for its safe-place, safety-device, and educational requirements. This involved a double charge for salaries and traveling expenses. To-day the same man performs both duties, thus effecting a very substantial saving in time and money. The employer now deals with one man, where formerly he dealt with two or three. Field men are furnished with a copy of all the laws under the jurisdiction of the department of labor and industries, and they are able to furnish any informa-

tion desired on labor laws, industrial insurance, procedure in handling an injured workman's claim, and the many perplexing problems involved in accident prevention work.

Applicants for the position of field deputy must first pass an examination before receiving an appointment. The requirements are high and are such that only those possessing good intelligence and a wide experience in this work are able to fill these positions. An interest in the work is necessary, as otherwise the humane purpose of the law would be lost sight of. Workmen coming in contact with this department are injured men, with every possible kind of claim and grievance. To deal with them requires courtesy, tact, and patience. The employers also have their difficulties which must be straightened out. The quality of personal service given to both employer and employee determines the estimation in which this department is held by the public.

That the new plan is working out a great saving to the taxpayers of the State is shown by the fact that while the legislature made an appropriation that was more than a quarter of a million dollars less than was heretofore appropriated for these purposes, the new department is working out a saving on this reduced appropriation of practically 15 per cent.

The CHAIRMAN. That concludes the papers on the printed list. We might hear from Judge Taylor, of Oklahoma, who is here, and I am sure we should be very glad to hear from Oklahoma.

Judge TAYLOR. Being cosmopolitan, we have partaken of the ideas of all parts of the Union. Wherever we have found a good thing we have endeavored to put it upon the statute books, and there is much there that is good. Among the good things, of course, is the compensation act, which, I believe, is patterned largely after the New York act. Our statute is a liberal one, providing for \$18 maximum and \$8 minimum, and medical aid not to exceed \$100 unless approved by the commission. There ought not to be, in my judgment, a limitation of the medical expense. The man of industry ought to pay for it. That is the principle of the compensation act, and as we tax the cost of the material product, the wear and tear of machinery, so we should the wear and tear of flesh and blood. That is just and equitable.

We have a seven-day waiting period. The maximum benefit for total permanent disability runs to \$9,000. Now, during the last legislature we endeavored to have several important amendments passed, but we offered too many and we got none. We wanted to have a provision for industrial disease. That is good, and I am for it. We wanted some four or five changes but the legislature, being half of one political faction and half of another, was busy in investigating, and so we got nothing. We still live in hope, however, of improvement.

I think in all the commissions there ought to be invested in the head of that commission supreme authority. It ought not to be divided. I think that is one criticism which may be leveled against the American commission idea generally. There ought to be some one in supreme command. We have a chairman. There is nothing

in the statute which makes him supreme, but an unwritten law does, and our practice does give him certain authority.

I don't know about State insurance. I have not gone sufficiently into that to take a position on it, but I am just a little inclined that way. I do not know if it is workable or not. I believe Ohio has it, and possibly some other States. When the statute was first proposed in Oklahoma it was fought bitterly by the damage lawyer and the employer. I was talking the other day to the president of an employers' association, and asked him what his idea was now, inasmuch as he had been bitterly opposed to the enactment of this act, and he said, "We would not do without it because we know what to expect. It is scientific. It saves us from harassment and multiplicity of suits."

The CHAIRMAN. The time has come, ladies and gentlemen, when I think we will bring the discussion of this morning to a close. It has been suggested that the afternoon session should begin at 2:30 instead of 2, so we will now stand adjourned until that hour. -

MONDAY, SEPTEMBER 19—AFTERNOON SESSION.

**CHAIRMAN, FRED W. ARMSTRONG, VICE CHAIRMAN NOVA SCOTIA WORKMEN'S
COMPENSATION BOARD.**

ADMINISTRATIVE PROBLEMS UNDER STATE FUNDS.

[Addresses of welcome were delivered by William Saltiel, assistant corporation counsel of Chicago, and by Senator Harold Kesinger, of Aurora, Ill. Robert E. Lee, chairman Maryland Industrial Accident Commission, responded to these addresses.]

Mr. ARMSTRONG. Before introducing the chairman of the afternoon, I want to explain very frankly the way that the program of this convention was arranged. It had been suggested that the State that had State insurance funds, especially those that were monopolistic or compulsory, did not share in a great many of the problems we were discussing, and we told the members from those States that we wanted to make the convention of the greatest good for every commissioner engaged in the administration of the compensation act, no matter what might be his manner of carrying the insurance.

This program was arranged by Mr. Armstrong, of Nova Scotia, and Nova Scotia, as you probably know, has a State fund.

Permit me to say that we are not going to discuss the question of whether State funds are good or bad. We shall not discuss that at all. I understand you don't want to discuss it; but that is not the question. We do not want any acrimonious discussion as to whether or not the State fund is the best way of conducting the business.

I take great pleasure this afternoon in introducing Mr. Armstrong, of Nova Scotia, who will act as the chairman for the afternoon.

The CHAIRMAN. As the president has explained, the meeting this afternoon was a matter which was talked about at our convention in San Francisco and elsewhere, and it was felt that the idea of having any controversy on the floors of the meetings at every session in regard to whether the State fund was a proper mode of looking after workmen's compensation, or whether liability companies or mutuals or self-insurers, did not get us anywhere. It was felt by the persons who were administering the State fund that we wanted to get together and discuss the problems which arose from the administration of State funds, and that is the reason why we had a meeting set aside so these matters could be discussed. I think they should be very interesting to those of the members and visitors who have not come actually in contact with the administration of State funds, for we are always learning something.

The program this afternoon calls for "Administrative problems under State funds." Now, this discussion is not a set discussion at all. There are no papers on it, and everybody is supposed to speak directly from the floor, and it is to be rather more in the nature of a round-table discussion in regard to the problems arising under the State funds and everyone is to be at liberty to ask questions and make any suggestions about any matters that he wishes along these lines.

HOW ASSESSMENTS ARE MADE.

BY FRED W. ARMSTRONG, WORKMEN'S COMPENSATION BOARD OF NOVA SCOTIA, CANADA.

The first subject on the program is "How assessments are made." I have been asked to speak on that point myself, and what I have to say will be short, but it is expected that something will grow out of the remarks I make that will create a general discussion in regard to this question. I would like to have the persons who have State funds discuss the matter quite freely.

One of the first things that is required in workmen's compensation is that provision should be made whereby moneys should be brought into the treasury, so as to enable the fund to pay compensation. Without that of course workmen's compensation falls to the ground, and the different methods used in regard to that, whether you call it an assessment on the employer or call it a premium which he pays for insurance, it does not make very much difference. In the jurisdiction which I come from, Nova Scotia, we call it an assessment. We place an assessment on a man just exactly the same as the town, city, or county places an assessment on his business as a tax. The first thing that happens in regard to an assessment is, the assessment can be divided into two classes, assessments on new forms, and assessments on regular forms which have been under the compensation act for some time.

I might just mention here that the law in Nova Scotia is monopolistic. It is also compulsory. It has this added feature, also, that whether an employer pays his assessment or whether he does not the employee receives his compensation, providing the work which he was engaged in comes within the provision of the act, and that, as I said before, does not depend on whether the assessment was paid or not.

I will first give you an idea of what happens in connection with the new forms, and when I am describing this I am describing practically our own experience and procedure; and I hope it will bring out the procedure from some of the other members. When we hear of an employer who has not reported his operations to the board, whom we believe is an employer of labor, and that we should have a report of what he is doing, the number of hands he employs, etc., we immediately start a file with the name and address and the nature of the work he is carrying on, the source from which our information is received, and any other particulars bearing on the matter. The employer is written to requesting a report of his operations, and a blank form is inclosed for this purpose. If no reply is received within a reasonable time, usually 10 days is allowed to elapse, a follow-up letter is sent to remind him that no reply has been received and again requesting him to supply the necessary information. Up to this time of course no assessment has been made on him. If in another period of 10 days no reply has been received we write him, advising him that unless we receive a report within 10 days we will issue a writ against him. The statute under which we work gives us the power, and makes it compulsory for the employer to report to the board any work he is carrying on, whether he employs labor or not—that is, if he is doing the work himself, you can compel him, but we do not do it. We do

not bother very much with a small employer who has less than five men employed. If he does not make his report when requested we can issue a writ against him compelling him and asking him to appear and show cause why he should not pay this amount. That does not relieve him, and if we made a second payment we have the same privilege. Of course this is very drastic. Of course there is this point about it, we are to a certain extent protecting the man against himself, because if he did not pay the man we have the power of making him pay the amount of any claim which may be presented to the board. This last letter telling him that the penalty will be enforced is registered, so there is no question as to whether he receives the letter or not because he has to sign before he can receive the same.

That brings us to the point where we find that the man has furnished us with the information and we find that he has not been previously assessed and he is assigned a number and an assessment is made upon that man for the amount of his estimated pay roll rated on the statute rate for the industry which he is operating. That covers a new man, and that employer then automatically is under the act during the remainder of the year. All our assessments run the calendar year, and if a man is assessed on May 1, that assessment covers him till the end of December, and I will mention what happens at the end of December in regard to the regular forms. The other kind are regular forms which we have from year to year for large employers of labor as well as small, who have been assessed in the previous year. With these, one assessment is made at the end of each year; that is, December 31 we send out a printed form in which the employer can give the amount of his wage roll for each month in the year. And we also ask him for an estimate of his pay roll for the past year. This we ask to have returned on or before January 20 of each year. It is not always done; employers are dilatory in this matter as well as in others, and it is usually a month or perhaps more before we can get the information which we require, but when we do we immediately start in and adjust rates for the previous year based on our experience for the previous year. Of course we have estimates of pay rolls, and know what the expenditure is, or at least we can assume it, and our rates are based on those figures.

On or about May 1—it is dated May 1—we send out to the employer an adjustment of the first assessment which was made on him in the previous year, which was based on the estimate which he furnished us. Of course the actual amount of the pay roll comes in at the end of the year. We adjust that in regard to the difference between those two. We also, unless we have some good reason to the contrary, accept his estimate of pay roll for the then current year. This, of course, is all done previous to May 1, so that we are able on May 1 to send out to each employer an adjustment for the previous year and also an assessment for the current year. These are registered from our office dated May 1, and the employer is given 30 days to pay. If he does not pay within that time, 5 per cent is usually added to the amount of the assessment. That, of course, is a matter of detail, but gives an idea of practically what we do in regard to assessments. For the convenience of the employer and to help him

out, we allow the payment to be made in two installments, the first, as I said before, within 30 days, and the second due about September or October 1. This will give you some idea of just how the assessments are made.

The CHAIRMAN. Now, the next on the program is Mr. George A. Kingston, commissioner Workmen's Compensation Board of Ontario, Canada, who will talk on "Merit rating." Perhaps we had better leave the discussion until we have had all the papers, and then the discussion can take place.

MERIT RATING

BY GEORGE A. KINGSTON, COMMISSIONER WORKMEN'S COMPENSATION BOARD OF ONTARIO, CANADA.

The workmen's compensation law in Ontario is very similar to the law in Nova Scotia, as has been explained by Mr. Armstrong.

The Ontario act came into force in our Province, I think, a couple of years earlier than in Nova Scotia—January 1, 1915. For the first two years we went along without any system of merit rating; then it was urged in a number of quarters that we ought to give something in the way of a benefit to the employer who had a good accident experience or who spent a lot of money, as it was often urged, in an attempt to safeguard his plant, and on the other hand that the employer who had a heavy accident experience or who neglected his shop safety work should be charged something in the shape of a penalty. In attempting to work it out we soon found that there were a lot of difficulties in arriving at a conclusion as to which system of merit rating was the best.

There are, as those of you who have made any study of the subject will recognize, at least two well-recognized systems of merit rating. There is what is commonly known as experience rating, which is a rating on the financial results of an employer's operations, that is, in his relation to the compensation law, and there is that which for want of a better term is called schedule rating, which is an attempt to classify individual industries according to the character of the safety development inside the plant. There are many employers who attempt to set up what might be termed a standard factory, that is, one in which safeguards are provided at every possible point, and it is naturally urged on their behalf that they should be in a better position from a point of view of rating than the factory in which safety work is neglected. That appeals to the average man as right. There are many firms in Ontario that have spoken to me on this subject, saying, "We have left no stone unturned and there is no money we are not willing to spend to put our factory in the safest possible condition from a workman's point of view, and yet you charge us exactly the same rate as Mr. So-and-so, who we know does not spend a dollar that he can avoid on safety appliances."

If I were a factory owner I know how I would feel regarding that, so would you all, and the man who takes that position I think is justified in doing so, from one point of view at least. Nevertheless, there is another point of view which must be examined. Somebody has said that the safest man in any industry is the man who is in the greatest danger. That seems to be a contradiction of terms, but

strange to say during all the war period when we in Canada were carrying on a tremendous industry, as you were, too, in the manufacture of war material, the manufacture of explosives proved to be one of the least hazardous in our jurisdiction. Whether or not it is because people who are associated with a highly dangerous commodity are more careful, I do not know, but we certainly had a remarkably good experience in the manufacture of explosives, so much so that we were able to carry the manufacturers in this class or group at a rate of less than 1 per cent during the whole of the war period.

We ultimately came to the conclusion that the only practical system to be adopted was a system of experience rating. We had the result of every factory experience at our hand. We could tell at the end of the year exactly what an individual factory cost us. We could tell what a group of industries in a certain class cost us, and by relating these figures the one with the other we were able to satisfy ourselves and put our finger just on the spots that were causing most trouble, so we came to the conclusion that a merit-rating system based on experience or on results would be the most satisfactory, and we felt also that this would, indirectly at least, return some benefit to the employer who was safeguarding his plant. I think most of the States that have endeavored to work out a system of merit rating have come to the conclusion that experience rating is the only practical system.

There are, of course, several objects that we must have in mind in connection with merit rating. I shall enumerate two or three, but there may be others. One is to encourage accident prevention. If an employer knows that he is going to get some benefit from a good accident experience he is naturally going to try and produce one. Another point of view is the desire, if possible, to distribute more equitably the burden of accident cost. We must not lose sight of the fact, however, that under the exclusive State system in vogue in all the Canadian Provinces, as well as in a few of the States, the principle of insurance must prevail. That is to say, you must not merit rate to such an extent as to practically destroy the principle of insurance, which is the underlying basis of the system, otherwise we get back to the principle of individual liability. So I say we seek by merit rating in a small degree to distribute more equitably the burden of accident cost by asking the employer with a bad experience to pay a little more than the normal rate, and by giving the employer with a good experience the benefit of a little reduction from the normal rate.

Under our system we divide all the industries in the Province into groups or classes, and each of these groups or classes constitutes, under the management of the board, a sort of mutual insurance society, each group or class being self-sustaining as far as possible. True, for the sake of safety all the class funds are considered as one fund and each class has the benefit of the whole fund, so that should one class turn out in any year to be so unfortunate in its financial results as to produce a loss there is the benefit and security of the whole fund. We seek, however, to make each class self-sustaining, and if you see in our annual report a minus sign opposite a class number it means that this class has fallen down, has had a bad experience and closed the year with a deficit, and if it were standing alone you might say it was insolvent. In the composite

result of all the classes taken together, however, we seek to produce a balance on the right side, so that a deficit in two, three, or four classes, which is always almost sure to occur, is no occasion for serious anxiety. May I say here that there is no possibility of such a thing as insolvency under the exclusive State fund system in vogue in the Canadian Provinces, because the Province stands behind the administration, and if we are short in any class in a certain year, the board having the taxing power of the Province merely has to raise the rate the next year, or raise it retroactively if that seems necessary, to provide for such deficiency.

We are now able in Ontario to show the result for three years under the system of merit rating which we adopted. I might say that our exposure in those portions of our industries covered by merit rating represents a pay roll of approximately four hundred million dollars, so that we have in the figures which I shall give you a fairly good exposure from which to draw certain conclusions. In the year 1918, or, rather, for the year 1917, our merit figures represented a return to employers with a good experience of \$154,000, whereas our demerit figures represented a collection from employers with a bad experience of about \$99,000; so it was obvious that we were giving to employers with a good experience a little too much or were not collecting quite enough from those with a bad experience.

The next year was somewhat the same. In the year 1919 (merit rating for 1918) we paid out in merit refunds \$253,000 to the various employers showing a good experience, and the same year we collected from employers showing a bad experience \$140,000, leaving off the odd figures. We used the same percentages or method of calculation during each of these two years. This experience taught us that we had not struck quite the correct basis in our figuring, because we felt that it was desirable, if possible, to work out the system so that our merit refunds would about equal our demerit collections. We decided, therefore, in order to try and reach the true basis, that for the year 1919 we would shift our percentage, with the result that last year (i. e., figures for 1919), while we paid out \$160,000 to employers who had a good experience, we collected \$260,000 from those who had a bad experience, indicating a swing of the pendulum over to the other side. We feel now that somewhere between these two points is the true basis upon which we should in the future work out our merit rating.

I will seek now, if I can, to demonstrate to you just how we produced the above results.

ILLUSTRATION—NEUTRAL ZONE.

I will first demonstrate how we worked it out the first year, when we produced the result indicated above. We said, first, that there shall be a neutral zone within which an employer shall not get any advantage at all nor suffer any penalty. That is to say, if an employer has an accident experience which practically equals his assessment—say a firm has \$1,000 of assessment and \$1,000 accident experience—there is, of course, nothing one way or the other. But we go further and say, in the case of an employer with a \$1,000 assessment, if his accident cost is \$900 or a little more he shall not get any

benefit. True, we appear to have made a little on the experience of that employer; but, on the other hand, given an employer with a \$1,000 assessment and an accident cost of \$1,100, while we have lost a little carrying his risk, we say that unless your accident experience goes over \$1,100 we shall not charge you any demerit. So there is your neutral zone between 90 per cent on one side and 110 per cent on the other, and if the accident experience comes within those relative percentages there shall be neither merit nor demerit.

Mr. HOOKSTADT. Is your debit and credit based on one year's experience only?

Mr. KINGSTON. Yes, each year stands by itself. We wait until almost the end of the following year, when the accident experience for the previous year is nearly complete, then we take the figures for the year and make our ratings.

I understand that Ohio in its merit rating system deletes death and permanent total disability cost experience from its figuring. We, however, take the whole experience of the firm, and if it is more than 110 per cent of its assessment we collect a demerit percentage and if it is less than 90 per cent of its assessment we give the employer something back.

There is a little complication in working out the system of merit refunds as between the large employer and the small employer. We say we can not afford to deal with an employer having a small pay roll on the same basis as one with a larger pay roll for the simple reason that the small employer obviously has not the pay-roll exposure that the large employer has. We therefore adopted a certain system of percentages or differentials which seeks to equalize this difference and we try in this way to put the small and the large employer on a parity.

ILLUSTRATION—DEMERIT.

Now, take an employer with a \$1,200 assessment and an accident experience of \$1,600. This employer obviously has to be given a demerit charge. It is plain that the \$1,600 accident cost figure is 133 per cent of the assessment figure, \$1,200. We say that up to 110 per cent there is no penalty, so that we have 23 per cent, i. e., the difference between 133 and 110 per cent, upon which to work for the purpose of finding our demerit charge. For the years 1917 and 1918 we adopted 20 per cent as the basis upon which to make our demerit charge, so we say to this employer we will charge you one-fiftieth of 20 per cent for every 1 per cent your accident experience exceeds your assessment in excess of 110 per cent. This employer having 23 per cent in excess of 110 per cent we charge him twenty-three fiftieths of 20 per cent of his assessment of \$1,200—\$110.40. Thus the employer with a \$1,200 assessment and a \$1,600 accident experience has to pay \$110.40 of a demerit charge.

Mr. KONOP. How do you collect that \$110?

Mr. KINGSTON. By simply issuing a supplemental assessment and mailing it to the employer. This calls for payment within a certain number of days. I will put the formula down on the blackboard a little more carefully. Twenty-three fiftieths of 20 per cent of \$1,200—that is, we get the 23 per cent from the relation between 1,200 and 1,600. The 20 per cent is an arbitrary figure which the board has

chosen as the basis of the demerit charge. Our formal demerit rule which I have tried in the above illustration to demonstrate reads as follows:

Every employer whose total cost of compensation and medical aid is more than 110 per cent of his assessment shall be charged for each 1 per cent above 110 per cent one-fiftieth of 20 per cent of his assessment, not, however, to exceed in any case 20 per cent of such assessment.

Mr. PILLSBURY. What do you do with the overhead?

Mr. KINGSTON. It may interest you to know that our net overhead is less than 2 per cent of our assessments and this is more than offset by our excess interest earnings. For the purpose, therefore, of merit or demerit we take into consideration only accident cost plus medical aid, and the \$1,600 mentioned in the illustration is supposed to represent the experience of that employer on the books of the board for that particular year under these two headings, i. e., accident cost and medical aid.

Mr. HOOKSTADT. The total incurred cost?

Mr. KINGSTON. The total cost as entered on the ledger card for the year up to the date when for the purpose of merit rating the year is considered closed.

Mr. HATCH. Is that \$1,600 the total cost for that year?

Mr. KINGSTON. The total cost for that year, and it includes any reserve that may have been set aside for permanent disability or death. That employer with a \$1,600 experience evidently did not have a death case.

Mr. HOOKSTADT. Does it include temporary disability cases still on the books?

Mr. KINGSTON. Perhaps you mean temporary disability payments yet to be paid, as in a case where there is long-continued disability running possibly into the second or third year. I may explain that for the purpose of merit rating for any year we close the books about the end of October the following year and any temporary disability payments chargeable subsequently to that employer's account will be taken into consideration in merit rating for the next year.

Mr. SAYER. Does that \$110.40 apply against the assessment for the past year or the next year?

Mr. KINGSTON. It has no relation to either. It is stated on its face "Merit rating for 1919," or as the case may be. That is the heading of the assessment and the employer who gets that assessment notice knows that this is the penalty he pays for producing a bad experience.

Mr. KONOP. You do this with the idea that the man will try to better his experience next year?

Mr. KINGSTON. Of course that is the hope but in doing this, as stated above, we must not lose sight of the insurance principle which underlies the whole system. Compare this with fire insurance for example. A man has had a fire causing a loss of say \$10,000 and possibly he has paid a premium to the insurance company of only \$50 or \$75. While it would be natural that that man should be specially rated as a bad risk, particularly if he had a second or third fire, yet no rate would be applied to the risk which would anywhere equal such a loss.

Mr. KONOP. Fire insurance is a little different.

Mr. KINGSTON. Under our system of workmen's compensation we are not seeking to make money for the fund or to create a big surplus; in fact, protection at actual cost is the underlying principle of the exclusive State system. We must be sure, however, that we have sufficient money always on hand to take care of our accident losses, and if we find we are not getting in enough money we must raise the rate. If an employer has had a very bad experience or a class has had a very bad experience it would be fair to say that the deficit should be made up by the employers in that class who produced that bad experience. For example, take the shoe manufacturing group in our class 16. If they produce a bad experience in the ratio say of 4 to 1, we must get more money from somewhere to make up that loss. Naturally every employer in this group must suffer to some extent from the experience of his friends in the same business. There will probably be an increase in the rate affecting the whole group and the increase may be retroactive covering the year in which the bad experience is produced, but who better should be asked to pay a superadded charge in excess even of such rate than the individual employers in the group who have produced this bad experience.

So there is then this additional purpose in our demerit rating system of finding, to a limited extent, of course, the money which these employers with the bad experience have cost the class fund, and to that extent it is a sort of shock absorber to the employers in that class producing a good experience, because, of course, all employers in the class, or comprised within the same rate group, pay the same general rate no matter whether their experience is good or bad.

Mr. McSHANE. Take the converse as an example.

Mr. KINGSTON. Well, you would simply have to reverse it in the case of an employer who has been assessed \$1,600 and produces an accident cost of \$1,200. I will explain in a moment how the reverse is worked out so as to give such an employer his merit refund. I should have explained at the outset that an employer must have an assessment of \$10 or more before merit rating applies to his business at all. This limit is set arbitrarily, partly as a matter of expediency, but more because an employer with only a very small assessment has not a sufficient pay-roll exposure to warrant giving any consideration to his accident experience or lack of it from a merit-rating point of view.

ILLUSTRATION—MERIT.

Now, to answer Mr. McShane's question. I have before me, for the purpose of illustration, an employer with an assessment of \$3,600 and an accident experience of \$2,100. This is, of course, a fairly good experience, and the case is obviously below what I spoke of as the neutral zone. In working it out for the purpose of getting at the merit percentage we find that \$2,100 is 58 per cent of \$3,600. We therefore take that as a basis to go on. Ninety per cent, you will remember, is the beginning of the neutral zone. Fifty-eight per cent from 90 per cent equals 32 per cent. So we say this employer is entitled to an advantage based on this 32 per cent, and the formula is this:

Every employer whose total cost of compensation and medical aid is less than 90 per cent of his assessment shall be refunded for each 1 per cent below 90 per cent one-fiftieth, but not in any case exceeding fifty-fiftieths, of the following percentage of his assessment, namely: Where the assessment is under \$200, 5 per cent; and where the assessment is \$200 or over, 5 per cent, increased by 1 per cent for each \$200 of assessment, but not to exceed 25 per cent in any case. No charge or refund less than \$2 shall be made in any case.

That one-fiftieth is merely arbitrary. We had to find some formula that we thought was fair, and we decided upon this basis after considerable consideration.

An employer may have an experience down probably 50 per cent below the 90 per cent, or he may have had no accidents at all, so we grade that experience all the way up from 40 to 90 per cent. The employer below 40 per cent has passed the point beyond which no increased merit refund is given.

Now, this employer is assessed \$3,600. There are 18 two hundreds in 3,600, so he is entitled to be figured on a basis of 5 per cent for the first 200, plus 18 per cent (that is, 1 per cent for each \$200 in the \$3,600), or 23 per cent. Remembering, therefore, what I said above, that this employer is entitled to an advantage in respect of 32 per cent of his assessment, and remembering also the formula one-fiftieth for each 1 per cent below 90, so we say he is entitled to thirty-two fiftieths, and you naturally ask thirty-two fiftieths of what. It is thirty-two fiftieths, as ascertained above, of the 23 per cent of \$3,600 (the amount of his assessment), which produces the result \$529.92. The employer, therefore, with a \$3,600 assessment and as good an experience as that indicated in this illustration received a refund of \$529.92.

In the first illustration which I mentioned above I told you we decided on 20 per cent as the maximum demerit charge, and I told you that merit refunds on the plan adopted during the first two years were much larger than our income from demerit charges, so we decided that for 1919, 30 per cent would be the maximum demerit charge instead of 20 per cent, and we shifted the neutral zone from 90-110 to 85-105. That difference seemed to produce a very substantial swing over to the other side, so it would look as if for the purpose of calculating our demerits, if we put 25 per cent as the maximum instead of 30 per cent, we would come more nearly to the point where our income from demerit charges would equal our merit refunds.

Mr. HATCH. In that first illustration, supposing there was an accident experience of \$2,000 instead of \$1,600, how would that work out?

Mr. KINGSTON. Two thousand dollars is 166 per cent of \$1,200, i. e., 56 per cent above 110 per cent, but as fifty-six fiftieths of 20 per cent would exceed the maximum, the maximum figure would govern and the penalty or demerit charge would be simply 20 per cent of \$1,200, or \$240, i. e., under the system in vogue for 1917 and 1918; but on the 1919 basis it would be 30 per cent of \$1,200, or \$360.

Mr. HATCH. That is, your maximum demerit is 30 per cent and that is arbitrary?

Mr. KINGSTON. Yes, that is arbitrary, and you will note that in respect to demerits the relative percentages are the same no matter whether the assessment is large or small. In figuring our merits or refunds, however, it will be noted that the percentages are graduated on a uniformly increased scale from the case of a \$200 assessment up to a \$5,000 assessment.

We have found it practically impossible to establish a system of merit or demerit for safety appliances. No doubt it would be possible to go out and schedule rate a certain factory which in its equipment represents the last word in safety appliances, and naturally one would say that such a factory should get a good rate, but the next day one of those unexplainable accidents happens in spite of your safety appliances, and it upsets all the calculations. In other words, we feel we should not give a merit refund to an employer producing a bad accident experience even though he may have a physically well equipped shop. The proof of the pudding is the eating.

Mr. SAYER. The physical plant does not enter into your merit rating?

Mr. KINGSTON. Not directly.

Mr. SAYER. Under your system of merit rating where you consider only actual experience of a firm for a given year, a one-year period, the firm's actual experience might in large part depend upon the act of some employee and entirely disregard all the work that the firm has done along safety lines, because if you have an accident causing the death of an employee through his own carelessness, perhaps his own gross negligence, notwithstanding the physical plant may be the very best, it may so affect the merit rating that the firm will lose all the advantage of its physical perfection, you might say, through an employee. Should not the firm be credited with its physical plant as against the firm which has really no physical plant but by reason of good luck has not had a bad experience?

Mr. KINGSTON. I see your point. No doubt it would be desirable if it were practically possible to make an equitable rate for every firm according to its actual physical development in the matter of safety appliances, but I do not envy the man the job who is to go out and seek to do this rating. I do not believe it is humanly possible to rate 100 factories with varying degrees of safety development on a satisfactory basis.

Mr. HOOKSTADT. How would you handle this? Here is a firm that according to the law of averages has a death every five years. Say that is the normal hazard in that particular industry. The first four years the firm has no death case, and the firm would receive a credit each year, but the fifth year it has a death. In that case he would get a debit. Would the debit equal the four credits of the previous years?

Mr. KINGSTON. Not necessarily; in fact, it probably would not, particularly in a comparatively small-sized firm. It would depend, of course, on the relation which the cost of this death case bore to the assessment of that firm. Many firms can easily stand the shock of a death case in their accident experience and still be entitled to merit. It is the cost of the death case we consider in experience rating. The mere fact of its being a death case is of no special moment any more than a serious permanent partial or total disability case.

Mr. HOOKSTADT. Don't you think it should be?

Mr. KINGSTON. I think there is something to be said in favor of charging a certain amount against a death case where there are no dependent relatives. Personally, I would be in favor of fixing a certain sum in such cases and putting it to some such fund as one provided to carry on the work of rehabilitation of industrially dis-

abled workmen, or possibly a fund to provide for a portion of the cost of certain accidents where there has been a serious preexisting condition largely responsible for the present disability. Then it would enter into the actual experience of that firm, and as in every other death case this cost would be reflected in that firm's merit or demerit percentage as the case might be. As we have it, however, the employer gets the benefit from the point of view of merit rating if in the event of having a death case there happens to be no dependent relatives.

Mr. HATCH. Do the employers take to this? Do they accept your merit rating plan without much question or are they inclined to want to be shown?

Mr. KINGSTON. I think it is for the most part quite acceptable to employers. The employer with a bad experience and consequently being charged a demerit does not often object because he knows he is paying only a fraction of what his accident experience has cost us. On the other hand, of course, a refund to the employer, with a good experience is always acceptable. One class of employers, however, came to us (the employers in the building class) and said "We do not believe this merit rating is appropriate to the building business." They stated as their argument that it was not possible to apply the same physical standards to building and scaffolding equipment as it was in factory protection, and they wished us therefore to abolish merit rating in their class. We acceded to their request and since then the building class does not come under our merit rating system.

Mr. SAYER. If it is in order I would like to ask how you arrive at your original assessment. Is it on the basis of monthly rate and classification of industry?

Mr. KINGSTON. On the annual pay roll. I may explain that our industries are divided into 24 classes and these are further subdivided into about 100 rate groups. At the beginning of each year, as soon as we have got the experience of the previous year and the actual pay-roll returns from employers are pretty well in, we go over each class and group with the year's experience before us, and we name a provisional rate for that group or class for the then ensuing year. There are two things to consider. One is, was the provisional rate for last year sufficient? If it turns out that it was not sufficient we name a retroactive rate by which we retroactively increase the rate we had named provisionally the year before, but if we find that the experience for the year was so good that the provisional rate named the previous year was higher than necessary, we fix retroactively a lower rate and all employers in that class or group get the benefit of this by crediting the excess forward on the current assessment. Take the explosive business, for example, which I mentioned above. We always named and collected a 5 per cent rate during the war from the manufacturers of explosives, but at the end of each year, with their experience before us, we were able to give them back 4 per cent. They were then reassessed provisionally for the current year at 5 per cent, but the net or adjusted rate for the year after the experience was taken was never more than 1 per cent, and after the war when the explosive people went out of business we had money to give back to them.

Mr. SAYER. That brings to my mind a question. In making your rate retroactive, what do you do with the employer who has become insolvent in the meantime?

Mr. KINGSTON. That is simply one of the chances we have to take.

Mr. SAYER. I don't know how it is in Ontario, but in New York every year a great many firms become insolvent, or it may be they were able to pay the rate at the beginning of the year, but if you come back for anything more you have difficulty in collecting it.

Mr. KINGSTON. Of course, as I say, insolvency of an employer is one of the chances we have to take. Under our bankruptcy law, however, our assessments constitute a preference claim. So while it is a fact that occasionally assessments are lost on account of insolvency and no assets, the amount of it all, according to our experience in Ontario, is but a very small item in relation to the whole fund.

Mr. HATCH. Do you revise your rates every year?

Mr. KINGSTON. We revise every year.

Mr. HOOKSTADT. Take the munitions manufacturer. You charged 5 per cent and at the end paid back 4 per cent.

Mr. KINGSTON. No, that was in respect to explosives, such things as nitroglycerine.

Mr. HOOKSTADT. Suppose you had a very serious explosion, do you meet that out of the catastrophe fund or by a retroactive rate?

Mr. KINGSTON. That would depend on the class in which the explosion occurred. It would take a very big accident in the explosive industry to make it a catastrophe from our point of view, because when we charge a 5 per cent rate we figure that the industry will stand a big accident burden, and it would need to be a very bad accident involving exceptionally heavy accident cost before we would go to the disaster reserve fund. If, however, the loss was very largely in excess of what the 5 per cent rate would cover, it would be open for us then to go to the disaster fund to make up part of the deficit, or we might assess retroactively on a rate higher than the provisional \$5 rate.

Mr. PILLSBURY. If I understand anything about insurance, it depends upon the average experience over a period of time. Now, you do this every year. Insurance is based upon the idea that each class would put into a common fund in the course of 10 years what it would take out in the course of 10 years less the overhead, something like that. Insurance is based upon dependable experience running over a period of time. Take one class or take any individual, it does not seem to me that those things should be adjusted every year entirely, but only partially. It does seem to me that we can with advantage give some advantage to the man who struggles for safety and some disadvantage to those who disregard it. There are two elements in safety of equal importance. One is the physical status of the place and the other of the person. In California there was an old Cornish superintendent who had very few accidents, and other superintendents came to him and said, "How is it that you hurt so few people and we hurt so many?" And his reply was, "It is simple. I never put a careless man in a dangerous place." You may have a superintendent or a foreman who wants to speed up beyond a man's gait. There is one thing which we should take into consideration. Now, if a man puts his factory into safe condition,

it is in part because of the hope that he will lessen his accident experience and ultimately get some advantage from it. He will also do the same thing with regard to the personal equation. He will not only put his factory in shape but he will be careful about his foreman and about his superintendent, and he will watch that as much as he watches the other, and the same advantage should be given to the man who does that.

I do not see how you can adjust these each year and still conduct an insurance proposition which must depend upon the average experience over a period of years.

Mr. KINGSTON. I hope I have not been misunderstood in regard to our rating. Let me illustrate.

This line [illustrating by an irregular line on blackboard] may indicate the experience of a certain class. One year it will be up and the next year it may be tending downward. We seek as far as possible from a rating point of view to stabilize the line; in other words, we do not let the rate fluctuate with the violent fluctuations which are always likely to occur in the accident experience.

Now just one further word—do not get the impression that the employer who does everything he possibly can to improve the physical standard of his factory gets no benefit. If everybody else in that class does the same thing it is bound to produce a good experience and in that case the good experience will be reflected in the general rate; so it is in the interest of each employer in a class or group not only to make his own factory safe but to encourage it in others. We have splendid safety organizations working all through these classes seeking to improve safety standards, and if one employer in a group is lax in this respect, the inspector's business is to jog him up and encourage him to improve the situation. If he neglects this and thus imposes a bad accident experience on his class fund a substantial demerit charge may be a healthy reminder of his duty.

I feel that I have taken too long and will conclude by thanking you for your patient hearing.

The CHAIRMAN. The next subject on the program is "How medical aid is paid." Mr. E. S. Gill, supervisor of the Department of Labor and Industries of the State of Washington, will give us a few words.

HOW MEDICAL AID IS PAID.

BY E. S. GILL, SUPERVISOR OF INDUSTRIAL INSURANCE, WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES.

I take it from the subject given me, that my task is to tell you something about how medical payments are made. But before doing that I want just very briefly to state a few points in our laws in the State of Washington governing industrial insurance and medical aid. The State of Washington has the exclusive State plan, or State monopoly on industrial insurance and medical aid. The industries for medical aid purposes are divided into five classes. I want to say first that the insurance in Washington is collected upon the pay roll, being based upon a certain percentage of pay roll. The medical aid is based upon the day's work, and the industries are divided into five classes, according to the hazard of the

business, for the purposes of medical aid contributions, classes A, B, C, D, and E, and one-half of the cost of the medical aid is paid by the employer and one-half by the employee. This act calls for the payment of 1 cent for each day's work or a fraction of a day where it is equal to half a day or over; class B, $1\frac{1}{2}$ cents a day; class C, 2 cents a day; class D, $2\frac{1}{2}$ cents a day; and class E, 3 cents per day.

The last session of the legislature of this year provided a merit rating system for medical aid. We already had a rate in safety and a five-year insurance rate on industrial insurance, but our merit rate is very simple. The neutral zone is from 76 to 100 per cent. The firm whose medical aid cost is below 76 per cent and over 51 per cent on the next year will be reduced to the next lower rate or the next lower class. Where their cost is under 51 per cent they will be reduced to the second next lower. Where the cost is in excess of 100 per cent and does not exceed 125 per cent they are raised to the next higher rate, and where the cost exceeds 125 per cent the second higher rate, and no firm can be raised or reduced more than two classes in any one year.

Now, as to how the medical aid is paid, briefly—because that is merely a routine of office work—we have no limitation on medical aid in the State of Washington. We have, as I said, the State plan, but employers and employees are permitted under our law to contract with doctors and surgeons for the treatment of the employees, but under a State supervision. I might say also that we have had a good deal of trouble with the contract, because of the abuse largely through the contract doctors. It is simply human and natural that the man who has a contract, when the claimant is brought into his hospital, takes the contract to make money out of it, and the first thing he thinks about is how soon he can get this man out of the hospital. So at the last session of the legislature we secured an amendment to the contract feature of the law which gave the supervisor of industrial insurance almost autocratic power over contracts as well as State cases. He is now empowered to require the filing of a bond by all contract doctors for the faithful carrying out of the work, and is also granted power and authority in cases of emergency to transfer the patient from the contract doctor to the care of another doctor at the expense of the contract doctor and the man's employer. Also, he may, of his own volition, after a hearing, cancel any contracts that may be in effect. We found that it was necessary to secure this amendment because of many abuses under the contract system, which had cost the industrial insurance fund thousands of dollars.

In our law there is no limitation to the amount that may be paid under the medical aid. We simply pay whatever the cost may be under the State plan. If a man receives a very severe injury, like a compound comminuted fracture of the femur, he is taken to the hospital and given the best of treatment. We allow hospitals \$18 a week, and the regular fee for doctors also, which is just a little less than the average charges fixed by the medical association, but we make that lower upon the basis that the State always pays and pays promptly, so that the doctor does not have to put his bill higher

on the basis that he will probably collect 50 or 60 per cent of it, and thereby have a reasonable fee.

We require every case of fracture or back injury to be X-rayed at the time of the accident or just as soon thereafter as it is practical to do it, and that X-ray plate must be filed with the department for the use of the chief medical adviser. As to the fees allowed, take a man with an injured finger. The first treatment is \$3, or, if it is a severe dressing, in some instances \$5. After that the individual treatments are \$1.50 where he calls at the office, or \$2.50 for the treatment where the doctor has to call at the hospital or the home of the claimant. The fees for major operations run from \$75 to \$200 and on minor operations \$15 to \$50, according to the nature of the injury.

I would like to say that we have just recently revised our fee schedule and the rules of the medical aid division governing the treatment of contract cases, the work of the hospitals and the nurses, and the State cases. I had hoped to have that in print in time to bring it here so that I could distribute it to the members of this convention, but a certain gentleman, who was formerly connected with the department, when we began revising the schedule took it into his head to begin a propaganda against it, so that Dr. Bird had to do considerable work with the doctors and the medical association finally to secure their approval, and the matter is now in the hands of the printers.

We secured copies of fee bills from practically every State, and one State would have some matter of a medical fee that would not be mentioned in another, and we worked out on all of these, until I think we have compiled a most comprehensive fee bill, as comprehensive as that compiled by any State; and as soon as that is out of the hands of the printers I will see that it is mailed to the office of every industrial commission in the country.

DISCUSSION.

Mr. STEWART. Has it been revised upward or downward?

Maj. GILL. Practically downward. There has been a general reduction of about 15 per cent.

Mr. ROACH. You pay the doctor out of the State fund?

Maj. GILL. Yes.

Mr. ROACH. Did I understand you to say that you got 50 per cent from the employer and 50 per cent from the employee?

Maj. GILL. The employer collects from the employee and the money is all paid in by the employer. We make the calls every four months, and payments are made in May, September, and January for the four months' period. The law requires 20 days' notice by mail, and the notices are mailed in April, August, and December, and we notify the contributors that the payments will be due on the first of May, September, and January, and will become delinquent if not paid by the 15th. That is for the second preceding four months, and the employer deducts from the pay roll the employees' portion of the medical-aid fee.

A MEMBER. How do you manage in a time of depression like this? How do you take care of that?

Maj. GILL. That takes care of itself automatically, because if you have depression and the men are not employed you have not the cases. I might say that the payment is for the second preceding four

months, because we can not get the audits in and compile the rates of pay without having these four months intervening. We must have some time to do that.

Mr. ROACH. What is the motive of the employer in securing the contract doctor?

Maj. GILL. Some employers imagine that they can get better treatment and have closer supervision of the treatment of the man, but that has proven a fallacy, and the better class of employers are abandoning the contract system, because they get better results from the State plan where the man can choose his own doctor or be sent to another hospital.

On the 1st of April we had, if I remember, 921 contracts in the State, that was in 1919, and on the 1st of September that was reduced to 774. It had been reduced through cancellation of contracts that were not renewed, and through cancellation of some that were unsatisfactory.

Mr. HOOKSTADT. Under the contract system do the employees pay practically the entire cost?

Maj. GILL. No, because the law requires that the rate shall be fixed in the contract and specifies that it shall be 2 cents in class C on each day's work, one-half of which is to be borne by the employee, and that 10 per cent of the total funds collected shall be paid into the medical-aid fund for administrative purposes, and the other 90 per cent goes to the contract doctor.

Mr. KONOP. How many employees have you in the medical-aid division?

Maj. GILL. None. The bookkeeping part is all done by the industrial insurance division.

Mr. KONOP. It seems to be rather complicated, and would take a great deal of bookkeeping.

A MEMBER. How many firms have you insured?

Maj. GILL. It is practically compulsory. They have to take insurance in all extrahazardous industries. It is difficult to tell at any time the exact amount, but as near as I can tell, on the 1st of September it was 12,740. During the early part of 1920 and the latter part of 1919 we had over 14,000.

Mr. SAYER. The medical-aid fund is not contributed to by the premiums or assessments made for the State insurance fund?

Maj. GILL. No; it is an entirely separate fund.

Mr. SAYER. Supposing this fund proves inadequate in any period?

Maj. GILL. We could levy an additional assessment. That has never been necessary; in fact, we watch the fund much closer now since the reorganization under the code.

It is not very creditable, but it is a fact that a great many bills were padded a little, and I directed the appointment of a very capable man, who had been two years a student of medicine, as chief clerk of the department after the 1st of April, and we began, with Dr. Bird's aid, a very close supervision of medical-aid bills as presented to the department, and we have been cutting these considerably until now they are beginning to come in at what the schedule should call for, and so far this year the reduction amounts to on an average since the 1st of April a little better than \$2,000 per month, or practically the same number of bills as the preceding period.

Mr. SAYER. I think you stated that the one who makes the contract has a right to the selection of a physician?

Maj. GILL. Yes.

Mr. SAYER. How does that work out?

Maj. GILL. It generally works out well, but if he makes a choice of a physician who is not satisfactory the department can transfer him. We have authority to do that, and that is done quite often. Occasionally a man selects a chiropractor or an osteopath, and we transfer him because the work is surgical.

Mr. SAYER. Have you the power to place a doctor on the black list?

Maj. GILL. Yes.

Mr. SAYER. And forbid him to have any compensation cases?

Maj. GILL. Yes; we have that right. Just recently I notified two doctors that their contracts would be canceled, and as soon as I return I expect to issue a final order because of difficulties we have had with them.

Mr. SAYER. Do you have a public hearing of the charge?

Maj. GILL. If they want to have a hearing they can do so, and if the man goes to some one who has been notified he can not practice we would immediately transfer the man to some one else.

A MEMBER. Suppose he said he would not go?

Mr. KONOP. Supposing he sends a bill to the employee as a private patient?

Maj. GILL. We refuse to pay the bill. He would do it at his own expense.

Mr. CHANDLER. In the State of Connecticut we have unlimited medical service and have had almost from the beginning. I am quoting from memory, but I am not far off when I say that over \$4,500,000 has been disbursed in the two-year period previous to the last report to the governor, and not far from 80 or 85 per cent was expended by the self-insurer, and insurers for medical, surgical, and hospital service. We have been operating about eight years, and it is getting so that a year's experience is a pretty fair criterion of what we can expect in the future.

Maj. GILL. We do not attempt to keep any account of how much is paid out under the contract system, but under the State plan the last biennial period we paid out in industrial expense in round figures three and three-quarter millions, while we paid out on medical aid about \$744,000, I think the figures are.

Mr. CHANDLER. We would regret any change which would give the workmen the right to select the surgeon, because we find that self-interest, almost without exception, leads to the selection by the insurer or by the self-insurer of the leading surgeon in the city or town. It is the leading surgeons who treat the men under the choice of the employer or the insurer, whereas the workman is very apt to pick out some man who is more or less of a shoddy man.

Maj. GILL. Our experience has been that, outside of large cities like Seattle, Tacoma, and Spokane where the medical societies themselves make the contract and then select specialists—in the smaller towns—where the employer has made a contract he has selected the man who would do the work for the least money; along the Columbia River many employers contracted with a medical corporation which had its headquarters in Portland, and another which had

headquarters in Astoria, and those medical societies or hospital associations, which were conducted by laymen, would farm out the contract to some doctor student out at the camp. The amendment to the law gives the supervisor of the industrial insurance the right to approve contracts or to refuse approval of any contract, because we have had case after case where because of the treatment received there was a permanent partial disability, whereas if the man had had proper treatment there would have been no permanent partial disability.

Mr. MARR. How do you arrange to make a limitation as to what they should charge?

Maj. GILL. That is fixed in the fee bill, as far as the hospitals are concerned, at \$18 a week. We found that hospitals had contracts with the railroads for \$14 a week, and we figured that \$18 a week was certainly a reasonable fee. In emergency cases the doctor can secure a private room, in a very severe case, for a period of one week, but for any extension of that time he must secure the permission of the department. That is, of course, secured through the chief medical adviser, and a private nurse can be had for a period of three days if permission is secured from the head office in Olympia; that is to prevent an abuse of the privilege of the private room or the nurse. We allow the private nurse a fee of \$5 a day. The regular fee in some cities for nurses is \$7 a day, but that matter was taken up with the nurses' association, and they have agreed (in view of the fact that they always get their pay from the State, and get it promptly), that the State rate is an equitable one.

Mr. KINGSTON. Do you put the patient in a public ward after a week?

Maj. GILL. Yes.

Mr. KINGSTON. And the \$18 a week is the public-ward rate?

Maj. GILL. Yes. In emergency cases, in severe cases, where a man should remain in a private room, permission for him to remain is given.

A MEMBER. Are the contracts per diem or yearly?

Maj. GILL. On the yearly basis. The employer and the employee make the same contribution as they would if under the State plan, but 10 per cent of the total is paid to the State for overhead expense, and the other 90 per cent is paid to the doctor. He gets the 90 per cent for the year regardless of the services he renders. The contract is made with the doctor and the money is turned over to him. We also have the right to remove a man from a contract doctor. Only two weeks ago we had a man removed from a hospital. Two contract doctors had caused us a great deal of trouble last year, and we sent the man to the Provident Hospital and put him in the hands of one of the best surgeons in Seattle, and notified the employer that he would be held responsible for the bill incurred.

A MEMBER. What is the advantage of having the contract doctor over the open fee?

Maj. GILL. I do not think there is any advantage. I think it is a disadvantage. Experience shows that it is not advantageous at all.

Mr. BROWN. In our State we are accustomed to find that the employers of labor employ the best surgeons that they can find because of their interest to get the man back to earning money as early as possible.

Maj. GILL. The man who is injured, as a general thing, sends for the man in his community, the doctor who has a reputation as a surgeon. If it is a surgical injury he does not go to the average family doctor. We find that he does not do that, but he goes to the man who has some reputation as a surgeon.

A MEMBER. How about the cases where a workman refuses to care for himself?

Maj. GILL. You find that, and you will find the workman who is malingering. I might say that in addition to investigation by the field men, we have a blank form and we require the hospitals to make a report on every case when giving the man's condition, and in that way we have discovered a good many malingerers who have become ambulatory and are still trying to stay in the hospital because it is pretty nice to get the time and board and room. In that way we are stopping quite a lot of them.

A MEMBER. What authority decides when a workman is fit to go back to work?

MAJ. GILL. That is on medical advice. A great many of the men, probably the majority, are examined by our own surgeon, and often we select a man of very high standing in the nearest city to give a final examination, and he makes a report and we fix the rating on that report.

A MEMBER. Is it not sometimes the surgeon who is responsible for the malingering and not the man?

Maj. GILL. That could be possible. I do not mean to say that it is only the workman who malingers, but we find a great many of them; and those of a certain class of foreign birth, who just as soon as they are hurt lose all heart and vim, and who immediately insist that they can not go back to work, when all the medical testimony shows that they can.

Mr. SAYER. I understood you to say, I think, that in cases at a distance you have some reputable physician or surgeon examine the man and rate him and determine when he is capable of going back to work.

Maj. GILL. Yes.

Mr. SAYER. Suppose a man says he does not care what the doctor has to say, that he has a pain in his back and can not work?

Maj. GILL. We have the man examined by the chief medical officer.

Mr. SAYER. You don't arbitrarily cut him off on the first doctor's report?

Maj. GILL. No, because the tendency is to administer the law liberally and on behalf of the workman.

Mr. SAYER. You referred to the fact that you have a rule requiring that an X-ray plate shall be made in every back case, to be taken promptly and filed with your department. Do you require that in any other class of cases?

Maj. GILL. All cases of fracture.

Mr. SAYER. Do you require the employer to furnish that?

Maj. GILL. No, sir; except in contract cases. The employer or the contractor doctor must furnish it in contract cases, but where the cases are not under contract the State pays for the X ray.

Mr. SAYER. Have you your own X-ray laboratory?

Maj. GILL. Yes, a very complete one. We generally have X rays taken of all fractures, particularly when the final examination is made, as well as at the time of injury.

Mr. SAYER. It would save us a great deal of trouble if it was possible for us to require the X ray and have it filed with the department, but we have no power.

Maj. GILL. Since the 1st of April we have been enforcing the law.

Mr. LEE. Let me ask this question: Do I understand you to say that you are advocating your system as it is now, or do you feel that a better result could be obtained by amending or in any measure changing your present method?

Maj. GILL. You mean on medical aid? I believe that you can get better results if the contract system is entirely abolished.

The CHAIRMAN. The next part of the program was to have been by Mr. E. E. Watson, from Columbus, Ohio. He is not present with us to-day and I will ask Mr. Caine, from Utah, to give us a short talk on the question of "Reserves under the State fund."

RESERVES UNDER THE STATE INSURANCE FUND OF UTAH.

BY CHARLES A. CAINE, MANAGER STATE INSURANCE FUND, UTAH INDUSTRIAL COMMISSION.

It would be extremely hard for me to give you any general discussion on reserves, as I do not profess to have any entire knowledge and I would much rather have had Mr. Hatch or Mr. Hookstadt give you that, but I would like to say a few things on the State insurance fund of Utah.

We started out in 1917 with an appropriation of \$14,000 from the legislature. We wrote in the first year, \$188,000 of premiums, the second year \$166,000, and the third year \$208,000. We had no experience, and had to depend on the bureau rates, and for the first two years the industrial commission adopted the bureau rates. We allowed the 41½ per cent for expenses, and the remaining 58½ per cent for reserves. We figured that the expense was extremely excessive so far as the State fund was concerned, so we reserved on a basis of 65 per cent, and in coal cases we made it 27½ per cent for expenses and 72½ per cent for reserves, and we did that for two years, and owing to the fact that our expense loading was excessive the industrial commission decided to reduce our rates about 17½ per cent over the stock company basis, and we reserved for the next two years on the basis of 85 per cent, carrying 15 per cent for surplus and expenses. Now, after four years they have given us a differential of 20 per cent over the stock company basis. We are now figuring the reserve on an 80 per cent basis. Out of the first and second years' premium we paid the policyholders \$32,000 in dividends, and last May we returned to the policyholders in the coal cases over 25 per cent, or \$19,000, and last July out of our year reserve savings; that is, additional savings out of the 65 per cent we put away for reserve, we had \$27,000 to distribute to our policyholders and a reduction of the rates from 1919; that is, July 1, 1919, to December 31, 1920, making a year and a half, we saved our policyholders \$65,000 in reduction in rates, making a total savings out of \$680,000 collected, of \$144,000, or approxi-

mately 23 per cent, and we have on hand \$32,300 to mature our claims, and a net surplus of \$151,000.

DISCUSSION.

The CHAIRMAN. Mr. Marshall has been unavoidably prevented from being here, and we will not be able to have his paper on "The auditing of pay rolls."

The meeting is now open for any questions that may be asked by any member present in regard to any other matters that come up under these heads, or anything else that they may wish to speak about.

Mr. STEWART. I would like to ask you a question. In your address you stated that the board did not particularly look after the employer who employed less than five workmen. Now, that is just the trouble and opens up the whole question of coverage in all of our States. Do I understand you to say that those five workmen, or four workmen, would be covered under your compensation law in case of accident, whether or not their employer was on your list and assessed under your system of assessment?

The CHAIRMAN. I did not explain that point very clearly in my remarks. Our act is, that any employer who is not assessed does not come under the provisions of the act unless he has over four men employed, but the board has power to assess any employer where there is only one man employed or two men employed, and we do assess any going concerns. For example, a baker with one or two or three men employed, and the business going on all the time, we assess him, and the minute we assess him he is under the act no matter how many men are employed. But take the lumbering industry. A man goes into the lumber woods and he employs three men for perhaps six or seven weeks, and one man gets hurt. He is not under the act, and he is not assessed; but if a man is in the lumber woods and has four men employed, he is under the provision of the act and the man gets the insurance. You can readily see that the idea is that where we know a man is carrying on business, and we can collect the assessment, we assess him, but the idea is to take out the small transient man who just goes casually into business, and if a man is hurt we do not hear anything about it. We can bring any employer of labor under the act, and the minute we assess him he is under the act no matter how many men are employed. I might say that if a man is not protected under part 1 of the compensation act, he comes under part 2, which gives him all the common-law rights.

Mr. STEWART. Doesn't he have to show that the employer violated some provision—

The CHAIRMAN. He has to show some defect in the machinery or plant, but the assumption of risk and fellow servant, and all that, is cut out altogether. His own negligence is taken into account.

Mr. LEE. In most of the acts they have the provision that any employer employing over three men, say, five men or seven men, should be subject to the workmen's compensation act; but what reason is there that the employer who does not employ more than one should be eliminated from the workmen's compensation act?

Mr. KINGSTON. No real reason. It is purely one of expediency. The difficulty of getting, from an assessment point of view, the thousands upon thousands of men throughout the country who employ

only one man or two men; it is so difficult a problem that that type of legislation has not been introduced, but there is no sound reason why every workman who works in an industry which is covered by the law should not have the benefit of the law's protection. The law excludes farm laborers and domestic servants. Those two classes are excluded and there is no provision by which they come in. We are in hopes that we may reach the point whereby the farm laborer and the domestic servant can be protected.

MR. STEWART. I would like to ask whether the compensation laws of the States were intended for the workmen or for the convenience and expediency of compensation commissions. We have been trying for several years to find out the actual coverage, and yet none of you know how many firms in your State are employing five people and you make no effort to find out. You have agreed to, time and time again, but there is not one of you who has the slightest idea of the coverage in your own State. A man works to-day for a firm that employs 10 men and he is insured. He is covered, and if he gets hurt he gets paid. The next week he is working for a man who employs three, and he is not insured, and if he gets hurt he is out of it. Why is this? Apparently, from Mr. Kingston's point of view, for the expediency, for the convenience, and as a matter of bookkeeping of the compensation commission. Now, after all, aren't we getting this thing where it is a question of expediency and convenience for the commission rather than compensation for the workman? "Whither are we drifting?"

MR. DUFFY. I might say that we have some experience in Ohio in that connection. I do not know what your experience has been in other States, but the real reason in Ohio is that the legislatures are afraid to bring a majority of the farmers under the law. Now, we have taken upon ourselves in our commission to prepare an amendment that we presented to the legislature two years ago. We fought it through committee, and had it reported to the house, and then when it was reported to the house a representative from our largest county got up and made a motion to strike out the word "one" and insert "five." The present law provides that it shall apply to employers with five or more employees. The amendment was to apply it to all who had one or more employees, and the amendment passed almost unanimously—I think there were 2 votes against it. Now then, at the last session of the legislature we put in the same amendment or tried to put it in. The employers' association, the manufacturers' association, and representatives of organized labor agreed with us, and we had the bill all fixed up, and, do you know, it took us a week trying to coax a member of the house or senate to introduce that measure, and we put it in with a number of other amendments, say half a dozen, and in every instance they said, "No, we won't even introduce it; we won't introduce these other amendments unless you take out this one which would make all employers subject to the law." We could not get a member of the house or senate, and we finally had to agree, all of us, members of our commission, employers' representatives, and labor's representatives to take out the one and agree to let the five stay there before we could get it introduced in the legislature, and that is the reason for the situation in Ohio.

We had a case only last week. A woman led her blind husband into the office of the industrial commission. We have a provision in our law whereby, with a delinquent employer, the injured worker may elect to take compensation rather than to sue in court. The election to take the compensation is with the injured worker. In this case the employer, a farmer by the way, set up the contention that he had not five employees regularly employed. The evidence supported that, but he had four regularly employed. This man had lost one of his eyes in this particular accident, and I asked him how he lost his other eye. It appears that he was gathering up corn and he had a big armful of it, and he said he was struck in the eye while carrying it. He says that he had lost the other eye 40 years before while working on a farm. So there we have a man totally blind and the two accidents 40 years apart; but he lost both of them working on a farm. The man is pretty well up in years; has not got anything. He is in poverty and his wife pleaded with us and asked why they could not get anything, that they had nothing to live on, and it was not their fault—and all we had to tell them was that the law was that if the man had been working for a farmer who had five men employed we could give the compensation to her, but as he had only four employees we could not do so.

Mr. McSHANE. I do not want to trespass on your time, but I just wanted to state this, that no great movement for the benefit of the laboring class has taken root so quickly and grown so rapidly as has the compensation coverage in the United States. That is the way I view it. I feel quite satisfied that the conditions, as Mr. Duffy very aptly says, are due to the legislature and not to the accident boards and commissions. If we could sit down here to-day and amend our laws the conditions referred to by Mr. Stewart would undoubtedly be covered.

In Utah we have struck the happy medium. We have an election whereby an employer of less than three can be covered; but those who have three or more employed are penalized if they do not take coverage by having their common-law defense taken from them. We are a small State in number of employers, but we do have hundreds of people who are employing one or two men who come under the act voluntarily because they elect to do so, and they are being educated up to that point, and I hope the time is not very far distant when every man in the industries of the State, in fact of the whole United States, will be covered by compensation laws.

I would like to ask how many States are covered.

Mr. HOOKSTADT. Every State in the Union excludes domestic service and farm labor except New Jersey.

Mr. KINGSTON. When I got up a moment ago and said that the reason for this type of legislation was purely one of expediency, I did not have in mind the provisions as to farmers and domestic servants. We have that exclusion and the board has no control over it. We offered an amendment to our legislature last spring, which was not acted upon, providing that farmers could come in under the act if they wished to do so. That was a very mild way of inserting the thin end of the wedge, but it was never accepted, in fact it was never discussed on its merits. Our law does not exclude any class by number limit, but provides coverage for everyone except farmers and

domestic servants, and gives the board certain privileges of exclusion. It was in that sense that I used the term "expediency." We have excluded merchants. That class has been excluded by the regulation of the board, largely one of expediency, but there is no reason why a clerk in a store could not be covered the same as an employee in a packing house. The collecting of the assessment from every one who is covered is a very, very large problem, and if all merchants were under we would have to get an assessment—

Mr. PILLSBURY. What merchants are out from under the law?

Mr. KINGSTON. Retail merchants are out from under our law.

A MEMBER. How about subcontracting?

The CHAIRMAN. We treat the industry as a unit, and if a man is in the logging business or the lumbering business or the sawmill business and lets it out and contracts, where a man employs four or five men, all come under it. If it is a part of the larger industry they all come under the main contract.

A MEMBER. How about an independent contractor?

The CHAIRMAN. If a man is lumbering on his own land and agrees to deliver at a sawmill or at the river bank so many hundred thousand feet of lumber, and employs only two men, we never hear about him, or would not hear from him if there was not an accident. That is a little industry by itself. He is not under the act unless we get hold of him, and assess him, and he is under only from the time we assess him; but if he is cutting the lumber on the land of the mill owner or on the property of the contractor he is then part of the industry and is under the law; and the employer is bound to furnish the board with the names of his contractors, and we can either assess the contractor or we can assess the subcontractor, and if we can not get it from the one we can get it from the other, and we usually get it.

Maj. GILL. In the State of Washington our law covers all hazardous occupations, and there is no limit to the number of employees, no limit of five or any other number. We have thousands of firms contributing to the fund that have less than five employees, and under the elective adoption section of the law any employer in any extra-hazardous business may elect to bring his employees under the act. Farmers can come in under elective adoption.

Mr. KINGSTON. I think farming is one of the most hazardous occupations. I made it my business during the month of August to tabulate from my own city paper a list of the very serious accidents arising on farms, and was amazed to find the extent of it; and one accident in particular I recall, because it may have some bearing on the future of our legislation. We have a farmers' legislature in Ontario, and a farmer prime minister, and he has intimated that the time has come when he is going to recommend bringing farmers under the act. One of the members of the legislature—about half of them are farmers—was engaged this summer, while drawing in his hay, in using a hay fork. The rope part of the tackle broke and he was hit with the fork and knocked down and his neck broken. I think that accident, unfortunate as it is, accentuates what the senator has said, that we have to pay in blood for a lot of things that have been forced upon the attention of the public, and I imagine that that unfortunate accident will go a long ways toward causing some of the farmers in our jurisdictions to bring themselves under the act voluntarily.

Mr. LEE. In our act there is no exclusion. Farmers can come in by election. Our farmers are very liberal with it themselves and with their friends, and they not only included farm labor but the country blacksmith, and they can come in if they care to come in.

I have seen more hardship come to the workman by the impositions of the small employer than by the larger employer. We cry so loud and we blackguard the insurance company and the big employer of labor, but it is the little fellow who is getting away with it—the man who employs one or two men and does not do anything to protect the man who works for him. We have had some of these indicted by the grand jury and prosecuted by the State's attorney and they have been given the choice of either going to jail or making some provision for their men. I believe we ought to take in all extrahazardous employments if we take in any, and we should have no consideration for the man who says "I am so small I can not afford to take care of my workmen."

Mr. STEWART. In the first place, my question was not aimed at the inclusion of farmers at all, but at the exemptions under the laws as they stand, and the laws exclude the farmer. I do not see why you should blame the farmer because your law exempts employers employing less than five men. That does not answer the question at all. You simply do not know what percentage of the workmen in your State are covered, so far as hazardous occupations are concerned. The occupation is hazardous in which a fellow gets hurt. The girl in a department store who falls off a stepladder and breaks her back is engaged in just as hazardous an occupation as the man in a foundry who falls off a ladder and breaks his back or his leg or his arm. It is all bosh about this hazardous occupation. Accidents are accidents. No industry wants them. The men are not deliberately killed. Accidents happen anywhere and everywhere; the hazardous place is where the fellow gets hurt. If you would find out how many contractors and employers employ less than five people in your State you would get some idea of the number of workmen who are not covered. And then you should take into consideration the fact that the man who employs four people has a larger turnover than the large concern—he employs more people in proportion; so, if you have 5,000 employers averaging four employees each, they employ a great many more than 20,000 people. Your big concern has a permanent pay roll, a permanent list of employees, while your small employer, who is shifting every day, employs a great many more people than appears on the face of the returns, and your elective system, in which the workmen have no vote, lets out the fellow who elects to stay out regardless of whether or not the 4 men or 10 men he employs would elect to stay out. It seems to me, gentlemen, that you have to increase your coverage. If anything like 5 per cent of the complaints that I get against the whole compensation system are true, there are too many workmen who are not covered.

Mr. HATCH. I can not see anything in the argument for the exclusion of a certain portion of the hazardous industry, and the drawing of any line as to the number of persons employed, because the greatest State in the Union, with 10 per cent of the population and far more than 10 per cent of the industrial population, does

not draw any such line. In New York State, if any industry is under the law it is under the law if there is only one employee in the plant; and that has been the condition in New York from the start. Our law in regard to coverage undertakes to name all the industries which are under the law, and they are called hazardous, and we are drifting more and more to complete coverage except for farm labor and domestic service.

Mr. KINGSTON. What about the ordinary retail merchant?

Mr. HATCH. A good many are under our law. A girl employed in the office of a business firm, a life insurance company, was injured when she went down the elevator on a personal errand of her own during the lunch hour. The girl sued, and the courts threw the case out, saying she was entitled to compensation. We have hundreds of industries listed under the New York law.

A MEMBER. Unless the industry is enumerated and stipulated beforehand you have no right of action under the law?

Mr. HATCH. That is right. The tendency in New York has been by legislative amendment, and the court decisions extend our coverage.

A MEMBER. But the extension must be made before the accident. You can not extend it afterwards?

Mr. HATCH. No.

A MEMBER. Would that person be entitled—

Mr. HATCH. If it came under the provision of the law.

Mr. SAYER. Our act was amended in 1916, and the terms "employer," "employee," and "employment" were so defined at that time that any employer whose principal business is the carrying on of an employment that is defined as hazardous within several groups is under the law, and all of his employees of whatever grade, whatever their particular character of employment is, are brought within the law. I might state that in the case Mr. Hatch spoke of, the Metropolitan Life Insurance Co., their particular business is not the carrying on of hazardous employment, but the company was engaged in the maintenance of a building in the city of New York, and some of their employees being engaged in a hazardous occupation, it brought the entire business of the company within the scope of the act. On the question of the definition of four or more employees, the New York act proceeds on the theory of hazard as well and not on the mere enumeration of the employees. It proceeds on the theory that the employment of four or more workmen or operatives creates a certain hazard; that is, that the number of persons employed in and of itself creates a hazard, and in one case the court referred to accidents that flow from the gathering together of a certain number of persons and held it was entirely for the legislature to say how many persons could create such a hazard. The court said, "It is natural and we must assume that where a number of persons gather together they will of themselves create a certain hazard."

The amendment in regard to four or more employees was dated in 1917, but the definition of employment, employer, and employee was brought in in the act of 1916, chapter 622 of the Laws of 1916. In a recent case in the appellate division of the supreme court it was held that the provision in regard to four or more workmen or parties did not operate to bring a broker's office under the law.

There was a case tried before me, involved in the great Wall Street explosion a year ago, where a runner employed in a brokerage office was at the point of the explosion and was killed. It appeared that the employer had 45 employees, office employees, telephone and telegraph operators, and quite a number of runners, messengers who did more or less manual work in addition to carrying papers, and I held that the employer had four or more workmen or operatives, but in a very recent decision this summer our appellate division of the supreme court has handed down a decision holding that this employer did not employ four or more workmen, as I had ruled, four or more workmen or operatives, and reversed me and dismissed the claim, holding that that employment did not come under the law on the ground that this was not an industrial employment, and that they were not workmen or operatives within the meaning of the law.

Section 2 of the act contains the hazardous employments and has 42 or 43 groups that cover practically every conceivable hazardous employment at the present time, but to take up any slack that there might be from this, "four or more workmen or operatives" was added to it. If the employers are classified in the hazardous employment they come under the law without regard to four or more; there might be only one.

Mr. HOOKSTADT. What about clerks and stenographers?

Mr. SAYER. The business that the Metropolitan Insurance Co. was carrying on was a real estate operation, maintenance of an office building.

Mr. FISHER. In Pennsylvania, since the passage of the act in 1915 every type of employee other than domestic servants and farm hands has come under the act, even stenographers in a lawyer's office, and there has never been action to get away from under it. The elimination of the farm hand and the domestic was a matter of political expediency. At the last session of our legislature it passed a law providing a penalty of \$1 per day per employee for failure to comply with the provisions of the act, and I have begun to realize how little we do know about the coverage. I secured the cooperation of the auditor general of the State of Pennsylvania to allow me to put a sticker relative to workmen's compensation on the returns that are given to mercantile concerns. They cover restaurants, wholesale and retail vendors, and every like employment, and the auditor general has on his mailing list over 300,000 names, and I have the names of 5,000 thresher men and portable sawmill operators who do not carry compensation, and yet are engaged in extremely hazardous work. That shows the magnitude of the problem. If a man threshes as part of an agricultural pursuit, he does not come under the law, but when he goes on to his neighbor's land it becomes a threshing occupation.

Mr. LEE. Here is what strikes me about coverage. Are not we getting away from the idea of compensation? As I understand the theory about compensation, it was intended to provide something for the man who worked on an hourly or daily basis, and when he was injured his remuneration stopped; not something to aid him and tide him over for the period of dark days and distress; it was not intended to cover the case of employees who were paid by the week or the month who were universally taken care by the employer during

the period of disability, for a reasonable time at least, on full pay. This man has a maximum of \$18 upward, where the clerk or other employee gets his \$35 or \$40 a week. When you start talking about universal coverage you are going into a field that was not intended to be covered by the workmen's compensation act, and if you try to do so are you not doing a greater injury to more people than a benefit? I think that idea is entirely wrong. I think we ought to thank Mr. Stewart for what he has said to us to-day, because we are patting ourselves on the back too much, and I do not think we have done as much as we ought to have done.

Mr. PILLSBURY. Industrial injury where it has not been adequately dealt with is the greatest cause of poverty in the world, and the second is unemployment. Now, society for its own protection against the consequences of poverty—and the consequences of poverty mean the destruction of civilization—society for its own protection, and only incidentally for the protection of the individual, puts this burden upon industry. That is the reason for it. That is the origin of it. We do not generally find out why we do a thing until a long time after we have done it, and when somebody has had patience to dig back and find the origin of things, he finds where we got the origin of the power, the police power of the State to protect the State from the consequences of poverty.

Now, it goes without saying that the law should be as broad as the employment, that it should cover all the work. But it is one thing to know what should be done and another thing to know how to do it. That is the problem, not whether these people should be covered—that goes without saying—the problem is how are we going to bring this about. I think in California we have done about as well as we could do. We made an act to cover all who work except the casual employees. No burden should be put upon industry unless there is some good way of insuring against it. There has not been found any possible way of insuring a person who comes and mows your lawn for half an hour or an hour, or does some little odd job for you for half an hour or an hour outside of business. The law covers it if it is in the course of your business, occupation, or profession. The only reason we did not cover the farmer was we did not have the votes. We came within five votes of it once. We put it up to the legislators in every session of the legislature till the last one. There is no reason why a man who loses the fingers of his right hand in a planing mill should get compensation, and if he loses them in a feed cutter he should not, except the votes. I may say, however, that we have got practically all of the large farmers in California under the act through election, through getting men to sell them insurance, and now we have more than 15,000 of the larger farmers under the act, and others are coming in, and by and by, by the process of infiltration, perhaps through agricultural interests, we hope to be able to carry a provision through the legislature. We hope to be able to make the law compulsory for the farmer as well as for everybody else.

In cases where your law is limited to five you will by and by educate your State to remedy this. Of course this all takes time and patience, and effort. We want to get the solicitors of insurance at work on the job, because they make a commission on the policy and they are good scouts for that kind of work. I do not despair

of the result. Just now we have struck a snag with our act. We did not get what we wanted through the last legislature. The time was not psychologically right.

I think we should follow along the work on educational lines. We want to educate the people before we can expect to get the law. If the people had not been educated you would not have the act on the statute books in the United States to-day. This work started with the social workers. Let us keep working, and the result will be achieved.

The CHAIRMAN. There will be other opportunities to discuss these subjects, which will be on the program at a later date.

There is a short matter of business to be put before you to-night and I will ask the president to take the chair.

[President Andrus takes the chair.]

The CHAIRMAN. Is there any business to come before the meeting?

Mr. LEE OTT. There is a motion which I want to put before the house this evening, an amendment to the constitution.

The motion is, "Any person who has occupied the office of president or secretary of the association shall be ex officio an honorary life member of the association with the full privileges."

Mr. STEWART. Such a motion must be read at the first day's session, and will lie upon the table pending your pleasure.

[Meeting adjourned.]

TUESDAY, SEPTEMBER 20—MORNING SESSION.

CHAIRMAN, CHARLES S. ANDRUS, PRESIDENT I. A. I. A. E. C.

BUSINESS MEETING.

The **CHAIRMAN**. We will listen to the report of the secretary-treasurer.

Mr. STEWART. In presenting the report of the secretary-treasurer there is one point I wish to emphasize, and that is the situation in which the association finds itself in regard to the Industrial Code. We are cosponsors with the National Grinding Wheel Manufacturers' Association on the Grinding Wheels Code. We also have representatives on a large number of codes. The details of that you will find in the secretary's report. So far as these other codes are concerned they are going along all right. The question I want to bring before this convention is as to the Grinding Wheels Code. A committee of 23 was appointed to draft a grinding wheels code, which it has done. The code was accepted by a vote of 20 to 3 in the committee. Subsequently the American Engineering Association asked that the Department of Labor, as such, name two representatives on each one of the codes. This Grinding Wheels Code was finished at the time that the department named two workmen, two men who were actually engaged in working with these wheels, on the committee. They voted to accept the code as written, making a vote of 22 to 3 on the committee. Personally I feel that if we are not going to accept the work of an expert committee of that sort we are going to find it very hard to find expert men who will serve on committees. What has happened is this: The Grinding Wheel Manufacturers' Association, as the files show, had one member who objected to the code. As time went on this member was able to get the association, cosponsor with your association, to object to two clauses in the code. I do not think it is necessary to go into the details as to what the trouble is. The committee as it drafted the code said that hoods are the best protection for grinding wheels and should be used wherever possible. A member of the Grinding Wheel Manufacturers' Association manufactures a grinding wheel protected with flanges, and he objected to the words "shall be used wherever possible."

The committee in despair threw the code back upon the sponsors. Now, I have but one or two things to say about that. In the first place, these codes have to be accepted by the State legislature before they are valid, and if we recommend to the State legislature a code which can be picked all to pieces, we will lose our influence with the legislature, and will fail to get these codes adopted. It seems to me that this convention either ought to say that it will stand by the committee of experts, or it ought to give the executive board power to act and close the deal.

I will say that this Grinding Wheel Manufacturers' Association has shown some disposition to compromise. I do not believe that a compromise will be accepted by the committee of experts. However, if it should be accepted, that will clear the way; otherwise I feel that we ought to stand by our committee, and I would like some action by this convention that will enable the committee to push that code along to completion and publication.

So far as the treasurer's report is concerned, the details are all in the report. The expenses for the year were \$1,827.52. We have a balance of \$3,020.65, which includes the Liberty bonds of \$700 that we own. This is \$300 less than the balance last year, which is partly due to the fact that the expenses of the executive committee were paid this year for the first time.

We have \$570 of bills receivable, consisting of State dues that had not been paid up to September 13. Since then one or two States have paid, but you understand that this matter is closed September 13. We had bills payable of \$27.50.

That, I believe, is an outline of the situation, and if any of you want the details you will find them in the report.

I would like to have action upon the matter of what we are going to do in this case of the Grinding Wheels Code, which is thrown back on our hands by the committee and the sponsors. For a long time we have been at a deadlock; if you will refer it to the executive committee or will act here, we can settle it.

·[The matter of the Grinding Wheels Code was referred to the executive committee with power to act.]

REPORT OF SECRETARY-TREASURER.

During the year just closed two meetings of the executive committee of the association were held—one in New York City on December 7, 1920, for the purpose of settling matters which had been referred to it by the last annual meeting and several other questions which had arisen subsequent to the San Francisco convention; and the other in Washington, D. C., on May 24, 1921, for the purpose of arranging the program for the Chicago convention.

Objection was made by a number of the Canadian members of the association to paying membership dues in American currency. The matter was submitted to the executive committee, and it was decided to accept such dues in Canadian money, the association standing the loss of the exchange incidental thereto.

A suggestion was made by the Commissioner of Industries of Vermont that a sliding scale of membership fees in the association be inaugurated. The suggestion was submitted to the executive committee and it was decided to bring the matter before the eighth annual meeting.

Through the nomination of the safety codes committee, the American Engineering Standards Committee appointed the International Association of Industrial Accident Boards and Commissions as joint sponsor for the preparation of three safety codes, as follows:

(1) Grinding Wheels Safety Code, joint sponsor with the Grinding Wheel Manufacturers' Association of the United States and Canada.

(2) Mechanical Transmission of Power Code, joint sponsor with the American Society of Mechanical Engineers and the National Workmen's Compensation Service Bureau.

(3) Woodworking Code, joint sponsor with the National Workmen's Compensation Service Bureau.

To represent the association on the sectional committees in connection with the above codes, the following were appointed: Lucian W. Chaney, United States Bureau of Labor Statistics; Thomas P. Kearns, Division of Workshops and Factories, Ohio Industrial Commission—later Fred C. Lange, Division of

Workshops and Factories, Ohio Industrial Commission, was substituted for Mr. Kearns; R. McA. Keown, safety engineer, Wisconsin Industrial Commission; John P. Meade, Division of Industrial Safety, Massachusetts Department of Labor and Industries; John Roach, Bureau of Hygiene and Sanitation, New Jersey Department of Labor—Rowland H. Leveridge, Bureau of Electrical and Mechanical Equipment, New Jersey Department of Labor, was later substituted for Mr. Roach; Clifford B. Connelley, commissioner, Pennsylvania Department of Labor and Industry, who later designated James C. Cronin of that department to serve on the grinding wheels committee.

At least four of the representatives of the association have been present at each of the meetings of the sectional committees. The Grinding Wheels Code is completed and has been submitted to the sponsors. It only remains to adjust a difference of opinion with regard to a single paragraph before the code is ready for submission to the American Engineering Standards Committee. The code on the mechanical transmission of power is in an advanced stage of preparation and a committee meeting called for the 23d and 24th of September is expected to complete the work. The Woodworking Code has been delayed in order that the power transmission code might be completed. It is now expected that it will be possible to hold a final meeting of that committee in October. It is suggested that since these codes will shortly be brought to completion it would be desirable for the association to empower its executive committee to take action upon them instead of delaying action until the next annual meeting.

Besides these sponsorships, the association is represented on several of the sectional committees for other codes, the sponsors for the code and the representatives of the association being shown in the following list:

Gas Safety Code—sponsored by American Gas Association and United States Bureau of Standards. Association represented by Dr. Francis D. Patterson, of the Pennsylvania Department of Labor and Industry.

Industrial Sanitation Code—sponsored by United States Health Service. Association represented by Mr. Lucian W. Chaney, United States Bureau of Labor Statistics; Mr. John Roach, of the New Jersey Department of Labor; and Dr. Francis D. Patterson, of the Pennsylvania Department of Labor and Industry.

Code of Lighting for Factories, Mills, and other Work Places—sponsored by Illuminating Engineering Society. Association represented by Mr. Thomas C. Eipper, of the New York State Industrial Commission.

Code for the Protection of Heads and Eyes of Industrial Workers—sponsored by United States Bureau of Standards. Association represented by Dr. Francis D. Patterson, of the Pennsylvania Department of Labor and Industry.

National Safety Code for Ladders—sponsored by American Society of Safety Engineers. Association represented by Mr. James L. Gernon, of the New York State Industrial Commission.

Machine Tool Safety Code—sponsored by National Machine Tool Builders' Association and the National Workmen's Compensation Service Bureau. Association represented by Mr. James C. Cronin, of the Pennsylvania Department of Labor and Industry, and Mr. Rowland H. Leveridge, of the New Jersey Department of Labor.

FINANCIAL STATEMENT OF THE SECRETARY-TREASURER.

BALANCE AND RECEIPTS.

1920.	
Sept. 8. Balance (bank deposits, Liberty bonds, and postage and telegraph fund)	\$3,311.32
9. New York State Industrial Commission, annual dues, 1921.....	50.00
14. Utah Industrial Commission, annual dues, 1921.....	50.00
20. Michigan Industrial Accident Board, annual dues, 1921.....	50.00
25. Iowa Workmen's Compensation Service, annual dues, 1921.....	50.00
Oct. 16. Interest on Liberty bonds.....	14.88
Nov. 9. Kansas Department of Labor and Industry, annual dues, 1921.....	50.00
13. Massachusetts Industrial Accident Board, annual dues, 1921.....	50.00

1920.		
Dec.	18. New Brunswick Workmen's Compensation Board, annual dues, 1921 (Canadian exchange deducted from \$50)-----	\$42.37
	24. Porto Rico Workmen's Relief Commission, associate membership dues, 1920 and 1921-----	20.00
	British Columbia Workmen's Compensation Board, annual dues, 1920 (Canadian exchange deducted from \$50)-----	42.74
1921.		
Jan.	1. Interest on back account-----	20.62
Apr.	15. Interest on Liberty bonds-----	14.87
July	1. Interest on bank account-----	19.33
	20. Republic Iron & Steel Co., associate membership dues, 1922-----	10.00
	25. Nevada Industrial Commission, annual dues, 1922-----	50.00
	Ontario Safety League, associate membership dues, 1922 (Canadian exchange deducted from \$10)-----	8.88
	Nova Scotia Workmen's Compensation Board, annual dues, 1922 (Canadian exchange deducted from \$50)-----	44.55
	28. Virginia Industrial Commission, annual dues, 1922-----	50.00
Aug.	4. Maryland State Industrial Accident Commission, annual dues, 1922-----	50.00
	Connecticut Workmen's Compensation Commission, one-fifth annual dues, 1922 (credited to Mr. Geo. E. Beers)---	10.00
	Wyoming Workmen's Compensation Department, annual dues, 1922-----	50.00
	5. Minnesota Industrial Commission, annual dues, 1922-----	50.00
	8. Connecticut Workmen's Compensation, one-fifth annual dues, 1922 (credited to Mr. Geo. B. Chandler)-----	10.00
	9. Manitoba Workmen's Compensation Board, annual dues, 1922 (Canadian exchange deducted from \$50)-----	44.50
	11. Connecticut Workmen's Compensation Commission, one-fifth annual dues, 1922 (credited to Dr. J. J. Donohue)-----	10.00
	Michigan Department of Labor and Industry, annual dues, 1922-----	50.00
	13. California Industrial Accident Commission, annual dues, 1922-----	50.00
	15. New Brunswick Workmen's Compensation Board, annual dues, 1922 (Canadian exchange deducted from \$50)-----	44.50
	Massachusetts Industrial Accident Board, annual dues, 1922-----	50.00
	18. Iowa Workmen's Compensation Service, annual dues, 1922-----	50.00
	20. Delaware Industrial Accident Board, annual dues, 1922 (new member)-----	50.00
	22. Kansas Court of Industrial Relations, annual dues, 1922-----	50.00
	23. Wisconsin Industrial Commission, annual dues, 1922-----	50.00
	29. Alberta Workmen's Compensation Board, annual dues, 1922 (Canadian exchange deducted from \$50)-----	44.75
Sept.	1. West Virginia State Compensation Commissioner, annual dues, 1922-----	50.00
	2. Pennsylvania Department of Labor and Industry, annual dues, 1922-----	50.00
	6. Connecticut Workmen's Compensation Commission, one-fifth annual dues, 1922 (credited to Mr. F. M. Williams)-----	10.00
	Porto Rico Workmen's Relief Commission, associate membership dues, 1922-----	10.00
	10. New Jersey Department of Labor, annual dues, 1922-----	50.00
	13. North Dakota Workmen's Compensation Bureau, associate membership dues, 1922 (new member)-----	10.00
	Utah Industrial Commission, annual dues, 1922-----	50.00
	Unexpended postage and telegraph fund-----	4.86
Total-----		4,848.17

DISBURSEMENTS.

1920.	Postage and telegraph fund from statement of 1920.....	\$2.29
Sept. 8.	Postage and telegraph fund.....	5.00
24.	Italian Room, St. Francis Hotel, San Francisco, Calif.....	100.00
30.	A. Henshall, attendance and transcript of seventh annual convention.....	261.20
	Grace Littler, attendance and transcript of seventh annual convention.....	236.00
Dec. 1.	Postage and telegraph fund.....	5.00
11.	Expenses incurred by J. P. Gardiner in attending executive committee meeting, New York City, Dec. 7, 1920 (on account).....	147.09
13.	Expenses incurred by W. W. Kennard in attending executive committee meeting, New York City, Dec. 7, 1920.....	34.19
15.	E. M. Taylor, stenographic services, Nov. 6-Dec. 15.....	3.60
16.	Expenses incurred by F. W. Armstrong, in attending executive committee meeting, New York City, Dec. 7, 1920.....	135.13
	Balance expenses incurred by J. P. Gardiner, as above.....	23.24
1921.		
Jan. 11.	Expenses incurred by Robert E. Lee, in attending executive committee meeting, New York City, Dec. 7, 1920.....	31.22
Feb. 4.	Gibson Bros. (Inc.), printing letterheads.....	21.50
	Postage and telegraph fund.....	5.00
May 24.	Expenses incurred by F. W. Armstrong in attending executive committee meeting, Washington, D. C., May 24, 1921 (on account).....	100.00
	Expenses incurred by J. P. Gardiner in attending executive committee meeting, Washington, D. C., May 24, 1921 (on account).....	116.68
31.	Expenses incurred by Chas. S. Andrus, in attending executive committee meeting, Washington, D. C., May 24, 1921.....	122.45
June 3.	Balance to J. P. Gardiner for executive committee meeting expenses as above.....	31.36
	Expenses incurred by W. W. Kennard in attending executive committee meeting, Washington, D. C., May 24, 1921.....	64.10
	Balance to F. W. Armstrong for executive committee expenses as above.....	50.47
Aug. 6.	Gibson Bros. (Inc.), printing 1,000 letterheads.....	21.50
24.	Postage and telegraph fund.....	5.00
Sept. 2.	Gibson Bros. (Inc.), printing 500 registration cards.....	5.50
9.	Ethelbert Stewart, honorarium.....	300.00
		1,827.52
Sept. 13.	Balance (bank deposits, \$2,315.79; Liberty bonds, \$700; unexpended postage and telegraph fund, \$4.86).....	3,020.65
	Total.....	4,848.17

BILLS RECEIVABLE.

Wyoming compensation commissioner (warrant No. 213443 in payment of 1921 dues was lost. Bond of indemnity has been submitted).....	\$50.00
Connecticut Workmen's Compensation Commission, one-fifth 1922 annual dues.....	10.00
Hawaii Workmen's Compensation Boards, ¹ 1922 annual dues.....	50.00
Illinois Industrial Commission, 1922 annual dues.....	50.00
Maine Industrial Accident Commission, 1922 annual dues.....	50.00
Montana Industrial Accident Board, 1922 annual dues.....	50.00
New York State Industrial Commission, ¹ 1922 annual dues.....	50.00
Ohio Industrial Commission, 1922 annual dues.....	50.00
Oklahoma Industrial Commission, 1922 annual dues.....	50.00
Oregon Industrial Accident Commission, ¹ 1922 annual dues.....	50.00
Washington Department of Labor and Industries, ¹ 1922 annual dues.....	50.00
Ontario Workmen's Compensation Board, 1922 annual dues.....	50.00
Idaho Industrial Accident Board, ¹ 1922 annual associate membership dues.....	10.00
Total.....	570.00

¹ Payment now being handled through proper channels.

BILLS PAYABLE.

Gibson Bros. (Inc.), printing 1,000 programs for the eighth annual meeting ----- \$27.50
 Respectfully submitted,

ETHELBERT STEWART, *Secretary-Treasurer.*

SEPTEMBER 13, 1921.

The CHAIRMAN. I will now announce the following committees:

Nominations:

Lee Ott, West Virginia.
 G. Louis Eppler, Maryland.
 Fred Armstrong, Nova Scotia.

Resolutions:

Judge Baxter Taylor, Oklahoma.
 Thomas Konop, Wisconsin.
 C. A. M. Spencer, North Dakota.
 S. J. Slate, Georgia.
 O. F. McShane, Utah.
 John S. Buttles, Vermont.
 F. A. Kennedy, Nebraska.

Audit:

George A. Kingston, Ontario.
 T. J. Duffy, Ohio.
 Ralph Young, Iowa.
 John H. Cogswell, Massachusetts.
 E. S. Gill, Washington (State).

Constitutional Amendments:

George B. Chandler, Connecticut.
 V. M. Murray, Delaware.
 William C. Brown, Michigan.

The CHAIRMAN. Doctor Connelley expects to be here to-morrow. I understand that there is an election in Pennsylvania to-day, and he was not able to get away. He and Mr. Mackey expect to be here to-morrow. He was to have been the chairman of this meeting.

At the first meeting of the association which I attended at Boston I objected very strenuously to Doctor Meeker, who at that time was secretary of the association, having two or three programs devoted to safety work, and I told him it was not a practical plan to follow, because some of the commissions had nothing to do with safety work, and he told me I would change my mind after listening to a few of the programs, because safety work was closely allied with compensation work and every commissioner should know about it; and I have come to that conclusion.

Many commissions do enforce safety laws, and as to those who do not I am sure the information you get will prove of great value to you.

ACCIDENT PREVENTION.

CHAIRMAN, JOHN ROACH, CHIEF BUREAU OF HYGIENE AND SANITATION, DEPARTMENT OF LABOR OF NEW JERSEY.

The CHAIRMAN. The first paper on the program is by Sidney J. Williams, secretary of the National Safety Council of Chicago, and he has for his subject, "How much do industrial accidents cost?" I present to you Mr. Williams.

HOW MUCH DO INDUSTRIAL ACCIDENTS COST?

BY SIDNEY J. WILLIAMS, SECRETARY NATIONAL SAFETY COUNCIL.

As Theodore Roosevelt introduced to the American public the word "strenuous" and the philosophy of the strenuous life, so Herbert Hoover has given us "quantitative" both as a word and as an economic and political method; for the quantitative point of view, while commonplace enough in business, has unfortunately been found but seldom in the rarefied atmosphere that prevails beneath the great dome at Washington and lesser capitols, where it is customary to say with vehemence that the Russians or the English, or capital or labor, are good or bad—but not to say how good or how bad they are, or whether the goodness outweighs the badness. Mr. Hoover attracted the eyes of the world in 1914 because he was able to see not only that the Belgians were hungry, but how hungry they were and how much it would take to feed them. Similarly, when Mr. Hoover as president of the American Engineering Council appointed a distinguished committee of engineers to report on the elimination of waste in industry, the committee proceeded to determine not only whether unemployment and labor disputes and mismanagement are wasteful but also approximately how wasteful they are, thus determining the relative importance of these various factors as compared with one another, and the importance of all of them as a percentage of our annual production. The dollar was used as the most convenient unit of measurement. It was agreed that the researches which it was possible to make would yield only approximately correct estimates, but the committee was convinced that for the purpose in hand an estimate 10 or even 20 per cent too high or too low would be far more valuable than no estimate at all—just as a visitor to Chicago would be given a pretty fair idea of the city's size if told that its population was 3,000,000, even if he found later that a quarter million of this number represented only the optimism of his informant.

For this report the National Safety Council was asked to prepare a chapter on accidents and accident prevention. In effect, the committee said to us, "Come now, you say that accidents are bad, and many of them are preventable, and to this we all agree; but tell us just how much do accidents really cost the American people? And what part of this cost could actually be saved?"

There was nothing to do but for a mere engineer to rush in where statisticians had feared—or at least had failed—to tread. The purpose of my paper to-day is to describe the estimate that was made, first, because we are all interested in industrial accidents and therefore interested in how much they cost; second, because the same method of calculation can easily be applied in any individual State and the results will be of great educational value in reaching both employers and employees; and finally, because the statistical experts among you will doubtless find flaws in the calculation and thus point the way toward making a still more accurate estimate. I wish to lay down only one condition, and that is that whoever finds an inaccuracy is respectfully requested to suggest a substitute more nearly accurate; because, while recognizing the inadequacy of our industrial accident statistics—which Dr. Meeker once described as zero with the rim taken off—I am convinced that it is necessary and possible to make an estimate of this sort that will be accurate within reasonable limits and that will be of real value to all of us in our constant endeavor to drive home to the American public the tremendous and the unnecessary waste of human life and limb and labor.

The starting point of our computation is the estimate of Mr. F. S. Crum, assistant statistician, Prudential Insurance Co., that there were 23,000 fatal industrial accidents in the United States in 1919. This estimate was based on all available information, including United States Census reports. The Bureau of the Census reports that all fatal accidents in the registration area in 1919 totaled over 61,000, or at the rate of more than 75,000 for the entire country. Both industrial and nonindustrial fatalities were considerably more numerous in 1918, due to the greater industrial activity in that year as well as to the gradual progress of the safety movement.

The next step is to apply to these fatalities the ratios found in the "American Accident Table" recently prepared by Miss Olive Outwater. Mr. Hookstadt has recently questioned the accuracy of this table, with respect to temporary disabilities, especially those of short duration. It will appear, however, that the latter class contributes only a small part of the total cost of industrial accidents so that possible inaccuracy of the table in this respect would not seriously affect our results. Assuming, however, that this table is correct in the ratio between fatal and nonfatal accidents, we find that there were approximately 3,000,000 industrial accidents in 1919, causing at least one day's disability, of which, as already stated, 23,000 were fatal and 115,000 caused complete or partial permanent disability.

Returning to the "American Accident Table," which covers 100,000 typical accidents, we find that the temporary disabilities there included caused a total lost time of 1,660,000 days. Therefore, the 3,000,000 accidents occurring in 1919 must have caused 50,000,000 days lost time. A similar computation discloses that permanent partial disabilities caused about 8,000,000 days actual lost time (aside from any equivalent for permanent loss of earning power), making a total of 58,000,000 days actually lost. These, however, are calendar days; and as the remainder of our calculation has to do with working

days, we at once subtract one-seventh and are left with 50,000,000 working days actually lost as a result of the 3,000,000 accidents, including both temporary disabilities and the actual time lost by reason of permanent partial disabilities. In this computation we do not consider units less than a million, because presently we find ourselves dealing in hundreds of millions, and our calculations are not sufficiently accurate to justify the use of more than three significant figures.

Our next task is to determine the permanent loss of earning power resulting from the accidents causing permanent partial or total disability. For this we naturally use the table of equivalents adopted by this association. Our computation is a little difficult, because the classification of injuries in the table of equivalents is different from the classification in the "American Accident Table"; however, with Miss Outwater's assistance we find that the total equivalent of the 115,000 permanent disabilities is, as it happens, 115,000,000 working days. We have, however, already made use of the actual time lost as the result of these 115,000 accidents, amounting to 8,000,000 calendar days or about 7,000,000 working days, subtracting which, leaves us 108,000,000 working days as the additional charge to be imposed for loss of earning power resulting from these permanent disabilities.

Finally, we have the 23,000 fatal accidents at 6,000 working days each, or 138,000,000 working days.

The grand total of the three groups is 296,000,000 working days lost.

Now we have the ticklish job of setting an average day's pay. After consulting the available data, I can do no better than assume a flat \$4, which would give our 296,000,000 days a value of \$1,184,000,000.

I am not willing to say, however, that the actual economic cost of accidents was as great as this. In this huge sum we have included 23,000 fatal accidents, at 6,000 working days each, at \$4 per day. Assuming that this fairly represents the earning power destroyed by these fatalities, the fact remains that a considerable part of this earning power would have been consumed in living expenses. In other words, American industry is entitled to a substantial credit for the board and lodging and other expenses of the 23,000 workers thus violently removed from the ranks of the consuming public. The percentage of our \$4 daily wage to be thus credited was the source of greater argument than any other part of the computation, because it obviously varies so widely, depending on the marital condition and other idiosyncrasies of the individual. We finally put down 60 per cent, making a credit of \$331,000,000 and leaving a net economic loss of \$853,000,000.

It would be incorrect to add to this amount the compensation paid to workmen, because the latter represents simply a shifting of a part of the burden from the workman or his family to the employer. Other direct costs, however, should be added, such as medical and surgical aid and hospital bills, and the administrative and overhead expenses of insurance companies in connection with the payment of compensation claims. In attempting to determine the amount or the proportion of these other costs, I was able to find only one source of even fairly usable information; namely, the State of Wisconsin.

Possibly you will be able to direct me to other sources. In Wisconsin, over a period of two or three years, the costs other than compensation amounted to 86 per cent of the compensation itself, while the latter amounted to about 22 per cent of the total actual and prospective wage loss computed by the method already outlined. Fragmentary data from other sources indicated that the Wisconsin experience was approximately typical. If so, then the total medical and administrative expense in connection with compensable accidents for the entire country was about \$161,000,000 which, added to the wage loss, gives us a total direct cost amounting to \$1,014,000,000.

This total is, of course, too low, because it does not include such items as medical expenses incurred by workmen and not paid by the employer or insurance company; overhead cost of personal accident insurance carried by workmen; cost of training new men to take care of those injured; expense of employment departments and welfare departments in keeping track of injured workmen and their families, etc. These items are almost impossible to compute, and are probably small in comparison with the items already discussed, although probably any one of them is large enough to pay the cost of operating several State industrial commissions.

There still remain two other kinds of economic loss from industrial accidents, which I must mention because they are probably even greater than the one already computed, but which I found it totally impossible to evaluate. The first of these is the loss on account of interference with production, caused by accidents and "near accidents." The second is the injurious effect of accidents upon the morale of industrial workers or, stated conversely, the improvement in labor relations which always results from intelligent and sincere accident prevention work, especially where the latter consists of a combination of engineering or mechanical improvements and education of the workmen and their supervisors.

Before submitting the foregoing calculations—which, as already indicated, may easily be 10 per cent too high or 20 per cent too low—to the tender mercies of the statistical world, I am going to construct a defensive outpost by quoting the conclusions from an entirely independent inquiry made for the same committee on elimination of waste in industry by a prominent engineering firm on the subject of waste in the construction industry, in which, among other things, it was stated that the total economic loss from accidents in that industry is about \$120,000,000 per year. This estimate was apparently arrived at by methods considerably less exact than those which I have used, but it certainly indicates that our estimate of a billion dollars per year for all industries is too low rather than too high.

There may also be mentioned in corroboration, an estimate made several months ago by Mr. F. S. Crum, that the economic cost of all accidents in the United States is between four and five billion dollars per year. I do not know how this estimate was made.

If you agree that this estimate of ours is somewhere in the neighborhood of the truth, I still do not know what it really means to you. To me it means, for one thing, that we may go forward with a renewed and deepened conviction that our work of saving human life and limb is, in sober truth, one of the great economic as well as humanitarian movements of the age.

In addition to this, I am impressed with the large part of our total cost—about 40 per cent—that is chargeable to the permanent loss of earning power resulting from permanent partial disability. There is just one answer to this, and that is the reeducation and rehabilitation of the industrial cripple.

DISCUSSION.

MR. PILLSBURY. I think it is as good an opportunity as any I may have to call the attention of this convention to a matter that I called attention to at San Francisco a year ago. You have heard it stated many times that every able-bodied worker is an asset of the Commonwealth, and he is. It is upon those assets that the wealth of the Commonwealth is founded and by them that it is created. When we kill in industry 23,000 men we have wiped out a property value of the Nation. This is very important. Now, it has been computed on a basis of actuarial insurance that every worker, according to the man's age and earning capacity, has a capitalized value, he represents so much of value to the Commonwealth. I have with me a few figures which were made a long time ago in which the capitalized value of a man of 25 years of age earning \$4 per day is set down on the tables as \$24,528. When you kill such a man the Nation has lost wealth as if a factory worth \$24,528 was wiped out by fire. You can all understand that there is a loss there, but we do not always think of this as such a loss when a man is killed. At 40 years of age, the capitalized value of such a man working at \$4 per day is \$20,940. At 60 years of age—we old fellows are not worth much—the capitalized value of such a man is \$13,326. Now, taking the average, which would be, say 40 years of age, I have just computed that the killing of 23,000 men entailed a monetary loss of \$232,690,000. That would make a fairly respectable fire loss and it is just as much a loss as though it were property destroyed by fire.

Now, yesterday, in getting at the fundamental basis upon which compensation is based, I stated that the compensation laws were enacted for the protection of the State against the consequences of poverty arising out of industrial injury. That is the basis. The State, in other words, has adopted a credit account with its industries. It has said to them, all of them, "You shall not throw this burden of injury upon the public, but every industry shall take care of its own killed and wounded and those dependent upon them." That opens an account between the Commonwealth and the industries of that Commonwealth. The account is opened for 1919 with a debit charge against the industries of the United States of \$232,000,000. Against that, the Commonwealths making up the United States have a right to draw to such an extent as is necessary in order adequately to meet the burden which industrial injury, just deaths alone, has thrown upon these Commonwealths.

Now, there is the basis of your right to raise funds for the prevention of injuries, for taking care of the widows and orphans, and for doing anything else that needs to be done to remove or lessen or prevent this great burden which has been shown to exist. I think that is fundamental, and we have all got to use our influence upon the minds of our legislators and especially upon the minds of the em-

employers. Let me say this—and I think that human history will prove it to be true—that there is no step, no forward step made by what we call the proletariat, the working population, against the power-holding class, except in one way. But before stating that, I will call your attention to the fact that the power-holding class is the class that holds the money by which, and only by which, men can be given employment. The men who control the tools, the men who control the material, the men who can cause the whistle to blow to open up, and cause the whistle to blow to shut down, those men represent the power-holding class. Now organized labor, the organized proletariat, the organized—whatever you may please to call it—has never won a substantial victory over that power-holding class, except in one way, and that is upon the Christian or moral right, and that can lick the hard boiled and the standpatters.

Now, this can be put before the employers and make them see that it is everlastingly right and just that the State should draw against that fund to an extent that is reasonable and just and reasonably necessary to mitigate and to remove and avoid this enormous cost upon public welfare. In California I figured a year ago that on an average for seven years we had killed an average of 635 per year, and about one-third of those left no dependents. Italy is the only country I know of that is dealing with that problem adequately. It costs just as much to kill an unattached man in Italy as to kill a man with a family, and the fund that comes from the killing of those unattached goes into a fund for accident prevention. In California we got a bill through eight years ago making such a levy, but the governor did not sign it because the attorney general advised him that there was no way under the law whereby the State could be made a dependent. It could not be made a dependent in default of other dependents, but it might be made the heir in default of other heirs. That was not the issue at all. It is this to which I have called your attention. There is a credit established whenever a man is killed. There is a credit against which the Commonwealth has a right to draw. This is chargeable against industry. That is the basis of it. What better use can be made of a fund caused by the death of a workman than that it shall be devoted to the prevention of accidents and to taking care of those who are pauperized through accident? I think it is important to get that idea into our minds. We can base a great campaign upon it, and we can defeat the power-holding class upon that issue as an issue of right.

Mr. McSHANE. I wish to observe here, supplementing what our honored commissioner from California has said, that in Utah we have a separate fund of \$750 collected on each death claim from industry where there are no dependents that goes into a separate fund for the purpose of additional benefits where one receives his second injury in industry. For example, a man loses one hand. He may obtain employment after the State has gone the full distance and paid him for the loss of that hand. He may find a place in industry where he can still feel that he is a man among men and go on in the industry supporting himself. But suppose he loses the other hand? The loss of the second hand is far more important to him than the loss of the first, so we compensate him in the regular way for the loss of the

second hand and give him additional benefits from this fund that is built up.

Mr. KONOP. Might I ask how many men have lost the second hand after losing the first during the last year?

Mr. MCSHANE. None. But I was thinking of the case which was mentioned yesterday of the man who lost the second eye after losing the first.

Mr. LEE. We have had that. Where a man has had one eye lost and loses the second eye we put him in the total disability class. We do not give compensation for the second eye. The man is then totally blind.

Mr. SAYER. Mr. Pillsbury has made reference to the New York statute. I think we were the first, under our original act, to provide that if a man lost one member and thereafter lost another in an industrial accident, so that he had an injury that amounted to total permanent disability, he was entitled to compensation for total permanent disability. But that was found, in the first year of the operation of the act, to operate very badly by reason of the fact that there was a discrimination in industry against men who were partially disabled, and the employer hesitated to take on that kind of a man for the reason that if he injured himself in his industry, if he received the second injury there, he would become a permanent total disability and a very much greater liability. So we devised this means of taxing the no-dependency death cases by creating a fund—we charge \$100 for the creating of such a fund, a special fund, and the industry that causes the loss of one member pays for that one member, and then if the man has previously either in industry or out of industry lost another member, so that he is permanently totally disabled, he then receives the benefits amounting to total permanent disability from that fund. The constitutionality of that fund was attacked and went through all our courts and within the last year or so was confirmed by the United States Supreme Court, so that the fund is now solidly and firmly established.

A little over a year ago we added by amendment another fund in these death cases where there are no dependents. That is we charge now an additional tax of \$900, so that the total levy in a death case, no dependents, is \$1,000—\$100 going to the special fund I have referred to and the other \$900 going into a special fund for the support and maintenance of men who are undergoing rehabilitation. The statute provides that the injured workmen who is being reeducated or rehabilitated may receive an additional amount not to exceed \$10 per week to help support and maintain him while he is undergoing this reeducation. Then, it was found that men would not journey to cities if they did not live there, or would not leave their homes in order to go to some point where the education could be administered and maintain their families at home without some additional help. That \$900 provision has within the last two or three weeks been confirmed by our court of appeals, but I understand that appeal will be taken to the United States Supreme Court.

Mr. KINGSTON. You collect that \$1,000 in no-dependency death cases?

Mr. SAYER. Yes; \$900 of it goes to support the men undergoing rehabilitation and \$100 to a special fund for the carrying on of these

total permanent disabilities. Recently I had our actuary go over that special fund of \$100 and I seriously doubt that the assessment of \$100 will be adequate to carry these cases through to their full maturity. I apprehend that we will shortly have to raise the \$100 limit and charge an additional amount to make that fund whole and permanently solvent. We have at the present time something like 100 cases running that way, men drawing the additional compensation from that fund after they have been paid by the industry in which they were injured for the particular injury they therein received and they are then put on the special fund and carried on for the remainder of their lives.

Mr. HOOKSTADT. I would like to ask Mr. Williams a question. I know how his figures have been arrived at but I would like to ask him: In view of the fact that we have here 35 or 40 commissioners who publish accident statistics in their respective States, why he did not use their reports rather than gather from other sources?

Mr. WILLIAMS. Mr. Hookstadt had a diabolical gleam in his eye when he asked that question and he knows the answer. The answer is that the statistical reports of the great majority of the States do not come within gunshot of giving the necessary information. That is a sad fact but it is a fact and I hope very much that the States will gradually remedy this. I do not wish to make any remarks that are unfriendly to you who are my hosts here, but I do wish we could get some better statistics in this country on industrial accidents. I recall a remark made by Dr. Meeker, who said that the statistical situation in this country was zero with the rim taken off; and it is pretty near that. It is simply hopeless to make any sort of computation to cover the United States by putting together the different State reports. There is a very important matter in connection with the State reports and that is something that I have not remotely attempted to do, to arrive at the distribution of accidents by industry and cost. This association, as an association, has done some mighty good work on a standard method of collecting accident records, not only with respect to showing a tabulation of them but with respect to the tabulation as to industry, cost, and all that, and if each State here represented would only find it possible to put that system into effect, in five years we would have some real statistics. I do not see why we should not have accident statistics comparable to the general mortality statistics gathered by the Census Bureau. To arrive at something like that in accident statistics would be something that would not only delight the ideals of the statistician but would be of real value in preventing accidents. When you go to an employer and want him to do something to prevent accidents, the only thing that will count at all with him is to show him that the thing you want him to correct has caused the accident and therefore will cause accidents. That is the value of statistics and it will be of great assistance to the States individually and to the country as a whole if we are more specific, more accurate, and more complete in that way.

The CHAIRMAN. I was hoping that Mr. Williams's address would draw more comment, but it did draw considerable comment. I am afraid we get away a little bit from safety matters, for after all it is hard for compensation commissioners to forget their work.

If Mr. Kingston forgot that he was a compensation commissioner and that his life was bound up in his job, he would not be a very good commissioner. The reason I think so highly of him is because I know that he does that work to the very best of his ability and that it is the one absorbing thing in his life, and it is the same in the lives of most of the men who are engaged in the administration of workmen's compensation.

I foolishly promised to read a paper on "The value of safety education," but I think that Mr. Williams in his figures, in his calculations, and in his analyses has done a great deal more than I could do to show the value of safety education. I do not believe that you are ever going to prevent accidents in this country or reduce their frequency one point until you spread educational propaganda all over the country and bring home to every man and woman and even the children the necessity for playing the game of life safe and not taking chances.

I took the time and had the ambition some years ago, while we were going through one of our winter quarrels with the State legislature, to look through a large number of volumes of historical importance connected with the activities of our departmental life in the State of New Jersey, and I found that we had factory inspection covering a period of about 36 years, or somewhere along in 1884. Some live, energetic men in New Jersey, social reformers or trade-unionists, as the case might be, had inspired the legislature to establish a department of factory inspection. But, do you know that that department of factory inspection lay dormant for 20 years and never did a single thing? And I heard it bitterly criticized in a large convention that I attended in the city of Boston in 1893 because it was not enforcing the child-labor laws, it was not preventing the employment of children less than 14 years of age. I knew then, and I know now, that that same condition prevailed in every State in our Union. Whether it is so in the Provinces or not, I don't know; probably not. Industrial development there may not have reached the stage where child labor is important, but it was important in our Commonwealths, for we employed them ruthlessly and without much consideration as to the effect on the child.

In 1904 certain groups of men in New Jersey approached the governor and advised him that there must be a change in the policy of the department of labor as to child labor. He insisted that children were not employed in violation of the law, and, to prove that they were, a man was sent out through the State with a camera to take pictures of children and follow them to their homes and obtain proof of the fact that they were under age, and they found several hundreds of them, 10, 11, and 12 years of age. The commissioner of labor was deposed and another put in his place and reorganization was effected, and that law was enforced in 1904, and for the next six years they did little else than to enforce the child-labor laws. Machinery was unguarded, pitfalls were wide open, poisonous toxic substances were being absorbed by the workers of the State, and industry was taking a heavy toll that no man knew of. But in 1910, after a number of years of agitation, we had had groups of men working in the State, and they were working in neighboring States, and there was passed the first constitutional elective schedule compensa-

tion that was passed in our country. But the Wainwright bill, which had been passed the year before in New York, was found unconstitutional with its compulsory schedule. The schedule adopted in New Jersey was elective and avoided any such constitutional question, and consequently it was a constitutional law and it carried with it the reporting of accidents. We had no accident reports previous to that time, and when we appeared before committees all over the State to press home the need for this new type of legislation to give the worker more humane justice we had nothing to back us up except the German experience and the Austrian experience and some of the experience of England. That was the only argument we had. We could not point to a State in our own Union and say, "There is a reason why accidents should be compensated. There is the reason why industry should bear the burden, and not the individual."

As soon as the law was passed we got some accidents reported, and students of accidents were amazed and astonished to find their kind and variety. I think we had 12 men killed from slipping ladders. I told that at a carpenters' meeting, a few weeks ago, and said that I had not thought that a slipping ladder was dangerous, and one of them said, "You don't know much about ladders, because the ladder is a very dangerous piece of machinery"; and he had a crooked arm, resulting from a fall from a slipping ladder. Bursting emery wheels are another source of accident. Seventeen men lost their lives in freight elevators. These cases were reported and an analysis was made and it was found that such accidents were preventable. And what did we do? We were commencing to find a mine of industrial information in these very incomplete reports that Brother Hookstadt laughs at to-day.

With this tabulation of accidents, we began to improve in the safeguarding of machinery. New standards were adopted. But after 11 years of accident reporting, after 11 years of intensive factory inspection—and this is the serious part of it—after some educational propaganda has been extended in that little State that you can cover with a pocket handkerchief, we find last year 50,000 people hurt in accidents reported to us—some were not; how many I don't know. We find that 13,000 of those people were injured so that they lost more than 10 days' time and were subject to compensation. We find that 350 men, women, and children in the State were killed in industrial accidents in workshops and mills and some in the mines, and that the carriers of insurance in the State had expended about \$2,750,000 and had collected between four and five millions from the policyholders.

THE VALUE OF SAFETY EDUCATION.

BY JOHN ROACH, CHIEF OF BUREAU OF HYGIENE AND SANITATION, NEW JERSEY STATE DEPARTMENT OF LABOR.

When we speak of the safety-first movement as descriptive of the work of preventing occupational injuries, it is quite generally assumed by the public that we mean only those injuries that result from physical violence and that are subject to compensation in those

States where workmen's compensation laws have been enacted. I think, however, that this interpretation is too narrow and that all of us here are willing to give the term an occupational significance broad enough to enable "safety first" to cover every potential physical handicap that may be suffered by the industrial worker as a result of his employment.

Until very recently most of our State legislatures in an effort to provide a greater measure of physical safety for workers created departments of labor and invested them with police power to enforce various mandatory safety laws that were prepared and enacted by the State legislatures. These requirements usually covered the employment of children, the erection of fire escapes, the safeguarding of live machinery, as well as the installation of certain basic sanitary equipment. These laws were usually prepared by men not familiar with industry, so that their provisions were not founded on sound industrial practices. Factory inspectors were required to make frequent visits to industrial plants and where violations of these mandatory rules occurred the chief administrative officer of the department was required to institute legal proceedings for the punishment of the offender. The whole theory of the enforcement of the early legislation was based on the police power that gave departments of labor the right to inspect factories and to institute punitive legal proceedings for violations of the law found therein.

As much of our early labor legislation was tentative, experimental, and conflicting, it proved a most serious handicap to permanent social and industrial reform as we understand it to-day and caused such antagonism on the part of the managers of the industries that the early efforts of the departmental authorities to provide safe premises were practically nullified. During the past decade, however, a decided change has taken place in the attitude of the general public toward the enforcement of labor legislation, and the conviction has been deepening that there should be no real antagonism between the fundamentals of sound business efficiency and industrial safety, but rather there should be an increasing demand for the display of a more scientific spirit on the part of those to whom is intrusted the enforcement of the laws affecting both employer and employee.

In accord with this new spirit, departments of labor have been created in a number of our States invested with sufficient basic authority to enable them to establish industrial safety rules. In carrying out this work these departments of labor made careful and intelligent investigations of working processes that formed the basis for the establishment of these industrial rules, and in addition an energetic educational movement was started to bring to the attention of the general public the seriousness of an industrial condition that crippled and maimed many thousands of men and women every year.

It must be remembered that the pioneers in the safety-first movement were seriously handicapped in their educational work by the lack of accurate accident and health statistics. Practically nothing had been done in any of our industrial States to tabulate accidents, or through research, investigation, or trade studies to establish the extent of the diseases and ill health prevalent especially among groups of workers exposed to industrial dusts, noxious gases, or poisonous-trade substances. Thanks, however, to our many educa-

tional agencies, including the public press, Government reports, and safety organizations, the whole broad question of industrial safety has been ventilated in such a thorough manner that the public mind has been aroused to the needs of our industrial army, and recent reports of investigations, trade researches, and discussions concerning the safety and health of workers have enriched current industrial literature.

The result of this educational effort has been that while our policy of providing comfortable working quarters for men and women employees is of comparatively recent origin many of our leading industries have accepted it as a solemn obligation they owe to their employees. Many of our large industrial corporations have been taught to realize that the maintenance of a steady permanent working force capable of giving its best service depends in a large measure on the physical conditions that surround the employment.

Many of us can remember a time in the early days of our industrial development when workers were either herded together in small dismal workrooms—hot in summer, bleak and cold in winter—or else confined in gloomy working barracks poorly lighted and devoid of what is now commonly accepted as elementary sanitary equipment, and often under the direction of managers who were apparently indifferent to the discontent that inevitably prevailed throughout their working jurisdiction. Happily, education has enlightened our employers on the evils that flow from the sullenness and resentment bred by such conditions, so that the old days are passing and the more recent viewpoint has caused the installation of suitable washing equipment, reduction of excessive humidity and heat, removal of dust and fumes, proper factory illumination, and safeguarding of machinery, and this policy is giving promise of healthy economic results in plants where the employers realize they must satisfy the obligation they have toward their employees.

Again, the physical care of the worker is, in the light of scientific research, no longer a subject for speculation and experiment but is now ranked as a matter of fundamental importance, for it has been shown that even costly alterations and plant equipment and procedure that tend to improve labor's condition and add to labor's safety are successful investments because of their steady effect upon the working force and the increase and improvement in production—factors which lead to eventual repayment.

While the economic value of safety education may be partially considered from the viewpoint of the employer it is also proper to present it from the viewpoint of the general public which has a much greater reason for conserving labor and making it more efficient and whose interest in the matter is a factor of first magnitude before which, in the final analysis, all other interests must yield. The maimed and broken worker is not only a poor social asset but he is a distinct economic loss to the community. If his productive efficiency has been destroyed by industrial accident or his health impaired by exposure to trade poisons he can add nothing to our national wealth, while his dependents may become a burden on society, and even though his injuries are compensable (as in the case of accident) the burden of support is merely shifted from one person or group to another and is not entirely removed. This

thought has been given such lucid and forceful expression by the industrial literature of our day that the opposition which at first hampered the enforcement of industrial safety rules has in many places been entirely dispersed and the principle has been well established that when the essentials of suitable working standards are based on reason and meet with the general approbation of the public the advisability of conforming to such a program has gone beyond the stage of discussion or argument.

The passage of workmen's compensation laws exercised a deep-seated influence on safe industrial processing in all our States because prior to the passage of these laws there were no reliable statistics that showed the number or effect of industrial accidents. In 1912 New Jersey passed the first workmen's compensation law with an elective schedule of compensation. During the first year of the operation of this law about 6,000 industrial accidents were reported and we were surprised to learn of their kind and variety.¹ The first reports indicated that 17 lives had been lost in freight elevators alone, while a total of 78 very serious elevator accidents had occurred. Two hundred serious accidents resulted from slipping ladders and several workmen were killed by bursting emery wheels.

Previous to this time not a single State in the Union had passed a law regulating the use of elevators, requiring the adoption of safety feet for ladders, or had given constructive thought to a protective covering for dangerous practices in connection with abrasive wheels.

The educational influence of the first accident statistics published by the New Jersey State Department of Labor was of major importance for it gave to our citizens a realistic picture of the poorly protected industrial processing and I feel that had it not been for the influence of these statistics we should not have succeeded so well in establishing safety rules for the operation of elevators that have reduced accidents of this type to that class that may be chargeable to personal carelessness.

For ten years the New Jersey Department of Labor has been conducting a campaign of education among the representatives of the State's varied industries and year after year has earnestly sought their practical cooperation in safety work. Each individual plant in our State was requested to appoint a representative in the plant to be known as a "factory chief"; to this representative the commissioner of labor issued an official badge and delegated certain authority in matters affecting safety work. At intervals, meetings of these factory chiefs were held and safety education was given, in the form of lectures, round-table discussions, the distribution of industrial literature containing reports of trade investigations, drafts of proposed safety rules, etc. This campaign of education did much to popularize safety work and make possible the drafting as well as the enforcement of progressive rules. In addition to this the industrial interests in our State began to feel more kindly toward factory inspection and to look upon the representatives of the department of labor in the light of advisers and technical experts whose opinions were valuable.

¹ For the year ending June 30, 1920, \$2,644,793.38 compensation was paid on 15,557 accidents; a total of 50,000 accidents was reported.

A further extension of this educational work may be noted in the formation of local safety organizations in the several sections of our State under the direction and guidance of the department of labor. Regular monthly meetings of these safety organizations are held during eight months of the year and lectures are delivered on accident prevention, sanitation, medical supervision of injuries, etc., by competent trained men familiar with these subjects.

In addition, moving-picture films have been secured, all dealing with the subject of human safety and an intensive effort has been made not only to focus the attention of industry on the problem but also to arouse the interest of the general public.

During the 10 years that this campaign of education has been carried on the New Jersey State Department of Labor has formulated working codes on many important phases of industrial activity, so that at the present time nearly every question of human safety, so far as it relates to industry, has been carefully covered by trade rules that have received the sanction and the indorsement of the industrial engineers and managers in the industries of our State.

As a corollary to the above activities and an extension of the principle of intelligent publicity the department of labor established an industrial safety museum in Jersey City to further the standardization of safety and economic stability in the industries of New Jersey. This museum also serves as an official clearing house for the coordination of the conservation activities of the department of labor, the compensation, accident, fire, and life insurance companies, and the public-service and railroad carriers operating in the State. So reads the act creating the museum, which in addition says that "while primarily concerned with the lessening of industrial injuries, the museum will also cover the field of public and home accident and of community fire hazards."

DISCUSSION.

The CHAIRMAN. Mr. Thomas P. Kearns, who was to have given us the next paper, or rather to have discussed this subject, is not present. Would anyone care to discuss the subject matter in Mr. Kearns's absence?

Mr. KONOP. Has anything been done in the schools on this proposition?

The CHAIRMAN. I do not know if anything is being done by the departmental authorities in the labor world, but I do know that some of the cities have taken it up. I did not intend to mention that, but I might say that in the city of Newark they took up the work of safety education in the public schools and sent an officer all over the city to visit every school and establish school patrols on the street, and the little fellows would hold up the traffic and guide children across the street. The year before they undertook that work there was a loss of 27 little lives on the street; the next year they cut it down to 15. What it was last year I don't know, but I do know that it does me good to pass by a school close to our home. I have a youngster, and if she sees me cut across a corner she stops me because she has been taught to go to the corner and turn like a soldier and act safely, and the little fellow next door holds up the traffic while the children are crossing.

Mr. KONOP. Don't you think that more of that should be done in the public schools?

The CHAIRMAN. Yes; I certainly do.

Mr. GARDINER (Minnesota). The board of education of the city of St. Paul has recently started a patrol system with the scholars of the different schools during the noon recess and afterwards when leaving school and also coming to school in the morning.

Mr. WILLIAMS. I would like to add a word to that on the matter of the education of children. I think it may be of interest for me to say this, that I have been surprised at the extent to which the industrial managers, presidents, and superintendents in the membership of the National Safety Council have become enthusiastic about the matter of teaching safety in the public schools, not simply from the natural reason that we all feel from our interest to protect the life of the school child but because they find the school children take this subject into the homes of their parents and that the men in the factories are reached through the children in the schools in a way that nobody else could reach them. I have made that statement time after time and have heard it from industrial men with whom I have been speaking. One man said, "The National Safety Council has not done anything of so much value to it as a factory industry as you did in coming in here and getting safety into the public schools of this city, because we can teach these parents, these workmen, safety in the factory, and, no matter what we may do, they take it with a grain of salt, but when the school child takes the message home to the parents he takes it as we all take anything that comes from our own children." I do not know of anything that a State department can do of greater value than the promotion of safety education in the public schools, and methods have been worked out and are being used in half a dozen or a dozen of the large schools, and methods of teaching safety in schools for efficiency on the regular curriculum, working it in with other instruction, reading, writing, and arithmetic.

Mr. PILLSBURY. It is all well enough educating in the public schools, but why not put the education in the factories among the men who do the work? In California we have had employers spending hundreds of thousands of dollars in putting their plants in order. They have done it almost entirely without any grumbling, without any kick; but if we had every institution employing labor in California up to the highest standard, we would not decrease the number of accidents over 50 per cent. Fully 50 per cent depends upon the morale of the men, the habits of safety among the men, and we have not had the money to go in among the men themselves and interest them with moving pictures and the stereopticon. It takes money to do that. Our safety department costs about \$145,000 a year. We have 15 engineers and we put on inspectors and are extremely busy. We need more money. We get more than some of you because we have the State compensation insurance fund, and that fund pays the same tax as other insurance companies pay, but instead of paying it into the State general fund it goes into the accident prevention fund, and that will give us this year \$100,000 for accident prevention work. If you have not a State fund you ought to have, and one reason that you should have it is that you can get that source of revenue if you try for it.

Another thing which we tried to do failed with the last legislature because we did not try it separately from the general commission. That was to have collected by the insurance carriers and paid by the self-insurer 2 per cent upon the premium paid to go into the safety fund. The major part of them seemed to be willing to do it, but we could not get the legislature to take any action. The insurance companies objected to being made the instrument for collecting this, but there is not any other good way to do it and they have to do some things in the public interest. That could be a source of revenue.

I had our engineers make a careful study of 400 cases of death to see what percentage of those lives should have been saved if we had been able to do all the things we wanted to do to make the place of employment safe and to educate the workers, and after having five years in which to put the plan into operation. We have to allow something for the zeal of our engineers, but their report was that 81 per cent of those deaths were humanly preventable. Now, I think if only 50 per cent of those deaths were humanly preventable, it would have been a very great financial gain and a tremendous gain to the life of the people of the State.

Judge TAYLOR. Mr. Pillsbury's observation with reference to the morale calls to my mind a thought which was suggested in a conversation I had with one of the prominent insurance men of this country. In talking with him some two or three weeks ago, he made the observation that while in some communities the number of employees was cut from 50 to 75 per cent, there was an increase in the number of accidents. I asked him what, in his judgment, was the cause of that, and he said, "It is the state of the mind. It is a psychic condition." That to me was a very interesting observation, because we were talking along the lines of general depression. Some prominent American said sometime ago that the condition was psychological, a psychic condition, a condition of the mind. Why, certainly, the predominance of mind over body, of mind over matter. Those men in the factories and shops, burdened down with the thought of losing their jobs, with the mind on that and away from their jobs, from their work, become careless and the accidents occur.

Another thought, probably in this connection. I would venture this assertion, gentlemen: I do not believe that the men who own the factory are altogether callous and lacking in heart in these things. I take it that most of you are aware that the great industries of this day and time have what they call welfare departments. Not long ago I visited a welfare department maintained by a great oil industry in my State. They hire experts and are solicitous as to the well being, moral, financial, and physical, in making their men safe. I was talking two days ago to a man who was connected in an intimate way with Henry Ford. Mr. Ford ventured the observation that he had thousands of men under him, and he paid them well, possibly more than the standard, and yet most of them hated him. Said he, "I think it a good idea that my great plants be distributed over the country, so that there will be aggregations of men, and they can be truly Americanized." I am not a capitalist. I can not claim that distinction, being a sort of a lawyer, and a country lawyer, I believe that there is much feeling for the workingman

among the capitalists. To my mind it augurs well for the future. Men are having more heart to-day than ever before in industry.

The CHAIRMAN. It would be interesting to find out what States are carrying on educational propaganda. I might say that in New Jersey we established an industrial museum of safety. We did try to interest the Federal Government in such a proposition some years ago, but it was not taken up. We have a large four-story building in Jersey City, 100 by 50 feet, four floors, and are filling it up with live machinery all hooked up, with the power safeguarded. We have building material on exhibition. We have a sanitary equipment showing how you might install decent washing and dressing facilities and satisfactory types of bubbling fountains that can not be contaminated——

Mr. PILLSBURY. How do you finance it?

The CHAIRMAN. Several ways. The commissioner of labor did not have the money, but he had a lot of nerve, and he hired the building and sent out invitations to the manufacturers of the State to contribute a per capita of 10 cents on each employee. He collected about \$12,000 or \$13,000 that way, and he ran in debt about \$10,000, and then he got the State legislature, after we had become hopelessly involved financially, to make an appropriation to back the thing up. We got the manufacturers back of it, and we got organized labor back of it, and it looks as though the thing was going to go. But I am satisfied that it is too big a thing for a single State to undertake. It ought to be undertaken nationally and through some national safety group. I say we have a sanitary equipment. We have a hospital completely fitted up, so that a plant manager who wants to put in an equipment may visit the hospital and find out the equipment that has met with the approval of expert medical men. We have lighting there. We adopted lighting codes that the average man does not know anything about. We all know how faulty lighting may lead to accident. It is often asked, "How do you know the factory is well lighted?" Well, I would not take the opinion of an illuminating engineer unless he measured the quantity, and I don't believe you would. So we have installed this scientific lighting, and we put dimmers on, so that if the schedule of light called for 50 candlepower we have 50, and if it called for 250 candlepower we have the 250. We have shown how to provide better light and shade. Standards were prepared by the American Illuminating Engineers' Association, and the lighting system has all been installed in accordance with the standards of that organization. Every piece of moving machinery goes in with the approval of expert engineering counsel that we have on hand. We invite the engineering classes from the public schools to send their children, and some of the technical schools arrange to bring their classes over there to get the first-hand information. This is a small enterprise, comparatively. All we have is 25,000 or 30,000 square feet of space in a building, and all the money to run the thing will be \$20,000 or \$25,000, but I think this is the first step forward toward our National Government providing a central point from which industrial education may radiate like it does in Berlin and Vienna and Milan and other foreign cities. Here occupational diseases may be studied. Nobody knows much about occupational disease in this country. The Federal Government has made some study,

but while its figures are impressive I am confident of this, after 11 years of experience in my State and traveling in all the States east of the Mississippi River, that that is only a small fraction of the tremendous loss that is suffered in this country through occupational ill health. Dr. Hoffman thinks the same thing, and he has taken certain well-run industries before and after the introduction of modern sanitary engineering methods. He states and shows conclusively by their occupational experience that certain occupations show a better tone of health after the introduction of these modern sanitary methods.

If you are ever in the vicinity of Jersey City call in and look our museum over.

We will now hear from Mr. R. McA. Keown, engineer of the Industrial Commission of Wisconsin, on the subject of "Uniform safety standards."

UNIFORM SAFETY STANDARDS.

BY R. M'A. KEOWN, ENGINEER INDUSTRIAL COMMISSION OF WISCONSIN.

It is not my purpose in this paper to discuss the need of uniform standards, for that is apparent to all of us who have anything to do with the administration of the safety codes as used in the several States, but rather to briefly outline to you the work that is now being done, and in which representatives of this association have a part.

The tendency in past years has been for manufacturers of machinery and equipment to sell it without giving particular attention to the ordinary accident hazards connected with the use of it, the excuse being that this machinery was apt to be sold in any State of the Union, and as these States had different, and in many instances conflicting, standards, no attempt was made by the manufacturers to guard the machine. The manufacturer left it for the purchaser to make it comply with the requirements of the particular State in which he used the machine.

In many instances this was only an excuse, but enabled the manufacturer perhaps to sell the machine slightly cheaper than he could have sold it had he guarded the hazardous parts; but even though requirements differed in various States, a gear or sprocket, protected so that no one could become injured, would pass the requirements of any State.

In order to formulate some reasonable plan of procedure in the preparation of industrial safety codes, the Bureau of Standards called a conference in Washington on January 15, 1919, which was attended by over 100 delegates representing Federal, State, and municipal departments, engineering and utility associations, organizations of insurance companies, and of employers, employees, and manufacturers. Two plans of procedure were proposed, one of which provided that the Bureau of Standards should undertake the formulation of industrial safety codes, with the cooperation of all interested bodies, and coordinating the work that was being done by various State commissions and other bodies preparing codes.

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The second plan involved the American Engineering Standards Committee and its procedure. This committee had but recently been founded by the joint action of five national engineering societies, "to meet a long-felt need of some available, comprehensive, and authoritative machinery for the development of engineering and industrial standards, by the operation of which duplication would be avoided and cooperation between all interested organizations and Government departments secured; so that when a standard or group of standards is developed it will be acceptable to all concerned, and therefore a real American standard."

After considerable discussion of the plans submitted, it was voted to submit the matter through a letter ballot to all bodies represented at the conference and to such others as should be properly included, and that after the vote be taken another meeting be held to consider the result of the ballot and take final action.

The result of the ballot was in favor of the American Engineering Standards Committee plan and a second conference was held in Washington on December 8, 1919. At this conference it was voted that the preparation of industrial safety codes be under the auspices and rules of procedure of the American Engineering Standards Committee. It was recommended that the American Engineering Standards Committee request this association, the Bureau of Standards, and the National Safety Council to organize a joint committee on safety codes, this committee to include representatives of these bodies, and such others as they might consider advisable, with the understanding that this committee shall (a) report upon the safety codes required, priority of consideration of codes, and the sponsor bodies for their preparation and (b) make a progress report by February 1, 1920.

This committee (now known as the National Safety Code Committee), which consisted of 17 members, 5 of whom represented this association, has become a permanent committee and if satisfactory to the American Engineering Standards Committee will be enlarged to include other interested organizations. Among its other duties will be that of following up the progress of the safety-code work, and, when necessary, defining the scope and limits of the various codes, and recommending other safety codes with sponsorships for the same. The committee in its first progress report outlined about 40 codes and recommended sponsors for a large number of them. At the present time active work is in progress on 24 of these codes.

During 1919 the constitution of the American Engineering Standards Committee was changed to include other bodies of national scope, so that at present, according to its annual report, the committee is composed of "47 members, representing 17 bodies or groups of bodies, including 6 national engineering societies, 5 Government departments, and 13 national industrial associations."

The procedure in the preparation of a safety code is somewhat as follows:

The National Safety Code Committee recommends to the American Engineering Standards Committee (also called the main committee), the body or bodies to act as sponsor or joint sponsors for the code, and if approved by the main committee, and accepted by the body, that body (or bodies) proceeds to formulate a *sectional committee*. The rules of the main committee require that the personnel

of this sectional committee shall be approved by it, and that the sectional committee shall include representatives of producers, consumers, and general interests, no one of which shall be in the majority.

The main committee suggested that the committee be made up of representatives of—

- (a) Manufacturers (makers of equipment).
- (b) Employers (purchasers, owners, consumers of equipment):
Trade associations (national).
General associations (national), such as the National Association of Manufacturers and National Industrial Conference Board.
- (c) Employees (users of equipment).
- (d) Governmental bodies:

National.—Bureau of Standards and similar bodies.

State regulatory bodies.—Industrial commissions, labor departments, public utilities commissions. (In this connection the main committee makes the suggestion that "It may be advantageous to invite all States to appoint representatives on the sectional committee; only those which are really interested will accept. Those which are not sufficiently interested at the time to accept will thus be more likely to follow the progress of the code and to make use of it at such time as they become actively interested in the subject. Invitations to the State bodies may well be handled through the International Association of Industrial Accidents Boards and Commissions and the Association of Governmental Labor Officials.")

Municipal officials where interested.

Associations of governmental officials, such as the Association of Electrical Inspectors, the Building Officials Conference, etc.

- (e) Technical associations:
Engineering societies.
National Fire Protection Association and National Safety Council.
- (f) Insurance organizations:
Stock companies through National Workmen's Compensation Service Bureau.
Mutual companies through National Association of Mutual Casualty Companies.

It is further recommended that each of the above six groups be given at least two representatives each, but not more than one-third of the total.

Owing to the widely distributed geographical location of the members of this sectional committee, they sometimes appoint a small group of their number to act as a working committee and prepare a draft of the code in question. This draft is discussed at the meetings of the sectional committee.

This association has accepted joint sponsorship for the preparation of the following safety codes:

Grinding wheels, with the Grinding Wheel Manufacturers' Association of the United States and Canada.

Mechanical transmission of power, with the American Society of Mechanical Engineers and the National Workmen's Compensation Service Bureau.

Woodworking machinery, with the National Workmen's Compensation Service Bureau.

The progress upon these codes is approximately as follows:

Grinding wheels.—As a basis for discussion for this code, the code was prepared by the Grinding Wheel Manufacturers' Association of the United States and Canada, which had gone through three revisions, was used and the final draft which was considered at a meeting held on February 18, 1921, has been submitted to the sponsor bodies for their approval. The sectional committee for the preparation of this code consisted of 21 persons, of whom 6 represented this association.

Mechanical transmission of power.—The third draft of this code is now being considered, and it appears that this is one of the most important codes that has been undertaken for the reason that practically all of the other codes will depend upon it to a greater or less degree.

The next meeting of the sectional committee is called for September 23 and 24 at the United Engineering Societies Building, in New York City.

Woodworking machinery code.—The first draft of this code was discussed at a meeting of the sectional committee in New York on February 16 and 17, and this draft as revised has been sent out to between 200 and 300 critics. Upon receipt of their criticisms and suggestions the committee will make what changes they consider necessary.

There are many others of the codes upon which members of this association are represented upon sectional committees, and I would recommend that the individual members of this association who are not actively engaged in the preparation of the codes keep in touch with the progress, and when revising the requirements in your various States and Provinces give careful consideration to the adoption of those codes that have been recommended as the American standard, so that we may in time have truly uniform standards. There is no doubt in my mind that with the large number of interests associated in the preparation of each of these codes the result will be a code which will be reasonable and one which, if followed, will reduce the accident hazards to a minimum.

DISCUSSION.

Mr. STEWART. We have with us Mr. Lloyd, from the Bureau of Standards of the Department of Commerce. Mr. Lloyd has been directly connected with the work on these codes so far as the association representation is concerned. I do not know of anyone who can discuss the matter of the codes like Mr. Lloyd and I wish you would call upon him.

The CHAIRMAN. I thank Mr. Stewart for calling this to my attention. I was associated with Mr. Lloyd on committees during the past year but have not been able to attend any of the meetings myself, so that maybe I have forgotten him and he may have forgotten me. We should like to have Mr. Lloyd come up and give us a discussion on the work of the standard committees.

Mr. LLOYD. Mr. Keown has developed the story up to date, I think, as to what has happened in this movement toward securing uniformity of standards throughout the different States up to the present time. I can only reinforce what he has said about the desirability of having uniformity in the standards in the different States and the desirability of getting the standards definitely adopted as applying in the various lines of industry. I do not believe it is necessary at this time to go into detail regarding the desirability of this uniformity. There are a great many reasons which will appeal to most of us who are desirous of having uniform standards, in fact I think that has been discussed before the association in the past.

I know there are a number of the departments of labor or commerce in the States, and possibly in some of the Provinces of Canada, which do not have any direct jurisdiction over accident prevention; that is, they do not have the power to make or enforce regulations to prevent accidents. On the other hand, I believe there are a number of States in which the commissions have that power under their enabling act which have not done much toward carrying those provisions into effect. That may be due partly to the inadequacy or the absence of any fund to be devoted toward that end of the commission's work. I feel, however, that even where the commission is not in a position to employ a force of inspectors to go out and see that the safety regulations are carried out in the factories of the State or other working establishments that there is a great deal in recognizing and adopting definite standards for accident prevention and bringing them to the attention of the employers of the State. It has been my experience that often employers are looking for a good guide to follow in their factories and shops and that it is only necessary to bring a good set of standards to their attention to have them followed to a very considerable degree and that a State commission, even though it may be somewhat powerless to enforce its own regulations, can do a great deal to aid in accident prevention by adopting such standards and making them known throughout the State to the employers.

A great deal of assistance can be obtained in getting them actually into practice through the casualty insurance companies, which usually have inspectors covering the workshops and factories, and they can do a great deal more in bringing about good conditions if they have the support of the State commission behind them in actually making such codes as have been considered here the standard of the State, and even where actual compulsion is not used the influence of having them officially adopted goes a great way in helping the factory managers and in helping the insurance inspectors and everyone else who is interested in getting them actually into practice. So I think that even in those States where there is not a force of factory inspectors available to carry out the regulations the subject ought not be neglected. These national standards, which are and are going to be the best thing of the kind that we have available, should receive attention and every effort should be made to have them followed in all the States.

Mr. KONOP. Might I ask how many States there are that have the legislative approval of these codes?

Mr. LLOYD. I don't believe I can answer that accurately, Mr. Chairman. I have a note here in my pocket that may throw some light on the subject. To the best of my knowledge there are about 20, or nearly 20, States in the Union where the industrial commission or some corresponding department of the State, such as the department of labor or the factory inspector, has some authority in putting the regulations into effect. I mean by that on their own initiative, not only enforcing what may be embodied in the statute but actually making the regulations, so that would leave in the neighborhood of 28, or the considerable majority of the States, where the regulations can not be enforced without additional legislation on the subject.

The CHAIRMAN. Did you notice what States they were? Probably the Southern States.

Mr. LLOYD. I guess we all realize that most of the States where the commission has such power are States that are more active industrially and, as you say, the Southern States and the more agricultural States do not have anybody with such power.

The CHAIRMAN. We have got through with the subject of the program this morning. Mr. Dean, of Ontario, and Mr. Kearns, of Ohio, are not present.

Mr. PILLSBURY. I am down this afternoon to read a paper as printed, but I would like to have the time for something else. Mr. Stewart requested me to prepare a short paper on the issue of "Should compensation commissions administer accident prevention and other labor laws?" I did not do it; I prepared a *long* paper. We have that subject up in California. I studied it all the way over and reduced it to writing, and I got it typed yesterday morning. I don't want to read it, but if I have anything of value to present to this convention I think it is on that subject, and I would like to be excused from reading the paper which is set down for me and to take the time for the discussion of the other and to lead the discussion on that subject. You can read the other paper, but my paper on this other subject has not been printed, and if it is the wish of the convention to permit it to be done, I would like to have time enough to present that problem.

Mr. ANDRUS. I do not think there is any practical problem concerning industrial commissions that is more important than the subject of what the commissions should handle. Some think they should handle only compensation work, and others that they should handle safety and other work. It is a live, practical subject, and we will certainly be very glad to have an exhaustive discussion upon it, and that will be led this afternoon by Mr. Pillsbury. Is there anything further, gentlemen?

Mr. CHANDLER. I would like to say something about the standard of ethics of the employers, the ethics of big business. Our 1919 session of the general assembly raised the maximum from \$14 to \$18, but by a legislative inadvertence the figure \$14 was left in that particular paragraph which had to do with total incapacity and which was one of the most important paragraphs, as you can readily see. It was clearly a legislative inadvertence, and under the decisions in Connecticut there is no doubt but that we would be held to it. Almost immediately after the act became effective the large insurers got together and agreed that they would follow the legislative intent rather

than the statute, and thereafter every great self-insurer in the State followed it, and we have estimated that between \$200,000 and \$300,000 has been paid out in compensation beyond the terms of the act. This is purely a gift, and it seems to me that where such a system of ethics prevails in big business it ought to be given some appreciation.

Mr. McHUGH. With reference to what my friend has just said and also in answer to a question that was asked a while ago as to the Southern States, I would say that in the State of Virginia the only reference that is made to safety methods is in the title of the act. When the legislature came to the enacting part of the act—and I feel that they produced a fairly good act, for it followed the model that had been approved by the American Bar Association, which suggested a uniform law upon this subject, and was the same practically as that enacted in Indiana—they did not write one line clothing the commission with any power in this particular. We felt when our commission was first organized that the very heart of the legislation consisted in the effort to establish more cordial and better relations between the employer on the one hand and the employee on the other. We endeavored to stress that wherever the opportunity afforded, and we found that the employers in the State caught the idea, and when we suggested to them that this safety work should be taken hold of, a great many of them—all of the larger employers, such as the shipbuilding and dry-dock companies and several of the large coal-mining companies in the State—proceeded themselves to create and organize very carefully a system to teach the men safety work, and at their own expense those corporations have kept up and maintained these safety departments, and the results have been very gratifying.

I had the pleasure some time ago, probably in the last six months, to attend a banquet of the Critchfield Coal Corporation, one of the largest coal companies in the State. They have what they call a boosters' banquet, and the different persons to whom the work has been confided in the different mines make reports, and they vie with one another to see which can accomplish the best results. Now, that work, so far as any effective cooperation on our part is concerned, is only persuasive in its origin. The effective work is operated by the labor department, over which the commission, of course, has no direct influence or control. But that, to my mind, illustrates the thought which my friend Mr. Chandler has just referred to, that when properly approached and when an effort is made to interest him, the employer is always eager and ready to give us cooperation, and I think that the results in our State certainly justify our very best hopes.

Mr. ANDRUS. If there is nothing further to come before this meeting we will take an adjournment until 2 o'clock; and let me again remind you that the meeting will commence on time.

[Meeting adjourned.]

TUESDAY, SEPTEMBER 20—AFTERNOON SESSION.

CHAIRMAN, T. J. DUFFY, CHAIRMAN INDUSTRIAL COMMISSION OF OHIO.

**SHOULD COMPENSATION COMMISSIONS ADMINISTER
ACCIDENT PREVENTION AND OTHER LABOR LAWS?**

Mr. ANDRUS. I take great pleasure in introducing as the chairman of this meeting Mr. T. J. Duffy, of Ohio.

The CHAIRMAN. I am not going to take up any of your time with any preliminary remarks. I would like to ask if Mr. Bryant, commissioner, Department of Labor of New Jersey, is present. Is there anyone here or any paper from him on the subject of the "New Jersey method of administering the compensation law in connection with the rehabilitation commission"? His paper is here and that will be printed in the proceedings.

**NEW JERSEY METHOD OF ADMINISTERING ITS COMPENSATION
LAW.**

BY LEWIS T. BRYANT, COMMISSIONER DEPARTMENT OF LABOR OF NEW JERSEY.

[Submitted but not read.]

Not infrequently comment has come to us from persons accustomed to deal with the compensation statutes of several States that the New Jersey act is as readily administered and as satisfactory to apply as any in the Union. This may or may not be a fact, but if so it is no doubt due to the fact that immediately upon its passage in 1911 a commission was appointed, by act of the legislature, charged with the duty of studying this law for the sole purpose of recommending amendments needful to render it consistent and workable. An executive official was appointed and the commission served the State five years. During this period various amendments were made and supplements added to the law, so that in a sense the act has grown naturally and unhurriedly, according to the needs of the situation, to its present form. This is true not only of the law but also of the method of administration.

A second element which it would seem must necessarily have had a beneficial influence in wise and harmonious development of our law and methods is the fact that the official executive force is under civil-service regulations, a situation, I think, not paralleled in any other State, so that while the bureau has grown there has never been any change in the personnel.

As to the actual administration of the law, when it was first enacted jurisdiction was vested exclusively in the common pleas courts of the various counties. This condition continued for five years, although it was earlier recognized by the employers' liability commission already mentioned, that an administrative body was absolutely necessary, and justice was going astray in a great number of cases because

of the lack of a governing body. Therefore, in 1916 there was created the workmen's compensation aid bureau, which endeavored to guide settlements to a proper conclusion. Failing in this the bureau certified a state of facts to the common pleas court, which court assigned counsel, and the matter was brought on for formal trial. This was a decided improvement but still fell far short of accomplishing a successful administration.

After two years' trial of the procedure just outlined, a further step in the developing of our methods was determined upon, and the legislature of 1918 removed the word "aid" from the name of the bureau and gave us original jurisdiction of all compensation matters, with power to hold formal as well as informal hearings, and authority to file enforceable judgments in the common pleas court. There was, however, inserted in the law a provision permitting of a trial de novo in cases of appeal to the common pleas court. Three years' trial of this showed the trial de novo provision to be unwise and conducive of dishonesty, so that in 1921 further amendment permits appeal only on the record as already taken at the hearing before a deputy commissioner. Argument and briefs may be presented but no new testimony.

Under the existing laws now in force in New Jersey, and under the methods authorized by the commissioner of labor, who is at the same time the chairman of the compensation bureau and the director of the rehabilitation bureau, every accident causing a disability of two weeks must be reported by the employer to the compensation bureau, with a duplicate to the carrier holding the employer's policy. The insurance company then files with us a statement of the occurrence on Form No. 1. This is followed by Form No. 2, a signed agreement to care for the case according to the provisions of the compensation law. This form also contains a statement of the wages.

These are entered in the records in our office at the capitol and systematically followed up until the injured has recovered, at which time a final statement is sent in by the carrier on Form No. 3, setting forth the length of disability, the number of weeks that compensation was paid for temporary disability, the weekly compensation rate, the nature of the permanent injury, if any, and the agreement for compensation to cover same.

These records are all carefully reviewed by our office force, and if any error or irregularity is discovered, the claim is taken up for adjustment. Following this Form No. 5 is sent to the employee, advising him of the amount of compensation to which he appears entitled, under the reports received. Accompanying this is a list of all the offices in the State maintained or visited by officials of the bureau, with instructions attached reading as follows:

The inclosed statement indicates what would appear to be the amount of compensation due you in accordance with all the facts which we have before us.

We also wish to take this opportunity of advising you of the operation of the rehabilitation commission which has been appointed for the purpose of rendering aid to injured persons throughout the State, including afflictions caused by accident, sickness, or existing at birth.

We suggest that you take advantage of the opportunity of calling, within 30 days after receiving this notice, at the compensation office which is most convenient to you on one of the days indicated below, for the purpose of ascer-

taining whether your physical condition may be aided by means of further surgical or medical treatment, and also to ascertain if you have received the full benefits of the compensation law, taken in conjunction with the possible aid of the rehabilitation commission.

If you are under treatment by a physician, it is suggested that you consult with him and show him this letter. We will be glad to have your physician visit the office, as the consulting advice of our orthopedic surgeon as well as any medical appliances or surgical conveniences possessed by us will be at his disposal.

Any services rendered by the compensation commission or the representative of the rehabilitation commission will be without expense to the injured.

If the injured does not appear at any of our offices within 30 days, the settlement effected is officially approved. If he does present himself, he is given a personal hearing and if error is discovered the official at that office takes the matter up for adjustment. Notices are sent the employer and injured that an informal hearing will be had, and at the assigned time and place the question at issue is gone over. This procedure is followed whenever an injured man comes to one of our offices either with or without the notification from the state-house.

Whenever practicable, the injured who has presented his case is directed to report to the nearest State clinic for examination by the rehabilitation surgeon before the date set for the hearing, and at the hearing the findings of the surgeon are considered. If in his judgment permanent injury may be mitigated or removed, final adjustment is postponed and the matter taken up with the carrier, whose representative is usually present, to induce it to assume whatever expense may be incurred to secure the probable reduction in amount of compensation payable by virtue of improvement in condition. Little trouble is experienced in securing the cooperation of the carrier, and the surgical or other service may be given at one of the State clinics or elsewhere, or rendered by the rehabilitation surgeon or by some one selected by the carrier or employer. In any case, the equipment of the rehabilitation commission is accessible.

When all possible betterment has been accomplished, the case comes up for final adjustment as to compensation. In round numbers, 80 per cent of New Jersey accident cases are settled by direct agreement and approval from our head office; 20 per cent are brought up for informal hearing, and about 2 per cent of all cases are pressed to formal determination, which must be resorted to whenever either party refuses to accept the informal award.

This formal procedure consists of action by due process of law calling for the filing of a petition with the secretary of the bureau, service thereof on the respondent by a process server of the bureau, the filing of an answer by the respondent, assignment and notice of day of hearing, a formal trial, and the rendering of opinion and judgment, which may be filed with the clerk of the court of common pleas for enforcement if necessary.

The CHAIRMAN. It looks as though we shall have to call on Mr. Pillsbury to open the discussion on, "Should compensation commissions administer accident prevention and other labor laws?" I will now call on Mr. Pillsbury.

SHOULD COMPENSATION COMMISSIONS ADMINISTER ACCIDENT PREVENTION AND OTHER LABOR LAWS?

BY A. J. PILLSBURY, MEMBER INDUSTRIAL ACCIDENT COMMISSION OF CALIFORNIA.

The subject assigned for this paper is not broad enough to cover present-day tendencies. A better-fitting title would be, "Shall departments of labor and industrial relations administer compensation laws?" or "Shall there be an amalgamation or merely a coordination of boards and commissions charged with functions of social control?"

The evolution of social control runs something like this: Social reformers perceive social needs and induce private philanthropic enterprise to seek to meet them, inadequately of course, but in sufficient degree to be educative and finally to charge the services with a public interest. When the legislative stage is reached, a commission is constituted and empowered to deal with the problem. This evolutionary process is carried forward upon so many parallel lines that there comes to be a multiplicity of boards and commissions so that the hard-pushed (and often hard-boiled) taxpayer rebels, and the journalistic air is filled with animadversions upon the "forty fat commissions," and whoever can abolish one is applauded as a benefactor. California has reached this stage in the evolution of social control, and I think also have New York, Wisconsin, Michigan, and perhaps other States. All will reach it finally. It is a manifest destiny.

The government of California was, at the last session of the legislature, tentatively reorganized, somewhat upon the lines of the Federal Government, by the enactment of eight bills. The initial bill declared it to be the State's policy to vest in the governor the civil administration of the laws and that, for the purpose of aiding him, the executive and administrative work of the State is to be divided into six departments, each department to be headed by an officer, or board or commission, to hold office at the pleasure of the governor. Only one of these departments concerns us at this time, the department of labor and industrial relations, now composed of the following commissions:

1. Workmen's compensation, insurance, and safety.
2. Immigration and housing.
3. Industrial welfare.
4. Labor.

Each of these, except the last, is administered by a commission of three or five persons, and the division of labor by the State commissioner of labor statistics.

All of the people in the world may conveniently be divided into two classes, those who know what to do next and those who do not. The legislators of California belonged to the latter class, and, having gotten so far as to create the department of labor and industrial relations, mercifully held their hands and, so far as administrative functions are concerned, left all four constituent commissions for the time being substantially unaffected, but the concluding paragraph admonished the department to report to the governor and the next legislature a complete plan of reorganization of the activities of the four commissions thus sought to be consolidated.

An honest, efficient, and economic administration of government will require, and ultimately compel, the consolidation or elimination of many commissions and commissioners and, for one, I would rather be a factor helpful in bringing this about than an obstruction in the way of progress.

He who created two public jobs where one could have been made to suffice was not a benefactor of his State, nor is it a benefaction to render any public servant to double duty bound so that he must neglect both. The range of choice will be found narrow.

Perfunctory functions can not be efficiently performed. Therefore, administrative reform does not lie in the direction of constituting official figureheads, who can have only a speaking acquaintance with the duties of their office, and must sign important documents on dotted lines as required by their subordinates without understanding what they are all about.

Appeal should never lie from those who know to those who do not and can not know, a characteristic of our form of government throughout. The State should trust the man on the ground and hold him responsible for results. Power and authority commensurate with the full requirements of each function should go with it, and each position should then be filled with a man big enough to exercise plenary power without abusing it. The small man always abuses power if placed in his hands. It is by that token that we know him.

The actual work done should be done by experts; specialization narrows, frequently, at the cost of the saving grace of common sense. The directing mind should be that of the man of affairs, who can at once sense and educate the public mind, choose experts, and leave it to them to achieve results along generous lines, which he, carefully and intelligently, lays down.

If consolidation or elimination of commissions is to be justified, it must be in order to achieve—

1. The elimination of superfluous officials and employees.
2. The prevention of duplication of effort.
3. A higher degree of efficiency in the performance of all of the necessary functions theretofore vested in all of the commissions through a centralized administrative authority.

If such principles as I have enumerated can be set up as guide boards for legislative action, all may be well with the industrial relations department of social control, for otherwise lawmakers will get off the trail and confusion and retracing of steps must result.

But what ought a consolidated department of labor and industrial relations to undertake to do? With a purpose of answering this question I have been at some pains to analyze the texts of the statutes constituting the four commissions sought to be consolidated in California, and to set out in short form the precise functions required of them. They total 232, of which 38 may be classed as purely procedural; 57 involving investigations and inspections; 7 educational; 76 conferring general power and authority to do things; 40 involve cooperation with other bodies, State or Federal; and 14 may be, for want of a better designation, classed as miscellaneous.

I should like to add to this list a few not included in the California statutes, such as—

1. Promotion of industrial training and apprenticeship for young workers.
2. Insistence that young workers are adequately fed as well as housed.
3. Guidance of the young in selecting a wage-earning vocation.
4. Assistance to the young and to immigrants in making wage contracts.
5. Promotion of social relations with the view of encouraging marriage when adulthood is reached.
6. The establishment of a court for the adjustment of industrial disputes or the conferring of jurisdiction over such disputes upon some tribunal already existing.

This would make a total of 238 functions to be performed in relation to labor and industrial relations, but I find upon inspection that a consolidation of the four commissions into a single department might result in the elimination of some duplications of powers or functions, including some that should not be attempted to be done, and it seems to me that the seven requirements for the education and Americanization of immigrants should go to the department of education. This would leave about 200 divisible functions in social control of greater or lesser importance to be performed by the new department of labor and industrial relations as contemplated in California.

After thoroughly shuffling the cards upon which I had caused to be transcribed the designated functions of social control and making an entirely new and nonpartisan deal of the cards I found that they fell, in a fairly satisfactory way, into seven subordinate divisions, as follows:

Division.	Number of functions.
Compensation	39
Safety and sanitation	29
Industrial relations	17
Housing and welfare	56
Employment	42
State insurance fund	7
Statistics	9
Total	199

To these I have added 13 functions to be performed by a commission of three persons who, it seems to me, should constitute the departmental head, not excluding the important servant of a court of industrial relations, similar to the one in Kansas, making 212 in all.

I recognize that this segregation of functions into divisions is susceptible of variation as judgments and interests differ. A more serious problem is to agree upon how many and what of the functions in social control, under consideration, should be attempted to be performed at all and what should not.

An advocate of the laissez faire ideal of government, which, being interpreted, means "Devil take the hindmost," and "Don't care a snap what happens so long as he and his are all right," would cut out most if not all of them; probably not compensation, for that has proved a good umbrella to shelter him from damage suits promoted by ambulance chasers.

On the contrary, those who believe that government should be both parent and Providence to all the people would add greatly to the list. Between these two fiercely contending influences common sense and sanity must exercise such control as it may. The greater part of the functions enumerated consist in administrative powers and duties and are mainly procedural, made necessary as many means to few ends, those ends being, in the main, as follows:

1. Prevention of industrial injuries;
2. Compensation to those who are injured;
3. Sanitary living and working conditions;
4. Justice and fair treatment to working women and children, who can not protect themselves;
5. Opportunity and protection for the immigrant;
6. Supplying industry with workers and workers with work;
7. Insurance for the employer at what it is reasonably worth to do the insuring and thereby secure protection of the injured in that insurance;
8. Promotion of the general welfare through bettering social relations;
9. Afford systematic publicity for public interests; and, in my opinion, there should be added—

10. The Kansas idea of a court of industrial relations to enforce industrial peace so far as inquiry, publicity, conciliation, and law can enforce it without subverting the fundamental rights of men.

Reduced to their lowest terms, there are only 10 of these functions which it is proposed to have performed. All the others are means to these 10 ends, and no State can, for the mass of its population, be made a fit place in which to live without their practical accomplishment.

Now, how much will this consolidation, if accomplished, eliminate in public expenditure and add in administrative efficiency? That is the crux of the whole problem, for unless a substantial saving in expense and gain in efficiency can be achieved through such consolidation, it were well to leave well enough alone.

Such consolidation would probably eliminate 11 commissioners, but as 10 of them serve without pay, and receive only their actual and necessary traveling expenses while on the business of the State, the saving in money would not be great, while the loss in depriving the public service of the aid of 10 public spirited persons who are willing to give of their time and talents would be considerable.

The chiefs of divisions, of whom there would have to be anyhow five or six, would need to be men of capacity, able to command remunerative salaries in the open market, or the whole enterprise would be foredoomed to failure. This would make for efficiency, but would cost more.

Some economy may reasonably be looked for in lessening the number of independent headquarters and branch offices throughout the State, but the actual amount of office space occupied would not be materially less. There must be clerks and stenographers to do the work and they must have desk room.

In the cases of inspectors and their traveling expenses, some curtailment of cost is to be hoped for, and yet there is a limit in kind and quality of the services which inspectors can render. Only

trained men can do efficient safety work and few are trained in more than one field. Incidentally to the performance of their professional duties, inspectors may do errands, and so save some money, but the old proverb concerning too many irons in the fire remains true.

Theoretically, at first blush and on paper, it looks as though consolidation of allied agencies of social control should result in increase in efficiency and economy. Perhaps it may. Experience alone can tell, for the fact is not demonstrable in positive degree through figures now available in California.

Nevertheless, the experiment is to be tried. The wind has set in that direction elsewhere as well as in California, and as already stated, I would rather be a factor, in good faith, in putting the idea to a practical test than to be a hindrance in a path which looks as though it might lead toward administrative progress.

DISCUSSION.

The CHAIRMAN. The matter is now open for discussion.

I was very much impressed with Mr. Pillsbury's address. While it did not cover the exact ground that was expected, it did point out very clearly that the wind is blowing in the direction of the consolidation of State activities under one general head, and that something of this character is likely to come in each of the States. Unfortunately the real motive behind this movement is not increased efficiency. It is money saving. Possibly some money will be saved—I doubt it—I don't know. The proposal appeals to me, so far as it does appeal to me, from an entirely different angle. Let us face the facts. In many of our States the various functions are performed by entirely separated boards and commissions, which have no relation whatever to each other. In this organization we have workmen's compensation commissions and commissioners who have expressed themselves as impatient with the talk of, and the sessions given up to, accident prevention and safety work, because, as they say, it is entirely outside of their field. Factory inspection may be an entirely independent division, as in many States, or it may be a division of the bureau of labor, as in some States; it may be under an industrial relations commission, or, as in a few States, I believe, directly connected with the workmen's compensation board. In very few instances, however, are the contacts sufficiently close. The right hand knoweth not what the left hand doeth, and in most instances does not care a rap. Here is the waste as I see it—not in money, but in opportunity to coordinate our activities in such a way as to minimize accidents and minimize hazards. With a department so organized that each function was in tune and immediate touch with the other functions connected with the social activities of the State, would we not after all have the ideal machinery? Such a department of labor and industry as I have in mind would not only include the work of the present workmen's compensation boards, factory inspection, sanitary commissions, accident prevention and safety work, and statistical divisions so far as they relate to these subjects, but would include them for a definite purpose, that purpose being to focus all these activities upon one pivotal point—the prevention of industrial accidents and occupational diseases. Each separate division would

handle its own phase of this work just as it does now, but there would be immediate report and investigation and correction of the cause of the accident. It would be possible through a department so arranged to link up the whole chain of cause and effect. It would make possible accident statistics which would mean something, which would record the reasons for accidents as well as the number, because all the sources of information would be under one organization, though not necessarily in one division.

In the long run the end and aim of workmen's compensation commissions should be to be put themselves out of business. This is an ideal not to be reached in a minute; but if you can trace every accident, every death, every industrial disease back to its original cause, put your accident prevention work in the place where the accident occurred, put your hygiene division to work where the occupational disease develops, to the end that accidents and occupational disease be practically eliminated, you will have accomplished a purpose no less valuable than that which should be your ultimate aim. I had hoped for something corresponding with this purpose to develop from the unified State departments of labor and industry, as it can not be accomplished by entirely distinct, unrelated departments. The factory inspection division should know the relationship of all of these other elements—not each inspector, that is impossible, we will all agree with that—but it does seem to me that there could be some correlation of all of these functions at the top, correlation so intimate that each part would automatically slip into its place and perform its work. I say that this is what I had hoped for from these unified departments. It must be admitted that so far as unified departments have been tried they have not made great progress in this direction, but hope is the dream of the man who is awake, and I propose to keep on hoping and dreaming. I doubt if these unified departments will save 3 per cent of the money now spent on the separate divisions, but if they will so organize their divisions that all will work to the end that there will be practically no compensation work to do, to the end that our industrial codes will be such that our machinery can be made practically safe, then let us try the experiment. I may be wrong, but I ask you gentlemen to think about this, whether after all the way to accomplish what we are trying to do may not be to head up administrative control somewhere so that such head can view the whole situation, see and record the information as to all of the weak spots, and concentrate on the best methods for removing them.

Mr. LEE. I would like to speak on this for a few minutes. One of the dangerous tendencies in legislation that I see coming to pass is the reckless attempt to combine under a single department a multiplicity of activities; that, in my judgment, will destroy efficiency of the main object to be sought as far as we are concerned, which is fair, satisfactory, and equitable administration of the compensation laws. It may be that we are going to graduate to a point where accidents will no longer happen. It may be that we are going to live until that day comes when every man and woman will be safe at work and at play. I may belong to the element, perhaps, that has not yet absorbed the enlightened thought of the age, but, so far as I am concerned, no matter how long the lease of life I may enjoy, I never expect to see that day arrive. I believe that we ought

to minimize it. I believe that we ought to do all we can both in money and effort to minimize it, but I do not believe from my experience in the compensation field that we are going to reduce it to such a minimum that the compensation commissioners will have very little to do. As long as we have to deal with the human equation we are bound to have those persons who will not take warning and who will not protect themselves in places of danger, and thus become injured and some one has to adjust the difficulty. Serious accidents in dangerous machinery in the larger industries of the East—many of the cases and, in fact, almost all of them—happen in those plants that have adopted the most up-to-date standards for the protection of their workmen. They have not only had safety appliances and safe places to work, but they have had their departments that are trying to drive home to those in the industry the cooperation necessary in order that the dangerous machine may be surrounded with as little danger as possible.

You can not make machinery foolproof. You can not protect people from doing things that it seems to be impossible to get them to grasp and understand. So I say it is my belief that while we may minimize the danger and while we will advance and improve, we will not come to the day in your and my life when we will not have a large compensation roll to administer, largely the result of the disposition of the individual at some time or another, in an unguarded moment, to become momentarily careless and suffer some disastrous consequence. Then, if that is true, how much are we adding to the efficiency of the compensation work, which in its very nature is a specialty, by crowding the compensation commission under some one else who shall undertake to cover and survey the whole field that has been outlined? I do not believe that we are going toward efficiency or safety in trying to put under the control of a quasi-judicial body the great number of unrelated activities for their administration. In my State it is a quasi-judicial body, because it is a different proposition from what you have in other States. There is an appeal from our commission to the court, and the whole matter is heard *de novo* by a jury. Not only must we have some knowledge of the law but also we must have a close analysis of the facts. It is perhaps true that I or my colleagues might when the hour of closing has arrived leave our department and forget our work until the rising of the morning sun, but if we view it from that angle we will fail to measure up to the responsibility we have sworn to discharge. Like the bank clerk, when he closes the door his day's work is not done. The day's work that you see him do is that of meeting the public and passing out and taking in money and doing those things which bring him in contact with the public, but the real financing of his institution comes when he can close the door and sit down quietly and go over, analyze, and investigate, and understand what the day's work has meant, and so summarize it that he can put it down in intelligent form for the directors of that institution.

So is it with the compensation commissioner. Here you have forty-odd States grinding out compensation matters. Here you have the appellate court and the United States Supreme Court grinding out compensation opinions, and I would like to know how you are going to cover the whole field of industrial activity and yet be qualified to

apply the best reasoning, and the most sensible reasoning, of the judiciary and the different commissions, if you are simply to sit down and try and assign your duties to a subordinate and sign on the dotted line, as Mr. Pillsbury said, where he indicates that you ought to sign. I believe that the compensation work ought to be confined to a narrow field, and that the commissioner ought to be called upon to administer only the compensation insurance fund and those subjects so closely and intimately associated therewith that they would naturally fall under the direction of the compensation commissioners. I am of the opinion, and so voiced it in my State, and so wrote to our governor when the combination was sought to be made there for the purpose of consolidating the different departments, and experts were brought in to read our reports, and spend about 15 minutes in our institution, and then tell us all about how it ought to be run, that I did not believe that, speaking for the department which I represent, they were headed in the right direction, either from the standard of efficiency or economy. They sought to put us in the business of factory inspection to the point of administering the child-labor law, or seeing that somebody inspected the boilers right or whether some department under our control was engaged in trying to straighten out other activities of the industries, and I told them that if they wanted that they could have it; but if they wanted to get men who were qualified to do it I did not know where they would get them. They might get them and they probably would, but I personally believe that this is a wrong tendency, and I believe we will all live to see that; if it goes on recklessly and without the closest scrutiny and attention we will be headed in the wrong direction.

I hope that the expression of this association, at this convention, on this matter will be as full and free as upon any that has come before it, because, with due regard for the importance of all other matters which come before the association, I believe that none is more important than this one. It is true that we are charged with self-preservation, endeavoring to preserve our own position. It is true that we are charged with self-interest. It is true that the legislators always try to offer some new program to the taxpayer in the hope that they have somehow or other so muddled the water that the people who elect them will not see through it. I say that any program that is planned, that is based upon the idea of efficiency or economy and has back of it the idea of consolidation, with a paper showing of saving money to the taxpayers, is bound to be one that the legislature will easily seek to have put upon the statute books.

I have had a little political experience and some experience with human nature. I have had some little intercourse with my people throughout the country, and I do not know of any of the fancied forms of consolidation that have been mapped out and shown upon paper to save the taxpayer money that will have any other effect than to cause the old tax rate to go up and up and up. I say to you, therefore, that I believe this compensation work is a special endeavor. You not only have to have a man of human sympathy and broad gauge—not to include myself in that class I will eliminate myself and put you in there—but you ought to have a man with an understanding of human nature. You ought to have a man with some legal training connected with the department. You ought to have a man

who has due regard for precedent. You ought to have a man or woman, as the case may be, who is willing to make progress slowly but surely and steadily. That I believe can be done better by intrusting a few major departments with the compensation field, and when you want these other allied departments, take some one and put him at the head of the department and properly compensate him so that you can get an efficient man to conduct it, and then let him select a proper corps of subordinates to be responsible to him directly, and he in return directly responsible to the people for the conduct of his office, not carrying that out recklessly, not multiplying needlessly different departments, not dividing it into too many channels, but on the other hand getting rid of the needless accumulations, perhaps, of commissions and commissioners and boards and what not, to take over some of the powers that the legislature used to have, but not to let the pendulum swing back to the point where you can pick out half a dozen men and put them in charge of the whole industrial activities of the State and have them answer for the things that happen in these great industries.

There was a reason for taking those powers away from the legislature. I was in the legislature once. Generally, you have to be accused of it, but I make the confession to my friends. Of course, the legislature, drawn from the great body of the people, could not in 90 days deal conclusively with these subjects. We grappled with the problem and tried to solve it, but we knew that the lobbies in the legislatures were becoming so powerful that people were not getting any real relief. We did the best we could with the limited information which we had and the short space of time we had in which to go over the work which we had to perform; but the fact remains that we could not get any relief from the existing conditions. We could not regulate the big public utilities in my State in any 90-day session of the legislature every two years. We could not regulate compensation matters by having them discussed in the legislature during a session of 90 days every two years. We had to organize some system, some scheme under our government, that would delegate a certain power that could be performed better by a commission or a board or a court, or whatever you might term it, in order to get at the subjects that were giving us the most concern and causing us the most misery and discomfort. Consequently, the commission came into existence. I do believe that we take the wise course when we seek to specialize in these subjects and try to pick men who will be constantly on the job and have the right qualifications for the performance of their duties, and it certainly was a step in the right direction. And now, when the pendulum starts to swing back and the legislature seeks to call a halt upon this tendency, do not let us go to sleep on the job and under the cry of economy and efficiency turn back the progress of the age and let it sweep into a small conglomeration all these activities and destroy the splendid work we have done so far.

Speaking for myself, based upon experience and sound knowledge of conditions, I believe we will do well to confine the activity of the compensation commission or commissioner to the administration of the compensation law and those subjects which are so intimately and so closely allied therewith that they could not properly fall

under any other head, and by that method I think we will get the highest efficiency, the greatest economy, and the best service to the public, regardless of class or conditions.

The CHAIRMAN. If you will pardon me a minute—we recently had a reorganization in our State. I feel that nobody seems to know about it, and it might be well to give you briefly an outline of just what has happened. Let me say first that in my 10 years' experience as one of the administrators of the workmen's compensation law, together with other functions, I have seen two reorganizations in my own State; one was for the purpose of consolidation, in order that the various factors might be represented and bring their experience and their knowledge into one large laboratory, as it were, and make the best use of it. After that has been tried we have a reorganization which disorganizes, goes back to a certain extent to the condition that the former reorganization was intended to remedy. That very same condition has obtained in other States.

Now, in these instances, why not be honest with ourselves? What were the influences that brought about the reorganization? Were they not political, and chiefly for political reasons? There may have been exceptions, but generally speaking the measures proposed were not for the purpose of greater efficiency in the department, not for the purpose of providing a better avenue to accomplish our ends, but too often were an excuse for the purpose of hindering the progress that was going on. For instance, in Ohio, I think I can say without contradiction that in the recent reorganization there was not a man connected with the industrial commission, connected with the public utilities commission, connected with the board of administration, who was asked for his opinion or to give his experiences or to point out what had been the obstacles and what the remedies that he had found from experience would be best calculated to bring better results. These reorganizers did not want the opinions of those whose experience best qualified them to give some worth-while information. They came up to Illinois and they got a lawyer from Illinois, who knew nothing about the conditions in Ohio, to draft a reorganization code. The only assistance he got was from some lawyers in Ohio who were not connected with the administration department. Now, then, I think, with all due respect to the legal ability of those involved in constructing this reorganization code, that those who had for 4 or 5 or 10 years been actively engaged in the administration of the various State functions were better fitted than they to formulate a reorganization code, if such were necessary.

Let us take our compensation work. I do not think that it is egotism on our part to say that there is no nobler work that has been given to man to do. There is no work that gives greater inspiration. If there is anything in a man at all in the way of ability, in the way of devotion to duty, surely the administration of the workmen's compensation law or the administration of the prevention of accident department would bring out of that individual whatever good there is in him. Now, then, if we were making progress in our administration machinery to meet the needs that developed we would have some hope for the future, and where could you get that if you did not get it from the men who are engaged in this work? It is true we must be selfish about our job, so to speak, but we very soon

get past that stage because if there is any man here who thinks after having five or six years' experience that he is better off financially by staying with the State than he would be by going somewhere else, if he had nothing but his own selfish interest to consider, that man is much better off than we are in the State of Ohio, because that is not our experience. While we have this selfish interest, which we are all liable to, yet we do have that pride about us—I do not know how the rest of you feel, but being one of the pioneers in administering the workmen's compensation law in Ohio, I would like to have my boys told about 10 or 20 years from now that their father did a good job in establishing this humane system of legal machinery. We all have that in us, and for that reason I say that, generally speaking, we are going to overcome the selfish idea, and if we are given the opportunity we can make suggestions that will stand the test.

Now, this has been our experience in Ohio: We started out with the idea that the commission idea is the best. We have had that in Ohio for the last eight years. Now, this reorganization which we had last spring provides that we shall have a department of industrial relations, and I can say to you, and I believe I would be supported in it by the vast majority, almost unanimously on the part of the employers and the laboring people of the State, when I say this, that in this reorganization the desire of those who were reorganizing was to abolish the industrial commission, but the industrial commission had done such a good job in the establishment of the State insurance fund and administering the workmen's compensation law that they did not dare do that. So what did they do? They provided for a department of industrial relations. This department takes over the inspection department, mining inspection, factory inspection, building inspection, examination of applicants for licenses to operate steam boilers and engines, and the department of labor statistics, which were put under the department of industrial relations, with one man at the head known as the director of industrial relations. Then they provided that the industrial commission should administer the workmen's compensation law, should administer the inspection of boilers, have charge of the mediation and arbitration of labor disputes, and should fix safety standards, etc. Now look at the incongruity there. The department of accident prevention is in the inspection department. The industrial commission, which administers the workmen's compensation law, has no control over the supervision of that department. The industrial commission, whose chief duty it is to administer the compensation law, shall have charge of the mediation and arbitration of labor disputes and the inspection of boilers. That shows what comes from inexperienced people framing a code. You think that is bad enough, going that far, don't you?

Now, then, what else did they do? They made the industrial commission independent of the director of industrial relations. Neither has any jurisdiction of the other, but they put this clause in the bill, that all the employees of the industrial commission shall be deemed to be employees of the department of industrial relations unless the governor designates otherwise, which the governor has not done. And then they passed an appropriation bill, and this industrial commission, composed of three members, did not have one nickel appropriated for it. The appropriation was granted to the director of industrial relations. Every time we have a reorganization the cry

of economy is set up. We are going to save hundreds of thousands of dollars, but we have never had a reorganization yet that it did not cost us more money. So it is not perhaps so much a question of whether or not we have a commission form, whether or not we have a director with various departments under him, but it is important that we have machinery that can function. It is important that we have an authority that can be put into practical force and operation.

Now, just think of it. We had an organization that it took us 10 years to build up, and it has undergone many changes, as you can well understand. You would not recognize the department and its functions now compared with what they were when they first started. It is not perfect at all, but there are in the neighborhood of 450 compensation claims per day that the members of the commission never see, where there is no dispute between the claimant and the employer and where there is no legal point involved; it is all worked out in the claims department by the clerical force, but we have to be responsible for that clerical force. Their acts under the law are our acts. Besides that, we send out in the neighborhood of probably 800 or 1,000 vouchers per day, in the course of the year amounting to somewhere between \$8,000,000 and \$10,000,000. Our law provides that those vouchers must be sent out over the signatures of the members of the industrial commission. It is impossible for the members of the commission to sign all those documents, and therefore we have the signatures printed on the voucher, and then we have a man in whom we have confidence countersign those vouchers, and on our faith in him we accept the responsibility, but now we have no jurisdiction over that man. To-morrow morning when I get back I might find that somebody else has been put in his place, but the responsibility is on me and my colleagues and on the commission.

Now, then, that is what we are up against, and I say to you that no matter what the form of your administrative body is, great care should be exercised before there is any reorganization. I can not believe that any one man or any few men can come along and wisely, without any study, without any experience, completely change the administrative machinery of a State and make an improvement in it, doing it wholesale, but I can see where by taking advantage of the experience gained from year to year, making an amendment here, adding to or taking from there, you are going to build up something that will be worth while, something that will endure and produce more efficient and better results.

Mr. CHANDLER. The subject of discussion is this: "Should compensation commissioners administer accident prevention and other labor laws?" I was delayed and came in a trifle late, but I gather that I am in entire accord with Mr. Lee of Maryland. I should answer that question emphatically in the negative, or at least I would qualify my answer to the extent that those to whom is confided the actual adjudication of compensation claims should be divorced in all respects from the other bureaus or subdivisions of the general department to which they belong.

Our duties are more germane to the judicial than to the administrative department, which has to do with the enforcement of labor laws of a general nature. We should bear in mind the grave responsibility which rests upon us, because in practically all jurisdictions, either by statute or legislative construction, the tribunal of first in-

stance, the compensation commissioner, is judge of the facts, and only when he makes a finding without evidence, even though in the opinion of the court the preponderance is strongly the other way, can his action be reviewed and his decision reversed, and when you deny an individual or a commission those very large powers you should exercise corresponding care that the person administering the act is hedged about with all the traditional protection and is relieved of all of the subsidiary entanglements which might disturb him in arriving at a really judicial decision. Now, when a person who has to make his findings of facts and state the law, which as Mr. Lee very properly points out this morning is a highly specialized function by itself, has in addition to consider matters such as accident prevention, which we learned from the discussion of this morning is itself a highly specialized department, when he becomes entangled with controversial and sometimes demagogic questions, when he has to decide labor disputes, when he becomes connected with such matters as labor, minimum wage law, and all that group of modern legislation which plays such a part in our system of modern government, he would be a man of remarkable poise if he were not swept from his judicial equilibrium.

Now, gentlemen, I am very glad to hear the warning uttered by Mr. Lee. You know we have had a lot of overnight philosophy. We have had a lot of quick-change, rapid-shifting scenes in economics and politics in recent years. No truer words were ever uttered than those uttered by Mr. Lee, that if we continue intermingling and entangling the judicial functions of the administration of the workmen's compensation act with these other departments, sooner or later we will fall to the ground.

This is a new movement, this compensation movement. It is not strictly true that the Germans invented it. It had a prototype in France, but it is new in this country. It has not yet established itself, and it will not last unless we recognize that whatever the other humanitarian and sociological and other ramifications are, our primary duty is to find the facts and apply the law, and when you depart from that duty you are forgetting one of the traditions of our American Government, and I uphold what Mr. Lee says. Let us stand upon the battlements and let us repeat a little phrase from a certain utterance of about 2,000 years ago to the legislatures of the United States, "Lead us not into temptation."

MR. KENNEDY. I am rather fearful of saying anything on this question, because the men who spoke before me are the pioneers, but I would like to tell the story of Nebraska as it is and then I think perhaps you will appreciate that what might be just exactly right in Connecticut and in Maryland would not be right in Nebraska. I doubt if there is a man here who would say that in Nebraska there should not be any reorganization. The compensation law in Nebraska was adopted in 1913 and went through the referendum and was adopted by the people. It was as good perhaps as any of the laws made at first by the different States. The pay provided was small. The medical feature was eliminated. The other provisions were small. The courts administer it; that is, they handle all disputed cases. The labor department was merely a place to file papers.

In 1917 the legislature put the administration of the law under the commissioner of labor and commerce, but never contributed or appropriated a single cent to take care of the law. In 1919 when I was appointed there was not a single scratch of paper, not a single line of writing in January, 1919, on record in that office. The governor proposed the civil administration law, creating six departments similar to those of Washington and other States. There has been talk of providing a fund for us of the largest sum of money ever appropriated in Nebraska for the labor department, but the figures that you deal in here with reference to the administration of compensation laws fairly stagger me.

You may be amazed to know, gentlemen, that two women and four men administer the law in Nebraska. The salary of the commissioner in 1919 was \$4.14 a day, and during the first six months of the year I went through all kinds of experiences, one of which I never will forget. Two big colored fellows from the packing house were up in June, 1919, for compensation. I asked one of them what wages he earned and he replied he was getting \$10 a day; I asked the other one what wages he was earning and he replied \$10 a day; and think of it, the judge was getting \$4.14 a day. From 1887 up to 1919 there never has been an appropriation to exceed \$13,000 biennially in the history of the State.

The usual gossip among the working people of Nebraska previous to 1919 was that the labor department was a sop to labor; nobody paid any attention to it. It was a football among some fellows who aspired to that wonderful position of \$1,500 a year. Now, as I said, there was not a single scratch of the pen. The compensation reports came in and were placed in dockets under the name of the employer, and if one of those reports happened to be put in the wrong envelope why, there was not an accident. You may tell me that the civil administration code is no good. I do not know whether or not we have a good scheme, but I know that we have reorganized since the code went into effect. I know we have not oceans of blanks. I know that the only thing that the workingman is required to sign is a cross or his name. I know that in 1919 and 1920 the department got \$590,000 more in compensation than during the two previous years. I know that I have had innumerable scraps with adjusters, and with self-insurers.

Mr. SAYER. I think we all feel keenly with the honorable chairman from Ohio that the reorganization in that great State has been such as possibly to undermine the efficient administration of the workmen's compensation law, because that is what we here are more particularly interested in, and it is the thing that the legislature should and must as time goes on be particularly interested in. They can not get away with political reorganization in this field for long, and when I say that I am perhaps somewhat in the situation of the gentleman from Ohio, for I have been through two reorganizations. In 1915 in New York we had a consolidation. The workmen's compensation law that had been enacted was administered by a compensation commission that had no function other than the administration of that law and of the State insurance fund.

In 1915, after a rather exhaustive study of the subject by the American Association for Labor Legislation, and by the legislative bill drafting department of Columbia University in New York,

which no one will accuse of being a partisan, the legislature adopted the industrial commission plan, the fundamental principle of which was a consolidation into one department of all government activities relating to labor and industry. They felt, and I believe experience in New York has demonstrated, that all such activities should be, or at any rate can well and properly be, administered within one department. Recently, and under the administration of the last governor, a commission was appointed to examine the whole structure of the State government. I presume the wind was blowing in New York much as in Washington, and some of the other States that have been referred to here, and this commission, so-called reconstruction commission, made a report to the governor recommending amendment to the constitution of the State and amendment to the statute where the constitution did not need to be amended, providing for a consolidation of the various governmental activities. It was pointed out that we had in New York 187 independent government agencies of one sort or another, administrative offices, boards, commissions, etc. For the most part these were appointed by the governor, in some cases by and with the advice and consent of the senate and in some without; while in other cases these departments were appointed directly by the legislature in joint session.

There was necessarily involved in such a system duplications and overlapping, and as we in New York are human like the rest of you here (the rest of the people in your several communities), we had jealousies, we had ambitions, and we found officers reaching out for more and more power, although the very functions they reached out for properly belonged in other departments. And so, as I say, this reconstruction commission, which was composed of men who served without pay and men of very high standing in the community, pointed out there was this need of administrative consolidation. That report has not, in its entirety, been accepted. How much the political situation has entered into it I am not prepared to say. This commission was appointed by a Democratic governor and the legislature was Republican and the commission was non-partisan, but in that report, in discussing the industrial commission, and after a very careful study of that situation, this nonpartisan commission reported that the greatest lack of efficiency in the department arose from the fact that judicial officers were called upon to exercise administrative functions. And so I stand clearly with my friend from Maryland. I stand clearly on the principle that you can not mingle administrative and judicial functions, and have efficiency. They do not mix any more than oil and water mix. I say this not only theoretically, but I say it from the practical standpoint of one who has tried to carry the burden of both on his shoulders without a great deal of success.

I had the honor to be the first secretary of the industrial commission in 1915, and was also perhaps in large part the administrative officer of that department. I then became a commissioner. When I was secretary I always had five votes that I could count on, but when I was commissioner I could only count on my own, and that was the difference. We had a system whereby a part of the administration of the law was assigned to each commissioner, as provided by the law, and it so fell about that to me was assigned the task

of supervising the State insurance fund, supervising the bureau of employment and the bureau of immigration. I do not know just why those assignments were made. I do not know of any particular relation between the State fund and immigration, but some one had to do it and so I did it. At the same time I was undertaking to carry on the work of the supervision of those bureaus and accumulate the information that was absolutely essential for a man to accumulate if he was ever going to know his job, conferring on employment with the various people with whom you must confer, finding out things, and in the matter of the State fund arriving at important decisions relating to the sufficiency of that fund and the adequacy of the reserve and the question of rate making and underwriting, etc., as well as the administrative questions relating to personnel and efficiency, etc., and in the midst of that work I would be called upon two or three days a week and sometimes oftener to spend the entire day sitting as a judge in compensation cases, getting into the midst of a case and then being dragged out into a short perfunctory audience with some person who must be seen at that particular time, doing justice neither to the administrative nor to the judicial side.

When it came to presenting to our legislature the annual budget of our expenditures and our requests for appropriations, and having a demand from one of my colleagues for a large increase in appropriation for activities that were under his supervision, what could I know of the detail of the supervision of the great bureau of inspection, with its 200 odd inspectors and different divisions and ramifications leading out over the entire State? What could I know about it? Nothing. What could I know as to the system in vogue in the examination and preparation of claims? I found in cases that came before me where something had not been done that should have been done, or something had been done that should not have been done, whether it was the fault of the system or the fault of the individual, I did not know and I could not inquire—I knew, gentlemen, it was all important to my mind that these functions should be correlated under one activity, there should be some person who could sit somewhere in a manager's office and keep in close touch and cooperation with the work of the factory inspectors and boiler inspectors, because we had had three boiler explosions during the last six months in New York, and every one of them fatal; one of them a boiler that had never been reported to us, a portable boiler brought in from Pennsylvania, by the way; another boiler inspected by a casualty company blew up, with a loss of six lives.

I might state that before consolidation every employer had to make two reports of every accident. One report went to the workmen's compensation commission and the other to the bureau of inspection. To-day we have one report, and when we have a fatal case or when an unguarded machine causes the accident, that goes to the inspection bureau, and the inspector who is in that territory finds out the reason for that, whether the law was carried out, and if not, sees to it that it will be carried out in the future. That is a concentration of effort along the right line—the line of accident prevention. Consolidation was all right. We all agree on that in New York to-day without exception, and yet it was bitterly fought by labor at the time. It was attacked as a political move; and yet, as I say, it had its

source in absolutely nonpartisan organizations. The reorganization this year had its inception in the administration that was opposed to the present administration; but its recommendation has been carried out, and to-day we have in the department a business manager. That is all that the commissioner is. I feel that I am in a false position, standing here with you gentlemen, compensation commissioners, because I am not a compensation commissioner to-day. It is true I have heard and decided thousands of cases in my time. I can not hear a case to-day, and I think wisely so. The legislature provided that the industrial commissioner, who shall be the administrative head of the department, shall have no part in the decision of cases. The gentleman from Connecticut says, "Lead us not into temptation." Let me have a chance to go in and sit in a compensation case, and I will do it, and probably I will neglect the work for which I am appointed. You can not help it. There is a call of human nature in compensation that you can not avoid if you are human; and so the commissioner, anomalous though it seems, is deprived in New York of any part in the judicial decision of a case, but he is charged with the responsibilities, very great responsibilities, in the matter of claim procedure, in the matter of filing and indexing claims and preparing them, and preparing calendars and seeing that the cases are heard. It is fatal to a claim even in New York, as well as in Nebraska, if it gets stuck in the wrong envelope. It is very important, this matter of filing and indexing and handling a hundred thousand claims a year. It is very important; and so the commissioner is charged with very great responsibility for the administration of the law but not for judicial decision.

Another thing that has been referred to with which I thoroughly agree, and that is, there is no more anomalous thing than for a judge to decide a workmen's compensation case and have anything to do with the administration of the State fund out of which that claim is paid; and I do not care whether that is a monopolistic State fund or a competitive fund, such as we have in New York.

We were charged in New York by our competitive private insurance carriers that the industrial commission should have no say over the State fund, because, forsooth, it would be so zealous in guarding the assets of the State fund that it would not make an award to a poor workman who was entitled to it. That charge when made was known to be false. But the charge does lie that a weak judicial officer may make an award against the State fund because the State fund can not appeal. It is the easy thing to do. A man presents himself, or a widow presents herself, asking for compensation out of the State insurance fund, and no matter what the evidence may be, whatever the assertion of the claim may be, the commissioner making the award might say, "Oh, well, the State fund can not appeal." Now, that I have seen. I believe the fund should be under the administration of a man who can look at it with the broad vision of the man who is surveying its assets, who is interested in its proper management, who will see that the rates are fair and adequate, and not more than adequate; who will see that the claims are paid, and that things are promptly done; but I do not believe that man should be called upon to sit in judgment on the claim that is being contested or fought by the representative of the State fund, because he is an interested party, and that is contrary

to our conception of the judicial system. I say that in our reorganization the administration of the State fund is entirely divorced from the industrial board who have the judicial authority, and the fund is administered by the commissioner.

I simply want to sum up by saying that the workmen, the factory owners and the public are all agreed that all matters relating to labor and industry should be administered in one department, because you can build up a corps of experts and have cohesion in your organization, but there must be a business manager to manage the business affairs, and the judges who administer the legislative function should be left to work out their problems untrammelled by any administrative consideration. That is our conception of the problem in New York to-day. That is the way we are endeavoring to meet and defeat the false economy cry. We believe that it is a real economy.

Recently I had presented to me by my auditor a report of our expenditure for the last two months, our fiscal year beginning on July 1, and we are operating to-day on an expenditure of \$117,000 per month, and administering the department well, and doing all that we have to do, as against an average monthly expenditure of \$189,000 of last year. Now, that is not false economy; to my mind it is real economy; the old commission to which I was a party voted a request for an appropriation totaling \$3,000,000, and we are running it for exactly half of what the old industrial commission asked for, by the application of business principles on the part of the man who has nothing to do with it except the business end of it. I think that is the proper way, and we believe as time goes on it will be demonstrated that it is the proper way. We may be wrong, we are willing to be shown, but we have taken our stand, gentlemen, and that is all there is to it.

Mr. CHANDLER. I think perhaps I may have been misunderstood, or did not express myself clearly. I think about the second sentence of my remarks was this: That I would qualify what I said by the statement that if those to whom is confided the administration of the law, the adjudication, were a part of a large system, they should be untrammelled and their duties separate and distinct from any other administrative duties. In other words, my second sentence, I think, was in exact accord with all that Mr. Sayer has said. I have no prejudice, and I hope I did not express any prejudice, against the consolidation of departments. As a matter of fact I appeared before a committee of the Connecticut General Assembly in favor of the establishment of a civil administration code, and it passed the senate but failed in the house. We in Connecticut have not, and I do not believe we should have, anything to do with the enforcement of the safety device laws. Duplicate reports of every accident are made to the compensation commissioner, and a copy thereof is forthwith sent to the commissioner of labor statistics and factory inspection, and all the details of our office are open to him in the administration of his office. My point is that each State that consolidates should exercise the same degree of wisdom that my neighboring State of New York has exercised in reorganizing its administrative system.

Mr. BROWN. I was very much interested in the papers and discussions this morning, and also in the talk of Mr. Pillsbury, of California. I was especially impressed with the fact that it seemed to

be the unanimous opinion that the men who were chosen to fill positions in those departments should be men of some particular fitness and experience and training in the work they are employed to do. I was glad to learn that somewhere in the United States there were some people who agreed with me on those matters. I am especially interested in this situation, because Michigan has just recently consolidated several of its departments, in fact the consolidation has taken effect so recently that we can hardly be said to have had any experience yet.

As I find from listening to these discussions, our minds in Michigan run about the same as the minds in many other States do. When this question was up there seemed to be two reasons for consolidation, and I think probably it is safe to say there were two different classes of people favoring consolidation—one, those who wanted to improve the efficiency of this vast line of work, and the other those who got an idea, very probably during the last few years, that consolidation of departments would make for economy, and so the two have been combined in Michigan, and after they were consolidated, in the last few days of the session, as they always do, they passed an appropriation bill, and then we found out that only one clause had really impressed them, and that was the clause which urged economy. However, we have consolidation.

In that connection, I have been astounded to listen to the figures from California and Washington and the great State of New York. In Michigan we were consolidated, and we now have in addition to the industrial accident work, which we have had for nine years, the whole labor department, including the safety engineering and boiler inspection and another commission which was created two years ago to investigate and report to the last legislature on industrial relations, the relations between capital and labor, which never functioned because there were four members and two of them would not meet with the other two, the act created providing that the 1921 legislature could perpetuate the work if it saw fit. It did not do anything about perpetuating the work; it just consolidated it, so I don't know whether or not we have that work.

I was very much impressed, as I say, with the idea, which seems to have become the consensus of opinion of the men assembled here, who are so well versed in all these questions, that these different departments and lines of work, such as accounting, statistics, engineering, safety engineering, and all these things should be intrusted, not to politicians, but to men who have experience and ability in carrying them out. I presume it is hardly worth while to say that the labor department, which we have absorbed, did not have the highest possible standing in Michigan; it is pointed out that it did not have the respect of either the manufacturers or the workmen, and I think that was probably correct. When we look back and find that our inspectors and the men who were doing whatever was done in the way of safety engineering were some of them barbers and some of them were taken from dry goods stores and elsewhere, it is not necessary to say that they did not give much assistance to the manufacturer who was really interested in reducing his hazard, and, consequently, the department did not command the respect that it should be entitled to.

Now, as to the phase of the question as to whether these departments should or should not be consolidated, I am free to confess that I have much to learn along those lines. However, I want to say that I heartily agree with everything that has been said by the gentlemen who have so unanimously agreed, I think, on the proposition of the attitude that should be taken by the men intrusted with doing justice in relation to this work. I am fully convinced from my experience of humanity that there are few, if any, men living to-day or who lived in any other day who can bring themselves to the point of view that is fair and unbiased, where they can assume an impartial and fair judicial attitude, if they are encumbered with the administration, if they are encumbered with the idea of seeing that justice must be done to this party or justice must be done to that party, to one to the exclusion of the other.

A great part of the matter of administering justice is in deciding any and every question fairly and fully and with an unbiased mind, and I have practiced law years enough to know that it is not very difficult for a man unconsciously to get almost any point of view he wants to get. I may possibly be a little bit handicapped by the same difficulty as the judge who was referred to by my friend from Connecticut. I was prosecuting attorney for a good many years and tried a good many cases; and I assumed that it was my duty, where a man appeared to be guilty of a crime, to present the case to the court and jury and place upon them the responsibility of determining whether he was guilty or not guilty.

But in all my eight years' experience in trying cases I can not recall a time when I was not able in my argument to the jury to convince myself that the man was guilty. I did not always convince the jury; but I say that all that goes to show that we should stay away from what my brother has referred to—temptation—that we should stay away from any tendency, any interference with the administration of justice. We have been intrusted by our several States with the enforcement of the laws, and we have a quasi-judicial function to perform, and if the men who are intrusted to do that fail to administer absolute justice as near as they possibly can, they have not lived up to the obligations of their oath.

I am much interested in New York's efforts. It looks to me as if it was going along in the right direction; in fact, I have been for some time impressed with the idea that we should have some body of men in the State whose duty it is and whose business it is not only to look out for the safety of the workmen, but where a workman is injured to see that he is properly advised, and in case of a contest to see to it that his case is properly presented. I am fairly convinced that that should be done by somebody other than the man who passes upon the question of law and fact in a controversy between the parties; and I know of no reason why we should not have the department so arranged that proper men would investigate the accidents and, upon determination that the man who sustained the accident was entitled to the benefit, if the employer or carrier was not willing to pay compensation, that such a person should present the man's case to the tribunal or body to hear and determine the issues of fact and of law.

I think probably it is a good thing that we get these departments together, because, having gotten them all together, a few men, hav-

ing the whole thing in the office, can determine what is necessary in each instance, and I think we will be in a position when we come really to solve the problem to follow New York and possibly improve upon New York's system somewhat, and get together on a system whereby not only will the men be protected in their industry, but their rights will be fairly presented and in a manner which will not in any way tend to bias or reflect upon the fair-mindedness of the men who pass upon judicial questions.

I have been impressed with this thought as I have listened to these subjects, and as I have during the earlier sessions heard a good deal in commendation of the work of industrial accident boards and commissions, there is absolutely no question but what we are on the right track. We have made wonderful progress in 10 years, and I have come now to realize that we have a long way to go yet before we will have solved all of these problems. Probably it is fair to hope that in another 10 years we will know a lot more about it than we do now. The point I want to make is this: That it is not enough that we should be able to say that we are doing better than under any old system. We are not going to justify ourselves in the eyes of the people unless we are able to show that we are doing the best that can be done with the machinery that has been so well started; and my opinion is that if we are to command the respect of the employer and of the employee, and of the public generally, so that we will be better treated by legislatures in the future than in the past, we should not be satisfied to do anything less than absolute justice in the cases that come before us for determination, and those of us who are intrusted with such decisions should not be encumbered with the things that tend to obstruct and hinder. We have got away from a system that was very unsatisfactory, and that system grew up because of a tendency on the part of jurors to be merciful rather than just, and out of that tendency grew up the system of defense that we, all of us, became so familiar with in courts of record.

Now, we should face the issue that we are intrusted with the responsibility of doing justice, and there is no amount of mercy, no amount of charity, that can be granted the workman or any other class of men, no matter how much they might appeal to your sympathy. It is your duty to enforce justice, and if you are to command the respect of the people it is necessary that that point be held ever in mind.

I have no objection to consolidating the departments; I have no objection to any system that will do more to prevent accidents, that will do more to present the cause of the injured man; but I do say that the fundamental thing that industrial accident commissions have to look out for is the matter of doing justice between the parties who come before them.

Mr. WILCOX. There is some question as to whether or not you are pretty well worn out with this discussion, but I would like to say just a word or two with regard to the administration of these functions in the State from which I come.

Coincident with the inception of the workmen's compensation in Wisconsin, there was established an industrial commission, and to that industrial commission there were committed the following functions: The administration of safety laws, sanitation, workmen's compensation, factory inspection, elevator inspection, mine inspection,

boiler inspection, building inspection, building construction code, fire code, lighting code, woman's hours of labor, child-labor laws, and other functions.

I might say that there never has been in Wisconsin from that day in 1911, when Wisconsin was among the galaxy of States that first adopted compensation laws, to this any effort to consolidate or dissolve.

Now, after all, legislatures are peculiar, and most of them have peculiar notions, and there are a lot on the outside who are anxious to have them have distorted notions, but the underlying thing is whether or not these laws are being administered efficiently and that should be the thing that governs, and I really believe that a difference must exist among the States. I think the size, the area of territory, the population, the nature of the business, whether agricultural or manufacturing, must have much to do with this question of whether or not one board can successfully administer all these different functions. But I do insist, gentlemen, if the size of the State in its area territorially, in its population, and in its industries, is not such as completely to overwhelm the ordinary board with duties, that nothing is lost because the members may know something about or have something to do with these other functions. We administer just compensation in industrial accidents. Does anybody argue with me that I am less able to do this, except so far as the question of time is concerned, because I know something about how accidents occur?

I believe it is within the policy and right of the State to make some distinction in the matter of compensation in a case of injury as to whether or not the accident resulted from the employer not guarding his machines, or from neglect of some safety code that has been adopted by that commission or some labor department. I believe it should be the policy of the State to say that a man who is injured by reason of the fact that he has removed a guard from a machine should have his compensation somewhat reduced; not but what it violates perhaps in a measure the declared and underlying principle of compensation that we shall pay no matter who is at fault, but I think that could be done. In Wisconsin it is said that the workman who fails to guard a machine according to the orders of the commission shall pay an additional 15 per cent; and the man who fails to follow and adopt the rules with regard to safety practices and guards that are attached to machines, who removes those guards, shall have his compensation reduced by 15 per cent.

But how will you administer those things if they are not a part of the safety department? These accidents are reported to one commission in Wisconsin. They come to us and immediately they are gone over, and if there is a death case among them, a copy of that accident report is made and sent to my desk. In the administration of the law all the death claims are referred to me. In all other cases we have a form letter that goes out to each injured man to his address as shown, which gives them some information with regard to their rights under the compensation act, and every single accident that comes into the office is referred on the same day to the safety department and there checked by experienced men; there is the very closest kind of cooperation between us.

Now the time is coming when, in addition to the compensation for accidents, we will give compensation to the man who is injured by reason of the fact that he acquires a disease which grows out of his employment. Will I be less efficient to administer a compensation of that kind because I know something about the sanitation code and the dangers that lurk in industrial plants? Does that take away anything from me, anything of value I may have in regard to my administration of that law? I do not think it does.

We determine that children may not work in certain departments, that it is too hazardous, and the obligation is put upon us to see to it that that is carried out. Ought I not to know something about the work places of the children and the hazards that the children are confronted with and the kind of injuries that may be sustained in this particular occupation or that, so that I can determine how to administer the compensation?

We keep statistics of accidents in our own department, and those statistics are made use of not only by us to work out the plans of compensation and what the benefits ought to be, because we use our statistics not only in the matter of the cause and nature of the injury and the kind of machine, and things of that kind, but also for the purpose of determining insurance cost, and all of that kind of thing, but also by the insurance department; they are gathered and kept for the use of all.

Now, I do not know whether in Maryland you are so situated that that can not be done. I do not know whether New York can carry on in one department so large a function, so great a responsibility, but if there is any man here who thinks that Wisconsin has never done anything in these fields, I would like to see the record of his experience. I state that the man who knows something about these various other functions can better administer compensation cases, because he knows more about these things.

Mr. Sayer discussed the New York situation, and I am never quite able to appreciate just what the administration of these laws means in a State like New York. It naturally is so overwhelming. I do not know what I would say, but I do think that we have given a very creditable administration of these functions. We find that we can delegate men to supervise the departments, and, in that way we get the very highest type of experience and the most thorough work, so that there is no overlapping, and we avoid the criticism that you hear from people and legislatures.

You heard what Mr. Williams had to say. Mr. Williams is now assistant to the executive secretary of the biggest safety organization that this country knows, the National Safety Council. Prior to Mr. Williams we had Mr. Price, and he is now executive secretary of that organization. We have been able to find men of ability, and you ask any one of them if the commission does not give them a decently free hand and the kind of support that they need. They are men of affairs and men who know their jobs, and we simply advise and counsel with them, and I believe that we get a thoroughly efficient administration. We had Mr. Downey, of Pennsylvania, at the head of our statistical department. He started our statistical organization.

Some time ago I was in Columbus, Ohio, at the same time that there was a meeting of the State Federation of Labor, and through

the influence of friends had an opportunity of getting in and counseling with the heads of the labor organization from all over the State of Ohio, and I put the question to them seriously, and that is not long ago, as to whether or not they thought, and wherein they thought, that the industrial commission of the State of Ohio was short-changing them and giving them the ragged end, and they told me without one single dissenting voice that they never had such a suspicion.

I never want to be known as a judge in the administering of compensation. May the Lord forbid that members of the industrial commission of Wisconsin ever should be talked of, or thought of, as judges. I hear several cases a day in an informal manner, and I challenge a man to point to a time when I got up into the judge's chair to conduct any proceeding. I sit down across the table with the employer's representative and the injured man or his representative, where I can talk with them and where I can feel the man's injury, and I do, as far as I possibly can, everything in my power to make the man feel that he is not approaching a court, and I do not propose that any laboring man in my State shall regard me as a judge and feel for a single minute that because I have had that appellation attached to me he can not get up to the place where I am sitting and talk to me personally. That is my opinion as to what a compensation commissioner should be, and I do not want to allow it to pass unchallenged, the thought of Mr. Chandler, that this compensation work should not be tied up with the labor laws, and if that is all there is to it, we have a mighty poor excuse for remaining unconsolidated.

Mr. LEE. I have held and still hold and believe that the industrial commission would be better off if it were by itself, and I state this with due regard to New York's new scheme, Greater New York's new scheme. We have been working along down in our State, and have been doing pretty good, and the results have been satisfactory so far as the people are concerned. I hope New York has the right idea, and if it works out and does what is claimed for it, I have no doubt it will meet with the approval of the people there. But they have a problem of their own in New York, and I agree with the gentleman from Wisconsin that New York is sort of a law unto itself.

We have had some of these experts who have come into our State and who have been going to make New York a second-rater compared with Baltimore, and I have laughed at their ignorance.

What I have in my mind and what I want to impress upon you is that with reference to the idea of the advancement of combination we would not permit that advancement to go on at the sacrifice of efficiency, and that if we must have combination that it shall be so arranged that the identity of the industrial commission or the act of the board, or the act of the commissioner should be left separate and apart.

Coming from different States, I presume perhaps our opinions differ. We have some things down in Maryland that they do not have in New York, and I would hate them to have some of the things in New York that we have down in Maryland. We all have different ideas about things in different places. I have stated to you my convictions and I am firmly convinced that we should aim to prevent the destruction of the identity of the board that has a quasi-judicial function to perform, for I believe that is the correct idea.

[Meeting adjourned.]

WEDNESDAY, SEPTEMBER 21—MORNING SESSION.

**CHAIRMAN, FRED M. WILCOX, CHAIRMAN INDUSTRIAL COMMISSION OF
WISCONSIN.**

COURT SYSTEM OF ADMINISTRATION.

Mr. ANDRUS. There has been a great deal of discussion in this association about the court system for handling compensation matters. All the discussion was of necessity from one side, and all indulged in by men connected with industrial commissions, who believed in that method rather than the court method, and we thought it was only fair to arrange a discussion and ask the men who came from States that had the court system to tell us about it, because while we had our own ideas we wanted to hear the argument in favor of that system. We put down several States that had the court system. Minnesota has had it until last year. They have had a compensation act for a good many years and probably had more experience with the court system than any other State.

Mr. Gardiner, of Minnesota, who has been commissioner of labor and industry and has had a great deal to do with compensation, is here.

Judge James A. McDermott, who is a member of the court of industrial relations in Kansas of which we have heard so much discussion, was to have discussed the court procedure in Kansas. They evidently are pretty well satisfied with it, for they still have the court system there. Several other States were put on to discuss this court system.

I take very great pleasure in introducing Mr. Fred M. Wilcox, commissioner from Wisconsin, a past president of this association, who will preside at this meeting.

The CHAIRMAN. I think the success of compensation acts depends very largely on what system of administration is selected by the State. If there is no administration, then the law must be a failure, and the better the administration the better the law can be made. So it is of importance that we should discuss the different ways in which compensation laws are administered in this country in order that our own minds may be clarified as to just what is the best and most satisfactory method of administering compensation.

Mr. Pillsbury stated yesterday—I think it was he—spoke about the situation of the employee who might not do many things for himself that ought to be done and that others must do them for him. The employer and the insurance carrier and those who are arrayed on the other side, who are in a position of adverse interest to him, may be depended upon to take care of themselves pretty completely, but as far as the injured man is concerned he must have a friend in court, and it has always been my view, and I believe the view of

every man who has been engaged in administering these laws, that so far as possible he should be relieved from the necessity of having attorneys to represent him. He ought not to be compelled in a system which undertakes to guarantee by contract with him that certain definite benefits shall accrue to him in case of injury, after entering into a contract that he was to have such and such benefits if he was injured, to expend funds in order to get them.

I shall now ask Mr. Gardiner to read his paper on the court system of administration.

THE COURT SYSTEM IN MINNESOTA.

BY JOHN P. GARDINER, SECRETARY MINNESOTA INDUSTRIAL COMMISSION.

Minnesota's experience with the court system of administration of the workmen's compensation law covered the period from October 1, 1913, to June 1, 1921. At no time, however, was it an unrestricted court system, as even in the original act a certain amount of supervision was committed to the State department of labor and industries. During all this time, the accident report law too was a separate statute from the compensation act, and its enforcement was in the hands of the department of labor.

Under the compensation act of 1913 the parties had the right to settle cases between themselves, but all settlements had to be substantially in accordance with the act and approved by a judge of a district court. Copies of all settlement petitions and final releases were required to be filed with the commissioner of labor within 10 days. In uncontested cases, the court was authorized to hear the action without a jury in a summary manner.

Clerks of court were required to file with the commissioner of labor copies of all orders and decisions in compensation cases. The commissioner of labor was directed by the law to observe the operation of the act and to make recommendations to the legislature. Even during the first two years that the law was in effect the department of labor and industries did a considerable work in advising and assisting injured workmen in connection with their compensation claims. In 1915 the law was amended so that the department was specifically authorized to give such service. The language of the amendment was as follows:

The commissioner of labor, and the officers and employees of the department of labor and industries, upon demand of an employer or an employee or his dependent, shall advise such party or parties of his or their rights under this act and shall assist so far as possible in adjusting differences between the employee or his dependent and the employer under part 2 hereof, and are hereby empowered to appear in person before the court in any proceeding under part 2 of this act as the representative or adviser of any such party; and in any such case such party shall not be required to be also represented by an attorney at law.

After this change was made the department greatly increased its efforts to give assistance informally and to supplement the work of the courts in the administration of the act. So impressed were the officers of the department with the need of this direct service that in their 1917 report they recommended as a minimum that the approval of uncontested cases be transferred from the courts to the department, and that perhaps even a more formal adjudication by referees

of the department in uncontested cases, with appeal to the courts, might be advisable.

The legislature did not act on these recommendations, but the experience of the following two years confirmed the department in its view, and somewhat similar proposals were advanced in the 1919 report. In the interval between the 1919 and the 1921 sessions of the legislature an interim commission from the house and senate studied the whole question of workmen's compensation and the related insurance field, visiting other States and examining the various systems in vogue elsewhere. The members of this commission were impressed by the results secured by what is known as the "commission system" in other States and in their reports recommended that Minnesota establish such a system instead of the court system. This recommendation was adopted by the legislature in the 1921 session, with the result that on June 1, 1921, the court system ceased to function in cases of accidents happening subsequent to that date.

It is clear that in any consideration of a court administration there are two functions to be considered: First, the court approval of uncontested cases, which is more of a routine and administrative matter, and second, the trial of contested cases, which is a truly judicial thing. The commitment of the latter to the courts is much more defensible than the commitment of the former.

The practice in connection with the uncontested cases varied much more in Minnesota in the various courts than did the practice in the contested cases. Some courts considered that their obligations went no further than to ascertain whether the settlement petitions presented to them bore the signatures of both parties. Others examined the details of the agreement carefully, and still others went so far as to require the parties to appear before them.

There are 48 district judges in Minnesota, and while the bulk of the cases are in three counties, Hennepin, Ramsey, and St. Louis, there are enough scattering cases throughout the rest of the State to make the securing of approval of uncontested cases which fell within outside jurisdictions a genuine problem. Often the signatures were simply secured by mail by the insurer and then sent on to the outside judge for his approval. Many delays, misplacings, and misunderstandings occurred. In the cities the volume of work was such that at times the judges hesitated to approve settlement petitions without an investigation and recommendation by the department of labor.

Types of cases which proved most difficult for judges who did not give much time to the compensation work were those which involved permanent partial ratings and those which involved lump-sum settlements. It is clear that the application of a permanent partial schedule is more complicated than almost any other part of a compensation act. Added to this was the fact that owing to the court administration there was no possibility in Minnesota of standardizing ratings. The general rules for the ratings were laid down in the law as follows:

In all cases of permanent partial disability it shall be considered that the permanent loss of the use of member shall be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided shall be in lieu of all other compensation in such case.

In cases of permanent partial disability due to injury to a member resulting in less than total loss of such member, not otherwise compensated in this sched-

ule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the respective member which the extent of the injury to the member bears to its total loss.

If one agency had been handling the cases it would have been possible, with the advice of the medical fraternity, to set up standard ratings, but with each of the various courts going its own way in applying the specific schedule it became simply a matter of what finding was made by the particular doctor or doctors called into the case.

In the lump-sum settlements the proposition was chiefly one of calculating present value. At times the courts merely accepted the assertion in the petition that the amount named represented the present value at 6 per cent. Accurate calculation of present values is something that can not be done without the aid of a table. Such a table was prepared by the department of labor, but was not always used by adjusters or by the courts in checking the figures laid before them.

Of course, it was frequently true that whenever an error appeared in the settlement and was discovered by the department of labor the insurer or employer cheerfully made the correction, but in instances where the correction was disputed the fact that a settlement petition along incorrect lines had already been approved made the task of reopening a case and rectifying the error all the more difficult.

When operations under the law were first begun it was assumed that settlement petitions could be signed which merely stated the fact of the injury, the rate of compensation, and that compensation would be paid during disability. Such documents were taken into court and approved. Later, the employer or insurer would take a final receipt and release and consider the case closed. The procedure was disputed in the courts, however, and a decision of the supreme court in *Charles Clarkson v. Northwestern Consolidated Milling Co.*, January 30, 1920, 175 N. W. 997, held that such a final receipt or release was ineffective unless approved by the court.

Some of the insurance companies had previously been doubtful or this practice and had been withholding their settlement petitions in total temporary cases until the close of the case. Others now adopted this practice, while some of the companies continued taking settlement petitions at the beginning of a case, merely redrafting their final release so as to provide for approval by the court.

In the other phase of compensation work, the handling of contested cases, the Minnesota courts probably did as well as anybody not especially constituted for this work could have done. On the whole, cases were heard with promptness and the liberal spirit of the act was borne in mind in making interpretations of it. It is not meant that there were not long delays in exceptional cases. This could not have been prevented, since the courts had other business to attend to besides the compensation work. It is hardly likely that the time taken under the court system to dispose of a case would compare favorably with that taken in any State having the commission system where an agency constituted for this sole purpose could give full attention to the matter.

Another feature of the court system which was frequently dwelt upon by those advocating a change was the lack of uniformity in decisions. A certain section of the act, for instance, might be in-

terpreted one way in one part of the State and a different way in another part of the State. Unless the matter was taken to the supreme court there was no opportunity for bringing about uniformity. Under the commission plan all the rulings on the same point would at least be uniform.

The provision of the law requiring clerks of court to file with the department of labor copies of all decisions and orders should apparently have insured the collection and availability of such data to those who had reason to be interested. In practice, however, it did not work very well. As a rule, the clerks furnished those documents only on demand of the department, and the department naturally could not request these things unless it had been advised that there was litigation. There was therefore no complete record of contested cases in the State, nor was it possible to compile and edit with a reasonable degree of satisfaction the rulings that had been made. Lack of control of all cases also kept the labor department from having, at a reasonably early date, complete information as to the status of all compensation cases.

As against the court system, it was also maintained that it favored the retention of attorneys by injured persons. In recent years the work done by employees of the department in representing compensation claimants increased very materially, but notwithstanding this a great many of the contested cases were brought by private attorneys. Whether the commission system will work an improvement in this respect will be a matter for future study.

Although both of the legislative commissions were unanimously in favor of the abolition of the court system, and although all the parties interested in the compensation act accepted the recommendation, it must not be inferred that the system was without friends. In the hearings before the legislative commissions the employers' association presented a very strong brief in favor of the retention of the court system. Some of the legal firms that had a great deal of adjusting to do in parts of the State not adjacent to the capital also felt that the system had advantages, and so did a number of the consular officers located in the State. They took the position that the local courts were easy of access as compared with a commission managed more or less from the State capital, and that at least in sections to which they were most accustomed the courts acted expeditiously. It is possible that also there was a feeling that decisions had more legal wisdom back of them than would be the case with a commission and its appointees.

In any event, the legislative commissions felt the arguments in favor of the court system were overborne by the advantages of a centralized agency giving close supervision to the payments, making informal investigations, accumulating specialized knowledge, and capable of handling compensation work expeditiously because it was devoting its entire time to it.

Mr. STEWART. I want to file for the record two papers—one from Mrs. Marie B. Owen, of Alabama, stating that a compensation law based on the court system has just been passed and what their experience has been, and the other from Frank E. Wood, commissioner of the bureau of labor and industrial statistics of Louisiana, on the court system of that State. These will be incorporated in the records of this convention.

The CHAIRMAN. Yes; if there is no objection, these papers will be made a part of the record of the proceedings.

COMPENSATION ADMINISTRATION IN ALABAMA.

BY MARIE B. OWEN, COMPENSATION COMMISSIONER OF ALABAMA.

[Submitted but not read.]

I beg to report that during the regular session of the Alabama Legislature, 1919, a workmen's compensation law was passed, this being the first of its kind in the State, the reason being that we have been so largely an agricultural State that we have not until recent times had need for a workmen's compensation law. Our industrial life having during the past 10 years taken on such an increased impetus and accidents in industries reaching such considerable proportions, it was thought wise by friends both of labor and capital that a law should be written upon the statute books dealing with this phase of our life. The result was a law that was an agreement by all parties concerned, with the provision that the workmen's compensation commissioner should note the operation of the law and report to the next regular session of the legislature such difficulties as should be remedied. The only officer provided by law is a commissioner, whose duties are to prepare the necessary blanks for the employers of labor and for office purposes and to distribute the same and to receive and file reports. However, the commissioner has assumed the responsibility of making a careful digest of the records and of carrying on an extensive correspondence with employers where errors have been made in computing compensation and wherever unintentional injustice has been done.

The commissioner has no authority to adjust any difficulties between employer and employee. Such cases are carried to the circuit courts of the State.

The chief justice of the State of Alabama is required by the workmen's compensation law to prepare the various blanks for these court cases. As the law is new and unfamiliar to the minds of the judges, we find that there is a great difference in the way they render their decisions. There are a number of cases now before the supreme court, and we hope to have them cleared up before the commissioner must lay the statistics before the legislature.

We find that the clerks of the circuit courts are very remiss in sending in and preparing reports of the cases tried there. In one case we found that the city judge before whom some of these cases were tried, and who was about to resign from the bench and resume the practice of law, awarded almost 25 per cent of the final settlement sum for the attorney's fee, whereas the attorney should have received only 10 per cent. We have had no further difficulty on this point, but it is the intention of the commissioner to bring this matter to a test at an early date.

There are no inspectors or deputy commissioners who might inspect the plants to see that the law is properly posted for the information of employees; and as we have no way of knowing what cases are brought into the circuit courts throughout the State unless the circuit clerks report such cases to this office, it is difficult for the commissioner to determine exactly how the law is operating. How-

ever, there is a feeling on the part of both capital and labor that the law as it now exists is a good beginning, and an effort will be made at the next regular session of the legislature to overcome its defects.

I might add that the duties of the workmen's compensation commissioner were made an additional part of the work of the director of the department of archives and history, without additional compensation. However, the governor has employed a clerk, whom he pays from his funds, to carry on the clerical work of the division, but the responsibility rests upon the director of the department. It is the intention of the director to recommend that a separate bureau be made of this work, with headquarters of its own and with one or two deputy commissioners or inspectors.

COURT METHODS OF OPERATION OF WORKMEN'S COMPENSATION IN LOUISIANA.

BY FRANK E. WOOD, COMMISSIONER BUREAU OF LABOR AND INDUSTRIAL STATISTICS OF
LOUISIANA.

[Submitted but not read.]

After years of untiring effort on the part of organized labor and some staunch friends, it was made possible in 1912 to have the joint legislative bodies pass a resolution having for its purpose the creation of a commission consisting of representatives from the ranks of the employers, labor, and the public, whose duties were to consider the advisability of the enactment of a law regulating the payment of compensation to workers injured in hazardous occupations, and at the same time make it possible to permit others employing workmen to take advantage of any law that might be enacted along this line. The commission was appointed, and during the following two years several sessions were held, and at these conferences the public was invited, I might say urgently requested, to attend. The writer, although not at that time serving the State in any capacity, but being from the ranks of labor and being interested in the creation of a compensation law, made it a point to attend every meeting the commission held throughout the State, and took sides with the workers.

When the legislature met in 1914 the commission submitted its findings and drafted the law as passed in 1914, and while it was far from acceptable to labor, we were given to understand "a child must creep before it can walk," and "that Rome was not built in a day," and no other State had secured what we had at the outset; so with the view of establishing a compensation act in Louisiana, no open fight was made by either the employing interests or labor.

Under the original act no provisions were made for the supervision or enforcement of same other than court procedure, or that the commissioner of labor be authorized to enforce labor laws and prosecute violators thereof. No sooner had the commissioner began to interest himself in the enforcement of the law than opposition arose, the contention being that the commissioner of labor was in no way delegated to enforce the law, while as a matter of fact the courts were delegated to handle all matters of dispute that might arise.

The law became effective January 1, 1915, and during the following two years many cases were tried in the courts, and while

possibly this was not really necessary, conditions forced it, and it is pleasing to say the court sustained the law and established its constitutionality. I might say just here this is one of the few good features, if not the only one, that were established under the supervision of the court.

Assuming charge of this office January 1, 1917, I soon learned there were many violations of the workmen's compensation act, the violations not being confined to any particular feature, but including the nonpayment of just compensation, collecting for its operation, making "lump sum" settlements at outrageous reductions, and in many cases refusing to pay at all, except when required to do so by an act of the court, necessitating an expense that should never have been incurred and a delay that was unnecessary.

Confronted with this condition, whether legally possessed of authority to handle these matters or not, I decided to "take the bull by the horns" and go to the mat with all such cases, and when the employers, some of the insurance companies, and a lot of "shyster lawyers" learned I was not going to let up, matters assumed a different aspect and conditions began to improve at once.

When the legislature convened in May, 1917, I succeeded in having a special law passed seeking to eliminate every semblance of compelling the laborer to maintain the compensation. I further succeeded in having the law so amended that in making "lump-sum" settlements no deductions could be made beyond that of 6 per cent per annum on the amount due or to become due. When I interested myself in these matters, I came to know I was being opposed by certain insurance companies and their agents throughout the State, and believing this opposition would continue and possibly grow, I recommended the creation of an industrial insurance commission, and the creation of an industrial insurance fund, the same to be operated by the State, under the supervision of the industrial commission, and I told the opposition that to fight me would only cause me to be the more vigilant, and would, I hope, prove helpful in my efforts. At that session, of the law-making bodies I did succeed in having a joint resolution passed authorizing the appointment of a commission to investigate the advisability of the creation of an industrial insurance commission, also to operate a State industrial insurance, but unfortunately both presiding officers were either directly or indirectly interested or concerned in the insurance business, and no commission was appointed. I again submitted the proposition to the last session of the legislature without results, but am going to keep on working toward this end, and am firm in the belief I will yet accomplish good results.

I am possessed of information, even to the degree of giving names of the employers and the injured, of cases wherein the court has been very lax in discharging its duties, and know of instances where curators have been appointed who have failed to carry out the laws, and it is next to impossible to secure the needed cooperation along these lines. I have in mind one particular case where the injured was offered a settlement, and upon refusal the case was carried to court and the injured was denied compensation, which, as I saw it, was legally due.

I am now investigating a case wherein the insuring company, domiciled in another State, has been adjusting claims under the

employers' compensation act of Texas instead of under the provisions of the laws of Louisiana, which are more favorable to the injured. I have been confronted with so many matters not properly or promptly complied with I am skeptical of any good results at the hands of the courts, and do know many of these miscarriages of justice would never exist under the administration of an industrial commission, which I hope to see established in Louisiana in the very near future. We have tried the old way and found it wanting; we have sought redress without favorable results; we have watched other States operating under the industrial commission form, and are convinced this is not only the cheapest form for the employers, but the best and only absolute protection to the injured and, incidentally, a benefit for the State, and we want it, and are opposed to the operation of the compensation laws under court supervision such as Louisiana now has.

The CHAIRMAN. Does this convention want to take any action with regard to stating the sense of this organization with regard to the court system?

Mr. McSHANE. I would like to have the first remark of Mr. Gardiner placed in the record, where he said he was thankful to his God that they had gotten away from the court system.

The CHAIRMAN. Will it be any help to those States for us to state our convictions in the form of a motion?

Senator DUXBURY. It possibly would not make any difference in the results, and it looks a little like a caucus action for us to assume to put the association on record in that matter.

Mr. FISHER. Could not that be put in the form of a resolution and be presented at the business meeting?

The CHAIRMAN. It has been suggested that the resolutions committee make a resolution on this matter if they see fit.

Senator DUXBURY. It occurs to me that a consensus of commissioners would be very likely to determine that adversely to the court system, and it seems to me to be a little indelicate.

The CHAIRMAN. I said that the committee would report a resolution if they saw fit.

RATING OF PERMANENT DISABILITIES.

The CHAIRMAN. I think we might spend an hour discussing the matter of the rating of permanent disabilities—a matter that every State must give attention to. One can not administer compensation without realizing the fact that these definite flat schedules that allow a certain number of weeks for this particular injury and applied alike in all occupations must have some modifications. If we are giving benefits to tide people over for every kind of injury they have sustained, we must level them up in some manner, according to their occupation, the thing that they have learned to do, their age, and their working prospects. I think I will call upon Mr. Pillsbury.

CALIFORNIA'S SYSTEM OF RATING PERMANENT DISABILITIES.

BY A. J. PILLSBURY, MEMBER CALIFORNIA INDUSTRIAL ACCIDENT COMMISSION.

It is not the purpose of this paper to advocate the adoption by other States of the California system for rating permanent dis-

abilities, but only to present the advantages of having some system for valuing such disabilities that can have claim upon the intelligent approval of persons interested in the problem. The California system is defective. It is easier to know this than to know how to remedy the defects, but at least it has the merit of being a system and of being underlaid by a rational concept of the problem in hand, which no State except California has.

Compensation laws and their administration are still crude. Some are better than others, but there is no such thing as a model law in the world, and there is no such thing as an adequate administration of any compensation law under the sun. Those who have this work at heart and in their charge will have to tinker away as best they can at the laws they have until public and legislative opinion can be educated to do the right thing, as the industrial accident boards and commissions have become sufficiently educated to know what the right thing is.

PERMANENT DISABILITY RATING, A PROBLEM IN ITSELF.

Permanent disabilities require different treatment in their compensation from that which will fit the needs of temporary disabilities. The man who suffers a temporary disability, and later gets well, needs only to be tided over his period of adversity, after which he can go on making his living as he did before without any physical handicap to hold him back. On the other hand, the workman who is permanently disabled in any degree must encounter life thereafter handicapped to a greater or less extent, that extent varying in ten thousand different degrees, ranging from a slight inconvenience to a permanent, total incapacity to earn. A workman so injured needs more than to be tided over a period of illness following his injury. He needs help in readjusting himself to his changed conditions, and that readjustment should be as permanent as life itself.

The then industrial accident board, charged with the administration of what, in California, was known as the Roseberry Act, an adaptation from the fourth tentative draft of the Wisconsin law, had not gone far in the work of administration before becoming convinced that permanent disabilities would have to be treated in a very different way from temporary ones, and that the task of proving in each particular case, by oral evidence, how each such permanent disability would affect the earning power of each, several, kind of employee, must prove costly in time and money, not only to the commission but to the parties to the controversy.

SEARCH OF COMPENSATION LITERATURE.

The writer of this paper took up the subject and delved into it in all the directions that he could learn of, including the methods of compensating injuries under personal accident insurance policies, in the hope of finding some suggestion for a rational system of valuing such disabilities, but the only thing that he could find that suggested a rational method was in the compensation law of Russia, where a committee of physicians had outlined something resembling a reasoned policy regarding permanent injuries. The personal accident

insurance benefits were not apportioned with any relation to the needs of the injured parties. There was no theory underlying the distinction of benefits in any such policies, but the allowances made in certain events did afford talking points which might enable insurance agents to sell insurance. This need having been satisfied, the subject became of no further interest to personal accident insurance companies.

A GOAL FIXED.

In analyzing the elements which entered into the problem, it was plain enough that persons suffering identical injuries needed more than identical compensation therefor, and the first thing to do was to determine what should constitute a reasonable requirement for the permanent disability rating system. This requirement was fixed at so much compensation as would enable the injured workman to readjust himself to his changed condition without having to eat the bread of public or private charity, and this under conditions which left him to his own devices. Rehabilitation was not then talked of, and yet rehabilitation must lie at the bottom of every system of evaluating permanent disabilities. It is evident that, left to themselves, permanently injured persons will be much slower in readjusting themselves than they would be if they were helped in the work of readjustment. There is all the difference between the helped and the unhelped that there is in education between those who are sent to school and those who must educate themselves as best they can without teachers or schools. Consequently, when an adequate system of rehabilitation shall become a part of every compensation law, the allowances made for permanent disabilities can, in all likelihood, be diminished to a sufficient amount to cover the cost of rehabilitation.

BASIC PRINCIPLES.

Having fixed a goal to be reached, readjustment to a changed condition, the next duty in hand was to determine how the various injuries that may occur to the human machine, from the crown of the head to the sole of the foot, would be likely to affect injured workmen. There are probably a thousand such forms of injury, but to avoid an overrefinement, we took about 300 fairly typical injuries and classified them into groups, starting with the skull and ending with the toes, making 21 groups in all, designated in the schedule by the use of Roman numerals. Where an injury is not given in the schedule it is rated according to that injury designated in the schedule to which it comes nearest in its effects. In practice we have probably eliminated more injuries from the 300 described than we have added thereto.

The next step was to consider how these injuries affected workmen relative to age. It was plain enough that a boy entering industrial life at 15 or 16 had a greater degree of adaptability to his changed condition than a man who, by reason of age, was just about ready to pass off the stage of active work. To meet this condition we arbitrarily concluded that a boy of 15 had complete adaptability and that the man of 75 had none, and between these ages we drew a straight line and rated with reference to age in two-year steps.

It was manifest likewise that any given injury would affect workmen very differently with reference to their occupations, all depending upon the use to which the injured person had put his injured member before it was injured. The loss of a foot would entail very different results to a bookkeeper than to a structural-iron worker, carpenter, or house painter; and so on down through the entire list of injuries which may be inflicted upon the human body. There are literally thousands of different occupations, and each State has more or less of them, according to the character of its industrial life. In the construction of our schedule we made a special study of 1,324 different occupations, but in studying the requirements of each of these we discovered that the physical functions, no matter what the trade or occupation, were susceptible of being classified under 52 forms; that is, no matter what a workman may do, all that he does will fall into one or more of these 52 functions. This classification is not unvarying; it is not profoundly scientific. It is possible that a different group of investigators might evolve a different number of functions, but for all practical purposes the 52 which we made the foundation of our schedule have proved sufficient.

The next step was to have determined the nature and extent of the injury, and, ordinarily, wherever the results of our ratings have proved unsatisfactory it has been because of an inaccurate description of the nature and extent of the injury.

A HOPE THAT FAILED.

This brings to mind another difficulty. Our idea when we were forming the schedule was that we could print such a schedule with directions how to use it so that any employer and any insurance carrier could rate any disability as readily as he could find the time of the arrival or departure of a train in a railroad time-table, doing it as well as we could; but in practice we found that if justice was to be done, all the ratings had to be made in our office, and generally because of an inaccurate and underestimated description of the nature and extent of the injury. I think it has seldom, or never, happened that the description of the injury upon which the rating was made by an insurance carrier was exaggerated. They never made it out worse than it was, but they so frequently made the condition out so much less serious than it was that we had to throw over the whole system of self-rating and require that all ratings be made by our permanent disability rating department. There seems to be a good deal of inhuman nature in claim adjusters, both for insurance carriers and self-insured employers, and by the time we had awakened to this fact hundreds of permanently injured men had been cheated out of thousands of dollars in compensation.

As a factor entering into the rating, aside from the description of the injury and its effect in the occupation, consideration had to be given to ability to compete in an open labor market in securing employment; therefore when we came to make the schedule and get it sanctioned by law, we had it provided in the act that in rating permanent disabilities consideration should be given to age, occupation, nature and extent of the injury, and ability to compete in an open labor market.

HOW DATA WERE OBTAINED.

There was little available information to work on. While in Germany, for instance, and other European countries, there had been hundreds of thousands of adjudications of claims for permanent disabilities, these adjudications had never been analyzed and classified, and after we had exhausted all of our sources of information as to the world's experience, we had to go to work at the task of gathering experience from those who had had it in the field of industry. To this end we organized a group of young college men who had been well trained, and put them into the field to investigate industrial plants. By conferences with the employers, superintendents, foremen, and committees of organized labor, and studies of the physical functions performed, we undertook to value every one of these 300 forms of injury as related to the work to be done in 1,324 occupations. It was some task, and after it was done it was based more upon the judgments of all these men who were interviewed, and all the cases of injury studied, than upon the result of actual experience in industrial life. To that extent it was less satisfactory, but it was that or nothing. If we had the means at our disposal to do the follow-up work that should be done we could perhaps, in another 10 years, in the light of the actual experiences of many thousands of men injured, work out a more accurate schedule than we have.

I think that, so far as our investigations have gone along this line, there has been a lowering of the standard of living as the result of permanent disabilities, notwithstanding the compensation paid under the schedule. The goal that we set to be attained has not been attained, but mainly for the reason that we have not been aided by an adequate system of rehabilitation. I think that if we had had such a system as we have been striving for, and have done something toward, we could now show that the compensation exceeded the absolute need instead of falling short of it. But that is another story.

ADDITIONAL STANDARDS.

I will not go into the matter of the construction of the schedule in detail. Anyone desiring to know about it in detail can have a copy of the schedule by writing to the secretary of the Industrial Accident Commission, 525 Market Street, San Francisco. We printed a large number of them, which, for reasons already stated, have not been given out, and an office copy is about all that the situation demands. We set up a few standards, other than those already mentioned, to aid us in determining the schedule, among which we might mention, first, "The standard man." Our statistics showed at that time that the standard workman in California was 39 years of age and the standard occupation taken was that of a sewer digger who used all parts of his body in his work, but no one member was trained very much in excess of the others. We first worked out the compensation payable to the standard man in all occupations that required hard, manual labor. The law allowed four weeks with disability payment for each 1 per cent of injury, and the standard injury by which others were measured was the loss of the major arm to a laborer 39 years of age, at the shoulder. The only way that we know anything is by a

comparison with something else, and the only way that we could rate any claim of injury was by comparison with the way some particular form of injury affected the workman in his work. To this standard injury we assigned a disability payment equal to a death benefit—that is, 65 per cent of the average weekly earnings for 240 weeks. As a minimum—which would constitute 1 per cent of disability—there was taken the loss of the little finger at the middle joint of the minor hand by a foreman of a gang in a rock quarry and aged 50 years.

Up to a 69 per cent disability there is no life pension, but for a 70 per cent permanent disability, and on to 100 per cent, life pensions are provided for in the California act. As a standard for the lowest pensionable case we took the loss of all the fingers on both hands, including both thumbs, between the middle joint and the metacarpal, of a laborer aged 39 years. Anyone so injured was rated at 70 per cent and held to be entitled to a minimum life pension.

I have to confess that our life pension allowances are not satisfactory. We reasoned that if a man were 70 per cent disabled he had 30 per cent of earning capacity remaining; that he would, as a usual thing, rehabilitate his earning capacity, but would need some little help all his life to enable him to become self-supporting. We reasoned also that most men with families spent about 40 per cent of their earnings upon themselves, leaving 60 per cent for the family. Therefore, such a disabled man, after the expiration of 240 weeks, during which his normal compensation would be paid, would need 40 per cent of his earnings for life; that if his rating were 90 per cent he would need 30 per cent of his earnings; at 80 per cent he would be able to get along with 20 per cent of his earnings, and at 70 per cent, 10 per cent of his earnings would suffice. We have had relatively few cases of permanent total disability, but where we have had such cases the 40 per cent has not been adequate for their support. All life pensioners should have been treated more generously, and I hope the time may come when they can be, but the present seems to be a bad time to make any forward steps in extending compensation benefits. We must wait a little while for industrial conditions to become more nearly normal. At least this seems to be so in California. When we went to the last legislature for increases of benefits, employers had but one question to ask: "Will it cost more?" If the answer was yes, they were against it almost to a man.

THE CALIFORNIA SCHEDULE NOT A MODEL.

The California schedule for rating permanent disabilities by no means constitutes the last word to be said on the subject. In fact, we greatly desire to revise our schedule in the light of experience, but have not been able to spare the money to hire sufficient expert help to do the work. Therefore the work of revision progresses slowly, but we hope to be able within another year to do considerable revising.

I am personally of the opinion that, notwithstanding the difficulty of ascertaining when a temporary disability ceases and a permanent one begins, the permanent disability rating should begin when the temporary disability ends, otherwise we have a few cases of prolonged temporary disability, finally resulting in so large a measure

of cure that the ratable permanent disability leaves nothing for rehabilitation. Indeed, the temporary may even exceed the permanent in amount. For instance, two carpenters fall from a scaffolding and each one sustains a broken ankle. In one case there is no complication, the man recovers except that he has a stiff ankle and is back at work perhaps within three months. The other encounters an infection, is laid up for a year and returns to work with his ankle in the same condition as that of the first man, but his temporary disability has eaten up all of his compensation, leaving him nothing from which to learn a new occupation, if he is not able on account of the condition of his ankle to work upon scaffolds or climb around upon buildings. Under our schedule, as it is, we have no power to meet this inequality.

There are some inconsistencies in rating under our schedule and once in a while a letter is received complaining that some one else who had a similar injury to the writer's own got very much more compensation than he did, and he wants to know why. Ordinarily, there is a good reason why, but occasionally one of these inconsistencies crops out and some modification of the schedule has to be made in order to guard against a repetition of such criticism. Fear of this form of complaint has deterred several other States from attempting any schedule-rating system at all except that of allowing the same compensation for the same kind of injury without regard to age or occupation. Most of the evils we fear prove not so serious as we had feared, and this is one of them. We have encountered some criticism, and we have not always been able to satisfy such criticism, but this hindrance has proven almost negligible in the light of the great value derived from the use of the schedule as a whole.

We have overelaborated our system of schedules, especially in regard to the substandard tables, of which there are too many. About half of them have been practically eliminated in the course of making ratings in our department.

Perhaps the rating as to age should be in accordance with some form of a curved line instead of a straight line. The straight line seems to give rather excessive compensations where very old men are seriously injured, and yet very old men, when seriously injured, are seldom able to "come back" even when their injury heals thoroughly.

The losses sustained by those who are permanently injured exceed in sum total the losses in compensation aid either in cases of death or temporary disability, and have even proven more costly to employers than the unlimited medical treatment which the California law affords. In short, of the total cost of compensation in California, about 31 per cent is on account of those who are permanently injured.

WITH ALL ITS FAULTS WE LOVE IT STILL.

Notwithstanding the shortcomings and limitations of the California system for rating permanent disabilities, it has proven a great boon to both employers and the injured. When criticism is called forth on account of a rating, it is usually because of an inadequate description of the nature and extent of the injury. For this reason we have found it necessary to have one of our medical men see and examine as many of the permanently injured as possible. These men

have become skilled in making such examinations, and when they do make them, and the rating is based on them, there is little cause or justification for contention, and relatively few of the contested compensation cases we have are over that issue. To my mind the per inch method of computing the value of permanent disabilities, originated by the personal accident insurance companies and followed rather blindly by compensation laws, is idiotic, and its only justification is its convenience in calculating awards. I have entertained the hope that California would some time be able to work out a simplified and adequate form of schedule rating for permanent disabilities that other States would wish to copy, but so far as I know, no other State has ventured to imitate the present California system. I do not know why, unless they feel that it is too much trouble to try to understand it, and that its application might call for a more intensive study of the schedule than they feel like undertaking.

These fears are, I think, groundless, and yet it would be necessary, in order to make any adequate system for rating permanent disabilities effective, for each commission to maintain a permanent disability rating department with a clear-headed man at its head. Personally, I never undertake to rate a permanent disability. All cases requiring rating are shunted to the rating department and an answer is received in a few minutes. Once in a while an occasion arises which the schedule does not fit, and thereupon a rating committee, consisting of the medical director, the superintendent of the rating department, and the manager of the compensation department, sit on the case and agree upon a rating, and it is confirmed by the commission. Thereafter it is a measure whereby other injuries of similar character may be rated by the rating department.

In conclusion, I must confess that, notwithstanding the limitations which I have pointed out, I am rather proud of the California system for rating permanent disabilities. Employers, insurance carriers, and injured workmen have, in the main, been well satisfied with the results obtained through this system. It is at least semiscientific in purpose and method. It points the way to something better, and I think that is about all that can be said on behalf of any element in the whole scheme for compensating industrial injuries, whether they be fatal, permanent, or temporary.

DISCUSSION.

Mr. KONOP. What would you compensate a bookkeeper who had lost his leg at the ankle?

Mr. PILLSBURY. You stick me on the first question. Our schedule, as we made it out, carries a vast number of differentiations. I can not remember it all. I don't know.

Mr. KONOP. How would it compare with a structural-iron worker? What would be the comparison?

Mr. PILLSBURY. A structural-iron worker would get a great deal more. I can not give the figures like quoting rates of insurance. In the first place I do not see the schedule. We have a man who is superintendent of the permanent disability rating department, and when we want somebody rated we send to him. We have a rating committee consisting of the head of our medical department, the com-

pensation manager, and this superintendent of the department of rating, and they sit and go over the matter. The idea was that we would fix this schedule so that anyone knowing the nature and extent of the injury and the age and the occupation could turn to the schedule and ascertain how many weeks' compensation the man should be entitled to as easily as you could find when a train leaves on a railroad time table. We have had a great number of schedules printed and gave them out to all the insurance companies and the large employers and anyone else who wanted them, expecting them to rate the disability, and it did not work for the reason that we never once found where the nature and extent of the disability had been overstated by the insurance company or the employer, but we found a great many cases where they were understated and the men were cheated out of a part of their compensation. We could not trust the insurance men and the representatives of the employers to handle that schedule. It did not give the man justice. So we require all ratings to be made in our office, and where we can get them we have the men come to our office at Los Angeles or San Francisco, so that our surgeons may describe the nature and extent of the injury.

MR. HOOKSTADT. I may say to Mr. Pillsbury that the California schedule is not complicated but is very simple to apply, once the key is known. I do not find fault with the application of the schedule, but with certain principles. For illustration, I would like to hear Mr. Pillsbury's justification for the following typical case. I find, according to the schedule, that for the loss of the major arm a man at 61 years of age receives the following amounts of compensation for the following occupations: Common laborer receives 263 weeks; a machinist receives 449 weeks; and a bookkeeper 417 weeks. The machinist and the bookkeeper, at 61 years of age, receive almost twice as much as the common laborer for the loss of a major arm at the shoulder. The idea back of that is that the machinist and bookkeeper use their arms more than a laborer and, therefore, should receive more compensation.

The fatal weakness in the California schedule and in the particular example chosen is this: The common laborer at the age of 61 who loses his arm at the shoulder is practically done industrially speaking. There is little chance for that man to rehabilitate himself. His lack of training and education prevents his rehabilitation, and, therefore, he should receive more compensation than the machinist and the bookkeeper. The bookkeeper, at the age of 61, has a better chance of finding a new job because of his better training and greater mental ability than the common laborer. I would like to have Mr. Pillsbury discuss that.

MR. PILLSBURY. You have given me some job; among the 1,080,000 different ratings made by the schedule you can pick out a good many that are inconsistent, and that is one of them.

MR. KONOP. Isn't that a very usual thing?

MR. PILLSBURY. No.

MR. KONOP. It is a very good example, and I think that right here the schedule ought to be changed.

MR. PILLSBURY. I might say that this schedule is nothing like the last word. When we run across a case that comes to us where a manifest injustice is done, we change the schedule and make a rating which seems to be more just than the one in the schedule. I think

we have underrated the common laborer, or, in other words, I think we have overrated some of the skilled occupations. I did not tell you about the factor of age.

Now, we assume that a boy of 15 has complete adaptability; that if he loses some part of himself—any part—the world is before him and he may choose from all there is in him, and we start with him as having complete adaptability. Then we assume that a man of 75 is too old a dog to learn any new tricks, and that he has no adaptability, and between the two we draw a straight line, and every two years there is a certain fraction between no adaptability and complete adaptability that is allowed for the factor of age. Now, I think that should be a curved line. It tends to overcompensate the old man, the old workman, and to perhaps undercompensate the young one. Nevertheless, these extreme cases hardly ever arise. We do not have them. The great body of the injuries happen to the fingers and the arms and the eyes, or a very small portion of these 300 injuries that we have on the table, and those work out fairly well. But you will find cases, and you can pick them out, and when we do run across them in actual practice we modify the schedule, and there is no doubt but what the schedule, after eight years of experience, needs modification, but the idea is there, the principle is there, and that idea and that principle are everlastingly right, and it is only a matter of revising. No conceivable schedule will fit every case absolutely. What we aim at in compensation is what we might call average justice, something that will come very near to fitting, so near that neither the employee nor the employer contests the justice of it. It is not once in 50 times that there is ever any controversy from either party, because they feel that justice is practically done.

MR. STEWART. Is this an exceptional case? What I want to know is whether this tendency of giving the skilled and intellectual an advantage over the man who does the work that the Anglo-Saxon won't do is carried throughout the schedule? We used to talk about the American workingman. Maybe there was such an animal once, but the American is no longer a workingman, and can see only the highly skilled and the highly trained occupations. The tendency is always to give the fellow who does the hard work of the world the worst of it.

MR. PILLSBURY. We attempt to rate for what a man has lost—to take into consideration what he has lost. One man has lost some fingers off his hand, and he never made but the simplest use of those fingers to handle a pick and shovel; but here is another man who has put years into learning his occupation. Now, let us admit if we have put a premium on skill and intellect, it has been to make men use their minds.

Why, the only difference between a man and a mule is that a mule has the greater power and sometimes the man has the greater brain, the greater intellect, and uses it, and yet there is many a man who has to lose an arm before he finds out that he has a head. He has been thinking of it as a thing to put food into, but he never made any use of it.

I shall never forget when I went up to Warsaw, Wis. I did not see the man, but I was told about it. Well, he put the fingers of both

hands into a planer. He was only a mill hand and he never had any idea of being anything else but a mill hand. He was young and evidently could not be a mill hand again. I was up there 10 years ago and he was at the head of a concern whose business ranged from the selling of the timber to the marketing of the product in Chicago, and he said that he owed his rise to the loss of the fingers of both his hands. He had not known he had a head, but he found it out.

I justify my schedule on the ground that we must repay and award compensation with reference to what the man has lost, and if a man is willing to stay on the bottom rung of the ladder, he must have such compensation as will enable him to stay on the bottom rung without having to eat the bread of public or private charity, but it would be absurd to compensate the man who has spent 5 or 10 years in learning his skilled occupation and how to use his head on the same basis as these men who make no use of their head.

Mr. BUTTLES. May I ask you, Mr. Pillsbury, if in getting at the age factor you take into consideration the expectation of life as tending to offset this factor of disability?

Mr. PILLSBURY. No; we do not.

Mr. BUTTLES. Ought you not to do so?

Mr. PILLSBURY. No; they must have their compensation while they live. We do not take that into consideration at all.

Mr. BUTTLES. Is the compensation paid for life?

Mr. PILLSBURY. In some cases.

Mr. BUTTLES. Ought it not to be taken into consideration where the compensation is not paid for life?

Mr. PILLSBURY. No. But how long will it take this man to readjust himself to the changed condition without loss of earning power? The expectancy of life has nothing to do with that. It is the expectancy of his using his brain to make up for what he has lost in the shape of fingers, or arms, or hands, or feet.

Mr. BUTTLES. Would it not be true, taking a man of 40 and comparing him with a man of 60, while the man of 60 has lost his adaptability he has less expectation of life, and, therefore, a shorter period in which he will naturally sustain the loss?

Mr. PILLSBURY. We have not taken that into consideration.

Mr. CHANDLER. I would like to inquire if your system which you have worked out in California has been reprinted and given distribution by the proper department of the Federal Government, or if the Federal Government from other sources has put before the various commissions and authorities in the United States this information?

Mr. PILLSBURY. I can clear that up in a moment. The men who helped us work out this idea that I have explained to you, which came from a remark of Mr. French, are the men whom the United States War Risk Bureau called in to consult with in fixing the basis for rating disabilities due to injuries in the war. Mr. G. F. Michelsbacher, the man who started to work out our schedule, was called to Washington to assist the Government. Some of the principles embodied in our schedule did not apply, but some of them were taken, and the idea was the same and came from the same man and from Prof. Whitney.

Mr. CHANDLER. It would seem obviously unfair to address personal questions to Mr. Pillsbury when his board worked out a schedule interpreted by experts.

Mr. PILLSBURY. I can not undertake to go into the details of rating the disabilities. I have not touched it because we have men to do that particular thing.

Mr. CHANDLER. The action of California and other States, especially California, in blazing the way in this work, seems to me to be commendable in the very highest degree. We have made some studies, and will you correct me on one point? Evidently we have entirely the wrong idea of the philosophy. We give preference in an amendment to our act to the young man. We secured an amendment to our act permitting us to add to the workman's average weekly earnings so as to give him a larger compensation in cases of a minor who had sustained a loss of the fingers, on the ground that this boy had to go all through life maimed. Was our philosophy wrong or right?

Mr. PILLSBURY. That is right. Our law does the same thing. Where a permanent injury is inflicted on a minor he must be rated on the basis of his being 21 years of age. We rate him on what he would be if he were 21 years of age; that is, on the wages—that is a matter of wages and not a percentage of disability. If an arm is cut off, it is cut off whether it is a boy's or a man's arm; his arm is off and there is no difference. But when we come to the value we value him on the basis of 21 years, no matter if he is 15 or 16.

Mr. CHANDLER. Then I am correctly informed when I understand that you give a larger allowance for an older man because of his inadaptability than you do to the young man who has the greater adaptability?

Mr. PILLSBURY. Yes. The old man has lost more because he has not the power to come back, he has not the power to learn a new occupation, but pretty generally falls into a lower earning standard.

Mr. KINGSTON. Is it not true that he has not the number of years to carry his loss?

Mr. PILLSBURY. That is true. Of course, compensation is not real compensation. It does not compensate. If we were going to make it what it says, if we were going to estimate on what the man has really lost, so as fully to reimburse for all his loss, we would have to take into consideration his expectancy of life and cumulate his loss. But we do not do that. The best that we can say for compensation is that it is a limited insurance, limited to what, on the average, is necessary to tide a man over his adversity until he can get to be self-sustaining without the loss of earning power.

Mr. McSHANE. I would like to ask if there is a hard and fast rule. If he is a minor do you fix your hard and fast rule that you are to take the schedule as though he were 21?

Mr. PILLSBURY. No; we do not. It is a question of computing it in wages and we compute the wages at 21.

Mr. McSHANE. A young man would not have reached his average earning power at 21.

Mr. PILLSBURY. In any compensation law I will guarantee you can pick out hundreds of cases where in some instances it will work an injustice, but we are dealing with the law of average. The law of

average is the basis of insurance. It can never be exact justice. Nothing more than the law of average, and we have to get average justice. You can not absolutely fit each case like a glove on your hand.

Senator DUXBURY. It occurs to me that a remark made yesterday by some gentleman, whose name I do not now recall, is quite pertinent to this discussion. He distinguished between disability benefits and compensation and remarked that the very term "compensation" is somewhat misleading, and much of this discussion with reference to those schedules is based upon the different constructions as to what is meant by this term. I think the definition was happy that disability benefit is really the fundamental principle of compensation laws.

Mr. PILLSBURY. Disability payment we call it.

Senator DUXBURY. The damages resulting from a certain injury, as measured by all the elements that enter into the damage, age, earning capacity, and expectancy, and all of those various things which enter into the actual damage, are not the fundamentals of what we call compensation.

Judge TAYLOR. Supposing it is permanent total, don't you think it ought to be compensation?

Senator DUXBURY. Well, some of us might think this thing should be compensation, but if we take these things and work them out, we find that our logic is confused and we disagree. In many instances it seems as though we should work out compensation in the proper sense of the word "compensation," but we have to accept one of these principles.

I have been much interested in this California schedule, because it certainly is a little more scientific adjustment of this thing, which we might call disability benefits. In some of our schedules it is almost appalling the injustice which may arise in certain cases.

Mr. PILLSBURY. I was intending to say that in working this thing out when it started, I studied all the schedules of benefits made by the accident-insurance companies to see what they allowed, and there was not much variation in the theory or principle running through it all, and I threw it all up. Sometime after our grandchildren are at the stage of action and the courts begin to understand that the foundation of civilization is manhood instead of property, we may be able to make compensation mean what it says so that the compensation benefits will compensate for what the men have lost, but that time is a long time coming. Now, when we go to the legislature to ask for an increase of benefits, all they ask us is, "Will it cost more?" If the answer is, "Yes," they reply, "Well, we are agin it."

The CHAIRMAN. It was understood that Mr. Dean of Ontario was to discuss Mr. Pillsbury's paper, and Mr. Kingston will take his place. When Mr. Otis has finished with his question and it has been answered we will hear from Mr. Kingston.

Mr. OTIS. I just had one question that I wanted to ask, and I would like to say from my viewpoint the statement of Senator Duxbury is quite right regarding compensation. It is simply replacing the wages that the man lost during his disability period and we rate them as earnings. That is the theory of the law as it now stands. I think it is true in other States, and the record in our own State of

New York is certainly so, that it is our own surgeons and physicians who determine the amount of permanency and no other.

What I am interested in is this: This schedule has been in operation for eight or nine years. May I ask if any other State has applied it in part or whole?

Mr. PILLSBURY. Not that I know of.

Mr. OTIS. I understand that in your State it is working satisfactorily, or fairly so?

Mr. PILLSBURY. It is working as satisfactorily as any other part of our work. It is almost uniformly accepted except in those cases where there is disagreement as to the nature and extent of the injury.

Mr. OTIS. I was wondering why other States have not adopted it.

Mr. KONOP. I understand that you can modify and change the schedule?

Mr. PILLSBURY. Yes; in the light of experience.

Mr. KONOP. When you make a change in the schedule, do you give notice to anybody that you are going to make the change and give them an opportunity to come up and present their side as to whether it should be raised or lowered or modified?

Mr. PILLSBURY. No; we make the changes in a specific case and that becomes a case decided and establishes a precedent for other cases that occur.

Mr. KONOP. I was wondering whether you gave an opportunity for representatives of the different trades to come in and ask for a modification of the schedule which pertained to their particular occupation.

Mr. PILLSBURY. They may all do that and we have a great many coming in from one trade or another. If I may be permitted to give one illustration and then surrender. I recall two sculptors who fell from a scaffold and both got crossed ankles. The men's injuries were substantially the same. They were substantially the same age. One of them spent a year in the hospital, and by the time he got out he had used all of his permanent disability allowance. He had his temporary, of course. The other man had no complications and was back on his job in three months. Now, under our law he got an allowance to enable him to readjust himself, and the other man did not get any.

Now, in our schedule we have made an allowance for the average time that it takes each one of these injuries to get well, and permanent disability and temporary are all included in one. We made a mistake, and we did it because of the extreme difficulty. There is a great difficulty in finding when temporary disability ceases and the permanent begins. It is the same difficulty as in finding out when a pig becomes a hog, and we wanted to avoid it, and we did it, but we made a mistake.

The CHAIRMAN. I will recognize at this time Mr. Kingston, who will take the place of Mr. Dean on the program, discussing this California plan.

Mr. KINGSTON. Mr. Chairman, I do not know that I wish to discuss in detail Mr. Pillsbury's paper. I prefer to deal more generally with the subject of permanent partial disability rating, and in this connection I must refer very considerably to what we do in Ontario.

In the first place, I am very glad to hear Mr. Pillsbury admit the fundamental error in the provision embodied in so many of the com-

pensation laws in the United States of fixing so many weeks' compensation for certain stated permanent partial disabilities without any regard to the length of time necessary to recover from the shock of the injury. To say that a man who has lost his hand shall have so many weeks' permanent partial disability rating, without any regard to the healing period, is, I think, one of the greatest fallacies running through so many of your laws. Permanent partial disability rating should begin with the close of the healing period. When a man suffers a disabling injury involving the loss of a limb he should be entitled to his compensation percentage, 55, 60, 65, or 66 $\frac{2}{3}$ per cent, as the case may be, not because of the loss of the limb but because the shock of the injury disabled him, and he should be entitled to this full total disability percentage during all the healing period. Then if your law says he is to have so many weeks' compensation for, say, a thumb amputated, give it to him, but for goodness sake do not short change him by first deducting the number of weeks he required to recover, not from the loss of the thumb, but from the disabling effect of the injury on his general constitution. It is most surprising that nearly half of the jurisdictions in the United States still retain that principle in their compensation legislation which Mr. Pillsbury now admits is wrong.

Mr. HOOKSTADT. Two-thirds.

Mr. KINGSTON. I should hope this is one point in respect to which the delegates here may go back to their legislatures and urge remedial legislation. In our law in Ontario, as well as in each of the other Canadian Provinces, we have no specific rating schedules. All this is left to the administering boards to work out. In the very nature of things, our legislatures have not the time at their disposal to give the technical study necessary properly to determine in advance the question of how much compensation a man should have for this or that particular injury. It is impossible in any event to anticipate in any rating schedule you may attempt to make up but a very small fraction of the varied types of injury one meets with, and yet throughout so many of your laws there is this very limited but specific schedule which, in respect to the injuries mentioned therein, absolutely ties the hands of the commissioners. There must be a great number and variety of claims coming up constantly before every board which do not fall within their schedules, and as the boards presumably must use their discretion in respect to these it would seem much better to eliminate this system of statutory rating altogether and leave it all to the boards to deal with.

Our law provides that an injured workman shall have 66 $\frac{2}{3}$ per cent of his wages, or rather his average wages, based on his earnings for the year prior to his accident.

We found ourselves at the outset, therefore, face to face with the necessity of compiling a rating schedule. The first thing we did was to acquaint ourselves with the California plan. We tried hard to adapt this system to our work, but without casting any reflection on California, for I know they are doing a wonderful work out there, we reached the conclusion that the California schedule was out of the question, so we ultimately built up a schedule of our own.

I will try now to demonstrate our system. I may say that one of the first principles we adopted (but we are on the point now of

revising it) was that the high-wage man will rehabilitate himself more quickly than the low-wage man. Take, for example, a man with his hand off at the wrist. If he was a high-wage earner, say a man who earns \$2,000 a year (that is the limit with us), our rating for such a disability would be 25 per cent. If, however, that man were in receipt of a wage of only \$18 a week, our rating would be 35 per cent. We have been going on that principle for quite a few years, but we have become convinced that it is not right. I can name, and you can name, many cases in which it may be right, but as Mr. Pillsbury has said, no matter what principle you adopt nor how near perfect you may think you are in the system you adopt, you can select some individual case and using it as an argument pick the system full of holes. As Mr. Pillsbury also very correctly said, we are all seeking in our various compensation laws to do average justice, and while I think in Ontario we are fairly attaining this end I do not for a moment claim that our system is perfect.

To show you the relative importance of permanent partial disability rating I will put down a few figures from our last annual statement. Here is the total amount of compensation paid in what we call schedule 1 for the year 1919—\$2,786,000. Of that sum permanent partial disability awards amounted to \$1,250,000, so that we are not far from Mr. Pillsbury's suggestion that about 40 per cent of compensation payments will usually be listed under the heading "permanent partial disability." The importance, therefore, of permanent partial disability rating must be apparent to everybody.

I may say that occupation does not enter into our rating. When we come to deal with a claim the board may, and in fact usually does, look at the particular occupation of the workman, and if it is considered from the nature of the occupation that the particular injury causes special disability we will probably increase the rate for that case. Here is where the board exercises its discretion. Our rating schedule, however, has nothing to do with this. I may say that while it is very important to have a rating schedule, we use it more as a guide so our awards in like cases will be uniform, but we have no hesitation in departing from the schedule in any case where there are special circumstances which seem to warrant it.

Take a man earning \$25 a week—same injury, hand off at wrist. We have an arbitrary way of saying that a month is always four and one-third weeks—\$25 a week, therefore, would be equivalent to \$108.33 a month. Our rating schedule gives 30 per cent for this disability at this wage, but we pay him only two-thirds, so we multiply the monthly wage by the rate named, 30 per cent, then take two-thirds of the result and you have the figures \$21.66. This sum is the monthly pension such a workman is entitled to. We do not usually make a pension award for an odd figure like this, however. The practice is to commute the odd figures into a small lump-sum present-worth equivalent, so that the award in such a case would probably be \$100 or \$150 cash, payable at once, and a monthly pension of \$21 for life.

A MEMBER. Take a \$50 man, would it be less than 30 per cent?

Mr. KINGSTON. Yes; our schedule only goes up to \$38, because \$38.46 is the weekly equivalent of \$2,000 a year. If a man earns \$50

a week we consider for the purposes of compensation that he is earning only \$38.46 and his rating would be 25 per cent instead of 30.

Now, we come to another factor. This man is entitled to a pension of \$21. That is not the end of it, however. We must find out how much money we should set aside out of our accident fund on account of that pension. I may say that practically all our pensions are life pensions. We do not stop at so many weeks. When we decide that a certain case is a pension case, that means it is a pension for life.

We must refer at this point to our Workmen's Expectancy Table and we ask how old was this man? Noting that he is 25, or was at the time he was hurt, we find from our expectancy table that the present worth of a pension of \$1 a month for life in the case of a man 25 years of age is \$208.84. We simply multiply \$208.84 by 21, therefore, and we get the result \$4,385. This is the amount of money we transfer to the pension fund against that life pension. This sum is transferred immediately; the particular case is then transferred to the pension file and we hear no more about it, i. e., the payment of the pension becomes merely a matter of administrative routine. The man may come back, however, after he is advised of his pension and say: "I don't think you have quite understood my case, I don't think you have given me enough." A claim is never settled with us until we are satisfied it is settled right, and as in our jurisdiction there is no appeal to a higher court, a claimant who thinks he has not been properly treated is quite freely permitted to come back and ask for reexamination. Sometimes we will say to him: "Let matters stand. We have made this pension award and you are getting your money, go home and do the best you can and come back in, say, six months or a year. We will then reexamine you, and if on such reexamination we find you are not getting along as well as we expected or if your permanent injury then seems worse than we thought it was, we will reconsider the award."

Mr. HOOKSTADT. Do you take the age factor into consideration?

Mr. KINGSTON. Yes. That \$208.84 is the figure in our Workmen's Expectancy Table at this workman's attained age at date of injury—25—and the amount set aside to the pension fund is greater or less, always depending on the factor of age.

Mr. HOOKSTADT. How about the 30 per cent?

Mr. KINGSTON. The only factor that controls the 30 per cent figure is wages.

Mr. HOOKSTADT. Your system is not like the British Columbia system. They take the age factor into consideration.

Mr. KINGSTON. Only when finding the present worth of the life pension.

As mentioned above our law requires that we take the average monthly earnings for the 12 months prior to the injury as the basis upon which compensation is to be determined. If not employed for 12 months, however, then we are to take the average for the time actually employed with his employer. This question of average earnings is always more or less of a problem because of the turnover in labor. It is not so bad, however, since the war. Employment is not so easy to procure now and men are not so ready to give up their jobs as they were when labor was at a premium. Where there has been steady employment for a year, the problem of ascertaining

average earnings is, of course, very simple, but if the injured man has only been employed a week or two we must then ask two or three questions to get at the facts: First—what are the average wages of such a man in such employment; second—how much did he earn in other employments; third—how much lost time did he have during the year, and what was the reason for it. In this way we ascertain the facts and endeavor to strike a fair average, having regard to all the circumstances.

Mr. FISHER. We base it on the wage he happens to be making at the time of the accident.

Mr. PILLSBURY. I would like to know what percentage of those people go home and stay down on a basis of impecunious poverty. Our principle is how much is needed and no more and how long it is needed and no longer.

Mr. KINGSTON. Last year we made a survey of something like 300 or 400 cases of permanent partial disability. Our Mr. Dean went through the country and saw these pensioners personally, found what they were doing, got down into their home life and studied their actual home conditions. In a few cases it was found, of course, that the men were in a very impecunious position, but in the large majority of cases I am glad to be able to say that the men who were receiving these pensions were in steady employment and earning fairly good wages; in fact, in many cases better wages than they were earning at the time they were injured.

Mr. CAMBRIDGE. In determining merit rating for any particular case do you take into consideration the capitalized value of those pensions?

Mr. KINGSTON. Yes. The capitalized value is entered on the charge card of the employer employing this particular man and when we come to add up our total figures at the end of the merit rating period, that award comprising part of that employer's experience will be reflected in his demerit rate if the total of his experience proves to be a bad one.

There is no maximum limit with us in the matter of permanent disability rating. That is another feature wherein our law differs from the laws in nearly all the States of the Union. We had a case the other day, I think only last week, where we gave a man a pension of \$110 for life. He was a railway engineer, who had become totally disabled, and I think he was only 23 years of age.

The amount of money required to provide for this pension was about \$20,000—a rather high figure compared with the maximum limit fixed in most of the compensation laws in the United States. Possibly I should not have said that there is no maximum limit with us. There is a wage limit fixed at \$2,000 and the highest compensation which could be paid to any workman with us would be a pension of two-thirds of this amount.

Mr. KONOP. That \$110 man that you have just mentioned, I understood you to say that you could not go above \$38 a week.

Mr. KINGSTON. That \$110 is a monthly figure. You will remember I said \$38.46 was the highest weekly wage we could consider and the highest weekly compensation would be two-thirds of this.

Mr. KONOP. I think the California plan is foolish. I believe these compensation laws were passed for the benefit largely of the great

mass of the ordinary workers of the country and not high class workers. The California plan tends to give the high-class worker an advantage in the matter of rating.

Mr. KINGSTON. I have always thought that ours was nearer right than California.

Mr. KONOP. Stick to it.

Mr. KINGSTON. As I stated before, our ratings vary according to wages—the higher the wage the lower the rate, but we are about to depart from that method, and in our revision instead of a rate varying from the \$10 man up to the \$38 man we expect to adopt a graded system of percentages varying only according to occupation.

Mr. SULLIVAN. I want to ask Mr. Kingston if it would not be better if the larger amount were paid at the beginning when the readjustment is taking place. Supposing that a man is taking a rehabilitation course, does he not need the larger compensation during that time more than he will during the remainder of his life? Is there any way of modifying that?

Mr. KINGSTON. We must certainly provide for the man while he is taking such a course, and I think we should consider that the period of rehabilitation is part of the period of total disability, unless of course he is earning something during the rehabilitation period, in which event he should be paid on the basis of partial disability.

Mr. SULLIVAN. Then what your system involves is practically the healing period plus the rehabilitation period plus the life pension period.

Mr. KINGSTON. Yes; substantially that is the situation.

Mr. SULLIVAN. That is practically the system that Minnesota adopted last year, the healing period and the reeducation period.

Mr. PILLSBURY. That is the idea of the California plan—something to cover the period—the average period of healing from the injury, then something for the period of rehabilitation, and then something for the disability which the man has to carry through life.

Mr. KINGSTON. In Ontario we have not yet come to the point where we can say exactly what we will do in the matter of rehabilitation. We have a special committee of the legislature working on the subject now, and I am anticipating something will be done at the session of our legislature next spring.

Mr. SULLIVAN. You said earlier in your address in connection with the schedule that the first thing to do would be to put in the healing period—

Mr. KINGSTON. The first thing to do with any injured man is to cure him, as least as far as that is possible, but we must make provision for him during that curing or healing period.

Now, I am going to ask you a question. We had an unusual case the other day to decide. It was this: A man lost his right arm at the elbow and his right leg at the knee. Should he be considered a totally disabled man? He can get good artificial limbs, both arm and leg, and in view of the site of the amputation, these should be very serviceable to him. In your jurisdictions what would you do with such a type of injury in the matter of rating?

Mr. DUFFY. In Ohio it would be a permanent total disability. The only proof required would be to show that he had lost that portion of the arm and leg and the law makes him a permanent total disability.

Mr. ARMSTRONG. I would like to ask Mr. Duffy if that was in the law or a ruling of the compensation board?

Mr. DUFFY. That is in the law.

Mr. ARMSTRONG. That is not the point that Mr. Kingston wishes to bring out. The commission has the option of saying what they will do in the case he has stated. If Mr. Duffy is bound by the law he can not do anything else.

Mr. KINGSTON. Then would you make any difference in Ohio between the type of man I refer to and the man who has his arm off at the shoulder and his leg at the hip?

Mr. DUFFY. We would if there was anything but the loss of the one member. Our law reads something like this, that the loss of both arms, both eyes, both feet, both legs, or any two thereof, shall be *prima facie* total permanent disability.

Mr. KINGSTON. Is there intended to be a reservation in those words, "*prima facie*"? Does that intend to give you a discretion?

Mr. DUFFY. No; the construction we place upon that is that he becomes a permanent total disability upon the happening of this accident. There is a latent opinion which has never been tested out that if such an injured man should get employment and establish an earning capacity, perhaps then his case would have to be considered a permanent partial; but set up against that is this, that we have a limit to the permanent partial which can not be carried on beyond six years; so as our law is at the present time we are up against the proposition of cutting him off at the end of six years without anything or else we have to continue him for life as a permanent total disability upon the assumption that he has no earning capacity, because our law does not provide for any permanent partial in case of permanent total disability.

Mr. KINGSTON. I would like to ask you how that is treated in California?

Mr. PILLSBURY. Well, there are very few we rate as permanent total. We would expect rehabilitation to get all these men to some earning capacity. But there is one thing we would not do and that is to penalize an enterprise which makes a crippled man develop an earning capacity. We will say to him as the Government has had to say to the crippled soldiers: "When your pension is once fixed it will never be disturbed because you have used your brain and enterprise and developed an earning capacity." They had to do that in every country in order to get men to do anything at all to better their condition.

Mr. KINGSTON. We do the same in Ontario. Once we fix a man's pension it is settled for all time, except where upon evidence it is shown that we have misunderstood the extent of the injury.

Mr. ARMSTRONG. In answer to Mr. Kingston's question, that is one of the questions where it is not possible to lay down any hard and fast rule. What I would do in a case of that kind is, I would recommend to get that man in and examine him and find out just exactly what his condition is, and if there is anything that can be done, to rehabilitate that man in some position; either start him in business, if he has enough business training to do that, or if he is a young man give him schooling, and after that has been done it will then be a question largely what he is able to do, what he is able to earn

after all this has taken place. You have to take an individual case, take a man's qualifications, his education, and his age, and everything into consideration; and as far as our commission is concerned it would be impossible to lay down any hard and fast rule for a case of that kind.

Now, with regard to the California schedule, I understood that they do not pay 65 per cent for total disability.

Mr. PILLSBURY. No.

Mr. ARMSTRONG. Your law does not allow that?

Mr. PILLSBURY. No; only 40.

Mr. KINGSTON. I did not feel when this case was before us that it was nearly as strong a case as that of a man who had lost the whole of these two limbs, because what he had left was still very useful. I recognize, however, as Mr. Duffy has stated, that a great many of your laws tie your hands and you are not at liberty in such a case to exercise discretion or decide as you otherwise might do. I would like to know what New York does.

Mr. OTIS. We follow the Ohio procedure.

Mr. HATCH. It would be a permanent total disability in New York by statute.

Mr. KINGSTON. Would a foot and a hand be a permanent total disability?

Mr. HATCH. No.

The CHAIRMAN. I think they follow the Wisconsin act, that the loss of both arms, both legs, or both eyes shall be deemed permanent total disability, leaving some discretion for these other injuries. Is that about the way in Ohio?

Mr. DUFFY. About that. Let me give you an instance. A man lost both hands. We declared him a permanent total disability and he was given a weekly compensation for life. The employer took an interest in him, and within two years after that time he was given employment at \$25 a week as foreman of a gang of laborers in a steel mill. Now, that information came to us, but we had already declared him a permanent total disability. There had been no rehabilitation so far as the individual was concerned. He was simply favored by the employer and given a job that he could do without the use of his hands. We could perhaps have interpreted the law to say: "Your period of temporary total disability is up," and we could let the case run out while he was getting \$25 a week, but if at the end of six years he was still getting \$25 a week nothing could have been done for him after that; so, rather than take a chance, the law prima facie held such an injury as a permanent total disability. We took this view: Here is a man who had only such employment as someone might favor him with, and, therefore, we held him to be a permanent total disability notwithstanding the fact that he was making \$25 a week, and that case still stands.

Mr. KINGSTON. None of us would have much hesitation in saying that a man who lost two hands or two feet is permanently totally disabled, but the loss of one hand and one foot seems to be a less serious injury than the loss of both hands or both feet.

Mr. LEE. We had a man who lost both feet and had one eye out. He went in the permanent total disability class. That man to-day is earning more money than he did when he had both feet and both eyes, and so, under our act, the same as Mr. Duffy's, he is a permanent

total disability in the absence of any conclusive proof to the contrary which would permit the commission to take him from the permanent total disability class and put him into the permanent partial disability class, and if he has then lost his occupation and could not earn money again, to put him back in the permanent total with the handicap that you have a limitation of time, and when the term expired it might be considered that we would not be able to put him back in the permanent total.

I don't want to interrupt the discussion, but I have some other observations to make on this subject from another angle.

Mr. KINGSTON. I would like to ask one more question. We are having some controversy in our board as to thumb injuries. I have no doubt you have met this problem too. There are very many cases of men who lose a thumb at the distal joint. I would like to know how you rate such an injury by comparison with the whole thumb, i. e., off at second joint.

Mr. HATCH. In New York that is fixed by law. The first phalanx is half of it. That is purely arbitrary.

Mr. KINGSTON. Do the laws provide that the loss of one phalanx of the thumb represents half the thumb?

Mr. HOOKSTADT. No; most of them provide that one phalanx is one-third.

Mr. KINGSTON. That is true of the fingers, but is that true of the thumb? I think it would be unfair if it applied to the thumb.

Mr. HOOKSTADT. I think you are right.

The CHAIRMAN. Wisconsin gives 30 weeks for the first phalanx and 70 for the loss of the entire thumb.

Mr. CHANDLER. We are not tied up exactly as some of the other States seem to be by an arbitrary division of the phalanges of the thumb. We have secured an amendment to the act permitting us to use our discretionary power to give workmen such a proportion of the total loss of the thumb as the part lost represents, and if a concrete case came up the commissioner would take into account the various factors and would use his own judgment on the case; but I would assume that in nine cases out of ten he would give considerably more than one-half.

The CHAIRMAN. The man who has lost the terminal phalanx of his thumb has not lost half its use.

Mr. CHANDLER. Let us suppose that 50 weeks are allowed for the total loss of the thumb, 25 weeks for one phalanx, and 25 weeks for the second phalanx. I would not consider 25 weeks adequate compensation for the loss of the terminal phalanx.

Mr. McSHANE. I would like to say that, while the law in Utah fixes specific indemnities for certain permanent partial disabilities, the commission is given the additional power to consider the loss of earning capacity. We can add additional benefits in our discretion up to 200 weeks.

Dr. BIRD. In Washington we have a fixed rating for the different phalanges of the hand, and we take the whole thumb at so many degrees—we have divided our permanent partial disability into degrees, each one of those degrees representing 25. For the two phalanges we would give 10°, or 250, and for the distal phalanx we would pay half that—5—and pay for the time lost.

Mr. KINGSTON. That would be for the healing period?

Dr. BIRD. Until he was able to return to work.

Mr. LEE. We give him half the thumb.

Mr. KINGSTON. I appreciate the responses to my question, Mr. Chairman, and I have nothing further to add, except to thank you and apologize for the time I have taken with this discussion.

The CHAIRMAN. I am sure we are all very much indebted to Mr. Kingston for this discussion. There is not a person here who has anything to do with the administration of compensation that is not ashamed of himself when he has to award compensation, as Mr. Pillsbury says, with an inch rule, and we ought to be looking for the means of getting away from that and getting a better and more scientific basis on which to allow this compensation. I went so far at the last session of the legislature as to draft an act that I thought perhaps would help us out of the difficulty. I selected 32 years as an arbitrary age, above which I thought reductions should go according to age and the benefits under our schedule should be reduced 1 per cent per year. I thought that would be an easy matter to administer.

I wanted to take in the matter of occupation and take in the matter of age, and I thought that perhaps with something of that sort we would get a pretty decent workable basis. We had a lot of trouble with our legislature, and I had as much as anyone, and I had to devote myself to some other pieces of legislation, and I let it go.

Mr. LEE. I want to hear from Mr. Gardiner. I think we have been discussing one of the most important things that can come before this convention. As I understand it, we can not harmonize the laws or views of individuals in this country. That is somewhat of the nature of the crazy quilt, and when I hear it all I find that the old law is about as good as the new ones. When I hear the different ratings that are sought to be established—and I do believe if it is possible that this convention should undertake to have something, if possible, that might be uniform, that might be the concrete judgment of men, not the men who deal only in figures and never get down among the workmen very much, but men who understand, that possibly we might work it out—and I would like to see a committee appointed by this association to find out whether we could not have a standard by which we might all work, if we were successful enough to get the legislatures to adopt it.

It does seem to me that this is one thing that the legislatures might agree upon, for it seems to me that if a scientific basis is arrived at by those who have been administering this law, that legislatures ought to accept it, because we will never arrive at it individually, we will never get a scheme that we will all accept; but if we get the combined thought of the compensation administrators on the question of these schedules we may get some place and have some stability as to them; and it seems to me, and I offer the suggestion for such consideration as it may be worth, whether it would not be wise for the administration that is now coming in to be clothed with power and authority to select a committee after advising with the executive board, or whatever the board may be, as to the composition of this committee and try and get to work on this and report back to the next convention some of their conclusions as to what would be

workable and what might be acceptable, fair, and just. It seems to me that that can be done, and that it ought to be done, and that some men other than experts might be upon that committee.

I move that a committee, the number of which is to be fixed by the executive committee, shall be appointed by the executive committee to make a study of the matter of permanent partial disabilities, and such other matters as they may see fit, and report back to our next convention a proposed uniform act with reference to rating schedules.

[The motion carried; meeting adjourned.]

WEDNESDAY, SEPTEMBER 21—AFTERNOON SESSION.

CHAIRMAN, DR. PAUL B. MAGNUSON, EX-MEDICAL DIRECTOR INDUSTRIAL COMMISSION OF ILLINOIS.

MEDICAL PROBLEMS.

Mr. ANDRUS. This afternoon we have the medical program. The doctor who will act as chairman of the meeting this afternoon has been medical director of the Illinois Industrial Commission for four years. Dr. Magnuson knows the problems that confront the industrial commission; and I take great pleasure in introducing the chairman of this meeting, Dr. Paul B. Magnuson, of Chicago.

The CHAIRMAN. I will not take up very much of your time, as we all want to hear from Dr. Potter, because we know that he will tell us something that is worth while listening to.

There are only two points that I want to speak about in this discussion. We have encouraged in the Illinois Industrial Commission the treatment of patients to bring them back to their maximum point of recovery, but during my experience there was a kick back to that. Many of the companies spent a lot of money and paid a lot of compensation over a long period of time and got their men back into as good shape possible, physically, and then the men kicked over the traces and sometimes a man would come before the commission and get an award—as much as he would have gotten before he was fully restored to maximum recovery. And this was probably due to the fact that the man would not acknowledge that he had been improved by the treatment when, as a matter of fact, many of us could see that he had been improved by the treatment. But, on the other hand, there was medical testimony introduced to the effect that he had been improved by the treatment, and that medical testimony was introduced in some cases by doctors who would stand particularly high in the estimation of some of the members or some of the arbitrators. Now, these are facts which come right home to us. We all have our likes and our dislikes, and we all have our ideas as to whether or not a man is telling the truth.

Now, just from the doctor's standpoint we have to look one point in the face, and that is that in many of the cases that come before the commission the doctor testifies that there is less disability than the man thinks there is, but many of us forget when we hear that doctor testify time after time and time after time that there is nothing the matter with the man or very little the matter with the man when the man says there is, that that doctor has examined hundreds and hundreds of cases outside of the commission where the man has been satisfied, the company has been satisfied, and every one has been happy, and those cases never came before the commission. The only cases that you see the company's doctor on are

cases which are in dispute, and those cases are in dispute because the doctor does not think there is as much the matter with the man as the man thinks there is. And in almost every case you hear the company doctor comes in and testifies that there is less the matter with the man than he thinks there is. Don't chalk that up against the doctor every time, because you do not see the hundreds and hundreds of cases that he does that are adjudicated outside of court and without any interference on the part of the judicial body.

Now, when I was appointed medical director of the industrial commission I fully realized that I was a very weak cog in what should be a very strong medical machine, and I called upon some of the men in this State to help me out in many of the diagnoses and in giving opinions. Those men have made examinations for the industrial commission for much less than they would have made the examination for an outside patient, and have devoted a lot of their time to this work with very little, if any, compensation. Some of their bills have not been paid yet, but I have never heard them kick. These men stand at the head of their profession, and when Dr. Donoghue asked me to suggest the names of some men to talk to us this afternoon I suggested these men because they have come in contact with the problems that you and I are all interested in.

MEDICAL PROBLEMS OF WORKMEN'S COMPENSATION.

BY FRANCIS D. DONOGHUE, M. D., MEDICAL ADVISER MASSACHUSETTS INDUSTRIAL ACCIDENT BOARD.

[Submitted but not read.]

The program which has been prepared from a medical standpoint for this afternoon was prepared with the assistance of Dr. Paul B. Magnuson, medical director of the Illinois Commission, and to him I wish to express my sincere thanks for his aid and assistance. I wish also to express my thanks to the members of the medical profession who kindly volunteered to give from their wide stock of knowledge such excerpts as may aid the industrial accident boards in not only determining the rights of injured workmen, but to point out to the accident boards steps along which further progress may be made.

This organization may be said to be a unit for the best, early, and continued treatment that will preserve the wage-earning capacity of injured workmen.

Our friend Carl Hookstadt, at San Francisco last year, gave utterance to the following:

We are inclined to forget that a compensation law is a *workmen's* compensation law. It is not an employers' compensation law, nor a physicians' compensation law, nor an insurance companies' compensation law, nor a compensation law for the benefit of those who administer the law. It is for the employee, and the interests of everyone else should be subordinated.

Few commissioners as yet, however, are physicians, so that boards must acquire some medical fundamentals that they must serve as counselors, guides, and friends to the man seeking compensation and to serve also as stimulating agents to that part of the medical profession which tends to lag behind in the march of progress.

Medical costs undoubtedly are increasing, but it is well again to consider that the payments of compensation money to the injured only partially compensates. It is also well to note that the medical service is the only service that most of the injured obtain and the amount of money paid out has as a setoff the reduction of the days of disability and the minimizing of the physical handicap on return to work.

The importance of the medical side of the compensation can not be too often or too much emphasized. The proper *care* of an injured workman comes before the determination of his rights, and he *must* be cared for if injured, and he *must* be cared for by some medical agency. Education and safeguards may modify the number of accidents, but they do not prevent them.

No employer who is conscientious will employ a man to take care of his employees whom he would not employ to take care of his family, and it is a reflection upon the honesty of opinion of an employer that he employs one surgeon to care for his employees and another to care for himself and family. It has been my experience up to this time that most employers do not go to the company doctor.

Commissioner Kingston, of Ontario, last year laid down a fundamental which I wish could be brought home to every doctor who treats accident cases. It is an epitome of a doctor's code. I wish to quote it again:

The point I wish to emphasize is the duty that medical men owe to the administration of the workmen's compensation laws. They are part of the administration machinery, and it is important that they be just as honest and impartial as if they had the responsibility of actually awarding compensation.

X-RAY INTERPRETATION AND STANDARDIZATION.

BY FRANCIS D. DONOGHUE, M. D., MEDICAL ADVISER MASSACHUSETTS INDUSTRIAL ACCIDENT BOARD.

[Submitted but not read.]

The constant increasing value of the X ray naturally leads to an attempt at standardization, and with standardization comes the expert in its interpretation. The use of the X-ray picture should not become the refuge of the diagnostically deficient, the ignorant, or the careless examiner and should not be accepted in the determination of rights except in conjunction with an adequate physical examination. The interpretation of X rays is still in its infancy; and while we have been extremely fortunate in Massachusetts in having Dr. Ariel W. George and Dr. Ralph D. Leonard, his associate, to aid the industrial accident board in doubtful cases, the standard of X-ray work in the State as a whole is not what it should be, and what is true of Massachusetts holds true in other States, as all of you gentlemen know so well, especially the medical advisers and medical directors.

The usefulness of a consulting radiographer to accident boards is a logical development along constructive lines, and it may be that if it were a requirement before payment that all X-ray plates be submitted to the central body, great improvement would certainly be brought about and large amounts of money that are now wasted on useless and misleading pictures might be saved, and diagnoses of improbable conditions, serious to the minds of injured workmen, would not be made.

In closing, I wish to repeat what I said last year at San Francisco :

The X-ray is the attempt of laymen to find something they can tie to without regard to the medical profession. They say, "Why, the X-ray plate shows it." The X-ray plate, when it shows something, is valuable, but it is worth only about 10 per cent in a diagnosis. Ninety per cent of the diagnosis must be made by a clinical doctor, who knows how to take that 10 per cent and add it to the 90 per cent of his study of the human being and then make a diagnosis. X rays should never be accepted at face value. We have had X rays now since 1896, and the interpretations of 10 years ago sound like jokes to us now, and I am convinced that the interpretations we are making now will be jokes to us in 10 years' time. In the meantime they serve a purpose and have a value, not conclusive, but helpful when read in conjunction with a clinical examination. I do not believe any X-ray man is competent to make a clinical diagnosis from his X-ray picture if he does not know how to examine the patient.

The CHAIRMAN. You have all heard of the Potter-Buckey diaphragm, which has revolutionized the plate work, at least in radiography, which has made the spine as plain as the hands and feet used to be, which has revealed to us a lot of things we did not know before. That is one of the most prominent things that Dr. Potter has done, although that is not the biggest thing that he does. The biggest thing he does is to make the diagnoses when the rest of us are fumbling around in the dark. He puts his finger on the spot where the trouble is. Dr. Potter will talk to us on "X-ray standardization and interpretation."

X-RAY STANDARDIZATION AND INTERPRETATION.

BY DR. HOLLIS E. POTTER, CONSULTING RADIOGRAPHER TO THE INDUSTRIAL COMMISSION OF ILLINOIS.

All X-ray technic is aimed at the production of results which will be intelligible for interpretation to anyone skilled and experienced in this science. Whatever the character of the suspected injury or disease, the radiographer must carry the diagnostic problem definitely in his mind or he may not produce technical results which are adequate for diagnosis. To understand the problem he must at least know as near as possible where the suspected lesion is, something of its manner of production and duration. He will then proceed to try and show by his art the presence or absence of the lesion; he will probably produce X-ray films or plates which will aid in establishing the character and extent of the lesion; and in doing so he will so plan as to include surrounding anatomical structures for criticism. As applied to industrial cases in particular, he will realize that his X-ray results may not only have to stand the test of his own scrutiny but they may have to satisfy one or more interested parties who possess the judgment and experience to pass on their adequacy and significance, and these persons may have a more vital and personal interest in the case than the radiographer himself. For this reason it becomes more necessary than usual that the X-ray results be not only of the most critical quality that can be produced but the technic must be carried out after a more or less uniform and standardized plan. Only by such reasonable standardization can one become skilled in interpretation, and only thus will the technical results be fully intelligible to any group of doctors or judges interested in the case. As far as I have been able to see, the lawyers

never take the X-ray findings seriously, but spend their efforts in trying to overthrow whatever of truth seems to have been established.

Since a standard and critical technic is required before the exacting interpretation necessary in industrial cases is possible, let us describe more specifically what standardization in technic includes. First, the technic must be thoroughgoing and honest. The busy roentgenologist does not economize on materials and always hopes to arrive at a conclusive result without having the patient brought back for a second or third seance. He uses materials lavishly to obtain the truth, knowing that if he does so in a high percentage of cases his services will be in demand even though the fee for an individual case is lower than would be expected from the work he had done. Second, standard angles of projection must be used, and by standard I mean those angles which have been found by the roentgenologists in general to show the anatomic structures most intelligibly and with least distortion. After making the most commonly used standard projections the findings are often amplified or verified by certain less standard projections, which, of course, are to be interpreted in conjunction with the more standard ones. By way of illustration take a skull fracture in the posterior parietal region. Standard lateral anteroposterior plates may first be made to show the general cranial structures and somewhat of the presence and extent of fracture. Additionally there should be made an oblique plate centered if possible on the fracture so as to map out its entire extent if it runs around the curve of the skull. For details concerning a depression, one will next make a projection at tangent to suspected fracture so that the inner table can be interpreted separately from the outer. Many prefer a pair of stereoscopic plates, but these are often misleading on questions of depression. Third, standardization will include all such variations in quantity and quality of X rays used, avoiding individual preferences as to very contrasty or very flat plates and aiming to get results of the greatest brilliancy and diagnostic quality. This may read like a small order, but even with present-day facilities a radiographer of experience and skill is required to fill it.

Assuming, then, that a more standard and uniform technic has been brought about, it goes without saying that in any large number of cases there is bound to be a large percentage of agreement in the interpretation of the X-ray results by persons qualified to read them. There is a great difference in the experience necessary to size up the situation in case of a fracture in the middle of one of the long bones and that required to appreciate one of the minor fractures in the vertebral column, and there are many things harder than this. Roughly the experience necessary to make one expert in the interpretation of X-ray plates is of three general kinds. First, a knowledge of normal anatomy with its variations, which is a considerable study. Second, a knowledge of gross pathology, which is an acquaintance with the same structures as modified by disease or injury; and third, a knowledge of roentgenology, which is a study of both normal and pathologic structures when portrayed by X rays. While the interpretation of the results in a single simple case may be quite easy and require no special training, the application of X rays to all the various diseases to which flesh is heir, constitutes rather too large a subject for any one person to comprehend.

He who takes it upon himself correctly to interpret X-ray findings where definite changes have surely been shown may yet have to know some clinical facts in order to give them the correct setting in the case. For instance, the X rays have shown, perhaps, a well-pronounced collection of rheumatoid deposits in a section of spine where an injury is claimed. Such deposits may result from the various infection and others exactly similar may form months or years after an injury. The interpreter would like to know when the injury occurred, since he knows that mature bony spurs of this sort do not complete their formation inside of several months. If the time interval is more than six months their association with injury may become somewhat speculative. If similar formations exist at other distant portions of the spine or in other joints about the body they probably were not the result of the last injury. If X-ray plates made immediately after the injury showed them there they surely were not the result of the injury. If they have been seen to increase in size from time to time they were possibly exacerbated by the injury. If they were certainly known to have been there before the injury it is a safe conclusion that they predisposed to injury, and a spine in such condition may give persistent symptoms long after a slight injury from which a normal spine would have long since recovered. Without going into further detail regarding X-ray interpretation, this little discussion leads us to one further fact, namely, that aside from the pure interpretation of the X rays, which in this case might have been merely the recognition of the rheumatoid condition, there is another definite step and that is the collaboration or orientation of the X-ray findings into the case as it appears clinically, and whoever does this is sometimes in a position where a great deal of judgment and experience is required.

Since it is one of the important duties of the medical and legal judges in industrial boards to act in this capacity of reviewing all the clinical and X-ray data and sifting these down to figures and decisions as to the extent of injury and period of disability, it would be highly desirable if each possessed more than a passing knowledge of radiology themselves. A full knowledge of the subject is manifestly impossible, but I believe it advisable that a suitable book be written which contains information which would enlighten the officers in industrial boards on certain oft-abused points. Assuming that doctors and judges always act honorably, it yet remains that there are many ruthless radiographers who, along with the lawyers, succeed in establishing to the satisfaction of the judges certain pathologic changes which only a moderate familiarity with the normal would prevent. There could be no better illustration of this than to cite what goes on in reference to alleged fractures of the skull and changes in the spine. How many times after a head injury some one makes radiographs which show certain lines in the skull which are interpreted as fracture, reinterpreted as fracture, established as fracture, and accepted as fracture when these lines, which were surely there and should have been there, were nothing more than the normal lines inside the skull which carry certain of the perfectly normal blood vessels. A perfectly honest judge can be convinced that such lines are fractures without censure. Perhaps the radiographer was ignorant or even dishonest. There are

practically no laws to prevent any ditch digger from turning radiographer overnight, and it has been the tendency of the medical and legal profession to let them in if they could survive. But it is 26 years since Röntgen discovered X rays and it is time that everyone who has to do with skull fractures should know that good X rays of the skull do not show the side of the cranium as a plain homogeneous uninterrupted plate of bone, but a number of plates separated by sutures which look like zigzag lines in an X-ray plate and traversed more or less by branching lines, rather characteristic in location and appearance, which are grooves for blood vessels. Fresh fractures show more pronounced lines usually, they do not follow these characteristic paths usually, and possess other points of difference which make them distinguishable except in rare cases.

In my experience the normal markings of the skull have been the subject of more useless controversy than all other points in X-ray diagnosis, when considered from a legal standpoint.

DISCUSSION.

Mr. KINGSTON. Perhaps this is not the place or the time, but I would like some time during this discussion to get help if I can on the subject of back troubles. With us it is one of our greatest troubles to determine, when a man claims to have a lame back, whether that is due to trauma or something the man has had and he suddenly discovers that he has a lame back and tries to cash in on it. I want some help on that if I can get it, whether there is any way that we can tell whether that is traumatic or another type of case, how that sort of case is dealt with.

The CHAIRMAN. I think, if satisfactory, we will put that on and make a little symposium on that. Dr. Albee does not appear to be here, and we might have a little symposium on backs in place of Dr. Albee's paper, and we will ask everybody to chip in in that discussion.

Is there any question you would like to ask Dr. Potter about the interpretation of X-rays?

Mr. KINGSTON. There is one question I would like to ask, whether the doctor can tell from his X-ray plate whether the change which is indicated in the plate would be due to trauma or a preexisting condition?

Dr. POTTER. You can not tell that except under certain circumstances. If the man was hurt the day before yesterday he has fully formed osteophytes. Of course, there are many things in connection with sprains and injuries to the back that the X-rays won't help you on except in a negative way.

Dr. PLUMMER. I think there is a warning to be given about being led astray by X-rays of the spine, especially those that are not taken by an expert with the best apparatus there is. The average X-ray of the spine, when you look at it, you get an impression such as by looking at a piece of scenery in a heavy fog. You see something very indistinct, and you can guess almost anything you want to. It is an entirely different picture from the kind of skiagram that Dr. Potter has been taking. Only a few have the necessary apparatus and skill to take a skiagram of the spine, and if these are taken by an unskilled

man and with an antiquated apparatus or an inadequate apparatus it is really worse than useless, because it leads you astray.

The CHAIRMAN. If there is no further discussion we will listen to Doctor Plummer, who needs no introduction to men who come from Illinois. I feel that one of Doctor Plummer's greatest successes has been the making of the first medical directory of the Illinois Industrial Commission. I worked with him four years, and anything I know about industrial work I learned from him. Doctor Plummer is the chief surgeon of the Rock Island Railroad, and the men come to him and lay their cards on the table and say, "Anything that Doctor Plummer says I am entitled to suits me." He was the first company surgeon that I ever saw men do that with, and when I was with him 12 or 15 years ago that was the general mode of settling cases on the Rock Island. The claim department said, "You go and see Doctor Plummer," and the man said, "All right, anything Doctor Plummer says goes, as far as I am concerned."

In addition to that, Doctor Plummer is one of the best-known surgeons in Chicago, as well as one of the most skillful, and I feel greatly honored that Doctor Plummer would come here and talk to us to-day about "Concussion and contusion of the brain, with post-concussional conditions."

CONCUSSION AND CONTUSION OF THE BRAIN WITH POST-CONCUSSIONAL CONDITIONS.

BY DR. SAMUEL C. PLUMMER, PROFESSOR OF SURGERY NORTHWESTERN UNIVERSITY, CHICAGO, ILL.

This is a large subject and, of course, it is impossible to discuss it in any systematic manner in a short space of time. I shall, therefore, content myself with calling attention to a few points which have impressed themselves upon me from my own observations.

Pure concussion of the brain is supposed to be unaccompanied by any demonstrable anatomical changes in the brain substance. To support this contention cases have been reported where a patient has died after a severe concussion and an autopsy has failed to show any injury to the brain. It is a fact, however, that most concussions of more than the slightest degree of severity are accompanied by slight lacerations of the brain tissue, by extravasation of blood and by cedema just as are contusions elsewhere in the body. These pathological changes explain why many cases of so-called concussion are slow in recovering, and also account for symptoms of general compression of the brain, in some cases with focal symptoms.

It is well known that the bones of the skull are possessed of a considerable degree of elasticity, so that after violence applied to them they are able to bend in toward the brain to a considerable degree and spring back into their normal form without having sustained a fracture. It is known that in this way the middle meningeal artery has been torn without an accompanying fracture of the overlying bone. If the bone, without fracture, can be pushed in toward the brain sufficiently to rupture the middle meningeal artery, it is very easy to believe that a similar inbending of the skull might produce a very considerable contusion of the brain substance accompanied by the usual pathological features of a contusion. LeCount

and Apfelmach¹ in reporting their findings in 504 cases of autopsy after fracture of the skull showed that in a great majority of cases there were contrecoup bruises of the brain, in fact, the bruises opposite the site of violence were more frequent than the direct bruises of the brain. These contrecoup bruises were due to the violent impinging of the brain against the inside of the uninjured skull. It seems perfectly reasonable to assume that a violence not quite sufficient to cause a fracture might cause a bruise of the brain similar to that found in these contrecoup bruises.

We must admit that pure concussion and concussion accompanied by contusion of the brain can not be differentiated by the symptoms which result. It is probable that in the milder degrees of concussion no demonstrable lesion of the brain is present. This, however, has been shown in certain cases not to be true, because patients suffering from what appeared to be a slight concussion who have died of concomitant injuries have been shown at autopsy to have rather extensive contusions, lacerations, and hemorrhages of the brain. We thus see that some patients with only slight evidences of concussion have suffered severe brain injuries while others with symptoms of severe concussion sometimes show no brain lesion. I regard both of these classes of cases as exceptional and believe that the great majority of cases with symptoms of any severity have suffered at least a bruise of the brain and oftentimes lacerations of a considerable extent accompanied by hemorrhages of considerable extent.

I believe we do not attach enough weight to the oedema following a contusion of the brain. LeCount and Apfelmach found some cases of fracture of the skull where the only abnormal condition in the brain was oedema, and I believe that in many cases the symptoms supervening on the first effects of the injury are due largely to oedema. If this oedema is not of too great extent the symptoms produced by it will soon subside, but if the violence is great, symptoms of general compression of the brain will result. I have seen one case of bullet wound of the scalp, in which the bullet grazed the skull, where the patient suffered from symptoms of motor paresis of the opposite extremities, which came on three days after his injury and entirely subsided within 48 hours.

These bruises and lacerations of the brain, accompanied by slight hemorrhages in the substance of the brain, sometimes cause symptoms similar to those seen in gross hemorrhages either outside or inside of the dura. I remember one case of an engineer who struck his head against a water crane and was knocked off his engine. He was immediately unconscious but recovered consciousness in a few hours and then again became unconscious, also showing paralysis of one side of the body. This is a typical history of extradural hemorrhage, but after turning down a large osteoplastic flap and exposing the whole motor area no hemorrhage was found.

We must not lull ourselves to sleep with the idea that because the patient has suffered a concussion of the brain he has no anatomical injury and will surely recover. We must always consider the possibility of brain injury and be ready to open the skull if symptoms of compression demand it. Sometimes the operation will reveal nothing but oedema, but the decompression will relieve the symptoms and lead to recovery.

¹ Journal of the American Medical Association, Feb. 21, 1920, vol. 74, pp. 501-511.

One symptom of concussion is of great interest from a medical-legal standpoint; that is, the retrograde amnesia, which means the inability of the patient who has suffered from concussion to regain his memory of events up to the actual time of receiving his injury. We know that after the patient has recovered consciousness his memory for events returns, but stops short a certain period antedating the actual injury, so that if a patient gives a definite account of everything that happened up to and including the injury it is safe to say that he is fabricating and any such statement should be doubted. That this retrograde amnesia occurs in the very mildest cases I know from a personal observation where a boy of 5 slid down an incline of about 4 feet and struck his head on a concrete step. He did not fall, but merely slid down a smooth surface and in that short distance did not gain any great momentum. He was not unconscious but was merely dazed, nevertheless he never had any recollection of the accident. I recently had under observation a case of a railroad brakeman who had been suspected of having an epileptic fit. Some months after the suspected fit he fell off a moving freight car and was found unconscious along the tracks. He gave me an exact account of how he happened to fall, telling me just how he struck on the ground. The fact that he claimed to retain his memory up to the very moment of striking his head makes me doubt his statement. I think it more likely that he had a second epileptic attack which caused him to fall.

The question of prognosis as to the period of disability is a difficult one to decide. Patients who have received concussions of moderate or severe degree generally complain of disabling symptoms, chief of which are headache and dizziness. They also frequently speak of loss of memory. Oftentimes after the first few weeks they say headache and dizziness bother them only upon exertion. These patients look perfectly well but claim inability to resume their duties. At first I was skeptical of the existence of these symptoms, but have had the story told me so many times by patients whose integrity I did not doubt that I am convinced that in many cases these symptoms persist for several months, so that in recent years I have been very guarded in my prognosis, naming a period of disability of from 6 to 12 months after severe cases. However, many cases recover much more promptly. A medical friend of mine was struck by a street car and regained consciousness in the hospital. He had received a rather severe concussion but said he had no symptoms three weeks after his injury. One of the most severe cases of concussion I have had under my care in recent years was that of a man found at the foot of a stairway unconscious. He had no recollection of any injury and it was not known whether he had fallen down the stairs or had been assaulted. His symptoms were so severe that I told his wife it would probably be a year before he could resume his duties as stock-yards laborer. As a matter of fact, however, he was doing full duty four months from the date of his injury. In this case there was no prospect of any remuneration during the period of disability, which may have assisted the patient to look longingly for an early recovery when he could resume his duties. It is hard to draw the line in these cases between the really disabled and the patient who imagines himself to be disabled or alleges disability for selfish purposes. How-

ever, if we make the probable duration of disability too short I have found that in many cases it leads to disappointment and dissatisfaction to all concerned, so that a guarded prognosis is desirable in these cases.

DISCUSSION.

Mr. PILLSBURY. I would like to ask the doctor if the amnesia does not clear up after the lesions get well; is there always a blank there?

Dr. PLUMMER. The blank is permanent.

The CHAIRMAN. If you want to ask any questions now is your chance to get information. If you wanted to get it later it would cost you a lot of money.

Mr. PILLSBURY. After what you would call a rather severe injury, possibly a fracture, what time would you give for the development of anything like a tumor or anything of that kind as the result of the injury. How long would you hold the case undecided as to the nature and extent of the injury?

Dr. PLUMMER. The tumors would not result from injuries. You would have to decide in each case according to the way the patient cleared up, but tumors I think you could hardly count on as a result of brain injury.

Judge TAYLOR. In a great many cases, or at least several that have come under our observation, with respect to blows on the head, I have noticed that the workman claiming his inability to work would always say that when he got warm under exertion that his head would begin to ache and he would be dizzy. That has always been perplexing to us. We did not know whether the man was malingering or not, and the physicians have not shed a great deal of light on that particular point. I have also noticed that the physicians seem to pass that by lightly. What have you to say about that?

Dr. PLUMMER. I don't know that I can say anything more. In some cases at least there is this dizziness; some imagine they are worse off than they are. There is a great difficulty in forming any opinion on that. There is nothing to show for it unless Dr. Hammill and Dr. Pollock have some test. The man claims that is his condition, and I believe in a certain proportion of cases it is, and on that account we have to allow them a longer period of disability than we would think necessary.

Mr. KONOP. Say that a patient recovers and appears normal, and yet complains about dizziness and headache and loss of sight; do you think there is a recovery, that it is a complete recovery? I am asking about after the depressing operation has been performed.

Dr. PLUMMER. Do you mean the depression within a few days or a month?

Mr. KONOP. Suppose the person was stunned and unconscious for a few days and a depression operation is performed and he recovers and appears normal. Is that recovery permanent, or will that man have any further disabilities?

Dr. PLUMMER. That is impossible to say in a general way. It all depends. The depression has evidently helped him, has taken off the pressure, but whether he is permanently cured depends on how much brain injury he suffered. The operation only takes off the pressure. It gives him a chance to recover, to restore the circula-

tion, but he must have some permanent results left after the operation, scarred tissues or something of that sort.

The CHAIRMAN. Dr. Lewis J. Pollock is one of the consulting surgeons of the Illinois Industrial Commission. He and Dr. Ham-mill form the neurological experts of the board, and Dr. Pollock will talk upon the "The handling of neuroses from an industrial commission standpoint."

Dr. POLLOCK. I do not believe that I will limit myself entirely as noted in the title, for one reason, and that is that I feel that the term "Neuroses" is one which is very seldom understood by every person, and therefore I feel that it is just as necessary to come to an understanding as to what a neurosis is as it is to talk on handling them, because if one understands what a neurosis consists of, the handling becomes as automatic as the handling of a case of the loss of an eye or the amputation of a leg.

THE NEUROSES: THEIR HANDLING FROM AN INDUSTRIAL COMMISSION STANDPOINT.

BY LEWIS J. POLLOCK, M. D., CONSULTING NEUROLOGIST, INDUSTRIAL COMMISSION OF ILLINOIS.

It is easy to define a square, a circle, a coin, or a box. One understands immediately what is meant by appendicitis or a fracture of the leg. It is not easy to define a neurosis, nor is it easy to understand what is meant by "traumatic-hystero-neurasthenia." In the former instances we are dealing with physical objective conditions; in the latter with a more or less intangible, psychologic or philosophic consideration.

As an introduction let us state that for the purposes of this paper, by a neurosis we mean a condition of ill health not produced by physical change in the body or its organs, and which is not an insanity. Inasmuch as we are dealing with industrial medicine, the type of neurosis dealt with is traumatic. One speaks of such a debility as functional in contradistinction to an organic one produced by real injury.

An introduction to this mysterious condition was afforded the medical profession when it was observed that following railway accidents many peculiar symptoms occurred in the absence of external evidence of trauma. The condition was then termed "railway spine." Erichsen, who wrote on this subject in 1866, 1875, and later, termed it "concussion of the spine." Subsequent observation and study showed that no physical change was present, even on microscopic examination, and it was recognized, chiefly through the efforts of Charcot, that the patient presented the same symptoms as did cases of hysteria and, in short, suffered from hysteria. The term "railway spine" and "spinal concussion" gradually disappeared and for them was substituted "traumatic neuroses." As the hysterical nature of the disease was recognized, traumatic hysteria was commonly used, as were the terms "traumatic neurasthenia" and "traumatic-hystero-neurasthenia."

One might subdivide the neuroses, artificially, into groups, as psychasthenia, neurasthenia, anxiety states, hysteria, etc. The greatest number of cases are those of hysteria, and in it the condi-

tions of cause and effect are common to all the neuroses. Therefore, for the sake of simplicity we will confine ourselves to "traumatic hysteria."

It is not difficult to determine the just compensation for the loss of an eye, or the amputation of a leg. The conditions having been found, it is only a matter of arbitrary percentages. Why is it difficult to adjudicate a case of hysteria? The difficulty is due to unfamiliarity with the symptoms, the nature, the cause, and the results of this condition. Further, to obscurity of the differences between hysteria and malingering, and the ignorance of means whereby hysteria may be definitely differentiated from real injury. Let us attempt to clarify some of these difficult questions. We will not consider any of the philosophic questions as to the psychologic mechanism of hysteria, nor even offer a definition. We will attempt to make the condition understandable by some description.

In the course of association with industrial medicine one becomes familiar with many symptoms produced by injury; pain, spasms, contractures, paralyses, convulsions, etc. It may be said that in hysteria every symptom of every disease or injury may be found. We have loss of memory, delirium, confused states, and stupors. We may have paralysis of one or more of the extremities, spasms, contractures, convulsions, pain or loss of sensation, dizziness, blindness, deafness, loss of speech, vomiting, diarrhea, incontinence or retention of urine, and symptoms without end.

It is natural to ask, if one is confronted with one of these symptoms, how it can be shown that it is not due to real injury. Disease or injury of the body or its organs produces a disturbance of the functions of that particular part. This disturbance of function presents signs and symptoms peculiar to itself. The signs are constant and are associated one with the other in a consistent and determined manner. For example, a paralysis of the hand, due to an injury of some of its nerves, shows an atrophy in certain muscles and in these only. A paralysis in only these muscles, a loss of sensation in a certain constant part of the hand and definite changes of response to stimulation with electricity. An injury to the spinal cord produces constant and definite changes in the reflexes, paralysis of a sharply defined part of the body, loss of sensation of certain characteristics, disturbances in muscle tone, and bladder and rectal changes. So with every part of the body. In hysteria there will be found absent such signs as would necessarily be present were the symptoms, such as paralysis due to an injury, or we would find signs and symptoms which are adventitious and could not be associated with such a paralysis as the result of an injury. In short, it may definitely be stated that a careful examination, by a competent observer, can serve to differentiate an organic from a functional condition—a real disease or injury from a hysteria.

Naturally, one asks how is it possible to have a symptom, such as a paralysis or even a pain, and yet not have any disease of the body or its organs? If a risqué story be told in the presence of ladies, it is common even nowadays to observe them blush. This blush is not imagined, we see it, it is physical, and yet it is caused by an emotion. Similarly, if one is frightened he may be stricken speechless and motionless, his hair stand on end, his heart beat fast, he may burst out in a cold sweat, and he may even have a diarrhea. Here, too, we

are dealing with physical changes not due to imagination, injury, or disease, but to emotion.

Some years ago amusement was afforded us by viewing the startling feats of hypnotists. A common enough trick was to make the cheek insensitive so that the subject felt no pain when a needle pierced it; or to produce a rigidity of the body sufficient to permit one to break, with a sledge hammer, a rock placed on the body of a man whose head and feet only were supported by chairs. In such a hypnotic state any disability could have been suggested to the subject and he would have suffered from it. Hypnosis is produced by suggestion and just as a hypnotized subject may accept a suggestion and feel and act accordingly, so does a hysteric. Some of these suggestions come from the patient himself. If one fears disability he becomes introspective and attentive to his general sensations. None of you felt the collar about your neck until I now mentioned it—now, you all feel it. Our skin is so sensitive that we can feel the lightest wisp of cotton, yet it is seldom that we feel our clothes. We become inattentive to such feelings as experience teaches us are of no consequence. If I were to assure you that the feeling of a collar about your neck was indicative of impending insanity, and you believed me, you would all feel your collar all day long.

Much of the suggestion comes from without. Consoling, anxious, and oversolicitous friends and relatives, injudicious examinations by physicians, and reexaminations without end, conversations with attorneys, repetition of symptoms in court, observation of and acquired knowledge concerning other patients all contribute to the hypothesized picture.

What is the cause of hysteria? Is it trauma or injury, is it shock, great emotional disturbance, overexertion, fatigue, or privation? Among the many lessons taught by the late war, many may be gleaned relative to hysteria. In this war, a new type of destructive agent was used, high explosive shells. There were observed many cases of peculiar nervous manifestations which were attributed to the concussion resulting from the explosion of shells close at hand. These cases were therefore called shell shock.

Careful observation by trained neurologists soon showed that grouped among such cases were patients suffering from various well recognized nervous disorders not produced by the accidents of warfare; that the majority were suffering from hysteria. Here, therefore, was a huge experiment in hysteria. The first problem was to determine whether any possible physical change produced by the nearby explosion of high explosive shells was responsible for the hysteria. Evidently not, as the symptoms, tremor, paralysis, etc., were found to develop in soldiers in training camps in the United States, on transports en route to Europe, in the S. O. S., back of the lines, and on the way back to base hospitals from the trenches. Such cases are even now developing among our discharged soldiers. It followed that the explosion of shells alone was not responsible nor was the privation, hunger, or exhaustion.

Was it emotion? Apparently not; rarely was paralysis or other major hysterical symptoms observed on the battlefield itself. Only after some time elapsed did such symptoms appear. In torpedoed vessels, when the passengers were removed to rafts amid signs of dis-

order and carnage and exposed to extreme hardship and privation hysteria did not develop. Only when rescued did the passengers develop such a condition. Some illuminating observations were made. Soldiers were more frequently affected than officers. Crack regiments showed fewer cases than others. Men with severe wounds never developed it. Prisoners of war did not experience it. Here, as in civil life, it was seen that the disease was a disorder of conduct. It occurred among those men who were dissatisfied and fearful and who could not be separated from actual warfare by legitimate causes, as capture or injury.

A state of dissatisfaction leads to the illicit motive back of hysteria in civil life; it may be due to unrequited love, marital incompatibility, inadequacy of effort to support a family, fear of discovery of crime, etc. In warfare it was due to fear of death and desire to escape. Following injury it may be due to several causes, first, fear of being severely injured, unable to resume occupation and support of family, with ensuing desire for pension; second, resentment and desire for compensation, and rarely for causes not associated with either of these two, such as would have produced hysteria had any other "accident" than injury occurred.

Is it meant by this that these patients are faking—putting this on—that they hypothecate their illness? It is not. They suffer just as much as if they were disabled from organic causes. Is the condition imagined? It is not. No more than the hypnotized person imagines that he can feel no pain. He feels no pain. The symptoms are real enough, but they occur only because of suggestion, not because of injury or shock. Usually the patient is injured or is in an accident; he experiences some pain or slight disability; he is fearful lest it be serious; he becomes introspective, attentive to himself. Sensations which formerly he would dismiss are now indicative of serious ailment. His friends ask him innumerable questions with entailing suggestions. An enforced period of idleness occurs. He is examined by physicians who by injudicious questions suggest new symptoms. He is fearful lest he be unable to resume his occupation and support his family. Here, in short, is a well-prepared field for the development of severe signs of hysteria. He seeks compensation and legal advice, and forthwith a hysteria develops. It does not occur immediately after the accident; it occurs following a latent period during which time suggestion has had an opportunity to act.

It would appear that this description would fit a malingerer. Are these conditions the same? Emphatically not. A malingerer is a willful imitator of disease for the purpose of gain. One may not be able by means at our hands to say that this man is a malingerer or is a sufferer from hysteria. This inability is our fault, not the man's. It would be the grossest injustice to many patriotic and consciously willing soldiers to compare those who developed hysteria to one of the cases I observed in France in a man nicknamed "Bosco." He imitated a case of painful bent back and exclaimed to those about him, "Follow Bosco and go to Hoboken—follow Black Jack and go to hell." Although back of both conditions is an illicit motive, the hysterical patient is not aware of it. Of course, exaggeration and prolongation of symptoms may occur along with hysteria.

Frequently a malingerer may readily be detected and the condition at times easily differentiated from hysteria.

What relations does compensation bear to hysteria? It has already been said that desire for compensation, induced either by wish for pension to assist in livelihood or by vengeful spirit, may provoke, engender, or prolong a hysteria. How do we know this to be true? German statistics show that in spite of medical and surgical methods progressively improving, the duration of incapacity in some ailments and in accidents is greater than it was in preinsurance days. Before the Netherlands adopted insurance the German workman took much longer to recover than one injured in the same way in Holland. When, however, the Netherlands adopted an accident insurance, the duration of the illness suddenly increased. In Denmark it is the custom to pay insured workmen lump-sum settlements at a very early stage of their incapacity, and 93.6 per cent recover from what is known as traumatic neurasthenia. In Germany, however, where the injured is entitled to a pension, only 9.3 per cent recover from the same disease. The introduction of the accident law in England in 1907 saw a marked increase in the number of accident cases. In France accident cases have increased by one-fifth, and the duration of temporary disability is decidedly longer than before the operation of the law.

Some illuminating observations relating to these considerations may be mentioned. Five or six months after the Messina earthquake there was not a single person suffering from a neurosis caused by the earthquake. No source of compensation was available. When, some years ago, railroad employees were not compensated for injury, they were eager to return to work following an accident and it was the passenger who was afflicted with a traumatic neurosis. The availability of compensation, however, has caused the employee to develop such states as well. It is a common observation among social workers dealing with the poor, that if following illness, prolonged pension is carried out and return to work not encouraged or enforced, the individual becomes a chronic invalid and a ward of the charities. It has been found that in a certain group of people investigated, some 75 per cent of pauperism resulted from illness, and this state was fostered by constant assistance without intelligent direction of rehabilitation by labor. At first assistance is abhorred, avoided, reluctantly received, then the morale weakens and assistance is sought, next it is expected, and finally demanded.

It is the opinion of contemporary neurologists that were it not for possibility of compensation the traumatic neuroses would practically not exist.

Litigation holds out promise of reward and fosters the neuroses. Prolonged litigation prolongs the duration of a neurosis and prolonged forms of compensation work to the same end. Litigation is productive of ill effects through other causes. The presence of a patient before a board or court while his case is being discussed, awakens a sense of resentment or distrust, a feeling that the corporation, through its expert, is trying "to do him." He develops the conviction that he is very seriously and permanently injured through the histrionic efforts of his counsel and statements of ignorant witnesses. He has suggested to him new symptoms and promptly develops them. Some responsibility, therefore, rests upon our legal

system for the production of these neuroses. It was held by the fourth chamber of the tribunal in France in a certain case, that the incapacity with which the workman seemed to be affected resulted not from the accident, but from the erroneous opinion which the man formed of the rights to which he was entitled, by persuading himself that an income was necessarily due him. For this reason compensation was refused. What is the result following a settlement of the case? Although it is claimed by some that settlement always cured a traumatic hysteria, I believe that there are occasionally exceptions to this rule. At times a traumatic hysteria may persist many months or years following such a settlement. This is rare and is always due to such difficulties as would have produced the hysteria had the accident not occurred. Such difficulties may be social, maladaptations or deep-rooted fears. If judiciously treated these cases may be relatively rapidly cured.

If a case of traumatic hysteria is to receive compensation, some idea of actual disability is necessary. A traumatic hysteria is curable. It does not produce any permanent disability. The severity of the injury has no relation to the type of severity of the hysteria. Severe symptoms have no relation to the duration of the disease nor are they any indication of a lasting disability. A paralysis of all four extremities may be cured in 10 minutes, a light spasm of the eyelids may last a long time. Harrowing experiences and extremes of horror or fright bear no relation to the severity of the illness. A complete paralysis may follow a slight sprain from stumbling, and a Messina earthquake produce merely the winking of any eyelid. Whatever the symptoms, a neurosis is a neurosis and one case can be cured as rapidly as the other. However, differing in detail, all accidents produce the same type of disability if it produces a hysteria.

Now, to the milk in the cocoanut. Obviously, if compensation is one of the causes, it must either be dispensed with or it must be given in an innocuous form. As an indication of this, mention may be made of the conclusion reached at a joint meeting of the Neurological Society of Paris and the chiefs of military neurological and psychiatric centers. It was voted that for hysteria neither dismissal from service nor gratuities were to be given. It has already been shown that early lump-sum settlements tend practically to eliminate the long duration of these conditions. If existing laws are such as prevent such a settlement, refuge may be taken in arrangements between counsels for apparently such a settlement in the ignorance of the patient. Unfortunately owing to the frailties of human nature, this is frequently unsuccessful. Prolonged litigation must be discouraged. After all, the important thing is to get the patient well. A corporation lawyer remarked to me relative to this statement: "Perhaps from the medical standpoint, but not from mine." He was decidedly wrong. As soon as it is recognized that immediate final settlement cures a hysteria, it will be found that the amount of expense (otherwise prolonged) will be reduced. The quicker the patient recovers, whatever the initial cost, the less, in my opinion, will be the expenses. Certainly an early and final settlement is the only just procedure for such a case. In addition to this several essential features in the handling of such a case stand out; an early and correct diagnosis by competent observers, avoidance

of careless examinations and ignorant diagnoses, a quick return to some form of work, and avoidance of prolonged litigation and its ensuing chances for suggestions and fixation, particularly when the patient is an observer of the trial of his case.

DISCUSSION.

The CHAIRMAN. Will Dr. Leeming please lead the discussion on Dr. Pollock's paper?

Doctor LEEMING. I came in for a few minutes purely for the purpose of listening and being instructed, and I did not expect to say a word. I am sure I have been very much instructed and enjoyed both of the papers I have heard.

With reference to Dr. Pollock's paper I would say that it is a very big subject and a very broad subject to present even to medical men, to say nothing of presenting it to laymen, in a short period of time, and I must congratulate the essayist on the skillful manner in which he has covered the ground. He used the term several times "traumatic hysteria," and the general purpose of his paper would seem to indicate that hysteria is not traumatic in origin. I gathered also that he took the position that emotion in itself does not produce hysteria. It has been claimed that while neither one of these causes is competent and sufficient, as the lawyers say, to produce hysteria, a combination of the two would; that a slight injury with mock emotion is likely to be followed by hysterical manifestations. No doubt that is true. If that form of expression is apt to be followed I take the position that either injury or emotion is a competent cause. Sometimes the manifestations of hysteria may be aroused by either injury or by emotion or fright, but when you take the position that the actual disease is caused by either one of these methods I believe it is not scientifically correct. If our litigants would claim that the evidences of the disease, the symptoms of the disease, were brought about, as one of my lawyer friends put it, "by this unfortunate calamity," it might be a difficult matter to define; but where they say that this individual was absolutely normal mentally, physically, neurologically, and this comparatively slight accident actually caused and produced the disease, it is much easier to define.

Take this little story which I am in the habit of telling at the law school, which seems to me to illustrate the point that I am trying to make: Picture a man who goes home at night and he finds his daughter all dressed up and ready to go out to a party, and he greets her: "Why, my dear, you are looking fine to-night; where are you going?" "I am going to a party." "Glad to hear it. Who are you going with?" "Tom Jones." "Jones—you can't go out with that man; I told you several times that you must not go out with him." He is very angry with her, and the girl says: "He is coming right away; he will be here soon." "It don't make any difference; you can't go." And then this girl begins to tear her hair and falls over on the sofa and is in a terrible state of hysteria, and they all get alarmed. Now, did the talk of that father cause the hysteria, or did it prove the existence of hysteria in the individual? Now, is that true in a very large number of cases?

The CHAIRMAN. Is there any further discussion?

Major GILL. Speaking of the men in the service, as I understand the doctor's paper, he said that the men who were wounded or taken prisoners never showed what they designate as shell shock. We have a man employed in our department who was promoted from the ranks after he got to France, and he was in the battle of the Argonne, and he was what we call shell shocked—he was under fire. That man has been working for us as a field auditor and was very competent as such, but we have to keep him away from any safety inspection work, particularly in the larger plants, because he can not stand the noise of the machinery. He can not go into a store or a planing mill or a factory, because of his highly nervous condition, as the effect of that shell shock which he sustained under fire. Now, I might say in addition, I might make this explanation, that the man is also what we designate as a cigarette fiend.

Dr. POLLOCK. I would like to ask if he was bowled over by the explosion of the shell or was only in a battle where the shells were being exploded.

Major GILL. I think he was bowled over. I am not positive, but I think he was knocked down and the shell exploded very close to him.

The CHAIRMAN. I think, perhaps, it would be better for Dr. Pollock to answer all the questions at one time. I see that he is making notes.

Mr. PILLSBURY. I would like to ask the doctor if we are doing the right thing in California? We have had considerable trouble with this. We made what we called a traumatic neurosis award. We require medical treatment at the hands of a competent neurologist for at least 30 days, and any time during that treatment the parties are free to make a settlement of the controversy. I might say that if no settlement is made and the 30 days expire without any cure, we put the man on half compensation, so that he won't starve to death; but we hold that neurosis does not produce total disability; that it is only temporary and partial; and we tried that in a good many cases. Sometimes the men got well and sometimes they did not. We have encouraged them to make a settlement, and I would like to have an expression as to whether or not that is a good policy to follow.

Mr. HATCH. If I understood the doctor, he suggested it was very helpful in these cases to get an early and final decision. I would like to ask whether a final decision in the form of a lump-sum settlement would be substantially better than a final decision in the shape of an award for a certain number of weeks' compensation, with the understanding that that would close the case?

Mr. WILCOX. I might say that Wisconsin has hit upon this idea as a plan for handling these cases. When we have satisfied ourselves that the case is one of hysteria or neurosis, we then have endeavored to work out a plan by which we can convince the injured man that his case has been finally adjusted, and so we undertake as best we may to fix a time in the future when we may have overcome this psychic effect upon him, and award him compensation up to that date, three, four, five, or six months, depending on the condition of the man, the accident, the age, and various other things. We endeavor to represent to the employer or the insurer and to con-

vince him that our thought is that it is necessary to make what to the injured man and to his representatives will appear to be a final award, a final determination, and we have this insurance carrier or employer read into the record his agreement that we make such award, and that if the compensation we have awarded him in lump is not sufficient to take care of his disability as proven by future developments the case may be reopened, and that is written in our record. Then we write this award to all appearance upon the face of the record and add that upon the representations of the parties we fix this man's disability award as so much, payable in a lump sum, and it is with the understanding that if it is found that the award is not sufficient, taking into consideration the circumstances of the case, it may be reopened.

Dr. MOCK. I might say that I see a great many of these so-called traumatic hysterias from the associated charities and from the legal-aid department where a great many of them have had a real injury and have recovered from the injury to the extent that they have gone back to work. These are the times when in the industrial department employers are sloughing off a great many of their employees, and these men are the ones that are sloughed off and can not find a job elsewhere, and they develop this hysteria. Would not one of the greatest solutions of this traumatic hysteria come from the compensation boards educating the employer to be careful about letting out the injured man? Before you let him out, make sure he has not had a recent injury, and in that way you will do away with a great many cases of traumatic hysteria.

Mr. CONNELLY. We have more of that than ever before, and if the compensation boards in the States can educate the managers of the works we will not have the trouble that we are having now. We have one-third more compensation men to take care of during depressions than during the time when everybody is working, and I feel sure that if we could follow along these lines these cases would be eliminated and the difficulty would be overcome.

Mr. KINGSTON. I agree absolutely with what has been said, that the way to settle cases of neurosis is by a lump sum. We have found that to be the best sort of cure that you can give to a man of that type, that is, if you are sure of your type. I have a case in my mind, and it is a case that has caused us more difficulty than any other case. The man had met with a serious injury, he got struck on the head in the gas works, and following his recovery, which was quite protracted, that is his apparent physical recovery, there was quite a depression of the skull and he developed some very peculiar symptoms. At the slightest mental disturbance he appeared to be very much disturbed. He got the idea that the doctors were trying to do him all kinds of harm, and if an operation was suggested to him he would immediately go off into a paroxysm of hysteria and his whole body, legs and limbs, would immediately become agitated and shake so that you would almost feel the vibration of the floor. We might believe that part of that was put on and yet we could scarcely believe that it was all put on, because the man had undoubtedly met with a serious injury. We kept him three or four years on total disability and finally something came to our mind that led us to believe that part of these symptoms were put on, and we have recently

disposed of the case by quite a substantial lump sum, leaving him, as Mr. Wilcox says, to believe that we have absolutely and finally disposed of his case, although we will look it up again to see what progress has been made, and I have wondered whether that was the cause of his hysteria. Another symptom was that he walked with a kind of agitated goose-step as though he was very uncertain of his equilibrium.

The CHAIRMAN. We will ask Dr. Pollock to close the discussion which has arisen on his paper, as we have several others and there are doctors here who have their office hours this afternoon, and are anxious to get away.

Dr. POLLOCK. I would just like to make one remark relative to the point raised by Dr. Leeming as to whether I have proven or disproven the existence of traumatic hysteria. Of course, this is but a name, hysteria, and we call it traumatic because it follows injury. What I was referring to was that it was neither trauma nor emotion which produces the hysteria, but the situation which grows out of the accident, it is the situation which is produced by the accident which gives rise to the hysteria. Obviously the man would not have had the symptoms of hysteria had he not had the accident, had he had no form of accident of any kind.

Now, relative to the case of shell shock. There are many cases of functional nervous diseases, so-called "shell shock," various neuroses that are occurring now, that probably back of them is not only the fact that the soldier has been exposed to warfare or to explosions by shells, but also the dissatisfaction in which he comes back, and it is one of the gravest problems the insurance bureaus have to deal with, the development of the case now, and I am willing to state there would be very few cases of this hysteria were it not for the fact that the United States will pay these men a pension.

If we can not have a law which permits us to make a definite lump-sum settlement, final and irrevocable, we must give them what we have, and, of course, what we have to offer is what has been offered in California or Wisconsin. If it is possible to make an arrangement so that the injured person believes that his case is irrevocably settled, and is out, of course, for a sufficient length of time so that his mind could recover from the hysteria, that is the best substitute that can be offered in the absence of a law permitting lump-sum settlement. Unfortunately, it does not always work, because it leaks out sometimes, and, of course, the moment you reopen your case you have undone everything that you did in making the settlement. There should be some law which would permit the lump-sum settlement, as it is the kindest thing to the patient.

In regard to the gentleman from California, I would say that unless some final settlement or supposed final settlement is made it will keep the man from getting well. As long as the man feels that he is not responsible, and the State is, so long he will not recover.

The CHAIRMAN. We will now hear from Dr. Clara Seippel, of Chicago, whom I think you all know, and who will talk on the subject of "Medical aspect of women's ills in industry."

MEDICAL ASPECT OF WOMEN'S ILLS IN INDUSTRY.

BY CLARA P. SEIPPEL, M. D., CHICAGO, ILL.

According to the census of 1920, 8,549,511 females 10 years of age and over are engaged in gainful occupations in the United States. Of these approximately 4,000,000 are employed in industry.¹

As manufacturing becomes more and more simplified through the invention of almost human machinery, and as each process becomes more and more highly specialized and divided, the opportunities for women increase rather than diminish. Woman is a permanent factor in industry and one of the greatest economic importance. She deserves to be studied as a unit of distinct value commercially and socially. So far, our policy has been rather passive than active; we have done much talking, but very little real work on the subject.

Perhaps the problem seems so difficult because it has so many aspects, all of equal significance and bearing—industrial, social, educational, medical—and these are all so closely interwoven that to discuss one phase only is sure to elicit the criticism that the speaker lacks vision and fails to give due consideration to equally vital factors which belong, per se, to the other divisions. However, in discussing the medical aspect of women's ills in industry I am going to speak principally as a gynecologist and present some ideas which, though well known to you as physicians, are not brought out in the literature on industrial medicine.

When Dr. Donoghue, the chairman of your medical section, asked me to read this paper my first act was to prepare a questionnaire and send it broadcast. Much to my amazement I learned that there was no such thing as statistics on illness among women in industry as women. In fact, the records kept in most industries are of no value from the medical viewpoint, except in so far as they compare the frequency of certain diseases between men and women employees and the time lost therefrom, and these tables are familiar to you all.

Mr. Stewart, of the Bureau of Labor Statistics, has compiled some valuable information along this line, and Dr. Robert Quinby, of the Hood Rubber Co., has some very interesting data. The purpose of my investigation is to learn how to keep the woman physically fit to hold her place in the world of work and to meet her ever-increasing opportunities.

I communicated in person or by phone with the nurses of some of the largest industries in Chicago, employing a good many thousand girls and women in different kinds of work. My question was, "What are the principal complaints for which your girls come to the medical department for relief?" The answer invariably was "headaches and dysmenorrhea." Some would stop there and others would add, "In winter we have a good many colds."

Dr. Mock, in his book on "Industrial Medicine and Surgery," reports a study of 15,244 cases of absence because of illness among

¹ Bureau of the Census Bulletin, Fourteenth Census of the United States: 1920. Population: Occupation. Comparative occupation statistics for the United States. Washington, 1922, p. 2. This statement is substituted for the estimate appearing on page 1 of the Monthly Labor Review for November, 1921, where this article was first published, that statement being apparently in excess of the number of wage-earning women in shops and factories.

5,000 women. More than half were distributed as follows: Headaches, 24 per cent; dysmenorrhea, 18.9 per cent; colds, 14 per cent.

However, all statistics I have seen are based upon absenteeism. Yet all day long, in every industry, some girl is applying to the nurse for a headache remedy or something to relieve pain incident to menstruation. The time lost by the girl at work for these two reasons alone is not and can not be calculated, but it amounts to thousands of hours in the course of a year and in practically every instance to a lowering of efficiency and a marked increase in fatigue which make the question deserving of thoughtful consideration. The present attitude toward this situation is that so long as we can give the girl something to relieve her suffering and keep her at work it is of no consequence; hence there are no statistics—it is too trivial a matter to make a record of.

Headaches are exceedingly common among people in all walks of life. In the industries as well as elsewhere headaches are much more common on Monday than any other day. You people usually go to dances on Saturday night, eat heartily on Sunday, and lose considerable sleep again on Sunday night. A cathartic is a common and suitable remedy in many cases. There are scores of very young girls suffering from chronic headache coming to the medical department daily or every few days for something to "cure it." The eyes, teeth, and bowels are normal; we often discover that the headaches began before the girl was of working age. In some cases it is undoubtedly associated with puberty; adolescent boys complain a great deal of headaches, too, which can not be otherwise accounted for.

Investigation into the social conditions of the girls brought out a surprising situation—many of them come to work without breakfast; something I believe no boy would be guilty of. The girls say they get up too late or their mothers do not prepare the morning meal in time and so they leave home with empty stomachs.

Often the girl sleeps with another girl who is restless or retires so late that the first girl never gets a sound night's rest—headaches, nervousness, fatigue, all follow in the wake of such living conditions.

Of course, the "bad night air" is well known to us all, but it nevertheless is a bugaboo of hundreds of sallow-skinned individuals who hug the delusion that some other kind of air exists indoors after the day is done, and they shut all the windows to hold it in.

Constipation is, of course, a great factor in all health questions. In addition to the usual causes which can be attributed to industrial conditions, mentioned by all writers on the subject, I should like to speak of the wash-room facilities from a standpoint not usually presented, but nevertheless vital. All my life I have heard girls complain of the undesirable toilet rooms in their places of work, on account of which they would wait for hours until they reached home, and to which they attributed their sick headaches, chronic constipation, hemorrhoids, etc.

In many of the smaller shops and factories that have gradually expanded into adjacent dwelling houses, the wash room, especially for women, is placed in the least desirable space—any dark corner will do, or a location which will require the least amount of piping for water connections. Some are without any ventilation whatsoever and are only cared for at night by an indifferent janitor; the plumbing is defective most of the time and not repaired for days,

until conditions grow so intolerable that the responsible person is forced to act. The care of toilet rooms, both in factories and public buildings, is often assigned to some incompetent person whose work is never supervised.

A still more important feature is that in many shops the women's wash room is so placed that the girls are compelled to pass the desk of the foreman or a group of men workers, and this is so embarrassing to a great many girls that they defer attention to their body's needs until they can no longer endure the distress; by this time they have agonizing headaches and for hours have been so distracted with the ever-increasing desire to empty bladder or bowels that their health as well as their work suffers. This repeated day in and day out produces an endless chain of physical ailments and develops a highly nervous temperament.

Thousands of shops are now being conducted in our large office buildings—principally dressmaking, millinery, and hairdressing establishments—all employing from a few to dozens of girls. Usually there is just one large wash room for women in these buildings, necessitating the use of elevators and the loss of considerable time. It is customary for many of these employees to wait until the lunch hour or quitting time to visit the wash room. In these shops there is a constant rush and hurry, customers waiting for garments promised several days before, appointment following appointment, and the girls simply will not take the time to travel up and down 10 or more stories to the wash room.

Architects should have these facts impressed upon them. There are fully as many women as men employed in our skyscrapers, and a toilet for women should be provided on every floor of such structures as are common in the loop of Chicago. This should appeal to the owners of the buildings, for it would avoid the overcrowding of the elevators during the rush hours and release them for the more direct service of carrying passengers only for the purpose of coming into and going out of the premises.

The monotony of the average woman's tasks and the natural fatigue incident to eight hours unceasing and uninteresting grind undoubtedly predispose to illness, either directly or indirectly. All the more reason, therefore, that we should conserve the health of the woman in industry and spare her from suffering wherever possible.

Outside of the dangerous trades, women in industry are not subject to any peculiar disturbances from which other women do not suffer. Dysmenorrhea so severe as to incapacitate a woman and compel her to remain at home is said to be comparatively rare in many industries but more common among the office force.

However, the factory girl who goes to the medical department and lies down for an hour or two, gets a dose of benzyl benzoate, viburnum in some form, or Jamaica ginger, is by no means up to par when she returns to her machine or table, nor will she be for several days more. So that from 5 to 10 days out of each month the girl is not up to grade physically. There are scores of employees who never report to the nurse but endure without complaint. Women have been told for centuries that it was their lot to suffer from their various physiological processes and we have let it go at that. *But, why should a girl suffer anything from discomfort to agony for 3*

to 10 days, thirteen times a year, for 30 years of her life? Nobody on earth would have a dozen attacks of tonsillitis in a year without having the offending glands removed. The one has been declared physiological and unavoidable; the other pathological and curable. We know this is sheer nonsense and that we can do much to lessen and often entirely to avoid this periodical suffering. But in order to interest girls in large numbers in the betterment of their gynecological disturbances we must learn to employ nonsurgical measures as far as possible.

A cathartic—preferably aloes, on account of its emmenagogue properties—administered daily for a few days before the expected flow will often bring marked amelioration. To this may be added apiolum, oleum sabinae, and other emmenagogues. If menstruation is scanty these ingredients should be given in larger doses than otherwise. Most of the leading pharmaceutical houses manufacture several formulas of emmenagogue tablets which have proven satisfactory. Ovarian extract is often efficacious in dysmenorrhea, especially when associated with oligomenorrhea.

The chapter on women in industry in "Industrial Medicine and Surgery" contains many valuable suggestions and is well worth studying. One large industrial concern in Chicago follows up the cases of dysmenorrhea and gives the patient a cathartic for several days before each period. This firm has noticed a gratifying improvement in many of the girls. Even where there is a pathological condition this treatment mitigates the pain.

Flexion of the uterus or stenosis of the internal os, of course, requires surgical treatment, but I feel convinced that our present method of operating and putting the patient to bed for a week is not always essential. Young women generally will not submit to it. For reasons of modesty they do not want people to know they are afflicted in this manner; going to the hospital would advertise it to their employer, friends, neighbors, etc. For financial reasons they often defer it and go on suffering.

I have therefore attempted to correct these difficulties at the office and have succeeded in a large number of cases. In young girls I use a sterile Mergler vaginal speculum, swab the vagina with a 1:5000 solution of potassium mercuric iodide (with which we so satisfactorily sterilize our cystoscopes); next I swab the cervix with tincture of iodine. Intensive sterility replaces extensive sterility, and my field of operation is as sterile as in the operating room. Then I gradually and slowly insert a sterile uterine sound. As soon as that passes easily I insert the next size. Usually only two sounds are inserted at a visit, for it produces considerable cramping, which readily passes off. Usually the results are obtained by the second or third menstrual period, when the treatments are discontinued. The girl has lost no time from work, and no one need be informed if she wishes to keep the matter to herself.

Now, I am trying to shorten the treatments by introducing a gold stem pessary as soon as the cervix will permit sufficient dilatation. After the patient has worn the pessary three months I shall remove it and watch the effects, but I have no results to report as yet on this method.

There are marked variations in the pain incident to this form of treatment. Most girls can endure it, often with relatively slight dis-

comfort, but there are patients who can not stand it; they are either too nervous or it is too painful or the stenosis is too great to pass a sound unless the patient is asleep. So I am advising this class of cases to go to the hospital on Friday night, have the uterus dilated and a stem pessary inserted under general anesthesia on Saturday morning, and go home Sunday. This avoids the embarrassment of letting anyone outside of the family know the girl's private affairs and it materially reduces the cost by the old method.

For many years I have practiced the routine procedure of dilatation and curettage, and have only occasionally found an endometritis. The dysmenorrhea was undoubtedly entirely due to the obstruction and not to any inflammatory process. Kelly states that in 64 patients treated similarly by him the microscope revealed an endometritis only in 4 instances.

There is another form of abnormal menstruation which is entirely ignored and neglected and which deserves attention. That is menorrhagia. It is very common among young girls and often becomes modified and normal when they are fully matured. I am inclined to think it would be found more often among industrial workers than any other class of women.

This excessive loss of blood makes the girl weak and limp throughout the period (which is usually also prolonged) and leaves her more or less exhausted for days afterwards. She hardly recovers from the effects of one period before the next ensues. The fatigue incident to her work is particularly hard on her, and she is rarely at her best. Anemia, of course, is common, with headaches, nervousness, etc. It is grossly unjust to allow such a girl to go on for years when relief is so easily obtained. Ergotine, 1 or 2 grains, given three times a day for a few days before the period and continued through the period, repeated for two or three months, usually produces a marked diminution in the menstrual flow and conserves the patient's vitality. These girls always express their regret that they were so foolish as not to seek medical assistance sooner.

Amenorrhea is not uncommon, especially during the first year of a girl's industrial life. The majority of cases respond to treatment with iron and ovarian extract. Occasionally it leads to the discovery of an early tuberculosis.

If the *young* woman's ailments have received such scanty attention, what shall we say of the *older* woman? Certain industries employ a great many women over 35 or 40, and they constitute no small percentage of the female industrial workers.

How many women still think that the phenomena of the menopause are incurable and only to be endured? Thousands of them. Hot flashes during the day are intensely annoying, and may be so severe as to require a complete change of clothing several times a day; during the night they cause sleeplessness and marked restlessness; nervousness is but a natural sequence to loss of sleep and is marked in these cases; often there is profound depression. We can not expect much from such an employee, and her earning capacity is greatly reduced, especially after months and even years of such suffering. It is as a rule an exceedingly simple matter to relieve these women of the hot flashes and other nervous manifestations with ovarian extract or a combination of glandular products. The stub-

born cases are rare and the difficult ones, in my experience, have had some pelvic pathology. The large majority of women are wonderfully benefited.

Of the married women in industry I am willing to venture that 75 per cent of those who are mothers present some form of pelvic disorder by the time they reach the age of 40.

Retroversion is common in women at all ages; it is not always pathological. I find it frequently in young girls who are attending school or college, and in leisure women. Often their only complaint is constant fatigue, and it is relieved by a pessary. But in my judgment a pessary should be introduced only after the uterus has been trained into position by tempons as a general rule. Dr. John B. Murphy, in an address before the American Medical Association some years ago, said that many a woman could be spared an operation for displacement if we would take the trouble to fit her properly with a pessary. This is my conviction, born of experience.

The health, youth, and strength of many a working woman could be conserved if she would have a thorough examination at 30. The laborious work which most poor women of middle life perform only aggravates the pelvic trouble—a retroversion eventually becomes a bad prolapse or a procidentia, with, of course, cystocele and rectocele. How these women can work so steadily and remain so cheerful is a mystery to me. Of course, at this stage surgery only avails. But an operation will transform such a hapless woman from a slow-moving, miserable though uncomplaining worker into an energetic, often vivacious, individual, who is capable of doing twice as much work and able to face her particular problems with confidence and self-assurance. She is a more cheerful mother and a happier woman in every way.

I examine about 1,000 young girls under 18 years of age for the courts of Cook County annually. Retroversion is very common in girls of 15 and 16. The uterus is only partially developed; the entire body is still immature. For that reason I believe it unwise for girls under 16 to work constantly at machines; indeed, I wish it could be deferred until they are 18. At most it should never exceed two hours at a stretch, nor more than four hours of the same kind of work during a day. A variety of work with an opportunity to move about would be much the better plan. I would make this recommendation to the industries on behalf of our future womanhood and the workers whose mothers they are to be. No doubt every industrial physician regrets to see boys and girls even at that age working constantly at machines.

A minimum school age of 16 years would be a wholesome rule, and I am sure industry will profit by it in the end. The eight-hour work day, of course, has been proven to be the ideal for both employer and employee, and can not long be deferred as the legal limit in all the States.

There is, of course, much, *very much*, that the woman in industry can do for herself. And here is where our industrial, social, educational, and medical paths cross and redouble. First of all, she should dress sensibly. It is painful to walk through a factory and see practically every woman worker shod with French-heeled pumps. The girl who stands most of the time must certainly grow tired long

before she should; the girl who operates a foot lever would be far more comfortable in laced shoes that support the ankle.

There is always a squabble among workers over the ventilation. The thinly dressed girl wants the window closed and the warmly clad one wants it open. If every girl on entering the factory would don a plain dress of washable material, her efficiency would be increased and her fatigue reduced. In warm weather she could practically eliminate her other garments and remain cool; at all times she could be free from restraining clothing and work with absolute freedom of body; she could economize on street clothes considerably.

She should learn to sit well back in her chair at her work and to be comfortably seated at all times, to stand with shoulders back so as to avoid throwing all her weight into the pelvis, to eat three meals a day, get plenty of sleep, and to be sufficiently interested in her health to care for her teeth and bowels.

Fresh air and recreation are as essential as food and rest. The great out-of-doors holds such delightful entertainment, if only people knew how to enjoy it.

Our task is to educate the woman worker to take an interest in herself and to regard her health as the capital she has invested in the business from which she must draw her dividends of livelihood, happiness, and contentment. That is the first step toward the conservation of woman power and the reduction of women's ills in industry.

MR. ROACH. Do you think that there is any real reason for the legislation that prohibits women from being employed in an occupation where they have to lift heavy weights? Some States have investigated the matter, and there seems to be a great deal of doubt as to the wisdom of establishing a certain weight above which women shall not be permitted to lift. I think some factory has established a limit of 25 pounds.

DOCTOR SEPPPEL. I think it would be wise, because in many cases you will find some pelvic disorder, and if that is found they attribute it to lifting heavy weights. Of course, there should be a limit to the weight they should carry. Women naturally are not very strong, and especially the girls who go to work in an industry very early do not have any particularly good muscular development, and the modern girl all around is not a well-developed girl.

THE CHAIRMAN. We will now hear from Dr. H. Holmes, who has been the consulting internist for the industrial commission during the entire period in which I was there, and he has had many problems referred to him as to heart conditions and their relation to accident or supposed accident, and he will talk to us on the question of "The influence of industrial accidents in the production of cardiac failure."

THE INFLUENCE OF INDUSTRIAL ACCIDENTS IN THE PRODUCTION OF CARDIAC FAILURE.

BY WILLIAM H. HOLMES, M. D., CHICAGO, ILL.

The operation of the workmen's compensation law, designed originally to protect the rights and interests of injured employees, has in not a few cases resulted in the filing of fraudulent claims for com-

pensation on the grounds of cardiac disease alleged to be due to injury. As the provisions of the law become more generally known the number of fraudulent claims may be expected to increase, especially during periods of industrial and economic depression. It is very important, therefore, that physicians who are brought into such close relation with the compensation law should be alive to the necessity of insuring justice without encouraging fraud.

This article does not include a consideration of disturbances in rate, rhythm, or of functional disease, because the boundaries of our knowledge in these particular fields are constantly being extended. Our knowledge of the organic condition referred to by some as "cardiac failure" and by others as "cardiac decompensation" is more definitely settled, although here, too, the cautious weighing of evidence is necessary if false interpretation is to be avoided.

Decompensation is understood to refer to a condition of circulatory failure as a result of an insufficiency of the muscular power of the heart. Before undertaking a discussion of the causes of this condition referable to myocardial enfeeblement, it seems advisable to review briefly the physiology of the normal heart during muscular exercise, since this has a direct bearing on the question of whether decompensation can be caused by injury.

The ability of the skeletal muscles to perform work is dependent among other things on their supply of nutritive substances, including oxygen, and the speedy removal from them of the metabolic products formed. Failure to maintain an adequate oxygen supply results in the accumulation of acid products which tax the mechanism responsible for the maintenance of the neutrality of the blood and tissues, and gives rise to the symptoms of fatigue. The proper regulation of oxygen supply and the elimination of volatile metabolites is dependent on the extent and character of respiratory and cardiac adjustments to exercise. The respiratory response consists of a greater pulmonary ventilation to the end that the arterial blood leaving the lungs may be as fully or almost as fully saturated with oxygen as during rest. It is accomplished by an increase in the rate and depth of breathing as a result of medullary stimulation by carbon dioxide certainly, and possibly by other metabolic products.

The cardiac response to exercise consists of an increased output per beat, and per minute, to the end that the additional oxygen required and rendered available by the increased pulmonary ventilation may be transported to the contracting skeletal muscles. It is accomplished by an increase in cardiac rate and by a physiologic dilation which apparently is limited only by the size of the pericardial sac. The rate of the blood flow throughout the body is dependent on the cardiac rate, force, output, venous return and other circulatory adjustments that among other things permit the withdrawal of blood from the splanchnic area where it is not needed, to augment the amount required by the contracting muscles. Under ordinary conditions of life the normal heart uses but a small fraction of its total available energy. The balance of unused power is held in reserve to meet the unusual and extraordinary demands which accompany strenuous or prolonged physical effort. This reserve muscular power constitutes a factor of safety for use in emergency only. That this is true is indicated by the rapidity with which the heart returns to its ordinary state as soon as the need for increased power has ceased.

This fact constitutes the basis for the various physical tests for determining the functional capacity of the heart. In the British and American armies the pulse rate, rhythm, and the systolic and diastolic blood pressures were observed in the dorsal position before and after a measured amount of work, consisting of hopping 100 times on one foot. Normally this exercise produces (a) an increase in the rate and depth of respiration; (b) an acceleration of pulse rate; (c) an increase in systolic blood pressure with a smaller increase of diastolic pressure; (d) vasomotor phenomena; (e) an increase in the intensity of cardiac tones, and finally (f) various subjective sensations.

After two minutes' rest in the dorsal position the normal heart returns to its preexercise rate; rapid breathing ceases; blood pressure begins to decline; the vasomotor phenomena disappear, and the patient is no longer conscious of either respiratory or cardiac action. The application of the exercise test to various forms of cardiac disease, including myocardial enfeeblement, is accompanied by respiratory and circulatory distress and a slow return to the preexercise rate and rhythm. It may cause the production of murmurs, measurable cardiac enlargement arrhythmia, falling blood pressure or a disturbance in the relations between systolic and diastolic pressure, persistent dyspnoea, chest pain, etc., when decompensation is imminent. Decompensation of the heart begins at the time when symptoms of distress appear during ordinary effort and is complete when the cardiac muscle is unable to maintain the circulation during rest. It may appear gradually or suddenly, but whether slowly or suddenly it is indicative of preexistent disease when caused by ordinary effort. It is characterized by symptoms referable to the respiratory, circulatory, renal, gastrointestinal and nervous systems. Among these symptoms may be mentioned cough, dyspnoea, spitting of blood, chronic bronchitis, anorexia, epigastric discomfort, oliguria, headache, vertigo, drowsiness, irritability, etc.

Physical examination reveals a heart enlarged transversely, with a diffuse displaced and feeble apex beat, frustane beats, impaired tones, valvular murmurs, cyanosis, edema, ascites, albuminuria, pulsating jugular veins, enlarged pulsating tender liver, etc. Neither all of the symptoms nor all the signs will be present in every case. Auricular fibrillation is one of the most constant signs.

In the reaction to exercise then we possess a simple, logical, and easily performed test of cardiac efficiency. The wide latitude of reaction possessed by the normal heart and the readiness with which it recuperates from fatigue leads to the present belief that fatigue alone does not cause failure of a normal heart. The diseased heart enjoys no such distinction and may show signs of decompensation following causes which appear trivial. It is the progressively increasing severity of symptoms produced by gradually decreasing amounts of physical effort, that constitutes cardiac failure. As already stated, it is a condition secondary to myocardial disease, that in nearly all cases can be traced to the effects of either infection, toxemia, mechanical defects or a combination of causes. It is, therefore, to the interests of the employer, the employee, and society at large, to have a record of the patient's history and a careful physical examination as one of the conditions of employment. The discovery

of cardiac disease need not debar a man from employment but should constitute a reason for placing him in a position where his disability will not be increased by industry. Having been placed he should be given reexamination at intervals.

Owing to the fact that serious organic disease of the heart may exist over a long period of time without the presence of striking symptoms, the physical examination of a large group of workmen under the present methods of employment will reveal some whose hearts show evidence of disease.

There will be some whose myocardium has suffered from the effects of infection, or from the toxemia of goiter. There will be some whose myocardium or heart valves are or have been recently the seat of an infective process with the organisms still present and viable but temporarily inactive; some whose hearts are handicapped in the discharge of their functions by healed valvular lesions; some whose myocardium, coronary vessels, or valvular orifices present evidence of luetic infection. There will be a few senile hearts and a few fatty hearts and finally there will be some that show evidence of arterior-capillary fibrosis with or without signs of renal disease. Such cases constitute a liability to industry, since, unless they are properly placed, the nature of their employment may serve to aggravate the cardiac disease. In a discussion of the relation of cardiac decompensation to industrial injury, one should, therefore, not lose sight of the fact that several distinct forms of asymptomatic cardiac disease may have antedated the accident. The existence of prior disease does not, however, materially affect the liability of the employer except in certain cases where it can be demonstrated that cardiac failure was imminent in any event. Cardiac failure might be considered as imminent if with known disease arrhythmia, dyspnoea, or edema had appeared and become progressively more severe over a period of days or weeks prior to the injury.

The means by which industrial injury may result in heart failure: An accident may have a malign influence on the heart in many different ways. In some of these the connection is so direct and apparent that there can be little room for differences of opinion. It is hardly necessary to indicate that liability would have to be admitted for cardiac disease following direct injury of the heart muscle, valves, or pericardium, from stab wounds the penetration of missiles, or injury by the jagged ends of fractured ribs. Where chest injury has resulted in either pulmonary, pleural, or mediastinal disease followed by direct extension to the heart, the liability would be equally clear. Pulmonary consolidation following injury would constitute clear liability for the subsequent appearance of cardiac disease. A powerful blow over the heart might rupture a valve or damage or rupture the cardiac muscle or disorganize the neuromuscular regulatory mechanism of rate and rhythm. If disease was already present these effects might follow an injury without there being any external evidence. If the cardiac disease is advanced, the blow need not necessarily be directly over the heart. Immediate death from reflex stoppage of the heart has been observed too frequently following such trivial injury as is associated with pleural puncture to make this an impossibility. A blow over the heart might result in

the loosening of vegetations which, being swept into the blood stream, would become emboli, giving rise to symptoms in other organs. The influence of a blow in the production of cardiac disease in a previously normal heart could only be determined by a consideration of the amount of violence applied, by the character of the symptoms and signs, and by their suddenness of onset. In other words, the influence of a blow in the production of cardiac disease can only be determined when the sequence of symptoms is considered in connection with the antecedents of a specific case.

Very frequently physical strain forms the basis of claims for compensation. Here the strain must be of such a nature as to be considered unusual or excessive for that individual. The carrying of 100 pounds of brick by a hodcarrier could not be considered excessive. Such exercise constitutes his means of livelihood. If he has followed this occupation for some time, his circulatory system is properly adjusted to discharge its functions without undue strain. On the other hand, a similar feat performed by an individual unaccustomed to such effort would be an excessive strain and might result in permanent damage. The existence of cardiac disease predisposes to failure as the result of strain. A teamster fell from the seat of his wagon and sustained severe bruises of the face, hands, and legs. He did not have to struggle to arise, nor was it necessary for him to lift parts of the wagon or its contents from his body. He fell and was bruised, and for this condition he received treatment for nine weeks. At the end of this time he returned to work and worked for two weeks. Following his return to work, he complained of fatigue, shortness of breath, irregular heart action, and swelling of the feet. At the time of the examination some weeks later he was intensely dyspnoëic; the extremities were edematous; the abdomen contained fluid; the liver was enlarged and pulsating; the heart was enlarged transversely; a systolic murmur was present at the apex; there was auricular fibrillation; albumin and casts were present in the urine. In short, the picture was one of complete cardiac failure. He claimed and received compensation on the ground that the fall had injured his heart. In this he was in error. There were no cardiac symptoms during his nine weeks of treatment. They only appeared after his return to work and showed a progressive increase in severity during two weeks. What were the true facts? He was 57 years old. He had been an alcoholic. There was a history of frequent nocturnal urination for several years past. He had always performed heavy manual labor.

Contrary to the belief of many, diseased cardiac muscle is not always benefited by rest. Much in the same manner as the tone of the skeletal muscles is kept up by exercise, so the tone of the cardiac muscle is benefited by a moderate amount of daily exercise.

In the case under consideration the demands of the heart during the nine weeks in bed permitted a sufficient loss of tone so that his return to work constituted excessive strain. A more gradual resumption of activity might have entirely avoided cardiac failure, prolonged invalidism, and expensive litigation.

Injury may be responsible for severe and permanent cardiac damage by reason of complications. A cut finger followed by a cellulitis of the arm may result in the occurrence of either mural or endocar-

dial infection in a previously normal heart. It is not even necessary that a hematogenous invasion by virulent streptococci occur, since a low grade localized staphylococcus infection of bone or deep tissues with persistent fever and toxemia may result in myocardial degeneration.

Barringer in numerous articles expresses the opinion that cardiac failure in previously well compensated hearts is more frequently associated with infections than with strain. Severe hemorrhage, traumatic shock, embolism of the pulmonary capillaries by droplets of fat as the result of fractures of the long bones, may all serve to render the myocardium unable to discharge its function. The rôle of mental shock, fear, worry, and other powerful emotions in the production of hyperthyroidism, or, rather, their rôle in bringing out the symptoms of the disease, is not yet clear. If it can be shown beyond doubt that hyperthyroidism followed an injury, then myocardial degeneration could be attributed to the same cause, since the two conditions are usually associated. In this connection it should be mentioned that thyroid extract is available over the drug store counter without prescription. Its uses and actions are known to many lay persons through the syndicated medical articles in the daily press. The use of drugs to obtain exemption from military service has been reported from many countries. Military surgeons are constantly alert for evidences of malingering as a means of avoiding service or for the purposes of collecting Government compensation. In certain industrial cases where suspicion of the genuineness of the disability is entertained the patient should be placed under observation in a hospital, preferably in seclusion.

In conclusion, I believe that is both fair and in keeping with accepted teaching to state that despite the numerous ways in which trauma might affect a heart, infection lues, arteriosclerosis, and renal disease are the common causes of cardiac diseases. Injury may act as a contributory cause of cardiac failure in the presence of known cardiac disease. A negative history has no value in drawing conclusions as to whether disease existed prior to the trauma. A man may suffer from an advanced hypertrophy of the heart, due to aortic regurgitation and yet be able to successfully carry on his work and present the outward appearances of perfect health. A positive history of repeated attacks of rheumatism, sore throat, chorea, etc., is extremely suggestive of preexistent cardiac disease.

If the lesion be aortic, syphilis should be excluded by the proper serologic tests. Arteriosclerosis, hypertension, and chronic renal disease should be excluded before attributing cardiac disease to an accident.

If edema, cyanosis, enlargement of the liver, pulsating jugular veins, and hypertrophy of the heart are present; they speak for the long-standing nature of the condition. If a leucocytosis and fever exist without evidence of infection which can be attributed to the injury, they should be given due consideration in determining the cause of cardiac failure.

DISCUSSION.

The CHAIRMAN. I will ask Dr. Harry E. Mock to lead the discussion. He needs no introduction to an audience familiar with industrial surgery.

Dr. Mock. Dr. Seippel was good enough to quote me in her paper, and therefore, of course, it is one of the best papers I have heard on the subject of women's ills in industry. From the standpoint of the compensation board, I believe if that paper was given to a group of employers and managers of industry that it would do a great deal to eliminate many of the problems you face.

The doctor mentions the question of the high heels on shoes which are responsible in great measure for many of the accidents that come before you for settlement. The problem of displaced organs following injury is one that comes before the compensation boards, and after a great deal of investigation and reading everything I could get on that point, I don't believe that it is possible for the injuries usually complained of—falling from a distance or being knocked over by another employee, a bump from an automobile, or an accident of that kind—to cause a woman's womb, which is suspended as in a hammock by ligaments, to be displaced backward and to remain there. I believe it would return to its original position. And when you have cases of displacement of the womb through accident come before you for settlement there is a big question as to whether or not that accident is responsible for the condition.

Mr. STEWART. Mr. Chairman, I will not quote nor even refer to Doctor Donoghue's epigram at the San Francisco convention, in which he stated that "malingering is the diagnosis of the diagnostically destitute"; but I should like to project if possible into this session's atmosphere, soaked to the saturation point with hints of fraudulent claims and generally presupposed malingering, accepted as a matter of course, the result of a little information which the Bureau of Labor Statistics secured from its own records at the request of Doctor Seippel and to which she has referred in her paper. Under the law the employees of the Bureau of Labor Statistics are entitled to 30 days' annual leave with full pay per year. In addition to this they are entitled to 30 days' sick leave each year with full pay, provided of course that they are ill. The evidence of illness is a doctor's certificate only, and even this is not required where the period of illness is not over three days.

The human mind could not conceive of a law or rule more calculated to put a premium upon malingering. The fact is Government civil-service employees are bribed to be sick for at least 30 days in the year by an offer of full pay. No compensation commission in any State would even consider such a rule. Yet in the face of this perfectly foolish regulation, and as my specific answer to the general charge of malingering among working people, I want to say that the table which I here insert in the record shows that of the 115 employees of the bureau over a period of five years, covering a total of 293 years of service, practically 10½ per cent of the employees took no sick leave whatever for the entire period; the average sick leave per year was 6.3 days out of a possible 30 days that would have been paid for at full rates; 32 men and 20 women took less than this average; of the 71 male employees, 48 took less than an average of 10 days per year; and of the 44 female employees, 24 took less than an average of 10 days per year. I ask that the table of details as prepared for Doctor Seippel be inserted in the record.

**SICK LEAVE TAKEN BY 115 EMPLOYEES OF THE BUREAU OF LABOR STATISTICS
HAVING PERMANENT STATUS, DURING 5 YEARS, 1916 TO 1920.**

	Male.	Female.	Total.
Number of employees.....	71	44	115
Number of employees having no sick leave.....	10	2	12
Per cent having no sick leave.....	14.1	4.5	10.4
Number of employees taking sick leave.....	61	42	103
Per cent taking sick leave.....	85.9	95.5	89.6
Total years service.....	257.0	136.3	293.3
Total days sick leave.....	1,448.5	1,012.0	2,460.5
Average days sick leave per year.....	5.6	7.4	6.3
Highest yearly individual average (days).....	23.9	25.0	.....
Lowest yearly individual average (days).....	.2	.4	.....
Number of employees taking less than average for sex.....	32	20	.....
Number of employees taking less than average for total.....	36	18	.....
Number of employees taking less than average of 10 days per year.....	48	24	.....
Number of employees having no sick leave in 1 to 4 years.....	38	20	.....
Total number of years service.....	76	36	.....
Average number of years service per employee.....	2.0	1.8	.....

THURSDAY, SEPTEMBER 22—MORNING SESSION.

CHAIRMAN, FRED M. WILCOX, CHAIRMAN INDUSTRIAL COMMISSION OF WISCONSIN.

METHODS OF CLAIM PROCEDURE.

Mr. ANDRUS. The chairman of the morning came to my aid yesterday afternoon, when the chairman could not be here, and presided over the meeting. You know that we had a very, very successful meeting, and so I take pleasure again in introducing to you Mr. Wilcox, of the Wisconsin commission, who will act as chairman this morning.

The CHAIRMAN. It is never hard to conduct a meeting when the thing for discussion is administrative procedure and the things that come close to us in the administration of the compensation laws; you can always get a sufficient number of people on their feet to keep the thing livened up. Yesterday morning, I think, was the most satisfactory morning session that I have ever attended.

This morning we are going to continue the discussion of the methods of procedure, particularly claim procedure, and the paper this morning is by Mr. Hookstadt.

METHODS OF ACCIDENT REPORTING AND CLAIM PROCEDURE UNDER WORKMEN'S COMPENSATION.

BY CARL HOOKSTADT, UNITED STATES BUREAU OF LABOR STATISTICS.

SYNOPSIS.

The following paper discusses in detail the methods of accident reporting and claim procedure employed by compensation commissions and funds in 20 States investigated by the Bureau of Labor Statistics. The paper shows the actual practices in the several States and presents the merits and demerits of the various methods and systems. It has been thought desirable, however, to present in a preliminary summary the main questions involved and to offer certain suggestions. These suggestions embody what seem to the writer to be the most efficient and adequate methods of procedure found in the States investigated.

1. **What accidents should be reported?**—All accidents which cause time loss or require medical aid should be reported.

2. **What accidents should be tabulated?**—All "tabulatable" accidents, i. e., those causing time loss other than the day on which the injury occurred, should be tabulated if the commission has sufficient clerical force to do the work properly; otherwise, it is preferable to tabulate compensable accidents only. In any case, the compensable and noncompensable accidents should be tabulated separately. As to method, the recommendations of the committee on statistics of the International Association of Industrial Accident Boards and Commissions should be followed as closely as possible.

3. **What data should be called for on the employer's first report of accident?**—The questions on the employer's first report of accident should be limited to data which are (1) important and necessary, and (2) which are obtainable. Such questions as "Nationality" and "American or foreign" should be eliminated because they are too indefinite and subject to several interpretations.

4. **How soon should accidents be reported?**—The more promptly an accident is reported the sooner positive action can be taken by the claim department. Usually, however, no action is possible until the commission knows whether the injury is a compensable one. In case of serious accidents this information is known at the time of the injury, and such accidents should be reported immediately. The compensability of minor accidents, however, is not known until the expiration of the waiting period. If reported before that time, a supplemental report must also be made in each case showing when the employee returned to work. It would seem sufficient and desirable, therefore, assuming the statutory waiting period to be reasonably short, to report noncompensable minor accidents at the termination of disability and compensable minor accidents immediately after the expiration of the waiting period. This practice is not recommended for State funds. Where medical service must be furnished by the commission, it is desirable that accidents be reported as soon as possible.

5. **What reports should be required?**—(a) *Employer's report*.—An employer's report should be required in every accident case. Such reports should be transmitted to the commission directly by the employer and not through the insurance carrier or any other intermediary.

(b) *Physician's report*.—A physician's report should be required at least in all permanent disability and in all serious temporary disability cases.

(c) *Employee's report*.—It is extremely desirable that the commission receive some statement from the injured workman himself in order that the facts as reported by the employer, insurer, or physician may be verified. In the case of State funds, this is effected through the workman's claim. The voluntary-agreement system also answers the purpose to a limited extent. The merits and demerits of these systems are discussed in the following paper. If neither method is adopted, the commission, before final approval of the settlement of the claim, should request the injured workman to verify the essential facts as reported by the employer.

(d) *Physician's final report*.—In all cases of permanent disability and serious temporary disability a final report should be required from the attending physician, stating the nature of the injury, degree of impairment, and the date the injured employee is able to return to work.

(e) *Employer's final report*.—A final report should be required from the employer stating when the employee actually returned to work, and in case of permanent disability, his subsequent occupation and wages.

(f) *Insurance carrier's final report*.—A final report should be required from the insurance carrier and the self-insured employer, stating the amount of compensation and medical benefits paid in each case.

(g) *Receipts*.—A monthly statement should be required from the insurance carrier and the self-insured employer showing each compensation payment made during the month, giving the amount, date, and check number of each payment.

6. **Follow-up system**.—The several methods of indexing, numbering, and filing reports are discussed in the following pages in which the advantages and disadvantages of each system are pointed out. The only suggestion offered in this connection is that each commission should have an adequate follow-up system by means of which it may keep itself constantly informed of the history of each accident.

7. **What system of adjudicating claims is best**.—Four systems of claim procedure are in use in the various compensation States. These are: (1) Claim system, (2) voluntary-agreement or direct-settlement system, (3) adjudication of cases on basis of employer's and insurer's reports only, and (4) hearing system.

An accurate appraisal of the foregoing systems is difficult to make. A true evaluation can be determined only from a comparison of results. One must know whether all compensable accidents have been reported, whether the required data have been reported correctly, how promptly the reports are received, and whether and when compensation payments are made. These facts must be known before the merits of the various systems of claim procedure can be determined. However, methods of claim procedure are not the only factors entering into the results. The policy of the commission, the adequacy and efficiency of the administrative personnel, the number of accidents handled, the size and area of the State, the character of the industries, the type of insurance, etc., are all contributory factors.

The following is a brief summarization of the four methods:

(1) The claim system is used in nearly all of the State funds and by two or three commissions. Under this system reports of the accident are required from the employer, the attending physician, and the injured workman. The claim is adjudicated on the basis of these reports. The chief merit of this method is that all parties in interest, and particularly the workman, may present their side of the case. Its

principal drawback is delay. Workmen are not prompt in filing their claims, which causes delay in making compensation payments, since customarily no payment is made until the workman's claim is received.

(2) Agreement systems are found in a majority of the commissions and in several funds. Under this system the employer or insurer and the injured workman sign an agreement which sets forth the amount of compensation receivable together with the main facts connected with the injury. No other report is required from the workman, although some commissions require reports from the attending physician. These agreements do not become valid, however, until approved by the commission. The execution of the agreement is usually attested by supplemental reports and receipts submitted to the commission by the employer or insurer. The chief criticism directed against the agreement system is that it unnecessarily delays the payment of compensation. Agreements are not always promptly submitted by the insurance carriers. Moreover, it is the policy of some carriers not to begin payments until notice of approval has been sent them by the commission. The chief merit of the agreement is that the employer or insurer thereby acknowledges his liability and agrees to make the payments specified. Also the signature of the workman is *prima facie* evidence that the facts as stated are correct. However, frequently the employee is not familiar with his rights under the law, and in the case of self-insured employers would be disinclined to refuse to sign the agreement because of fear of losing his job. Furthermore, if both the first report and the agreement are submitted by the same party the commission is in no position to verify one report by comparing it with the other.

(3) Adjudication of claims on the basis of employer's and insurer's reports only is found in several States. Under this system the commission receives no report from the injured workman. Only the employer or insurer, and in some States the attending physician, are required to make a report to the commission. As in the case of the agreement system, the execution of the compensation provisions is attested by supplemental reports and receipts. The merits of this system lie in its simplicity. Compensation payments may be made immediately and need not be delayed until a formal claim or agreement has been submitted to and approved by the commission. The principal defect of this system is that the whole case is settled on an *ex parte* basis. The injured workman is not given an opportunity to present his side of the case. If the employer and insurance carrier submit independent reports the commission, of course, can check one report against the other. But even this is not possible in case of self-insured employers or when the insurance carrier is permitted to transmit the accident report of his assured. In the latter case the commission has no way of determining whether the facts as submitted are correct unless the employee makes a complaint, and this he frequently fails or refuses to do.

4. *The hearing system.*—In the exclusive State funds formal hearings are practically nonexistent. In the other States, New York excepted, hearings are held only in disputed cases. But in New York the commission holds a formal hearing on every compensable accident case. The one great advantage of the New York system is that the commission actually sees the injured workman and knows the exact nature of the injury and extent of disability; consequently, the possibility of underpayment is greatly reduced. There are, however, several defects in the system. The most important of these defects is the long delay before the case is placed upon the calendar for a hearing. The average interval between the date of the accident and the date of the first hearing was found to be 72 days. Therefore, unless insurance carriers begin payments before the hearing is held, which some of them do not, the injured workman must wait over 10 weeks before he receives his first payment. Another weakness in the system is the great amount of time consumed. In most of these hearings the claimant and frequently friends and relatives of the claimant appear in person. Frequently such attendance is accompanied by considerable expense and loss of wages inasmuch as many claimants are working at the time of the hearing. They have to lose a day's wage or part of a day's wage to attend the hearing, often only to be told that no more compensation is due or that the case has been disallowed for one reason or another. Moreover, hearings are often postponed because of the failure of witnesses to attend. Many times hearings are postponed two or three or even more times because it has been impossible to secure the attendance of the necessary physician or because the insurance company's adjuster or doctor were on their vacation or otherwise occupied.

The following table for certain specified States indicates roughly their promptness in accident reporting and claim procedure. It shows how promptly the several kinds of reports are received and how soon after the receipt of these reports the first payment is made or the claim is adjudicated.

PROMPTNESS WITH WHICH REPORTS OF ACCIDENT ARE RECEIVED IN SPECIFIED STATES ARRANGED IN ASCENDING ORDER OF PROMPTNESS OF REPORT FROM EMPLOYER.

State.	Average interval (median) between—				
	Date of accident and receipt of—			Date of accident and first payment.	Receipt of latest report and first payment.
	Employer's report.	Physician's report.	Workman's claim.		
	<i>Days.</i>	<i>Days.</i>	<i>Days.</i>	<i>Days.</i>	<i>Days.</i>
Massachusetts.....	4			1 29	1 13
California fund.....	5	8	20	26	2
West Virginia.....	7	36	46	59	8
Michigan fund.....	8			^a 48 and 84	
Utah fund.....	8	14	30	38	2
Idaho commission.....	9				
Oregon.....	9	7	17	28	5
Maryland commission.....	9	27	26	4 38	5 10
Indiana.....	12				
Washington.....	13			49	24
New York commission, New York City.....	13		35	6 72	1 32
British Columbia.....	13	7	18	41	12
Ohio.....	14		^a 39	55	7
California commission.....	34	6			
Nevada.....			22	36	^a 9

¹ Interval between date of accident and date agreement received.

² Interval between date agreement received and date agreement approved.

³ Two averages based upon two sets of data.

⁴ Interval between date of accident and date of commission's award.

⁵ Interval between receipt of latest report and date of commission's award.

⁶ Interval between date of accident and date of hearing.

⁷ Interval between receipt of claim and date of first hearing.

⁸ Approximately.

⁹ Interval between receipt of workman's claim and date of first payment.

INTRODUCTION.

Compensation laws were enacted for the purpose of indemnifying injured workmen or their dependents for loss of wages resulting from industrial injuries or deaths. To insure the prompt payment of the statutory benefits in accordance with the law, administrative procedure was provided and commissions created. Several types of procedure have been provided. Ordinarily the adjudication of all undisputed compensation claims is based primarily upon written reports. In disputed cases either the questions at issue are personally investigated or the parties come before the commission for a formal hearing. In practice only about 5 to 25 per cent of the compensable injury cases are heard formally by the commission, the other 75 to 95 per cent being adjudicated from written reports. In New York, however, the commission holds a hearing in every compensable case.

The number and kind of reports required in a given State depend upon the functions of the commission and upon the type of procedure provided. For example, the functions and procedure of a commission which administers an exclusive State insurance fund differ materially from those of a commission having merely supervisory powers. Also, accident reports furnish the basic data for the compilation of accident and compensation statistics, and the importance attached to this branch of compensation work again affects the number and character of the reports required.

In this paper is presented a comparative discussion of the accident reporting and claim procedure methods in use in 20 States investi-

gated by the bureau.¹ The following subjects are discussed: What employers are required to report accidents; what accidents are required to be reported; what data are required on the report forms; how soon accidents are reported; what reports are required and from whom, i. e., employers' reports, physicians' reports, workmen's claims, voluntary agreements, supplemental reports and receipts; indexing, numbering, and filing systems.

WHAT EMPLOYERS ARE REQUIRED TO REPORT ACCIDENTS.

The scope of laws relative to the reporting of accidents is not necessarily synonymous with the scope of the compensation provisions. Most of the compensation laws require all employers to report their accidents to compensation commissions, whereas in no State are all employers subject to the compensation act. As a matter of practice, however, many commissions require only employers under the compensation act to report accidents. Of the 20 States and Provinces here considered, the laws of all but two (Illinois and Nevada) require accident reports from all employers, irrespective of whether they are under the compensation act. In Illinois and Nevada only employers subject to the compensation provisions are required by law to report their accidents to the industrial commission. However, in 11² of the other 18 States the commissions in actual practice require only employers under the compensation act to report accidents. But even of those States which require all employers to report accidents, few commissions tabulate all the accidents reported. Oregon and Wisconsin exclude from their tabulations all noncompensable accidents. In fact, California and Massachusetts are practically the only States which have tabulated all industrial accidents.

WHAT ACCIDENTS ARE REQUIRED TO BE REPORTED.

The committee on statistics and compensation insurance cost of the International Association of Industrial Accident Boards and Commissions has recommended that reportable accidents should include "all tabulatable accidents, diseases, and injuries and all nontabulatable accidents, diseases, and injuries which require any medical expenditure." The committee, further, defined a tabulatable injury as "an accident or disease which arises out of the employment and results in death, permanent disability, or in the loss of time other than the remainder of the day, shift, or turn on which the injury occurred."

There is a tendency among the several States to follow the recommendations of the committee, although there still exists considerable diversity as to what accidents should be reported. Some commissions require the reporting of all accidents, no matter how trivial, whereas other commissions require the reporting of compensable accidents only, i. e., those in which the length of disability exceeds the waiting period.

¹ Since the investigation upon which this paper is based was made four States herein considered (California, Michigan, New York, and Washington) have made important administrative changes. In California, Michigan, and Washington the compensation commissions have been combined with other labor-law-enforcing agencies, while in New York a single administrative head has replaced the former industrial commission of five members. Such administrative consolidations, however, would have little effect upon the detailed procedure respecting the handling of accident reports and claims.

² British Columbia, Idaho, Indiana, Maryland, Michigan, Montana, New York, Ohio, Utah, Washington, and West Virginia.

In the seven exclusive-fund States³ it is of course necessary for the commission to receive reports of all injuries requiring medical aid, because the cost of medical attendance as well as the compensation benefits must be paid by the commission. In these States, therefore, practically all tabulatable accidents must of necessity be reported, since such accidents almost always require some medical aid.

In the other 13 States the practice varies. Four State commissions⁴ require every accident, whether resulting in any disability or not, to be reported. Two commissions (Illinois and Wisconsin) require reports of compensable accidents only. Pennsylvania requires the reporting of accidents of 2 days' disability or over. The other States require all disability accidents, or those requiring medical attendance, to be reported.

Whether it is desirable to have all accidents reported may be a debatable question. As already noted, in a few States this is the practice. It is maintained that a certain percentage of trivial accidents later develop into serious injuries and, consequently, it is well to have a complete record on file. Such a record, it is further maintained, would on the one hand help the injured employee to prove a bona fide claim, and on the other hand help to prevent fraudulent claims. It is contended also that if employers are required to report only tabulatable accidents, they will be less thorough in reporting and, consequently, many tabulatable and even compensable accidents will not be reported; whereas if all accidents are required to be reported, not only the nontabulatable but also a larger proportion of the tabulatable accidents will be reported. However, the arguments against the practice of reporting every trivial accident seem to carry more weight. In the first place the work of reporting, recording, and filing accident reports is practically doubled. The Massachusetts experience shows that over 50 per cent of the accidents reported to the industrial accident board are nontabulatable. In fact, during the year 1918-19 178,084 accident reports were received by the board of which only 67,240 were tabulatable. And inasmuch as most of the compensation commissions are handicapped by an inadequate clerical force, it would seem that better results could be obtained by concentrating their attention upon the more serious accidents.

It would seem sufficient for the employer merely to keep a list of these nontabulatable accidents without making a formal report thereof to the commission. Such a record would protect both the employer and the employee in the event of a subsequent claim arising out of a trivial accident. The argument that in order to obtain a complete list of all tabulatable accidents it is necessary to require all accidents to be reported is not well taken. Massachusetts requires all accidents to be reported, whereas California requires only those involving time loss or medical aid; yet there are relatively more tabulatable accidents under one week reported in California than in Massachusetts. The completeness with which accidents are reported depends not so much upon what accidents are required to be reported as it does upon the thoroughness of the follow-up work of the commission.

However, the question as to whether it is necessary or desirable to report noncompensable accidents still remains. As already noted,

³ British Columbia, Nevada, Ohio, Ontario, Oregon, Washington, and West Virginia.

⁴ Colorado, Idaho, Massachusetts, and Michigan.

Illinois and Wisconsin receive only reports of compensable accidents. In both of these States accidents whose disability is less than the waiting period (one week in both States) are not required to be reported. It is maintained by the commissions that with the limited force at their disposal, it is better to neglect the noncompensable accidents altogether and devote more time to the investigation, supervision, and analysis of compensable accidents. On the other hand, several reasons are advanced why all tabulatable accidents (noncompensable as well as compensable) should be reported: 1. If employers are required to report only compensable accidents, a considerable number of such accidents will probably not be reported, either through oversight or otherwise. 2. A complete record of the cost of the medical service would not be available. 3. A record of all disability accidents is necessary in order (a) to determine the increased cost resulting from a reduction of the waiting period; and, (b) to compute accurate accident frequency and severity rates. A compromise solution would be to require that all tabulatable accidents be reported, but limit the tabulation to compensable cases, unless the commission has a sufficient clerical force to tabulate all the accidents. Several States (British Columbia, Michigan, Ontario, and Ohio) have separate report blanks for compensable and noncompensable accidents. The noncompensable report forms are simple and call for only a few fundamental facts. In Michigan the noncompensable reports are filed in a separate file apart from the compensable cases. No further action is taken with respect to them.

WHAT DATA ARE REQUIRED ON ACCIDENT REPORT FORMS.

The formulation of a standard uniform accident report blank has received a great deal of attention from the committee on statistics of the International Association of Industrial Accident Boards and Commissions and from other organizations. As early as 1911 a committee of the American Association for Labor Legislation worked out a standard report form. This form, which was revised by the committee on statistics in 1915 and again in 1920, has served as a model for most of the States. The primary purpose of the committee was to obtain data for the compilation of accurate and comparable accident statistics. It aimed, therefore, to limit the items called for on the report blank to data which are both essential and obtainable. Most of the States, however, found it necessary to include many items in their report forms not found in the committee's schedule. These items were essential for administrative purposes. In fact, from the commission's standpoint, the kind and amount of data on the accident report form are dependent primarily upon the requirements of the claims department; and these requirements depend upon the compensation provisions of the several acts which vary from State to State. Furthermore, exclusive State fund commissions require more detailed information than other commissions. The former, intrusted with the duty of paying compensation claims, require, for example, detailed information relative to the occurrence of the accident—whether or not it arose out of and in the course of the employment, etc. This data is of no particular importance to the nonfund commissions except in disputed cases, nor is it necessary for statistical purposes.

However, some of the questions found on the report forms of a number of States could be eliminated since the data called for are of little or no importance, or if important are not obtainable. Take, for example, such questions as "Nationality of employee" or whether he is an "American or foreigner." What is meant by nationality? Does it have an ethnological, a political, or a geographical connotation? Does nationality mean allegiance, citizenship, country of birth, race, stock, group, people, or what? How would a naturalized Jew from Poland have been classified before the Treaty of Versailles? As an American, a Jew, a Pole, or a Russian? With the same set of facts a half dozen answers could be given to such a question, each of which would be correct from the standpoint of the interpretation given to the question. Obviously the tabulated results from such answers would be worthless. Again, does the question, "American or foreign" mean citizenship, people, or country of birth? Such questions should be eliminated from the report form. First, because the answers would not be comparable, and second, because even if accurate, they would be of little importance.

Or take the question, "How long has employee worked at occupation injured?" Data on this point would be valuable for accident prevention purposes, since they would show what effect, if any, employment of "green" men had upon accident frequency. However, the employer, as a rule, is not familiar with the history of his workmen before they entered his employ, and he is therefore not in a position to answer this question satisfactorily. Employers should not be required to answer unnecessary or unreasonable questions. To require them to do so is likely to create dissatisfaction with the entire report form and thus impair the accuracy of answers which are of primary importance.

As already noted, the number of items on the first report form varies considerably among the several States, ranging from 24 in California and 27 in Illinois, to 51 in Nevada and 52 in Oregon. The number on the original standard form of the committee on statistics was 32, whereas the number on the latest revision is 30. Following is a reproduction of the standard form as revised in 1920.

✱

STANDARD FORMS FOR ACCIDENT REPORTS.

First Report of Accident to Employee.

[To be filled out and sent in within 48 hours of the accident.]

1. Employer.	<i>a.</i> Employer's name..... <i>b.</i> Office address: Street and No.....; city or village..... <i>c.</i> Business (goods produced, work done, or kind of trade or transportation)..... <i>d.</i> Location of plant or place of work where accident occurred, if not at office address: Street and No.....; city or village..... <i>e.</i> Name of insurance carrier.....
2. Injured person.	<i>a.</i> Date on which accident occurred..... <i>b.</i> Working hours per day.....; <i>c.</i> Working days per week..... <i>d.</i> Piece or time worker.....; <i>e.</i> Wages or average earnings per day.....; per week..... <i>f.</i> Name.....; address..... <i>g.</i> Sex.....; <i>h.</i> Age..... <i>i.</i> Occupation when injured.....; In what department or branch of work?.....; was this regular occupation?.....; if not, state regular occupation.....
3. Cause of injury.	<i>a.</i> Describe in full how accident occurred..... <i>b.</i> Name of machine, tool, or appliance in connection with which accident occurred.....; by what kind of power driven?.....; hand feed or mechanical feed?.....; part on which accident occurred.....
4. Nature and extent of injury.	<i>a.</i> State exactly part of person injured and nature of injury..... <i>b.</i> Did injury cause loss of any member or part of a member? If so, describe exactly..... <i>c.</i> Has injured person returned to work.....; if so, give date and hour..... <i>d.</i> Date disability began.....
5. Medical care.	<i>a.</i> Attending physician; name and address..... <i>b.</i> Hospital; name and address.....
Date of report.....; made out by.....	

In order that the contents of the accident report forms of the more important industrial States may become available for all the States, it has been deemed advisable to prepare a composite table. This table, which follows, shows all of the items found on the report forms of the 20 States investigated and also notes what items are called for on the report of each State. It will be noted that although the number of items of each State ranges from 24 to 52, the total number for the combined 20 States is 116. However, of these 116 items, 23 are found in one State only, 17 in only two States, and 16 in only three States.

EMPLOYER.	Standard (original).	Standard (revised).	British Columbia.	California (com.).	California (fund).	Colorado.	Idaho.	Illinois.	Indiana.	Maryland.	Massachusetts.	Michigan.	Minnesota.	Nevada.	New York.	North Dakota.	Ohio.	Ontario.	Oregon.	Pennsylvania.	Utah.	Washington.	West Virginia.	Wisconsin.
1. Employer's name and address.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
2. Location of plant.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
3. Business.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
4. Engaged in construction, operation, or pair.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
5. Mining methods.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
6. Was employee employed direct or by a contractor.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
7. Did accident occur on work for a public corporation.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
8. Name of superintendent.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
9. Number of employees engaged in said business.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
10. Has employer (or employee) elected com- pensation act.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
11. Name of insurance carrier.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
12. Was employee engaged in interstate com- merce.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
EMPLOYEE.																								
13. Name and address.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
14. Work number.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
15. Sex.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
16. Age.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
17. Married or single.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
18. If married, living with (and supporting) wife.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
19. Number of children under (and over) — years of age.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
20. Name, age, relationship and address of children or dependents.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
21. Relation of employer to employee.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
22. Employment certificate of minors on file.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
23. Place of birth.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
24. American or foreign born.....																								

QUESTIONS CONTAINED IN THE FIRST ACCIDENT REPORT FORM IN SPECIFIED STATES—Continued.

	Standard (original).	Standard (revised).	British Columbia.	California (com.).	California (fund).	Colorado.	Idaho.	Illinois.	Indiana.	Maryland.	Massachusetts.	Michigan.	Montana.	Nevada.	New York.	North Dakota.	Ohio.	Ontario.	Oregon.	Pennsylvania.	Utah.	Washington.	West Virginia.	Wisconsin.
INJURY—continued.																								
<i>Notice.</i>																								
46. Was employer notified of accident; when.			x							x			x	x						x				
47. Did employer have knowledge of injury.													x	x										
<i>In course of employment.</i>																								
48. Did accident happen in course of employment (or was workman injured in employer's business).			x		x	x	x			x			x	x		x	x			x				
49. Did accident happen on employer's premises.			x		x	x				x			x	x		x	x			x				
50. Where did accident happen.			x		x				x	x			x	x		x	x			x				x
51. Did injury occur above or below surface (mining accidents).						x							x	x		x	x				x			
52. Did injury occur on board ship; off or on shore duty.													x	x		x	x					x		
<i>Arising out of employment.</i>																								
53. Was accident due to employee's misconduct, lack of care, violation of law, etc.			x		x	x	x									x	x							
54. Was any fellow employee to blame.					x	x																		
55. Was injury caused by another person.			x		x	x																		
56. Was employee on duty at time of injury.													x	x						x				
57. Who instructed employee to do work at which he was injured.																			x					
58. Was injured employer, employee, patron, or passenger.																			x					
<i>Cause.</i>																								
59. Describe how accident happened.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
60. Name of machine or tool.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
61. Kind of power driven.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
62. Hand or mechanical feed.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
63. Part on which accident occurred.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
64. Were safeguards provided; was accident caused by removal of safeguards.			x																					
65. Suggest prevention of accident.			x																					
66. What other causes or conditions helped to cause accident.																								
WAGES OR EARNINGS.																								
67. Working hours per day.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
68. Working days (or hours) per week.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
69. Wage rate per hour.																								
70. Wage or earnings per day.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
71. Wage or earnings per week.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
72. Wage or earnings per month.																								
73. Piece or time worker.	x	x			x			x																
74. How long had employee received earnings stated.																								
75. Does employee work on Sunday.																								
76. Does employee work day or night.																								
77. Total earnings during prior year (or other period) worked.			x																					
78. How much, if any, of this time did he not work.			x																					
79. Other employers for whom employee worked during prior half year (or other period).																								
80. Cause and duration of each loss of time.			x																					
81. What are average weekly earnings of ordinary workman for year at same work.			x																					
82. Was employee paid any (or full) wages for day of injury.																								
83. Was employee paid wages during disability.			x																					
84. Did employee work any after first laying off; give dates.																								

QUESTIONS CONTAINED IN THE FIRST ACCIDENT REPORT FORM IN SPECIFIED STATES—Concluded.

	Standard (original).	Standard (revised).	British Columbia.	California (com.).	California (fund).	Colorado.	Idaho.	Illinois.	Indiana.	Maryland.	Massachusetts.	Michigan.	Montana.	Nevada.	New York.	North Dakota.	Ohio.	Ontario.	Oregon.	Pennsylvania.	Utah.	Washington.	West Virginia.	Wisconsin.
NATURE AND EXTENT OF DISABILITY.																								
85. State part of person injured and nature of injury.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
86. Did injury cause loss of any member or part thereof.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
87. Did injury result in serious disfigurement.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
88. Has injured person returned to work.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
89. When; date and hour.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
90. Probable length of disability.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
91. Will employee be disabled more than one week.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
92. Did workman return to work as soon as injury would permit.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
93. How many days a week is workman employed (after the injury).....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
94. At what occupation was workman reemployed.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
95. At what wages was he reemployed.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
96. Had employee any prior physical defect.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
97. If injury was fatal, give date of death.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
98. Was injury fatal; give name, age, relationship, and address of dependents.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
99. What compensation and medical payments have been made.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
100. Does employee's report form contain chart of human form.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
MEDICAL CARE.																								
101. Name and address of physician.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
102. Name and address of hospital.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
103. Where is injured employee now.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
104. Was medical attendance furnished by employer.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
105. How soon after accident.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
106. Is employer still providing medical care.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
107. Who selected the physician.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
108. How soon after accident was physician selected.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
109. Did employee refuse medical attendance; why.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
110. Was ambulance used; name of ambulance company.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
111. Does employer operate under medical plan or hospital contract.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
112. Does employee pay hospital dues; how much.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
113. Names of witnesses of accident.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
114. Date report made out.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
115. Signature required.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
116. Official title required.....	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Total number of items.....	32	30	47	24	33	40	38	27	29	38	34	31	45	51	40	42	32	46	52	42	37	43	37	30

HOW SOON ACCIDENTS ARE REPORTED.

Practically all of the industrial commissions require a first report of the accident from the employer. Some States also require a report from the attending physician and some, including almost all of the State funds, require the injured workman to file a claim. This matter, however, will be discussed in more detail later.

The dispatch in claim procedure and the promptness with which compensation payments are made depends largely upon how soon accidents are reported to the commission. This again depends

somewhat upon the length of the waiting period, but mostly upon the policy and practices of the commission, which, of course, are dependent to some extent upon the statutory requirements relative to the reporting of accidents. Of the 20 States studied, about one-half, including nearly all of the exclusive State funds, require accidents to be reported to the commission at once. In Illinois and Wisconsin employers need but report monthly. In the other States the practice varies between these two extremes, except that the California commission does not require the employer's report to be sent in until the end of 35 days. In this State, however, the employers' reports are used merely for statistical purposes, the basic report for administrative purposes being that of the attending physician.

Exclusive State fund commissions must furnish medical service as well as pay compensation, and it is important, therefore, that reports of accidents should be received as soon as possible. The Ohio State fund, however, is the one exception to this rule; the first report of the accident in this State need not be transmitted to the commission until the end of two weeks. This explains in part the delay in making compensation payments in Ohio. In the nonexclusive-fund States the functions of the commission are primarily supervisory and adjudicatory. The commissions must see to it that claims are paid by the employers or insurance carriers. It is the compensable injuries, therefore, in which they are chiefly interested. Consequently their requirements as to promptness in accident reporting depend somewhat more upon the waiting period. The first thing a commission usually desires to know about an industrial accident is its severity. Is the injury compensable and does the disability extend beyond the waiting period? This fact is, as a rule, not known at the time of the injury. If, then, a report of the accident is made out immediately after its occurrence, it will be necessary in nearly every case to make out a supplemental report at the expiration of the disability period. This increases clerical work of both the employer and the commission. However, if the making out of the first report of the accident is postponed until the end of the waiting period, or until the expiration of the disability period if the injured employee returned to work within the waiting period, it is necessary to make out only one report. This not only greatly reduces the number of reports but obviates the necessity of a great deal of follow-up work on the part of the commission. The desirability of this practice, however, depends upon the waiting periods being of reasonable length. For example, in case of a 3 or 7 day period, it would probably be expedient not to require the first report until the end of these periods, whereas, in case of a 10 or 14 day waiting period, such practice would perhaps not be advisable. All fatal or serious injuries—those in which the disability would probably continue for at least four weeks—should be reported at once. The practice of the Michigan Industrial Accident Board is to be commended in this respect. The Michigan waiting period is one week. The first report of the accident is made on the eighth day, at which time it is definitely known whether the injury is compensable. If the injury is noncompensable—seven days or under—a simple abbreviated report form is used, whereas, if it is compensable, the standard form is used.

The following table shows the promptness with which the employers' first reports of accidents are made in specific States, arranged in

ascending order. Column 1 shows the number of cases examined. Column 2 shows the waiting period for each State, as of 1919. Column 3 shows the average (median) number of days elapsing between the date of the accident and the receipt of the report by the commission. Columns 4 and 5 show the per cent of accident reports received within one and two weeks, respectively, from the date of the accident. Columns 6 and 7 show the per cent of cases in which no report had been received within four and eight weeks, respectively, after the accident. For California the records of both physicians' and employers' reports are given. In this State the report of the physician rather than that of the employer is used as the basic report for administrative purposes.

PROMPTNESS WITH WHICH EMPLOYERS' FIRST REPORTS OF ACCIDENTS ARE REPORTED IN SPECIFIED STATES, ARRANGED IN ASCENDING ORDER.

State.	Number of cases.	Waiting period (days).	Average interval (median) between date of accident and date report received by commission (days).	Per cent of cases reported within—		Per cent of cases not reported at end of—	
				1 week.	2 weeks.	4 weeks.	8 weeks.
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Massachusetts.....	180	10	4	70.6	90.6	2.4	1.2
California fund.....	51	7	5	64.7	80.4	10.0	4.0
California commission (physician's report).....	48	7	1 6	72.9	85.4	4.2	0.0
West Virginia.....	185	7	7	52.4	74.6	12.9	3.7
Michigan fund.....	93	7	8	46.2	79.5	9.8	5.4
Utah fund.....	49	3	8	47.0	71.5	14.1	10.1
Idaho commission.....	331	7	9	41.4	68.0	13.2	3.0
Oregon.....	404	0	9	41.1	66.8	12.3	2.1
Maryland commission.....	133	14	9	44.4	64.7	17.4	1.6
Indiana.....	111	7	12	19.8	60.3	23.4	10.8
Washington.....	259	7	13	26.3	58.7	17.4	6.6
New York commission (New York City).....	126	14	13	22.2	56.3	20.8	4.0
British Columbia.....	118	3	13	31.4	52.6	17.6	4.9
Ohio.....	982	7	² 14	14.4	52.0	14.6	3.0
California commission (employer's report).....	118	7	¹ 34	16.1	21.2	63.5	22.0

¹ The California commission requires a physician's report of every accident, and this report, instead of that of the employer, is used as the basic report.

² Ohio does not require a report of the accident from the employer. Instead, the injured workman files a "first notice of injury and preliminary application," followed by a supplemental application. The figures here noted are those of the first notice filed by workman.

The foregoing table shows some interesting facts. In practice the length of the waiting period has little effect upon the promptness with which accidents are reported. For example, in Massachusetts, with a 10-day waiting period, accidents are reported more promptly than in any other State, the average interval between date of accident and date of receipt of the report by the board being 4 days. The thoroughness of the commission's follow-up methods seems to be the determining factor in securing promptness in accident reporting. However, employers' reports should not be the sole basis of comparison as to promptness in reporting. The reporting of employers should be compared with that of physicians and with the workmen's claims. This is especially true with respect to State funds. In some States promptness on the part of employers exists side by side with long delay on the part of physicians, or workmen, or vice versa.

The following table shows the promptness with which accidents are reported by physicians in specified States.

PROMPTNESS WITH WHICH PHYSICIANS' FIRST REPORTS OF ACCIDENTS ARE REPORTED IN SPECIFIED STATES, ARRANGED IN ASCENDING ORDER.

State.	Number of cases.	Waiting period (days).	Average interval (median) between date of accident and receipt of physician's report (days).	Per cent of cases reported within—		Per cent of cases not reported at end of—	
				1 week.	2 weeks.	4 weeks.	8 weeks.
California commission.....	48	7	6	72.9	85.4	4.2	0.6
British Columbia.....	109	3	7	53.2	78.9	8.2	1.8
Oregon.....	405	0	7	51.6	71.4	9.3	2.6
California fund.....	40	7	8	45.0	67.5	10.0	7.5
Utah fund.....	48	3	14	25.0	50.0	18.8	10.5
Maryland commission.....	137	14	27	8.0	16.0	45.3	13.2
West Virginia.....	182	7	36	2.2	9.3	60.2	30.0

It will be noted that the average interval between date of accident and date of receipt of physician's report by the commission varies widely among the several States, ranging from 6 days in California to 36 days in West Virginia.

The following table shows the promptness with which workmen's claims are reported in specified States:

PROMPTNESS WITH WHICH WORKMEN'S CLAIMS ARE REPORTED IN SPECIFIED STATES ARRANGED IN ASCENDING ORDER.

State.	Number of cases.	Waiting period (days).	Average interval (median) between date of accident and receipt of workmen's claim (days).	Per cent of cases reported within—			Per cent of cases not reported at end of—		
				1 week.	2 weeks.	3 weeks.	4 weeks.	6 weeks.	8 weeks.
Ohio.....	982	7	¹ 14	14.4	52.0	75.8	14.6	6.7	3.0
Oregon.....	404	.....	17	16.1	43.3	65.3	19.1	6.2	3.0
British Columbia.....	117	3	18	17.9	41.0	58.6	21.6	9.6	6.1
California fund.....	50	7	20	.....	16.0	56.0	26.0	22.0	12.0
Nevada.....	204	7	22	14.2	34.3	47.5	34.9	14.8	8.9
Ohio.....	1,013 ²	7	² 25	5.5	26.1	44.4	45.8	29.9	19.3
Maryland commission.....	144	14	26	2.1	8.3	32.6	42.4	17.5	11.2
Utah.....	49	3	30	.....	12.2	28.5	53.0	26.5	20.4
New York commission.....	135	14	35	1.5	3.7	20.0	66.6	41.4	22.9
West Virginia.....	184	7	46	.....	3.8	14.1	71.3	52.8	38.6

¹ This is the average interval between the date of accident and filing of "first notice of injury and preliminary application." A supplementary application must be filed by the workman before the claim is acted upon. The figure shown by footnote 2 is the average interval between the filing of first notice and filing of supplementary application. In order to make the Ohio figures comparable with the other States the interval between date of accident and filing of workmen's claim would be approximately 14 plus 25 days.

² Average interval between filing of first notice and filing of supplementary application. For explanation see footnote 1.

Again it will be noted that there is little relationship between the waiting period and the promptness of workmen in filing claims. The average time elapsing between date of accident and receipt of the workman's claim ranges from 17 days in Oregon to 46 days in West

Virginia. This long delay on the part of workmen in making claims is due in part to their disability, in part to their unfamiliarity with the requirements of the law, and in part to an inadequate follow-up system on the part of the commission. The delay by the employer, physician, and workman in reporting accidents is therefore largely responsible for the delay in making compensation payments.

As between employer, physician, and workman, the employer is more prompt in reporting accidents than either of the other two; then comes the physician, and lastly the workman. This is brought out in the following tabular statement in which the averages of the three types of reports for certain States are brought together:

COMPARISON AS TO PROMPTNESS IN REPORTING ACCIDENTS BY EMPLOYER, PHYSICIAN, AND WORKMAN IN CERTAIN STATES.

State.	Average interval (median) between date of accident and receipt of—		
	Employer's report.	Physician's report.	Workman's report.
	<i>Days.</i>	<i>Days.</i>	<i>Days.</i>
California fund.....	5	8	20
West Virginia.....	7	36	46
Utah fund.....	8	14	30
Oregon.....	9	7	17
Maryland.....	9	27	26
British Columbia.....	13	7	18

WHAT REPORTS ARE REQUIRED AND FROM WHOM.

The requirements and practices as to accident reporting and claim procedure of State funds and commissions⁵ differ widely, and are consequently incapable of accurate comparison. The chief function of a fund is the payment of compensation claims, whereas the chief function of a commission is to see to it that such claims are paid by others. The funds usually require reports from physicians and workmen and other detailed information and records not required by commissions. Many of the commissions, however, require the insurance carriers to furnish receipts of compensation payments, which, of course, are not necessary in the case of funds. The following are the basic reports used in claim procedure: First report of accident by the employer and physician; claim for compensation by the workman; compensation agreement entered into by workman and employer or insurer; employer's supplemental and final report of accident; physician's supplemental and final report of accident; surgeon's special report; periodical and final receipts showing compensation payments.

1. EMPLOYER'S REPORT.

Of the 20 States here considered, a report of the accident by the employer is required in every State except Idaho and Ohio. In these two States the employer, instead of making a report himself, signs the application or report of the injured workman, thereby merely

⁵ To avoid confusion the competitive State funds and the exclusive State fund commissions will in this section be designated as "funds," whereas the industrial commissions, whether in competitive-fund States or in no-fund States, will be designated "commissions."

certifying that the workman was in his employ at the time of the injury. In Washington the employer and workman have the option of either making out separate reports or reporting on a combined form, the employer filling out the obverse side of the report blank and the workman the reverse side. About four-fifths of the accidents are reported on the combined form. Four States (British Columbia, Michigan, Ohio, and Ontario) have separate reports for compensable and noncompensable accidents, the latter being a simple and abbreviated form. Nine States,⁶ of which all but two (Colorado and Pennsylvania) are State funds, require the names of eyewitnesses to the accident.

From the standpoint of efficiency in administration the agency through which the employer's report is transmitted to the commission becomes an important matter. In four States (Massachusetts, Michigan, Utah, and Wisconsin) the employer himself transmits the report direct to the commission. In the other States it is the practice to have the employer's report of the accident transmitted to the commission by the insurance carriers. In some of these States practically all reports are sent in by insurance companies while in other States some employers report direct. The practice of transmitting reports by insurance carriers is defended on the ground that (1) it relieves the employer of sending reports to two different agencies and (2) that it insures a more complete report since the insurance companies, because of their experience, are in a better position to answer the questions asked for on the report blank. There are, however, several serious objections to this practice. The commission should have a prompt, accurate, impartial, and confidential report of the accident, and this can best be furnished by the employer. Transmittal of these reports by the insurance companies not only delays their receipt by the commission but offers the insurer an opportunity to alter the report as initially made out by the employer. In some States, and among some insurers, it is the practice of the carrier to transmit the original, or at least an exact copy of the employer's report, to the commission. Among others, however, it is the practice to make a new report in the insurance agent's office from the data furnished by the employer and to transmit this to the commission in lieu of the original report of the employer. This practice opens the door for fraud and collusion. Instances are on record where insurance carriers have requested their assured to change the original report, particularly as regards the weekly wages of the injured workman. It is also responsible to some extent for the long delay in reporting accidents, shown in the table on page 189. Again, if all of the reports (first report of accident, voluntary agreement, final reports, and receipts) are furnished by the same agency, the commission will be unable to check these reports, one against the other, or determine their accuracy.

On the other hand if the commission receives reports from two independent sources it will be in a better position to ascertain the facts by checking the reports from one source against those from the other. For example, if a confidential report of the accident is received from the employer, as is the case in Massachusetts and Wisconsin, the commission can compare this report with the facts as reported by the insurance carrier.

⁶British Columbia, California fund, Colorado, Nevada, Ontario, Oregon, Pennsylvania, Washington, and West Virginia.

2. ATTENDING PHYSICIAN'S FIRST REPORT.

The practice relative to the reporting of accidents by the attending physician differs widely among the several States. Some commissions maintain that physicians' reports are unnecessary or worthless unless made by impartial or disinterested physicians, whereas others state that an intelligent adjudication of a claim would be impossible without a report of the injury by the attending physician.

All of the State funds require a first report of the accident by the attending physician or surgeon. In Ohio the physician's report must be signed by the injured workman, while in West Virginia the employer is required to transmit this report. In Pennsylvania all compensable cases are also investigated by the fund's claim adjuster.

Of the 13 commissions, 3⁷ do not require first reports from attending physicians, whereas 10⁸ do require such reports. Some of the latter, however, limit physicians' reports to serious cases, while in others the reporting by physicians is done haphazardly. The Wisconsin commission requires such reports only in case of permanent disabilities or temporary disabilities over three weeks. In New York physicians' reports are not essential, since the commission holds hearings in every case and the claimants are examined by the commissions' medical advisers. Pennsylvania and Colorado require physicians' reports but an examination of the files showed that these reports were not regularly received.

3. WORKMAN'S CLAIM OR AGREEMENT.

Can a commission or fund pass upon the merits of a compensation claim fairly and impartially without some report of the injury from the workman himself? If not, what kind of reports are necessary? These are questions about which there is no unanimity either as regards opinion or practice. Some of the States, especially those having State funds, require the workman to file a claim; others require the workman and employer or insurer to sign an agreement setting forth the essential facts as to wages and nature of injury, which is subject to the approval of the commission; in still other States all reports are made by the employer or insurance carrier, no report being required from the workman.

It is maintained by some that it is desirable to have the workmen make a claim or file a report of the injury in order that both he and the fund may be protected. To determine the merits of a case merely upon the reports of the employer or the insurance carrier is held to be unjust to the workman, since it would not grant him his "day in court." On the other hand, there are several objections to this practice. In the first place to postpone consideration of the case until a claim has been filed by the workman would delay the payment of compensation. Second, to require an injured workman to make out a detailed report and to have same acknowledged before a notary, as is done in several States, is to place upon him an unnecessary burden. Again, it is argued that the chief object in requiring the filing of a claim, viz, to obtain an independent and confidential report

⁷ Illinois, Massachusetts, and Michigan.

⁸ California, Colorado, Idaho, Indiana, Maryland, Montana, New York, Pennsylvania, Utah, and Wisconsin.

from the workman himself, is not attained. A large proportion of injured workers can not read or write the English language. Others are not in a position to answer accurately all the questions on the report form. Moreover, those severely injured are physically incapable of making out a report at the time of the accident. The usual procedure for the workman when injured is to enlist the services of his employer in making out a claim. In fact, in Washington, as already noted, the workman and employer may fill out a combined report form, and a majority of the injuries are reported in this way.

Another method of adjusting compensation claims is by means of "voluntary agreements" or "direct settlements." Under this system the procedure is as follows: A first report of the accident is made to the commission by the employer or insurance carrier at the time of the injury. At the expiration of the waiting period an agreement is drawn up between the workman and employer (or employer's insurer) in which the essential facts are set forth. These include the average weekly wages, nature of injury and extent of disability, compensation rate, period covered, etc. This agreement, or direct settlement as it is called in some States, must, however, accord with the statutory provisions and is not valid until approved by the commission. Moreover, it is usually reviewable in case of error, fraud, or changed conditions. Upon receipt of the agreement it is examined by the commission, compared with the original report of the accident, and, if in accordance with the facts and statutory provisions, is approved. If the agreement does not coincide with the facts as stated in the accident report, the matter is investigated by the commission and a new agreement requested. In case of dispute between the parties, a formal claim or petition is filed with the commission and the case is set for a hearing. The execution of the agreement, i. e., the payment of benefits in accordance with its provisions, is attested by subsequent compensation receipts and by the employer's and physician's supplemental reports.

The voluntary agreement system has been both commended and criticized. On the one hand, it is maintained that it furnishes a convenient and expeditious method of adjusting the large majority of accident cases in which there is no dispute as to facts involved; that it gives the workman his "day in court" and therefore the adjudication of the claim upon *ex parte* evidence is obviated; and that, on the whole, it has proved satisfactory and insured substantial justice to both employer and workman. On the other hand, several objections have been raised against the agreement system. It is contended that it delays the payment of compensation. Frequently injured workmen will not sign the agreement because they are suspicious of the insurance adjuster and have no confidence in his integrity. They will hesitate to sign any paper for fear of prejudicing their compensation rights. Then, too, the fact that these agreements must be approved by the commission before they become valid delays the compensation payments still further. The average time elapsing between the date of the accident and date of approval of the agreement ranges from five to nine weeks; while some insurance carriers begin compensation payments as soon as they are assured that a claim is legitimate, others make no pay-

ments until they have been formally notified of the approval of the agreement by the commission. Result: Long and unnecessary delay.

Another criticism of the agreement system is that it does not insure the workman his "day in court." It is maintained that the agreement is a one-sided affair in which the workman signs whatever is placed before him; that the injured worker, frequently illiterate or unable to understand and speak the English language and unfamiliar with his rights under the law, is no match for an experienced insurance adjuster. In case of self-insured employers there is introduced also the element of intimidation. Employees will often hesitate to dispute the correctness of a report or agreement for fear of antagonizing their employer and thus jeopardizing their jobs. This latent power of intimidation effectively inhibits the workman from making a protest. Agreements made under duress are neither voluntary nor give assurance that the facts as stated therein are true or that they are satisfactory to the workman. Moreover, when all reports are made and transmitted by one party, as is the practice in some States and is true with self-insurers in every case, the commission is in no position to determine the accuracy of an agreement by comparing it with a first report of the accident.

The third system of claim procedure is based merely upon reports from the employer and insurance company. No claim, agreement, or any other report is received from the injured workman. The first report, showing date of accident, weekly wages, etc., is followed by supplementary and final reports and receipts which show the extent of disability, the employee's return to work, and the amount of compensation due and paid. The one feature which commends this system of procedure is its simplicity. There is nothing to prevent the employer or insurer from making payments as soon as they are satisfied that the injury is a compensable one. It is maintained that claims and voluntary agreements merely complicate matters and delay compensation payments without adding anything of value in expediting the settlement of the case.

The chief criticism against this system is that the commission bases its findings of fact and renders its decision upon *ex parte* evidence. All the reports and data are submitted by one party, the commission receiving no evidence whatever from the workman showing his side of the case. A further objection to the system is that, unless independent reports are required from both the employer and insurance carrier, the commission can not check the accuracy of the reports received. And in the case of self-insured employers, or when the insurance carrier transmits the accident reports of its assured, all reports are of necessity submitted by one party. The Wisconsin and Massachusetts commissions require the first report of the accident to be made by the employer, while the agreements, supplementary reports, and receipts are made by the insurance carrier. This makes possible a comparison by means of which inconsistencies and inaccuracies may be discovered and corrected. There is, however, possibility of collusion between an employer and his insurer. Instances of such collusion have been discovered in some States. However, as already stated, there is no way of verifying the reports of self-insured employers by comparison with other data.

All of the exclusive funds and all except three ⁹ of the competitive funds require the injured workman to file a claim. In Colorado, Michigan, and Pennsylvania the voluntary agreement system is used. This applies to the State funds in common with other insurance carriers. In four States ¹⁰ the workman's claim must be acknowledged or sworn to, while in the other nine States ¹¹ such acknowledgment is not necessary. The policy of compelling workmen to have their claims sworn to is not approved even in those States in which this practice is required by law, and consequently the commissions do not insist upon a rigid enforcement of this provision. It is maintained that this practice serves no useful purpose and places an annoying and unnecessary burden upon the injured workman.

Of the 13 commissions, 3 ¹² require the workman to make a claim, 2 of which (Maryland and New York) require the claim to be acknowledged; 7 ¹³ have the voluntary agreement system; while 5 ¹⁴ receive reports only from employers and insurance carriers. It will be noted that the New York procedure includes both claims and voluntary agreements. These reports are not essential, however, because in all compensable accident cases the injured workman is required to be present at a hearing of the commission for examination and to testify.

SUPPLEMENTAL AND FINAL REPORTS AND RECEIPTS.

The adjudication of claims for compensation by compensation commissions in industrial injury cases is based almost entirely upon written reports. In disputed or other exceptional cases the commission may make a personal investigation of the facts or set the case for a hearing at which all interested parties are requested to testify. But in the large majority of cases the commissions obtain their information from written reports submitted by the employer, insurer, physician, or injured workman. There are, however, several exceptions to this general rule. In New York every compensable accident case must be heard by the commission before an award can be made and the case closed. In Pennsylvania all of the compensable accident cases of the State fund are personally investigated by one of the fund's claim adjusters. In California practically all permanent disability cases are examined by the commission's medical advisers. Similarly in some of the other States, especially in those having exclusive State funds, many of the injured workmen are examined by the medical staff of the commission.

But in from 75 to 95 per cent of the cases the only knowledge the commission has of the accident is obtained from written reports.

The requirements and procedure relative to first reports of the accident have already been discussed. This first report, except in minor disabilities, is usually incomplete. Obviously it can not give the extent of the disability, since this is not known when the first report is transmitted. This information is obtained from supplemental reports transmitted by the employer or physician or both.

⁹ Colorado, Michigan, and Pennsylvania.

¹⁰ Maryland, Montana, New York, and Ohio.

¹¹ British Columbia, California, Idaho, Nevada, Ontario, Oregon, Utah, Washington, and West Virginia.

¹² Idaho, Maryland, and New York.

¹³ Colorado, Indiana, Massachusetts, Michigan, Minnesota, New York, and Pennsylvania.

¹⁴ California, Illinois, Montana, Utah, and Wisconsin.

The supplemental report of the physician has to do with the physical condition of the workman, i. e., the nature of the injury, the extent of disability, and the probable date he will be able to return to work. The supplemental or final report of the employer certifies whether or when the employee returned to work and in some States the amount of compensation paid.

The foregoing reports constitute the basis upon which the commissions administer the compensation act. These reports should show whether the injury arose out of the employment, whether it was compensable, the nature of the injury, and the extent of disability, the weekly wages of the injured workman, and the amount of the benefits to which he is entitled. They do not show, however, whether these benefits have actually been received by the workman. This can be ascertained positively only by means of receipts.

In the case of the exclusive State funds and the competitive funds administered by industrial commissions, the commission itself makes the payments and consequently receipts for the employee's protection are unnecessary. In the other States most of the commissions require the employers or insurance carriers to furnish signed receipts from the injured workman showing compensation payments. Some commissions require both periodical (weekly or monthly) and final receipts, while others require final receipts only. Several commissions do not require actual receipts but in lieu thereof require that the final report of the employer or insurance carrier contain a statement of the amount of compensation paid.

The administrative problem connected with the handling of compensation receipts has become a serious one to the commissions. The mere recording and filing of these receipts takes a good deal of time. Moreover, these receipts are not always received promptly. Frequently the insurance carriers find it impossible to obtain a receipt from the workman for payments made. It is necessary, therefore, for the commission to devise a follow-up system through which receipts may be checked. This involves a large amount of correspondence. Many commissions are also handicapped by an insufficient clerical force and as a result this part of their administrative work is neglected. Other commissions believe that the filing of receipts is not essential. They maintain that it can be safely assumed that unless complaint is made to the contrary, the workman regularly receives the payments to which he is entitled. Such an assumption, however, is hardly justifiable. It has already been shown that employers and insurance carriers do not make prompt payments. It is also true that many do not pay regularly. Payments are often stopped after the first payment or before the termination of the disability. The injured workman, not being familiar with his rights, frequently makes no complaint. As a result the workman, if not deprived of his compensation benefits altogether, at least is subjected to a long and unjustifiable delay. Experience in workmen's compensation administration has demonstrated that it is unsafe to assume (1) that employers and insurance carriers can be depended upon to meet their compensation obligations promptly without strict supervision by the commission, and (2) that the injured workmen are familiar with their rights and will make immediate complaint to the commission if they are not receiving the benefits to which they are entitled under the law. Receipts or data of some sort are necessary to insure certainty that

the workman has received his compensation, and that he has not suffered unnecessary delay. But, as already noted, receipts can not always be obtained from the injured by the insurance carrier. Furthermore, to require a formal receipt for every payment made not only adds greatly to the administrative work but clutters up the files of the commission. A satisfactory compromise might be the following: Require from each self-insured employer and insurance carrier a monthly statement showing the date, amount, and check number of each payment. To be sure, such a statement is not an absolute guaranty that the injured workman has actually received the benefits stated, but employers or insurers will hesitate to make a false statement in writing, especially if a heavy penalty is provided. Such a plan would relieve the insurance carrier of the necessity of obtaining receipts, would lessen the administrative work of the commission, and would insure reasonable certainty that the payments specified had actually been made.

NUMBERING, INDEXING, AND FILING.

Efficiency in the handling of accident reports and compensation claims depends largely upon the administrative methods employed, particularly the system of indexing, numbering, and filing. No efficient follow-up work can be done with an inadequate or slipshod filing system. The claim department of the commission should know whether and when the required reports have been received, whether the facts have been reported accurately, and whether the beneficiaries have received their compensation promptly. This data can not be had without proper records and follow-up methods. A detailed description of the claim procedure methods is not here attempted. Such detailed accounts will be given in a forthcoming bulletin of the bureau.

Accidents may be indexed by name of employee, by name of employer, or by accident number. Some States use the first method, some the second, and some have adopted two or all three methods.

1. EMPLOYEE'S INDEX.

All of the 16 State funds keep an index of accidents by name of employee arranged in alphabetical order. Eleven¹⁵ funds keep these records on cards, whereas the other 5¹⁶ keep them in books prepared for the purpose. Of the 13 commissions 10¹⁷ keep an employee's index record, of which all but New York keep such records on cards. However, 3 of these commissions (California, Michigan, and New York) keep no index record of noncompensable accidents, while 3¹⁸ commissions keep no index of accidents at all by name of employee. The employee's index record usually contains the name of employee and employer, the date and number of the accident, and sometimes the nature of the injury. The chief purpose of an employee's index is to enable the commission readily to locate an accident report where only the workman's name is known, to prevent duplication and fraud

¹⁵ California, Colorado, Idaho, Maryland, Montana, Nevada, New York, Oregon, Pennsylvania, Utah, and West Virginia.

¹⁶ British Columbia, Michigan, Ohio, Ontario, and Washington.

¹⁷ California, Colorado, Idaho, Maryland, Massachusetts, Michigan, Montana, New York, Utah, and Wisconsin.

¹⁸ Illinois, Indiana, and Pennsylvania.

in claims, and to have an accident record of each injured workman. There is a difference of opinion as to whether the card index or book system is the better method. Most of the States seem to prefer the card system. However, British Columbia changed from the card to the book system. The board maintains that the card method involves more work and that the cards are frequently misplaced in the files and therefore lost; whereas the book method insures greater accuracy and accessibility. Oregon, on the other hand, changed from the book to the card system because the latter was found to be more satisfactory.

2. EMPLOYER'S INDEX.

Of the 16 State funds, 12¹⁹ keep a claim record of each accident by the name or number of the employer. Four funds²⁰ keep no record by employers in the claim department, but in most of these the accident experience record of each employer is kept in the actuarial department. Of the 13 commissions 11²¹ keep an accident record by name or number of the employer while 2²² commissions do not.

3. NUMERICAL INDEX.

In addition to the employee's and employer's indexes some States also keep a numerical index, in which the accidents are recorded in numerical order by accident or claim number. Ten funds²³ and seven commissions²⁴ maintain such numerical indexes.

4. NUMBERING OF ACCIDENTS AND CLAIMS.

It is essential that the various accident reports be readily accessible when needed. This requires that they be filed in some methodical order. The customary practice is to place all the papers connected with an accident claim in one folder, which is called the "file," "folder," "jacket," "case," or "claim." This folder usually contains the first reports of the employer, physician, and workman, supplemental reports, agreements, receipts, and correspondence. Each folder is given a number which is identical with that assigned to the first report of the accident. In fact all papers in the case bear this number. These numbers run consecutively, and the folders are filed in numerical order. This is the usual practice, although there are several exceptions which are noted later. When a given case is desired, the number of the folder containing the data is obtained from the employee's or employer's index record.

With the exception of West Virginia all of the State funds number their accidents in one consecutive series and file them in numerical order. In British Columbia, however, the noncompensable accidents (those under three days and involving no medical costs) are filed in alphabetical order by name of workman, each month's accidents being kept separate. West Virginia has a unique system of accident designation. A basic number is given to all accidents occurring on

¹⁹ British Columbia, California, Colorado, Maryland, Nevada, New York, Ontario, Oregon, Pennsylvania, Utah, Washington, and West Virginia.

²⁰ Idaho, Montana, Michigan, and Ohio.

²¹ Colorado, Idaho, Illinois, Indiana, Massachusetts, Michigan, Montana, New York, Pennsylvania, Utah, and Wisconsin.

²² California and Maryland.

²³ California, Colorado, Maryland, Michigan, Montana, Nevada, Ohio, Ontario, Washington, and West Virginia.

²⁴ Colorado, Idaho, Indiana, Maryland, Michigan, Montana, and New York

a given date, this number being the number of days which have elapsed since the act went into effect. Each accident is then given a secondary number, numbered consecutively in the order in which it is received by the commission.

For example, the number 2206-83 means that the accident occurred 2,206th day after the act went into effect and that of the accidents which occurred on this date, it was the 83d reported to the commission. Under this system all of the accidents will automatically be filed in chronological order and each number will show the date of the accident and the promptness with which it was reported.

The practices among the commissions show greater variation than the funds. Eight²⁵ of the 13 commissions number their accidents in a consecutive numerical series. Of these, Colorado has separate series for accidents and claims, which are kept in separate files. Indiana has three separate series, one each for accidents, agreements, and claims (adjudicated cases). Maryland has a separate series of numbers for employers' reports, physicians' reports, and workmen's claims, each type of report being kept in a separate file. Michigan numbers compensable accidents only, the noncompensable accidents of each month being filed in alphabetical order by name of employer. Montana has a separate numerical series for each insurance plan—i. e., all State fund accidents are in one series, all self-insurers in another, and all insured employers in a third. Pennsylvania numbers all accidents in one series, but maintains separate files for (1) non-compensable accidents, (2) deaths, (3) permanent disabilities, and (4) temporary disabilities.

The other five²⁶ commissions have not adopted the consecutive numerical system of notation. California does not number its accidents at all, the reports being merely filed in alphabetical order by name of employer.

In Illinois each employer reporting accidents is given a number. This number is assigned to every accident reported by said employer, and the reports are filed under the employer's number in alphabetical order by name of employee. Each employer has two files, one for open cases and one for closed cases.

In New York for purposes of compensation administration, the State is divided into five districts, viz., New York, Albany, Syracuse, Rochester, and Buffalo. The accidents received in the New York City district are separated into six groups or units, each unit having supervision over the accidents of claimants whose names begin with certain letters of the alphabet. For example, the accidents of all injured employees whose names begin with E, F, and G are handled by one unit. The accident reports are then separated by each unit into two groups, (1) compensable and (2) noncompensable. The noncompensable accidents are not numbered, each month's accidents being filed in alphabetical order by name of employee. The compensable accidents are numbered, each number designating the district, the year, the unit, and the number of the accident received by that unit during the year. For example, the number 1-9-3-3604 indicates the following facts: "1" indicates the district of the State (in this case New York City); "9" indicates year (1919); "3" indicates the

²⁵ Colorado, Idaho, Indiana, Maryland, Massachusetts, Michigan, Montana, and Pennsylvania.

²⁶ California, Illinois, New York, Utah, and Wisconsin.

unit (E F G); and "3604" indicates the number of the accident. In other words, it is the 3,604th accident received by unit 3 in the New York City district during the year 1919.

In Utah the insurance carrier is the basis of notation. Each insurer is given a number, the State fund being number 1. The employers insured by each carrier are arranged in alphabetical order and are numbered A1, A2, B1, B2, etc. Each employer's accidents are numbered consecutively. For example, an accident bearing the number 1M5-27 means that it is a State fund case, the employer's name begins with M, being the fifth employer in that alphabet, and being the employer's 27th accident.

In Wisconsin the accident reports are first filed in alphabetical order by name of employer. Each employer's accidents are numbered consecutively and filed in numerical order and under the employer's name.

Which of the foregoing methods of numbering and filing accident reports is the most efficient is difficult to determine. The type of system most suitable in a given State would depend somewhat upon the functions of the commission and upon the number of accidents handled. The method found satisfactory in Nevada would not necessarily be suited for New York. Among the 16 funds and 13 commissions, three general types of accident designation may be distinguished. The merits and demerits of each type may be summarized as follows:

1. The consecutive numerical system in which all accidents are numbered in one consecutive series. A large majority of the States have adopted the numerical system. The advantage of this method lies in its simplicity and facility in filing. Its chief disadvantage lies in the lack of grouping or classification of accidents by employer or insurance carrier. Each employer's accident reports are widely scattered throughout the files.

2. The Wisconsin system in which each employer's accidents are kept together, the employers being arranged either in alphabetical or numerical order. In the latter case each employer is given a number. Under this system each employer is treated as a unit, the chief advantage being that the complete accident record of every employer under the act is immediately available.

3. The West Virginia system in which all the accidents of a given date form the unit. Each day is numbered consecutively and all the accidents sustained on this day are filed together in the order in which they are received. The number of each accident will therefore show the date on which it occurred and the promptness with which it is reported. The disadvantage of this method of designation is the same as (1), i. e., each employer's accident reports are scattered promiscuously throughout the files.

DISCUSSION.

Mr. HOOKSTADT. I would suggest the appointment of a committee to study the question of procedure and point out what seems to it the best method and report to the association, and endeavor to get that method adopted in the various States.

The CHAIRMAN. There will be an opportunity for discussion. There are a number on the program who are set down for it, and then there will be a general discussion on the question.

Mr. FISHER. I would like to ask Mr. Hookstadt where is his justification for the use of the median in the tabulation of those cases between the time of the accident and the accident report? Perhaps it is a statistical question, but I was wondering whether the use of the median has any special merit.

Mr. HOOKSTADT. The median is probably the fairest statistical average for determining promptness in accident reporting—it is certainly better than the arithmetical average. I did not limit myself to the average merely; I also showed the distribution by groups.

Mr. FISHER. In the tabulation of those cases what is the date—the date of the accident-report sheet or the date when it was received in the commission?

Mr. HOOKSTADT. The date of the accident.

Mr. FISHER. I mean the receipt of the accident report; was it the date of the accident report or the date it was received in the commissioner's office? The time elapsing between the date of the accident and the receipt of the accident report is what you have in the tabulation here.

Mr. HOOKSTADT. The averages shown in the table give the interval elapsing between the date of the accident as shown on the report and the date of its receipt by the commission.

Mr. FISHER. Have you ever made any study of this voluntary agreement system as to the policy of paying the wages prior to the approval of the agreement by the commission?

Mr. HOOKSTADT. No. You might tell your experience in Pennsylvania.

Mr. FISHER. I made a study of 10,000 cases last year and my figures with regard to the approval of the agreement brought out that quite a time elapsed between the date of the accident and the date of the receipt of the agreement in our office for approval. One company's average went as high as 116 days. We have mostly self-insurers in Pennsylvania, but I find in running down a lot of these cases that a great majority of the self-insurers, knowing that they will have to pay something at the start, start payments before the agreement is approved, because they know the rate, and I find the practice in Pennsylvania with self-insurers is to start these payments—

The CHAIRMAN. I think we will confine ourselves to the questions raised by Mr. Hookstadt, and later on we can have it up for discussion. There are others on the program to discuss it and there are so many angles to this question of claim procedure that we will get involved if we do not follow that course.

Mr. SPENCER. How many States in the Union have an emergency provision to pay the injured from the date of the accident until the final report?

Mr. HOOKSTADT. I think two or three.

Major GILL. I would like to ask if it is a general custom in most of the States where a man is called in for examination to pay his expenses out of the insurance fund, or is the workman usually required to pay his own expenses?

Mr. HOOKSTADT. I can not give a general answer to that. Some do and some don't. I did not go into that particularly and do not know.

The CHAIRMAN. The discussion will be led by Mr. Eddy, of Maine. Is Mr. Eddy here? Well, then, Mr. Lee, of Maryland, will lead the discussion.

Mr. LEE. I do not feel qualified to discuss this matter in detail. I think we are very much indebted to Mr. Hookstadt for his very elaborate report on the systems in vogue in the States visited by him, outlining what they do and how they do it.

The method of accident reporting and claim procedure employed by compensation commissions and funds in 20 States investigated and discussed by Mr. Hookstadt, of the Bureau of Labor and Statistics, Washington, D. C., has been read with much interest, and as a representative of the State Industrial Accident Commission of the State of Maryland, I desire to bring out a few details as to the actual practice of handling the same work in our own commission, and the effect of the reduction in waiting period in our State upon claims and reports.

With reference to employers' reports—the Maryland compensation law requires that the employer report at once *every* accident happening to his employees, to the accident commission, which report must contain time, cause, and nature of the accident and injuries and the probable duration of the disability resulting therefrom. The commission by its rules and forms also requires that the average weekly wage, date of accident, was injured employee doing his regular work, was medical attendance provided by you, etc., be given. The question as to nationality referred to by Mr. Hookstadt as an unnecessary and unreasonable question does not appear on the employer's report. The question as to probable length of disability does not appear for the act requires it, but it is a question that I do not see how the employer can answer, at least with accuracy enough for commissions to rely upon. Often an employee does not return to work for the same employer, and if the employer does not follow up the case, and it would seem that in many cases he would not, is it not impossible for him to make a dependable estimate on the duration of disability? It would seem to me that this question should be determined by the employee, the physician, and in some cases, if necessary, the commission. One requirement given in the discussion is as follows: "In case of permanent disability, the employee's subsequent occupation and wages should be given by the employer." In Maryland this is unnecessary, for in permanent-disability cases our law allows two-thirds of the average weekly wage (average taken from wages earned at the time of injury or prior thereto) for a specific number of weeks given in the act, for each permanent disability, and the fact that the injured person returns to work for more or less money does not affect his rights under the permanent-disability class. But one report is required from the employer by our commission, supplemental reports having been found unnecessary, and therefore eliminated.

Since the Maryland law was changed, effective June 1, 1920, Mr. Hookstadt's investigation as to Maryland does not apply to present conditions, due to the fact that the waiting period has been reduced from 14 days to 3 days, hence cutting down the average length of time that elapses between the date of accident and the date of filing claim, employers' reports, physicians' reports, award of compensa-

tion, and the first payment of compensation. Statistics now show that the average time has been reduced by at least the number of days that the waiting period has been reduced, except employers' reports, which show a reduction of two days. The average interval between date of accident and receipt of employer's report is now 7 days instead of 9; the average interval between date of accident and receipt of physician's report is now 17 days instead of 27; workman's claim 16 days instead of 26, and this is lower than any State given by Mr. Hookstadt in his report. The average interval between date of accident and first payment is 28 days instead of 38, and the average interval between receipt of latest report and commission's award is 8 days instead of 10.

Physicians' reports since the change in law, June 1, 1920, are required to be furnished by the injured employee only when he has a physician of his own selection. In all other cases the physician's report must be furnished by the employer and in these cases the absence of a physician's report does not cause the claim to be disallowed. When an employer's report and a doctor's report are filed with our commission, they are kept in the filing department until a claim comes in. A number is given to each and a card is made for each under the employee's name. These reports are filed numerically and the cards alphabetically. When a claim comes in all papers bearing on same, filed prior thereto with the commission, are transferred from the filing department to the claim department and the cards on the transferred reports are destroyed. One card, however, is made and kept in the filing department to show the entrance of the claim into the commission and transfer of reports.

The difficulty of delay, mentioned by Mr. Hookstadt, does not apply in Maryland. This may result largely from the fact that Maryland is a small State and all the compensation work is handled by one central office. All complaints, therefore, if any, are made direct to that office. If anything is not going satisfactorily that office immediately finds it out, for experience shows that employees in our State pretty generally know of their rights under the compensation law, and we feel safe to say that if they are not getting the full measure of their rights under the act complaints will be made. Some complaints have been made in the past and from them we have gained very valuable information as to how the difficulty can be remedied. The fact that such complaints are very seldom received leads to the inevitable conclusion that so far as delay is concerned in Maryland, it is not serious enough in any way to affect the employees.

It occurs to me that the following practice of our commission may be of interest as well as of assistance to other commissions in the making of awards: For the past year our commission has been making the compensation payable "during the continuance of the disability of the claimant," except where the disability is permanent, and in fatal cases or where the case denotes temporary total disability and temporary partial disability. By so doing if an injured person loses time, returns to work, and has a recurrence of disability, the insurer or employer can resume payments on the original award without a modification of the same by the commission. We find that this saves many modifications of awards and the injured party is enabled to have his payments resumed without delay or a further order from the commission. Two

cards are made in the claim department on every claim that comes in to the commission, one of which is lent to the docket clerk, from which he makes an entry in the docket book. When an order is passed, another docket entry is made, and the same is done upon receipt of a final settlement receipt. In this way it is possible to follow up the payments in the case. If a final settlement receipt is not filed within a reasonable time a letter is sent to know the reason of delay.

All noncontested cases are disposed of within eight days after the filing of the claim with the commission. Practically all contested cases are disposed of within two or three weeks after the request for a hearing is filed. The insurer or employer (if employer is self-insured) is privileged to waive the usual notice of claim that is mailed to all parties in every case, if it so desires, and by so doing an order is immediately passed and the injured person, therefore, receives his award of compensation from the commission on the third day after the filing of his claim. About $3\frac{1}{2}$ per cent of the claims are heard formally, the other $96\frac{1}{2}$ per cent being adjudicated from the written reports in the file.

The Maryland system is giving satisfactory results to Maryland. This statement is based upon the fact that the complaints coming from employers and employees are negligible, and there are absolutely no adverse criticisms of the commission and its methods from the press. We have been going through a process of development and of improvement since the day the act first became effective. Very little of the work is being done now as it was several years ago. Wherever there can be a change of method worked to the benefit of all concerned, it is done without delay, and, again, our act undergoes very few legislative changes, which always entail more or less confusion until the work can be adjusted to those changes. The act, as passed in 1914, remained practically the same until it was revamped and modernized by the act and amendments of 1920. We are very seldom molested or hampered by legislative enactments which do not have the full indorsement of the commission. It is safe to say that our present act will remain as it is now until its usefulness is outgrown, and, when that time comes, it is to be hoped that the important changes to be made will be worked out by the cooperation of the commission, employers, and employees as it has been done in the past, which method is bound to bring the most satisfactory law to all concerned.

Appeal.—Any employer, employee, beneficiary, or person feeling aggrieved by any decision of the commission affecting his interest under the workmen's compensation act, may have the same reviewed by a proceeding in the nature of an appeal, and initiated in the circuit court of the county or in the common-law courts of Baltimore City having jurisdiction over the place where the accident occurred, or over the person appealing from such decision. Notice of an appeal must be served personally on some member of the commission within 30 days following the rendition of the decision appealed from; and immediately upon receipt of notice of appeal to the commission all parties are notified concerning same, and a transcript of record, together with the testimony, if any, is at once written up and forwarded by the commission to the proper court. After the case shall have been heard and determined on appeal, the law makes it the

duty of the clerk of the court to which the case is sent, to send to the commission a duly certified copy of the docket entries and the decision of court or jury. In all court proceedings, the decision of the commission shall be prima facie correct and the burden of proof shall be upon the party attacking the same. The party appealing has the right to open and close the case.

Lump sums.—The commission may, if, in its opinion, the facts and circumstances of the case warrant it, convert the unpaid compensation under its orders (excepting temporary total disability orders) to a partial or total lump sum. It is my understanding that some commissions grant lump sums without any hesitancy, but all applications for lump sums in Maryland are gone into thoroughly before they are granted by the commission. Each application must contain the names of three reputable business men who know the claimant, and believe it will be advisable for the commission to so grant the outstanding compensation. Testimony is taken on these applications, and the facts and circumstances must show that the granting of a lump sum will inure to the best interest of the claimant, before same is granted by the commission.

MR. MARR. I would like to ask Mr. Lee this question: Is it the view of the gentleman from Maryland that the employee should be expected to agree to what his employer thinks that he should have?

MR. LEE. I should say "No." We do not allow any adjustment of any kind outside of the commission. We do not have any agreement system. The preamble of our law says that it is enacted for the purpose of removing from private controversy disputes between employer and employee, and if any employee in Maryland suffers by reason of anything that is not fair and square that he does outside of the commission, it is his own fault. If he brings it to us, we will try and correct it, but if he does it outside, it serves him right.

MR. MARR. What is the method of procedure under your statute where an employer is not insured and it is necessary to adjust the claim in order to compel the employer to pay the compensation to him?

MR. LEE. The method of procedure is exactly the same, with this added: If the claim has been presented and a decision arrived at and determination had, if we find that the employer does not come in and pay that compensation and take out insurance to provide for the future compensation, we direct the claimant to go before a committing magistrate and have a warrant sworn out for him, and he may take it to the grand jury and have him indicted or prosecuted under the criminal section of the law which requires that he shall pay the employee the compensation due and make provision for future compensation and, upon that, the court may parole him, otherwise it is within the discretion of the court to send him to jail; and we have done it.

MR. MARR. I would like to know how you get away from the question of imprisonment for debt on that proposition?

MR. LEE. It has not yet, as far as I know, gone to the court of appeals, and those fellows are so anxious to avoid a stay in jail while they are testing out the constitutionality of that matter, that they generally try to make some provision, because they are not certain to get away with the constitutionality end of it. I am assuming that the act, having been tried as to its constitutionality, same having

been challenged by eminent counsel of the State and taken to the highest court of the State, and its constitutionality having been maintained, that that provision was taken into consideration when the court of appeals passed upon the constitutionality of the workmen's compensation act.

Mr. CHANDLER. I would like to ask how the averages were arrived at. If you simply take the uncontested cases it is possible for an efficient commission, especially in a small State like mine, to have settlements made promptly, as promptly as wages are paid. There is no reason why the insurance carrier or the self-insurer should not pay in ordinary uncontested cases the compensation when it accrues as promptly as wages accrue, and then you get a good average. But if in arriving at your averages you take into account your contested cases and delayed cases, the best system in the world will give you a bad showing. When a case is contested, owing to delays and postponements by either the employer or the employee, it is some time possibly before the commissioner decides. It may be appealed to the superior court and a further delay ensue. It may go to the supreme court and months may elapse between the date of the injury and the date the man gets his money. Would you put such a case in when making up your average or would you take only the uncontested cases?

Mr. LEE. I do not make the averages. I do not know whether it would be right to put it in or leave it out. I am not a statistician and it is not for me to say. I understand if it is put in it increases the time of payment and if it is left out it decreases it.

Mr. HOOKSTADT. I explained the whole matter in my paper at San Francisco and which you will find in Bulletin 281. First as to the cases: I took from the files of each commission what I considered a sufficient number of cases to get a dependable average, although in some cases I was not able to do so. These cases were distributed throughout the years 1918 and 1919—an equal number from the files of March, June, September and December. I took every case within the periods selected, contested as well as uncontested, and computed the intervals between the date of the accident and the date of the first payment. Now, as to the median: Let us take nine cases, for illustration, in which the intervals between the date of accident and date of first payment were 10, 15, 22, 24, 25, 36, 40, 70, and 267 days. The last item represents a contested case. It has no effect upon the median except as it is one of the number. The median in this case would be the middle number, 25, that is, there are as many cases above the median as there are below it. The median or average therefore would be the 25 days. It is not an arithmetical average. In an arithmetical average, Mr. Chandler's objection would be justified. But exceptional cases would not affect the median average at all except in as far as it is one case.

So much for the median. I also divided the cases into groups showing what proportion were under two weeks, under three weeks, under four weeks, and so on. In addition to the average, therefore, you also have a distribution showing the percentage above and below the median.

The CHAIRMAN. I am going to recognize Judge Taylor at this time to continue the discussion.

Judge TAYLOR. Our system in principle is about like yours. Recently we have changed our procedure, so far as we could under the statute. As we are operating to-day, it has been our central idea to put the burden upon the respondent and lift the burden as much as possible from the commission, because heretofore under our old procedure the insurance companies and the respondents rode us. Our law requires a claim to be filed. I think that is good. It is the laborer's side. He tells his story there. We do not have a formal hearing on every claim. Under our new procedure, in order to meet the requirements of the statute which required that a claim should be filed, we have combined the notice of injury with the claim for compensation; but we do not under our newly adopted procedure wait until these things are passed on, but we require the respondent forthwith when the accident occurs to begin payment of compensation if it is such a case as should be compensated. We have a waiting period of 7 days, but if the injury exceeds 21 days, then compensation begins from the date of injury. I think that is a just and good provision. In the event of a contest we put the burden upon the respondent. We require him to begin the payments forthwith. If there are reasons why he should not, he files his formal answer with his grounds of defense, showing why he should not pay compensation. Upon that there is a hearing—a formal hearing which is informal—we exercise a broad latitude. We do not confine it strictly to that character of evidence which would be required in a court of law, but we endeavor to get right at the heart of the question.

In a word, in all our procedure we have sought and are seeking to cut out the red tape and the foolishness and to get at the meat of the coconut and to pay the man what he ought to have. Under our statute we have almost unlimited power, and appeals to the supreme court have resulted in that the supreme court, in the spirit, has gone us one better. For instance, not long ago two fellows had a fight, in a mine. The fight was not in defense of the property at all, but they had it in for each other on personal grounds. One fellow slayed the other like everything. I heard the case myself and denied compensation. They took it to the supreme court, and the supreme court reversed me and gave him compensation. That is a pretty broad ground. Another case: A workman one cold morning last winter was sitting by the fire and had removed his shoe and was trimming a corn on his foot. Another workman came by and tossed a dynamite cap into the fire, which exploded and put his eyes out. The case was heard—I believe Judge Jackson heard that case—compensation was denied and he appealed, and we were reversed. I mention these cases as illustrations of how our supreme court views these things.

Mr. McSHANE. What is the liability provision of your law?

Judge TAYLOR. A maximum of \$18.

Mr. McSHANE. The provisions governing most of our States provide compensation will be paid for an injury arising out of and in the course of his employment.

Judge TAYLOR. We follow the language of the old English statutes on that subject. That language is the same.

The CHAIRMAN. Why should not the last man you mentioned have compensation?

Judge TAYLOR. We viewed it in this way: It did not grow out of his employment. It was in the course of it, but not growing out of it.

The supreme court said that he was there, that he had a right to be there, that he was laboring there under the conditions as he found them by invitation of his employer, that he had the right to attend to the calls and requirements of his physical being. They went on that theory and reversed it.

The CHAIRMAN. They ought to.

Judge TAYLOR. Before the supreme court spoke on that subject it was not the law, but it is now. However, we never feel aggrieved when the supreme court reverses us for denying the compensation. We look at it judicially. That is where the lawyer comes in.

Now, with reference to appeals; I think we have a good system. The appeal from our decision lies direct to the supreme court and nowhere else and that appeal is on a question of law only. As to the facts there is no appeal from us, and although our supreme court is some three years behind with its docket, nearly four years, yet these cases go up there and in a very short time, two or three weeks, an opinion is written on the subject. So our system of appeal is good. To my mind, I don't think there ought to be many avenues of appeal. Nobody knows that better than attorneys at law, that wherever the fellow can appeal he will appeal. If he could go beyond the Supreme Court of the United States he would go there one way or the other and carry up his cause so long as he could find somewhere else to go. But you shut him off and it is just as well. As I say, on questions of fact our word is final. There is a grave responsibility and the man would have to be destitute of every quality of manhood and every sense of justice to use this authority carelessly or lightly. I might say here with reference to appeals, that out of some six or seven thousand cases last year there were only 16 cases appealed. We get along harmoniously and well. There are several difficulties which we intend to correct. We tried to in our last legislature but failed. For instance, we do not provide for a percentage loss. As an example, a man lost 65 per cent of the use of his good arm and we could only give him compensation for the time of his temporary disability. That is manifestly unjust. We hope to have that corrected.

With reference to agreements, I believe in them because I am an individualist. I want to do my thinking for myself and if I want to enter into an agreement with somebody, that is my business. That is Americanism. As long as this does not hurt anybody else, that is a principle of law that is sound. Now this law provides that these agreements must be in accord with the statutory requirements. When these agreements come in to us, we examine them and see that they do comply with the statute and, that being so, we approve them, if all the surrounding circumstances are of such a character that we deem it best. If we are not satisfied with the agreement we do not have to approve it. If they do agree and it turns out that his condition or disability becomes worse or changed, so that there is a changed condition from that which existed at the time the agreement was made, then we simply set that aside. Now, that is being challenged at the present time in the supreme court on appeal. One insurance company is raising the question and they say that we are bound by this agreement and we have no right to abrogate it or set it aside. I think we have, but that matter will soon be settled by our supreme court. We have always tried to treat the agreement as binding so

long as the conditions under which it was made prevail, but if a man has what appears to be a minor condition when he agrees to take compensation and it develops into something more serious, we simply open up the case. That is just and that is fair and there is no danger in that.

Now, with reference to lump sums, we have the right to make lump-sum settlements. We have numerous applications and they have been a source of annoyance. The lump-sum application usually comes when a brother attorney is in the case and the reason is obvious. We have to be very careful along that line and ought to be.

A MEMBER. Do you fix attorney's fees?

Judge TAYLOR. Yes; the statute gives us that right and it operates as a lien if we approve the fee under the statute. Take a man who has lost a hand or a finger and he is a bright, clever fellow and has as much sense or more than I have, we let him have the lump-sum settlement, but if it is a man who is liable to become a charge on the community, we do not. Then again, if it is people who are carrying their own insurance, it manifestly works hardship, and in these days of stringency, these days of depression, a few of these lump-sum settlements might put the concern into the hands of a receiver. It has been the policy of our commission since its establishment to grant lump-sum settlements with the utmost caution and after investigation of the man's fitness, his financial fitness, his business ability and standing, we do this and without warrant of statute, but we do it. Sometimes we permit lump-sum settlements, provided he invests the fund in a farm or something of that kind. If he be a young man, we give him a sufficient partial lump sum and reeducate him, and we have been carrying on the work of rehabilitation. I give full credit for that to my associate commissioner, Myers, who is the representative of the labor interests on our board, who has this matter very deeply on his heart.

The CHAIRMAN. We will hear from Mr. Hatch now and bear in mind as we continue these discussions that we have to apportion this time and finish the discussion before we adjourn.

Mr. HATCH. I thought possibly it might be helpful to the convention to give you one or two points which seem to have been developed rather definitely out of past experience in New York State. I won't undertake to review the past, but will turn over my time to Mr. Otis, because since Mr. Hookstadt's report the procedure in New York has been overhauled and changed and I think you will be most interested and get most from hearing Mr. Otis as to what the present practice and procedure with us is.

Mr. OTIS. I am glad of this opportunity to tell you something of the reorganization of the New York department of labor and the new methods of claim procedure of its bureau of workmen's compensation, of which I have the honor to be the director.

The reorganization plan recommended by Gov. Miller and adopted by the legislature called for a single-head commission for administrative purposes, termed the industrial commission, and an industrial board of three members, whose functions as relating to claims will be described later. Henry D. Sayer was appointed by the governor as industrial commissioner and assumed office April 15, 1921.

Mr. Sayer's appointment was a fortunate one, as he had been previously connected with the department as secretary and later as a member of the old industrial commission for five years. Senator Duxbury, in his kindly and appreciative comments on Commissioner Sayer's paper delivered Monday, said he was truly a sayer. In New York he is known not only as a sayer, but a doer.

Commissioner Sayer divided the department into five bureaus: Inspection, workmen's compensation, State fund, industrial relations, and research and codes.

The bureau of workmen's compensation, besides its referees (10 in number), who conduct hearings, is divided into three divisions—medical, claims, and self-insurance.

With Commissioner Sayer's administration hardly begun two big achievements have been accomplished:

(a) The installation of economy without loss of efficiency or undue curtailment of any necessary function, resulting in a saving of \$1,000,000 a year.

(b) Revision of forms and new methods of procedure as relating to claims resulting in payment being made more promptly to claimants.

The bureau's part in these achievements was an important one—its expenditures were substantially decreased and at the same time its efficiency was increased, due to a rearrangement of the office force and change in the office system. This adjustment took place without causing the discontinuance of any of the bureau's activities.

The revised forms and new methods of claim procedure apply particularly to the bureau. Commissioner Sayer early in May called a conference to consider the drafting of new forms called for by the amendments to the compensation law, the revision of old forms and drafting of rules of procedure and practice. This conference resulted in the appointment of a general committee of five composed of one representative each of stock companies, mutual associations, the self-insurers' association, New York State Federation of Labor, and Associated Industries, with the director of the bureau as secretary. Later three subcommittees were appointed to deal with the subjects of forms, procedure, and office management. The committees accomplished splendid results and their recommendations were in all cases unanimous, a rather unusual and most fortunate circumstance.

The State as respects the work of the bureau is divided into five districts, the offices being located in New York City, Albany, Syracuse, Rochester, and Buffalo and the claim procedure is practically the same in each.

It is desired that the injured employee file with the industrial commissioner an employee's first report of injury (Form C-1) and employers are required to keep copies of these reports on hand for use of employees, but a more informal notice in writing will meet the requirements of the statute.

Employers are required to file promptly and within 10 days an employer's first report of injury (Form C-2), covering all accidents causing loss of time or requiring medical attention with the industrial commissioner and if filed through the insurance carrier, the original is to be forwarded to the bureau. These reports are all indexed and numbered at once, both as to employer and employee.

Immediately upon the filing of the employer's first report of injury, the injured employee is sent a copy of Form C-3, which is the employee's claim for compensation, together with instructions for the preservation of his rights. This is in the form of a return addressed and stamped post card, easy and simple to fill out and mail. The short form post card C-3 is sent out not only on all C-2's but also on C-1, C-4 (physician's report), or any miscellaneous correspondence notifying the industrial commissioner of an accident.

The attending physician's report (C-4) is required to be promptly filed and, likewise, in cases of eye injury, an eye surgeon's report (C-5).

An employer's supplementary report of injury (C-11) is to be filed before or not later than 14 days if the employer's first report (C-2) does not show the time the injured employee returned to work. Where the disability resulting from an accident terminates and the injured workman returns to work and subsequently is disabled as the result of the original injury, an employer's supplementary report of subsequent disability (C-10) is to be filed.

The basic papers going to make up a claim are now all on file, particularly C-2 and C-3.

The injured employee almost always needs his compensation at once. Recognizing this, Gov. Miller recommended that the law be made to provide that compensation should be payable in like manner as wages, promptly and as due. The legislature carried out the recommendation, and the amended law became effective July 1, 1921, marking a long advance in the handling of workmen's compensation in this country.

The first payment of compensation accordingly becomes due on the twenty-first day of disability and on that date or within 4 days thereafter the compensation due is to be paid.

Upon the first payment the employer or insurance carrier shall notify the industrial commissioner that compensation has begun, without awaiting award of the referee, and copy of this notice is furnished the injured employee—C-6 (notice to the industrial commissioner that the payment of compensation has begun without awaiting award of industrial board). It is probable and hoped that the use of Form C-6 will wholly supplant the agreement system provided by the law.

This payment of compensation by our rules acts as waiver of the reporting of the accident by the employee and his filing of a claim for compensation.

Notice to the industrial commissioner that the payment of compensation has been stopped or suspended (Form C-8) is immediately filed in duplicate upon the stoppage or suspension of payment by the employer or insurance carrier. One is at once mailed the injured employee together with a notice of opportunity to be heard (C-12).

If the employer or insurance carrier intends to controvert the right to compensation he shall either on or before the twenty-fifth day of disability file a notice in duplicate with the industrial commissioner that compensation is not being paid and indicating in such notice the reasons for such nonpayment (Form C-7—notice to the industrial commissioner that claim will be controverted). One copy is at once sent the injured employee.

Also immediately upon its receipt, long Form C-3, which calls for greater details as to the accident, is sent the claimant to fill out and return. The injured employee is usually not so well versed as to his rights or the handling of his claim as the adjuster for the employer or insurance carrier and the bureau wishes as much information as is possible in order to arrive at a just and fair decision.

If the employer or insurance carrier fails to pay any installment of compensation within 25 days after the same becomes due, there shall be paid as a penalty an additional amount of 10 per cent of the compensation then due, which goes to the injured employee, unless the case is a controverted one or such delay or default is excused by the industrial board.

In order to insure prompt action in controverted cases an insurance carrier may be assessed \$5 by the industrial board for each adjourned hearing held at its request.

Receipts for payments of compensation are to be given by the injured employee to the employer, and the employer is required to produce same for inspection by the commissioner when desired.

A notice of final payment is to be sent the commissioner within 16 days after final payment. Form C-8 answers this purpose. A failure to file this notice entails a fine of \$100, \$50 of which goes to the special additional compensation fund for permanent total disability after permanent partial disability created by paragraph 7, section 15, of the law and \$50 towards the general expenses of the commissioner.

The claims having been prepared by the claims division and its examiners and the notices of hearings (Forms C-14 and C-15) sent to all interested parties we now come to the handling of the cases at the hearings.

As stated, immediately upon the stoppage or suspension of compensation the employer or insurance carrier files a copy of form C-8 in duplicate with the bureau, one copy of which is at once sent to the injured employee with the notice of opportunity to be heard (Form C-12). The claimant is advised that if any of the statements contained in Form C-8, including rate of compensation paid, length of disability, etc., are incorrect, either to inform the bureau in writing or to appear at a certain date and hour fixed in the notice for a conference respecting the claim. All claims of this character are listed on what is known as a closed case conference calendar, which calendar is heard by the chief claims examiner or one of the claims examiners. The notice states that "if no objection is made either in writing or by person on or before the date mentioned, claim will be closed," and this action is taken without prejudice if the claimant does not appear on the day of the hearing or if he has not written the bureau in the meantime. The employer or insurance carrier is also notified of the date of these conference hearings and in case there is some question in dispute it is expected that the claimant or his representative and the employer or his representative will be present, and together with the examiner the differences can be adjusted and the case closed.

As the new system only went into effect July 1, it is too early to have any figures at all reliable as to results. We are hopeful that at least 70 per cent of the cases can be closed without a hearing,

and that the differences arising in 20 per cent of the disputed cases can be satisfactorily adjusted, leaving only 10 per cent of the cases to revert to the referee's testimony calendar.

The controverted cases, cases where the employer advises the claim will be controverted, are separated into two classes, those which it appears can be adjudicated at a conference before one of the claims examiners and those requiring testimony to be heard, which are placed upon the referee's testimony calendar. The matters which it is believed can be settled at a conference are principally questions of (a) weekly wage, (b) rate of compensation, (c) period of disability. Of these controverted cases which will be placed upon the conference calendar, it is believed that fully 65 per cent will be settled at the conference, leaving only 35 per cent to be placed upon the referee's calendar where testimony is taken.

Our law provides that the industrial board shall hear and determine all claims for compensation and further provides that a referee, under rules adopted by the industrial board, may act in lieu of the board in the hearing and determination of claims, and that the decision of a referee on a claim shall be deemed the decision of the industrial board unless the board on its own motion or application modify or rescind such decision. Consequently all closed conference cases are placed upon the referee's calendar and the action taken by the claim examiners at these conferences is approved pro forma by the referee. All other controverted cases are assigned to one of the referee's calendars which will be referred to later.

The governor appointed as members of the industrial board a representative of the manufacturers, a representative of labor, and a lawyer—each one well equipped and well qualified to discharge the important duties devolving upon him.

Certain matters may come directly before the industrial board as original hearings: Questions involving public policy, questions of jurisdiction, and matters of equal importance as determined by the board. The board hears all motions for rehearing, opening of defaulted cases, all cases where application is made to the board for a review of a referee's decision, and may also hear cases which are to be tried for the first time as determined by the board.

As soon as a decision has been rendered and award made, the bureau sends out notices of the award (Form 18) to all interested parties, and failure to pay the award unless an appeal is taken subjects the employer or insurance carrier to a penalty equal to 20 per cent of the unpaid compensation, which shall be paid to the injured workman or his dependents.

I wish there were time to describe the procedure in case of a claim against a third party, including our form of notice of subrogation claim filed with the commissioner to safeguard the claimant's interest in his right to compensation pending the determination of the third party action—to tell you of our efforts to compel non-insured employers to carry insurance and to collect awards made against them which we consider among the most important of our activities, for we should as far as possible make certain the payment of the compensation due the injured employee. Employers who do not carry insurance should realize that they are not only exposing themselves to possible large financial loss, but imprisonment as well as heavy fines, by not obeying the law. I should also like,

if time allowed, to give a detailed description of our final adjustment calendar, commuted lump sum calendar, medical claim calendar, death calendar, and occupational disease calendar.

An award or decision of the industrial board may be appealed to the appellate division of the supreme court, which is similar to the circuit courts of other States. An appeal from the decision of the supreme court may be taken to the court of appeals, which is similar to the supreme court of other States.

May I say in conclusion that it is our purpose to keep ever before us the humanitarian aspect of the law and to so conduct the work of the bureau that fairness and justice shall prevail and the administration of the law prove satisfactory to employer, employee, and the general public. If our system commends itself to you and we can be in any degree helpful to you, we shall be glad.

The CHAIRMAN. We will be glad to hear from Mr. Duffy, of Ohio, chairman of the industrial commission of that State.

Mr. DUFFY. On the subject of claim procedure there is very little that I can add to what has already been covered in Mr. Hookstadt's report. The things to be achieved, as I understand, are promptness in the payment of claims, furnishing a medium whereby claimants can get their proof before the commission in the most convenient and least expensive way, and also to provide safeguards whereby any attempt to deprive the claimants of any part of their compensation will be detected.

Since Mr. Hookstadt made his investigation of our system, and as a result of his investigation, we have made some improvements. We have taken three separate forms, the report from the employer, the application for compensation from the claimant, and the physician's report, which were separate prior to that time, and have combined them in one form. The procedure now in a State insurance case would be for the claimant to make out his application for compensation, take that same form to be filled out by the employer, and then take the same form to be filled out by the physician. The reason we did that was that in our experience the biggest factor causing delay was the report of the attending physician, and in this way the procedure causes the claimant to bring pressure to bear upon the attending physician. Now, in what we call our self-insurance cases, we have the agreement plan. The lawyer and the claimant get together and agree upon the facts as to the nature of the disability, the period, the amount of compensation due, etc. Both of those plans in our experience are subject to all the defects that were pointed out this morning, yet I don't know that experience has yet developed anything better.

To give you a concrete illustration under each plan: Very recently we had a claim for compensation filed in a State insurance case. The injured worker had been employed by a contractor who was building a filling station for a gasoline or oil company. In order to facilitate the work of the contractor the oil company voluntarily, without any understanding of any kind, offered to transport the workmen from the city to the outskirts, where the station was being built, each morning and back again each evening. A Negro working in the gang had finished his day's work and was taking his tools over to the tool house close by. A truck came along and struck the Negro,

or rather struck the tools over his shoulder, and threw him down and caused an injury which at the time did not seem very severe. Now, this truck, you understand, was owned by the oil company; the employee was working for the contractor. The representative of the oil company, whose experience had probably put this thought into his mind and who was afraid of a lawsuit, got an application for compensation, and in order to prevent any attempt to sue for damages under public liability, he made the case to appear that this workman had attempted to get on this truck while in motion and had fallen off, and therefore it would be his fault. That passed through our claim department, compensation being allowed, and was signed by the employer; there was no dispute on the facts. It developed into a very serious injury, and then the employer began to look into the claim, and finally came in and contested that claim on the ground that it did not occur in the course of the employment or arise out of the employment, after we had paid almost a year's compensation, and he used as his argument that in the supplemental application which this man had made—I might say that the reason for the supplemental application was that he had been reported able to return to work, had returned to work, but developments from a physical standpoint showed that he could not continue his work—and in that supplemental application made out by himself, with the assistance of friends, he gave the real description of how it happened, and that showed the conflict between the two applications. This man had said in his original application that he had attempted to climb on this truck and had fallen off, and in the supplemental application he had said that he was putting his tools away when the truck came along and struck him while he was doing that and threw him down and injury resulted therefrom.

Now, that was the first information we had as to that discrepancy, and when the thing was fully explained and investigated all these facts came out. So you see this man was put in the light of making a misrepresentation to get his compensation in the first instance, but was absolutely in ignorance of what the representative of the oil company, who had the contract with this contractor, had put in there to serve purposes of his own. So, of course, we gave further compensation and also gave a lecture to the man who had put in that reason when it was untrue; but the point is that the workman had his opportunity and was taken care of.

Another case under this contract procedure, which is still pending before our commission, was up only last week and is fresh in my mind. A certain company reported an agreement of \$2,000 in a death case, a widow with no children. I found that the man's wages had been such that it would have entitled the widow to \$5,000. We called the employer's attention to it and it developed in the course of correspondence, which I will not take up your time to recite in detail, that this widow, a colored woman, not knowing her rights, had been taken advantage of. The administrator for the decedent's estate, who in this instance was a white man, had made a settlement with this company for \$2,000, made a report as administrator in the probate court, and the minute the employer attempted to justify the settlement and to deny the jurisdiction of the industrial commission, we notified the employer that he had been given authority to carry

his risk under the workmen's compensation law and that that law provided that no agreement waiving compensation or any part of it was valid under the law, and therefore this agreement made and reported in the probate court was null and void, that the probate court had no right to recognize it, and the case is set for next week to be determined on its merits. So far as we can see, we have the safeguards whereby anyone who is attempting to take advantage of the agreement will be caught at some point in the process. We can not protect the workman against all these attempts or latent intimidation, such as sometimes a man without facts, for fear of losing his job, will submit to; but at some time or other these things are likely to come out, and then the employer is in bad standing with the industrial commission, and he is watched closely; we exact from him then such detailed records of cases that it becomes very unpleasant, and likewise he is held up before his fellow employers as one who has not been acting honorably and honestly under the law, and we think that all those things have a tendency to lessen, if not entirely eliminate, these evils.

Another thing in connection with that. We send out a notice of hearing in all cases both to the employer and to the claimant. As a matter of fact they do not appear in one-half of 1 per cent of the cases, but they have the right to appear, and every once in a while they come in unexpectedly, and therefore the employer, if he is making any misrepresentations, knows he is taking a chance of being detected, and likewise, on the other side, the workman who makes any misrepresentation is likely to be caught in it, because while in 99 per cent of the cases there is no appearance, there are sufficient appearances to make it uncertain.

Maj. GILL. I would like to ask Mr. Duffy one or two questions. In describing this case where the employer furnished the transportation, or the oil company rather, don't you require the report of the employer and the employee and the doctor before the claim is allowed?

Mr. DUFFY. Yes. But this report of the oil company took the place of the employer, he filled it out as the employer, and it was signed by him as a representative of the employer. Whatever the arrangement was between the employer and the oil company at that time we do not know, but the employer did not contest this case.

Maj. GILL. Did the employee sign the report of the accident?

Mr. DUFFY. He was too illiterate and it is signed by his mark. Every employer and employee knows what is going on every time we make an award. The notice of the amount is sent out to the employer and, of course, the claimant gets the notice of the award.

Maj. GILL. Do you have the exclusive State plan in Ohio or the threefold plan?

Mr. DUFFY. We have the State fund and that is exclusive as to insurance. The only alternative is self-insurance. We have about 22,000 risks in the State fund and about 800 self-insurers.

Mr. PILLSBURY. Some of the self-insurers carry insurance with outside companies?

Mr. DUFFY. About 600 of them. We have had that in litigation on this point. They state that these contracts were made prior to the enactment of our law and that these contracts were perpetual. They

did not provide any date of termination but had this provision, that either party might terminate the contract upon serving notice. We were restrained from enforcing the law in those particular cases. The case took four years, going from our common pleas court to the Supreme Court of the United States, but we won in every court. This is now being cleared up and the final date for all of these to be canceled is October 1. They can carry self-insurance but it must be bona fide self-insurance, they can not reinsure.

Mr. LEE. Are the self-insurers compelled to give bonds, and if so, how do you arrive at the amount of the bond that should be placed with the industrial commission to guarantee the payment?

Mr. DUFFY. Our rule on that is, the minimum is \$15,000 and not to be less. If the premium amounts to \$25,000 the bond must be \$25,000. If the premium is \$100, the bond must be \$15,000. That is our method of fixing that.

Mr. KINGSTON. What sort of a bond do you accept?

Mr. DUFFY. A surety bond, or we have been accepting Liberty bonds.

Mr. KINGSTON. When you accept Liberty bonds, do you return the coupons to the self-insurer or do you cut those and deposit them and give the credit?

Mr. DUFFY. We do not handle that, that is for the bond department of the State treasury, but we do not get the benefit of the premium on the bonds; that goes back to the owner.

Mr. LEE. In fixing the amount of security or the bond that shall be placed with you, do you take into consideration the financial standing of the company involved?

Mr. DUFFY. Yes, that is a preliminary condition. It must submit a financial statement, and it is within the power of the commission to reject its application of its financial standing is not satisfactory to us.

Mr. GARDINER. Has Ohio the third party feature?

Mr. DUFFY. No subrogation of rights.

Mr. GARDINER. Well, when the accident occurs, the accident is caused by a third party—

Mr. DUFFY. No; in Ohio if we grant compensation where the injury occurred in the course of employment and it was caused by a third party, the claimant may sue the third party and recover.

Mr. GARDINER. In that oil case would not the representative of the oil company who was the cause of injuring this man be the third party involved?

Mr. DUFFY. He is the third party. In this case the representative of the oil company, in order to protect the oil company, might have compelled the contractor to pay the premium and might have been watching it from that standpoint.

Mr. PILLSBURY. Has not your fund the right to bring proceedings against the third party?

Mr. DUFFY. No; we have not that provision.

The CHAIRMAN. There are other matters on the program for discussion this morning and we will next hear from Mr. Ott, State compensation commissioner from West Virginia.

Mr. LEE OTT. I have listened with considerable interest to this discussion all the way through and there has been considerable dis-

cussion on various points that it seems to me that I have not had any experience with in the operation of our law. As Mr. Hookstadt has said, we have a unique way of filing our claims and numbering them. I have come to the conclusion that we must have a unique situation down there. I might say that I have prepared no paper of any kind but I draw this conclusion from what Mr. Hookstadt said as to the making up and filing of the information on which the commissioners should pass on the claim, that same should be done as speedily as possible. I think our act had some similarity with the Ohio act and a little connection with the Washington act. Originally, the act was passed after those two acts, Washington and Ohio. However, it was made exclusively a State compensation matter in the beginning and ran on that way up until 1915, when they broadened it out a little and wrote into our act section 54, which was an exact duplicate of the Ohio act pertaining to self-insurance. We, however, put a clause in it to the effect that the commissioner might choose as to whether some should pay their own insurance or be insured under liability insurance and, of course, the commissioner has never elected that they could have any insurance other than self insurance or the State fund.

We have, I believe, about 30 self-insurers, a very small number, besides the United States Steel Corporation, which carries its own insurance with my consent and with the understanding that it had been given a fund by Andrew Carnegie of about \$20,000,000 to carry on compensation work. We, however, have it carry its work on just the same as if it were in the State fund. We require every injury to be reported on our form within 24 hours after the injury occurs, if it is possible to do so, and if not, the employer is either to write us or wire us of the injury; we insist on that. Our purpose is to get a record. We do not want to wait any time, but we want a report of every injury, owing to the fact that as quickly as the man is injured medical attention is required and, of course, we have to pay the doctor's bill every time an injury is incurred. We made an attempt in the first place to have the injured person's origin. The first report should contain that. I think in the first six months that we went along that line we had as many as nine or ten names to each different claim, owing to the different way the people pronounced the names and some of those claims never have been settled. We have never been able to find the right name. We then adopted the plan of having the employer make his first report and the claim when received is stamped and docketed and given a number and form for making application and the report is immediately mailed back to the employer with the request that he deliver the form to the injured employee and his physician.

These three forms, or rather the physician's form, consist of a preliminary report and a final report which the physician detaches and holds until he has finally closed the case. We have a card, however, that goes out with every payment requiring the physician to make a report of the condition of the injured man at every payment, and this is made every two weeks. In some cases, we have trouble in getting the injured man's application. We have a limit of six months for him to file the application and we believe there is a lot of virtue in that; we get the applications in because of the impression

that the person injured needs to be compensated and that he will undoubtedly get it or some of his friends will for him, and if it is within six months we can then have some hopes of getting information that would be of value in passing on the case; if it runs any longer, things have got in such a shape that you can not find out anything about them. In that way we do not have so much trouble. Once in a while we have an injured person who omits to get his application in. In some instances, where there is any fault in the employer not making a report of the injury, we force the employer to pay the compensation and we usually get it.

I heard you discussing the question of the resisting of compensation by employers. I have been eight years operating that fund and we have paid thousands of claims and I can say we never have had but one employer who resisted payment of compensation in all those years. As a general rule, we always insist on the employee being paid.

I have one case in my mind now where a self-insurer loaned one of his employees to the constable or sheriff to watch a prisoner over night and he went to sleep and the prisoner killed him with his own gun. That case came up before me for compensation. I have not passed on it yet. I do not think he was in the course of his employment, or I do not think it resulted from his employment, but the employer is insisting on that man having his compensation, or rather his wife having it. He is a self-insurer and I will not object to his paying it as far as I am personally concerned.

Mr. KENNEDY. The thought that occurs to me is that the employers of the United States pay approximately \$50,000,000 to \$75,000,000 for services from insurance companies, and all the statements that I have heard here in connection with that service indicate that it has been a perfect service. Now, that is not true in Nebraska. The first three or four months' experience that our department had in Nebraska was every minute an eye-opener. I am not a champion of State fund insurance, because I do not know a thing about it. What I do know is with reference to stock companies and self-insurers, and I ran on to three adjusters the first four months of my work in that department who were a long way from being philanthropists. One man that I remember paid compensations for a little while, and when the next compensation was due he said, "When are you going to settle?" And every time a settlement was made he grabbed off so many weeks of the man's money.

Mr. MARR. We have a maximum of \$20 a week which we pay to the injured workman and we do not classify the hazardous employments. Everybody is in hazardous employment, with the exception of farmers, domestic help, and railroad companies.

This, you understand, was the law that was presented by the labor people to the former legislature; the law was adopted and we have made some few amendments to it.

Now, as to the procedure, I would like to say just a few words now. Our procedure is somewhat similar to the procedure in many of the other States. We have our blanks for claims for the employer and for the doctor, and those forms are sent out to the employer or the employee who reports the injury to us. We have found that works

very satisfactorily. If the employee could not read he would ordinarily take it to his physician or to persons who would help him to fill it out. Now, we aim to get these reports in, say eight or ten days after the injury happens, and at the end of the by-weekly period we are ready to begin paying what we call emergency payments. We have a resolution on our minute book that provides that any commissioner, in the absence of the others, may make an emergency allowance at the end of 10 or 14 days that will clean up for that two weeks, and that is set out upon the report from the physician. The report we get from the physician each two weeks is in the form of a post-card report. We have the post card printed and the questions we desire answered on the back of the card.

At the time that we are about through making these payments we get our final report, and we then make our final award, and in that final award we refer to the fact of the payment of the emergency claims, approving them and allowing the payment of further compensation or pension or whatever it may be. The idea with us is when we find some weak spot in our procedure to go after it and try to get rid of it and work it out.

Something has been said about receipts. We have our warrants made out in a double form. One is the check and the other is the receipt, and we recite enough facts on the receipt side to identify the check so that when the complainant cashes his check he signs the receipt side, and when it goes to the treasurer he sends us the receipt, and in that way we have very little difficulty in getting our receipts.

Mr. WILCOX. Why not let it come back through the bank?

Mr. MARR. The treasurer is the custodian of the fund and he keeps the check himself, so it is necessary for us that the receipt portion be detached and sent to us, and that is kept in our files as their record of the pay check.

[Meeting adjourned.]

THURSDAY, SEPTEMBER 22—AFTERNOON SESSION.

**CHAIRMAN, JOHN H. COGSWELL, MEMBER, MASSACHUSETTS INDUSTRIAL
ACCIDENT BOARD.**

ADMINISTRATIVE TROUBLES.

Mr. ANDRUS. When the executive committee prepared the program they discussed the question that every one has some trouble that he might like to discuss, and, after very careful discussion, the executive committee were of the opinion that it would be a good idea to set apart a session just for that purpose. We have practically no set program, and if any man has anything on his mind, any particular problem that is bothering him, he can get up and state the problem and the other commissioners can tell how to handle a problem of that kind, and we felt that it would be of tremendous benefit if you all took part in it and make it one of the best meetings we have had.

Mr. William W. Kennard, chairman of the Industrial Accident Board of Massachusetts, was to have presided at this meeting, and, as I told you before, the reason that he is not here is absolutely no fault of his own, but circumstances were such that he could not come.

We are fortunate in having a member of the Massachusetts Industrial Accident Board to take his place. I take great pleasure in introducing as the chairman of this afternoon's meeting Mr. John H. Cogswell, of the Massachusetts Industrial Accident Board.

The CHAIRMAN. Beginning modestly, the work of the Massachusetts Industrial Accident Board has grown gradually until it may now be said to have reached its peak. The number of employers subscribing to insurance under the workmen's compensation act in 1912, less than 12,000, has increased in 1919 to 45,000; the number of employees entitled to benefits under this insurance has increased from a few hundred thousand in the first year to approximately a million at the present time; and reports of injuries have increased from less than 90,000 during 1912 to 194,000 during the report year terminating June 30, 1920, the total number of reported injuries for the past eight years being 1,139,959. During this period a total of \$31,733,367.98 has been paid out in compensation and medical benefits, the amount ranging from a little over \$1,000,000 in 1912-13 to nearly \$5,000,000 in 1919-20. Medical payments have increased from \$414,000 in the first year of the act to \$1,600,000 in the eighth year of the act. An analysis of the reports filed by employers of labor with the board shows that in 91.7 per cent of the injuries for the past year the injured employees and their dependents in fatal cases were covered by insurance and receiving benefits, and that in the balance of the cases, 8.3 per cent, there was no provision

for such coverage by the employers. In other words, employers of labor in Massachusetts, under an elective compensation law, voluntarily decided to become subscribers to insurance and to provide for the furnishing of the benefits of this law to their injured employees and to the families of fatally injured employees. We are not aware that any other State in which an elective act is in effect can show such a good record of voluntary subscription to benefits under its compensation laws.

As indicative of the advantages of the voluntary acceptance by employers of the compensation act, the mere statement of the favorable difference between the figures showing the amounts actually paid by noninsured employers to the widows and orphans of fatally injured employees and the sums which would have been due under the workmen's compensation act is sufficient, without other comment. An investigation showed that last year in 40 cases of fatal injury in which the workmen left families totally dependent upon them, and one in which dependency was partial, the amount which would have been due under the compensation law in 38 of these cases would have been \$4,000, in one other \$3,600 and in the remaining case \$2,000, a total of \$157,600. As a matter of record, a total of \$15,599.50 was paid, less than one-tenth of the sum due under the workmen's compensation act. This is indicative of the situation which prevailed, in all cases, prior to the adoption of the compensation act, when the families of fatally injured employees were required, in most cases, to shift for themselves upon the fatal injury in industry of their breadwinner.

The law itself has been changed materially since it first became effective, July 1, 1912 and with these amendments have come, of necessity, important changes in the manner of administering it and making it effective. Nearly all of the changes in the law have been made on recommendation of the industrial accident board. When first effective, the act provided for only one-half compensation, both for injury and death, with a maximum weekly payment of \$10 and a maximum period to run of 300 weeks. Gradually the maximum has been increased, until this year we have in effect a \$16 maximum, with a limit of 500 weeks and \$4,000 in each case of total incapacity, and a total payment of \$4,000 and an unlimited period of time to run in each case of partial incapacity. The minimum weekly compensation has been increased successively, from \$4 to \$5, and from the latter figure to \$7 a week. The percentage of compensation to be paid has been changed from 50 to 66⅔, with maximum and minimum weekly payments, as above noted. The amount due in death cases has been increased from \$3,000 to \$4,000, and the period during which these weekly payments may be made has been changed from 300 to 500 weeks. Provisions have been made for increased medical and hospital benefits, beyond the period of two weeks following the injury, to take care of "unusual cases"; injured employees now have the absolute right to select their own physician. Amendments have been adopted speeding up procedure and perfecting the law in important particulars, enabling the board to administer the law with due regard to the rights of all parties, and with a speed previously impossible in the trial of personal injury claims at law.

Under old common-law conditions, and for a time after the compensation statute became effective, medical men and insurers crossed swords and were unable to agree upon the question of fees. Shortly after the board was organized, steps were taken to remedy the existing situation, and by the organization of a voluntary committee, known as the medical advisory committee, representing the medical organizations of the State, the insurers, and the board, together with amendments to the law giving employees the right, if desired, to select their own physicians, substantial progress has been made in the matter of bringing about peaceful relations between insurers and the physicians. In the small number of cases where they can not agree, under 800 per year, the board acts upon the questions raised and its decisions have been accepted quite generally as equitable and fair. Medical attention of some kind is rendered in every personal injury case, the average amount now being paid under the act to medical men being over one million dollars.

The provision with reference to medical and hospital services and the right of the employee to select his own physician is as follows:

During the first two weeks after the injury, and, if the employee is not immediately incapacitated thereby from earning full wages, then from the time of such incapacity, and in unusual cases, in the discretion of the board, for a longer period, the association shall furnish adequate and reasonable medical and hospital services, and medicine, when they are needed. The employee shall have the right to select a physician other than the one provided by the association, and in case he shall be treated by a physician of his own selection, or where, in case of emergency or for other justifiable cause, a physician other than the one provided by the association is called in to treat the injured employee, the reasonable cost of his services shall be paid by the association, subject to the approval of the industrial accident board. Such approval shall be granted only if the board finds that the employee was so treated by such physician, or that there was such emergency or justifiable cause, and, in all cases, that the services were adequate and reasonable and the charges reasonable. In any case where the board is of opinion that the fitting of the employee with an artificial eye or limb, or other mechanical appliance will promote his restoration to industry, it may order that he be provided with such an artificial eye, limb, or appliance, at the expense of the insurer.

The important provision, from a medical viewpoint, is the interpretation which the industrial accident board has given to the words "unusual cases." In an important decision (*Veniski v. Southbridge Printing Co., Employers' Liability Assurance Corporation, Ltd., insurer*), the board defines "unusual cases" in the following language:

The word "unusual" is defined as follows:

Of a character, number or size not usually met with; uncommon; infrequent; rare. (Standard Dictionary of the English Language, Funk & Wagnalls.)

Not usual; uncommon; rare. (Webster's Dictionary.)

Not usual; not frequent; not common; rare; strange. (Century Dictionary.)

The evidence shows that this case is unusual; that it is a case out of the common run of cases, in view of the nature of the injury and the results flowing from such injury. The usual case and the usual personal injury arising out of the employment are those cases and injuries which require ordinary medical treatment and care, and which go along uneventfully to their termination; and they may or may not require treatment for a longer period than two weeks. These cases are not within the discretion of the board to allow further medical and hospital fees after the first two weeks. A case may be unusual because the nature of the injury, its particular location and its extensiveness necessarily entail a prolonged disability; that is, longer than the usual. It may be unusual because of any interruption of convalescence of such a nature as not to occur commonly in that particular class of cases, and be-

cause it is likely, unless specially treated, to jeopardize the probability of a speedy recovery from a medical standpoint and the employee's early restoration to his position as a wage earner.

Under the usual classification will come so-called minor injuries, minor amputations, uncomplicated by sepsis, and all injuries of a minor type which do not require, as a result of such injuries or complications following them, the services of specialists, special nursing, or hospital care. Under the unusual case classification may come major injuries, compound fractures, serious burns, injuries followed by sepsis, major amputations and operations, serious pelvic and back injuries, and injuries requiring special apparatus or the services of specialists.

Compensation under the act and an employee's rights under the medical section (Part II, s. 5), which are a part of the compensation to which he is entitled when injured, are due the employee solely upon the happening of certain contingencies, and without regard to his condition of wealth or poverty, to wit: A personal injury arising out of and in the course of his employment by an insured employer, and whether his is an unusual case, which will entitle him to medical and hospital services after the first two weeks.

If the insurer is right, the fact that the employee's injury arose out of and in the course of his employment, and his injury is an unusual one, is controlled by other conditions and circumstances; he loses his right to receive necessary hospital and medical treatment at the expense of the insurer, if he is unmarried, his standard of living is low, or by reason of other economic conditions; and all such cases at the end of two weeks from the date of the injury must be turned out of the hospitals unless the employee himself will guarantee the charges. If such an interpretation is to be given effect as the law governing the rights of employees having unusually serious and dangerous injuries, it will have the result of causing employees to forego necessary medical treatment, to their own physical detriment and to the added cost of insurance under the act, or it will cause employees to seek necessary surgical and nursing attendance at home, at a greatly increased expense to the insurer, for by the simple expedient of remaining at home the employee may secure at the expense of the insurer, in unusual cases, such medical, surgical, and nursing services as he may need.

In this case, had the employee elected to receive necessary medical, surgical and nursing attendance at his home, the cost to the insurer would be several times in excess of the charge made by the hospital. The employee required the care of a skillful nurse and received, without charge, operative treatment from a surgeon, Dr. W. F. Lynch, because of his membership on the staff of the hospital. The board regularly approves bills of nurses at the weekly rate of \$28, and this sum for a period of 29½ weeks covered by the bill of the hospital, would amount to \$832; and if a charge were made by the staff surgeon, as the private physician of the employee, such charge would be at least \$100, on the basis of an allowance of \$50 for each of two extensive skin-grafting operations, to replace burned tissue.

As to the argument that an employee whose right hand has been rendered permanently incapable of use by reason of conditions due to the injury, should expend his compensation for the purpose of providing necessary hospital, medical, and nursing care, the board believe that in view of the serious nature of his injury and the permanent results flowing therefrom, they are warranted in the exercise of a wise discretion under Part II, s. 5, in finding this to be an unusual case in which the reasonable cost of necessary hospital, medical, and nursing care should be paid by the insurer in the sums named in the first paragraph of this finding.

As indicating the scope of the Massachusetts act, the supreme judicial court has affirmed decisions of the industrial accident board declaring the following diseases personal injuries arising out of and in the course of the employment:

Optic neuritis (Hurle's case, 217 Mass. 223); lead poisoning or plumbism (Johnson's case, 217 Mass. 388); acceleration of preexisting heart disease (Brightman's case, 220 Mass. 17; Fisher's case, 220 Mass. 581; Madden's case, 222 Mass. 487; Fitzgibbon's case, 230 Mass. 473; Mooradjian's case, 229 Mass. 521; Dow's case, 231 Mass. 348); pneumonia (McPhee's case, 222 Mass. 1); insanity following eye in-

jury (Sponatski's case, 220 Mass. 526); insanity following injury accelerating preexisting syphilis (Crowley's case, 223 Mass. 288); septicemia following injury (Bean's case, 227 Mass. 558; Mallory's case, 231 Mass. 225).

The supreme judicial court, following the broad and liberal interpretation given the workmen's compensation act by the industrial accident board, has laid down a very broad policy with reference to the compensation statute. In McNicol's case (215 Mass. 497), which has, perhaps, been more widely quoted than any other workmen's compensation decision, the court stated:

It is sufficient to say that an injury is received "in the course of" the employment when it comes while the workman is doing the duty which he is employed to perform. It arises "out of" the employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury. Under this test, if the injury can be seen to have followed as a natural incident of the work, and to have been contemplated by a reasonable person familiar with the whole situation as a result of the exposure occasioned by the nature of the employment, then it arises "out of" the employment. But it excludes an injury which can not fairly be traced to the employment as a contributing proximate cause, and which comes from a hazard to which the workman would have been equally exposed apart from the employment. The causative danger must be peculiar to the work, and not common to the neighborhood. It must be incidental to the character of the business, and not independent of the relation of master and servant. It need not to have been foreseen or expected, but after the event it must appear to have had its origin in the risk connected with the employment, and to have flowed from that source as a rational consequence.

The Rhode Island courts have followed very closely the Massachusetts courts in their interpretation of the Rhode Island act. This is shown, for example, in the decision of *Carroll v. What Cheer Stable Co.* (96 Atlantic, 208), where a hack driver was pitched from his seat by the motion of the hack while driving and while helpless from dizziness or unconsciousness occasioned by a disease from which he was suffering. In a like decision in Massachusetts (*Jonathan Dow's case*, 231 Mass. 348), where the employee was ill almost to the point of death and fell into a machine in such a manner as to sever the carotids, tear out the neck, and cause death, it was held that this injury arose out of and in the course of the employment, the court stating:

The real question is not so much the cause of the fall, or whether the fall as such arose out of the employment, but whether the risk and harm of a fall into or upon machinery then in use by an employee are incidents of that business and hazards to which the workman would not have been exposed apart from that business.

Another Rhode Island case which indicates the liberal interpretation given by the Rhode Island Supreme Court is that of *Walsh v. River Spinning Co.* (103 Atlantic, 1025), in which a fireman who was employed in the boiler room was overcome by excessive heat and was afterwards taken to a hospital where he died the following morning from heat exhaustion. The court held that this was a personal injury under the Rhode Island act. This decision is referred to because the Rhode Island law provides that an employee must receive a "personal injury sustained by accident" whereas the Massachusetts law leaves out the words "by accident" and requires only that the employee receive a personal injury arising out of and in the course of the

employment. There are many similar cases in Massachusetts where employees have been paid compensation for like injuries.

A case directly in point is *John C. McCarthy's case* (231 Mass. 557), where the board held and the supreme judicial court affirmed that sunstroke is a personal injury arising out of the employment when the risk of such injury is naturally connected with and reasonably incident to the employment, as distinguished from the ordinary risk to which the general public is exposed from climatic conditions per se.

In the Rhode Island case of *Taglinette v. Sydney Worsted Co.* (105 Atlantic, 641) it was held that the employment of a minor between 14 and 16 years of age would not be held to be illegal on account of the fact that the child's mother falsely stated that she had control of the child when the child was in fact in the control of his father.

In *Gilbert's case* (wire goods company, 233 Mass. 570), it was held that a minor is within the provisions of the workmen's compensation act and that in fact special provision is made for minors under the provisions of the act. The court stated: "It would not be in accord with the language of the act or in harmony with its humanitarian purposes" if minors were excluded from rights under that act.

In the Rhode Island case of *Leclaire v. Glengarry Mills (Inc.)* (102 Atlantic, 513), it was held that an injured employee who received his injuries while engaged with another employee in the sport of throwing bobbins back and forth in the mill was not entitled to compensation.

In *Moore's case* (225 Mass. 256), the supreme court of this State held that the injury suffered by an employee in consequence of fooling with another employee did not originate in any risk connected with and caused by his employment. In a recent industrial accident board case, however, where certain employees were lined up to register their time, ringing out at noon, and where one employee was pushed into another as a result of the crowd about the time clock, the board held that such an injury arises out of the employment and it is probable that this case will soon be on its way to the Supreme Court of Massachusetts. It is not at all unlikely that an employee injured under such circumstances might well be held to be entitled to compensation under the act.

There are very few other adjudicated Rhode Island cases, among them *Corrall v. William H. Hamlyn & Sons* (94 Atlantic, 877), in which a question was raised as to the relation between the employee's condition and his injury, the insurer alleging that his condition was caused by his negligent failure to take proper measures to bring about recovery; *Donoghue v. R. H. Sherman Sons Co.* (98 Atlantic, 109), in which a question of statutory notice was raised and in which the court held that negligence in law as to notice was a relative term and is failure to observe that degree of care which would be required of the ordinary prudent man in like circumstances; *Weber v. American Silk Spinning Co.* (95 Atlantic, 603), in which it was held that the employee's thumb was injured so that a small piece of bone was lost in the side and pieces of tendons and flesh were also destroyed and compensation was awarded for the loss of a phalange; and *McIsaac v. Woonsocket Electric Machine & Power Co.* (83 At-

lantic, 754), where a lineman received his injury by reason of his failure to obey a rule of the company and received no award.

In Massachusetts compensation has been awarded to an employee (Cox's case, 225 Mass. 220), notwithstanding the fact that his injury was received while answering a personal telephone call at his employer's place of business; Osterbrink's case (229 Mass. 407), where the employee placed a bottle of coffee or tea in a cooler, and where by mistake the employee afterwards took a bottle of acid and died as a result of drinking the acid; Mooradjian's case (229 Mass. 521), where the court said the death in the case at bar might well have been found to have resulted from overheating, arising from unusually hard labor, after the end of the ordinary work of the day, performed in a close and superheated atmosphere; Craney's case (232 Mass. 149), where it was held that a fatal injury to an employee, a head waiter, by a subordinate, a waiter, who had been disciplined, discharged, and reemployed by his superior, and who, while angry, sought out the deceased employee, and after some words with him in regard to his employment, shot and killed him, arises out of the employment; Hallett's case (232 Mass. 49), where the injured employee sustained a fatal injury due to a fall, by striking her toe or heel against the outer edge of the top step of a stairway leading into the place of business of her employer, it was held that notwithstanding the fact that she was returning from lunch at the time and was carrying two valises or suitcases containing her personal belongings, the fatal injury arose out of and in the course of her employment; and in Keaney's case (232 Mass. 532), where a demonstrator, who was required to drive his team through the public street, received a fatal injury while collecting receipts which had fallen from his person, such injury arises out of his employment. There is also the case of John Moran (235 Mass.), where a solicitor and collector for a life insurance company was fatally injured by being struck by the fender of a car as he ran alongside toward its next stopping place; the court held that this injury arose out of and in the course of the employment.

These and hundreds of other decisions indicate the breadth and liberality of the interpretation given the workmen's compensation law in Massachusetts, not only by the industrial accident board, but by the supreme judicial court of our Commonwealth.

Without criticising the work of the Rhode Island courts, and solely with the purpose in view of bringing the workmen's compensation act nearer to the people it is intended to benefit, I make the suggestion that the medical men of Rhode Island become actively interested in amending the compensation law along the lines of the amendments to the Massachusetts act, and by all means provide for its administration by a lay or quasi-judicial body like the Massachusetts Industrial Accident Board.

With an original board of five members, which was afterwards increased to six members, the board has accomplished a stupendous task. Hearings of all kinds during the first year of the law numbered 1,220; during the past year the number was 7,649. These hearings include the following items: Hearings before single members, 1,864; disputed fees of attorneys and physicians, 782; scheduled conferences before single members, 2,701; lump-sum cases, 720; dis-

continuance cases before single members, 1,032; full board reviews, 550. In addition to these formal matters, the board members have given their time and attention to the many other cases and questions which arise in the disposition of upward of 190,000 cases per year, involving rights which are as important to the wage earners in times of enforced idleness due to injury as their rights to wages are in times of employment. The average number of appeals from decisions of the industrial accident board to the supreme judicial court per year is 45, the more recent decisions of that court having sustained the findings of the board in an average of three cases out of four.

At least a brief reference should be made to one feature of our procedure, because of the possibilities which it presents for adaptation to our law courts. The statute under which the board acts provides that in cases where the insurer and the employees are unable to agree either party may ask for a hearing, which hearing shall be held before a member of the board who shall make such rulings of law and findings of fact as the evidence warrants. This requires a proceeding similar to that of the ordinary court trial. No other proceeding is provided for by the statute, but entirely apart from the statute, the board has adopted an intermediate step, a conference, which as its name indicates is an informal discussion, to which the parties are summoned and where, in company with a member of the board, the points of difference are discussed and a settlement of the disputed points reached, if possible. A very large percentage of the disputed cases are disposed of in this manner without a formal hearing being necessary. In cases where no final disposition is arrived at, the conference brings out the points of difference, with the result that when the case goes to a hearing very little time has to be expended on matters of proof outside the real point in dispute.

These conferences, being informal discussions of the facts and law, do not require the attendance of witnesses. The saving in time, counsel and witness fees, to the parties, if the case is disposed of, is obvious. The narrowing of the issue brings a similar saving although to a lesser degree in the event of a hearing. The saving of time to the board has made it possible to dispose of an amount of work which would have been utterly impossible if the statutory procedure were followed in every case.

When it is recalled that the questions which come before the industrial accident board present, within the scope of the compensation law, the same issues which are raised in any other trial, does not the experience of the industrial accident board indicate a probability of success if some similar method were to be adopted by our law courts? Recently published statistics indicate that the advent of prohibition has resulted in a great falling off of the cases coming before our district and police court judges. With the additional time which is consequently made available, is it not feasible to enact legislation whereby there can be referred to these judges cases for conference along the lines followed by the industrial accident board? My own experience on the accident board leads me to the conclusion that it is not only feasible, but so far as results to be accomplished are concerned, highly desirable.

The board has accomplished its task at comparatively small expense to the Commonwealth, the total cost to the State being a sum

equivalent approximately to two and one-half per cent of the amount received in medical and disability benefits by the injured employees. It has administered the law without one serious complaint from representatives of any of the parties to the act; and it has done its work so efficiently and speedily that it has an enviable record among the industrial accident commissions of the country. Under its administration there is now being paid to injured employees and their dependents approximately \$5,000,000 per year. The act has been interpreted broadly and in a practical, common-sense way; the commissioners, the majority of whom are members of the Massachusetts bar, have become specialists in the law of workmen's compensation and all of them have given freely of their time and services, not only to their scheduled cases and matters, but to the large number of the general public who come to them daily for advice and consultation. There is an open door to all at the quarters of the board in the Statehouse.

There are two other papers on the afternoon's schedule, which we will now have. The first is a paper by Mr. Charles H. Grantland, secretary of the Industrial Accident Board of Delaware, who will give us a paper on "Administrative troubles in Delaware."

ADMINISTRATIVE TROUBLES IN DELAWARE.

BY CHARLES H. GRANTLAND, SECRETARY INDUSTRIAL ACCIDENT BOARD OF DELAWARE.

Coming as we do from one of the smallest States in the Union it is not to be presumed that our troubles in administering a workmen's compensation law are so numerous as are the troubles of those of you who come from the larger jurisdictions, but fundamentally our troubles would seem to be very closely related to yours.

As some of you may recall, the Delaware workmen's compensation law is an elective one and in its fourth administrative year. We have no State fund plan of insurance and our self-insurers are very few indeed. The expenses incident to the administration of the law are met by a per centum tax on the premiums collected by the insurance companies and on the estimated premiums that would have been paid by the self-insurers in the event that insurance would have been provided otherwise. No appropriation is made by the general assembly for administrative purposes, and under these circumstances the industrial accident board must needs be self-supporting.

NECESSITY OF REPORTING EVERY INDUSTRIAL ACCIDENT AND HOW BEST TO OBTAIN THE SAME.

It is our understanding that the administrative boards and commissions throughout the several States and Provinces are far from agreed as to the proper policy that should obtain in this important phase of the work and that the practice varies from the reporting of the slightest injury to that of reporting only such accidents as are to be compensated. No doubt the expense incident to the proper handling of every accident report has caused to some extent the tendency to let such injuries as are considered trivial pass unreported. The insurance companies are largely responsible for this

condition in that they discourage the reporting of minor injuries by the employer.

Frequently a grave injustice is done an injured workman, who takes it for granted that his interests are properly protected by the employer or his agent having knowledge of the accident, when actually his claim is barred by the expiration of the time for legal notification to the employer. As the result of an injury complications have set in and he becomes incapacitated for work, and all knowledge of the accident is disclaimed by those responsible for the reporting of same at the time of its occurrence. We have in mind a case that very clearly portrays a situation of this kind in an employee of an ice plant where it was a common occurrence for the employees to be suddenly called upon to shut off the ammonia supply from broken mains. The escaping fumes would cause considerable distress to the eyes and throat for the time being, but no particular attention was paid to these incidents by either employees or employer. Some time after a rather severe experience of this nature this employee began to lose the sight of one of his eyes. When he started out to make inquiry as to his rights under the compensation law, it was found that the employer had not reported the accident, the foreman in charge at the time had but a faint recollection of this particular incident, the employee had neglected to give formal notice of the occurrence of the accident, and the time had elapsed for such legal notification to be given the employer; consequently, we had a situation that was most embarrassing. The industrial accident board, by permitting such an accident to go unreported, the employer, through his failure to report the same, and the employee, by taking it for granted that his injury had been reported, were all in a measure responsible. The only party in interest benefiting by this situation was the insurance carrier, who proceeded to contest the claim on the ground that no knowledge had been obtained or notice given to the employer as to the accident within the time specified by the law, and that he was prejudiced by delay in notification.

During the first year of the administration of the Delaware law the reporting of every injury sustained by accident was insisted upon by the board and a very close follow-up of every known accident was made. At the beginning of the second year, upon the suggestion of the insurance adjusters, the employers were privileged to report only such injuries as incapacitated the employee for a period of more than 24 hours, the result of this rule being a 40 per cent falling off in the number of accidents reported, with the effect of having several claims filed for payment of compensation for injuries of which no report was at hand, and with contention oftentimes as to the occurrence of same. By this experience we were convinced that efficient administration of a workmen's compensation law requires the reporting of every industrial accident.

How such reports can best be obtained is another proposition. With the acquiescence of the board, the insurance companies instructed their assured to forward all reports of whatsoever kind to their claim offices, and they in turn were to forward a copy to the office of the secretary. It was soon found that some of the claim agencies were sending only such of the reports as they considered necessary and, when efforts were made to have all reports filed, con-

siderable friction developed between the employer, the insurance carrier, and the secretary of the industrial accident board. Our board has about reached the conclusion that the best method to secure reports is by the direct route from the employer to the secretary of the board.

IMPORTANCE OF PROMPT PAYMENTS IN COMPENSABLE CASES AND HOW SAME CAN BE EXPEDITED.

Injured employees or their dependents are entitled to the benefits provided by a compensation law without being subject to delay caused by unnecessary quibbling over the method by and through which such benefits are to reach them. We have read with much interest some of the papers that have been presented and the discussions that have been had on this subject at your previous gatherings; and we have been impressed with the general sentiment that seems to prevail as to the desirability of compensation being paid as soon after the accident as the law will permit; however, there seems to be a wide divergence of opinion as to the path that must be trod by the employee or his dependents before this goal can be reached. We read of direct settlements, settlements by claim petition, settlements by agreement, the agreed calendar system, and so on, but the average workingman who meets with an industrial accident is very rarely possessed of enough of this world's goods to tide him over from one pay day to another, and he is not so much interested in the manner of settlement of his compensation claim as he is concerned as to the time of settlement at this particular period. In our reading we noted a jurisdiction where the average time elapsing between the day compensation was due and the first payment made was but five days. We will venture the assertion that there is a considerably larger number of jurisdictions in which the first payments are made five weeks or more after the waiting period has expired. Close contact with the injured employee and the claim adjuster will tend toward promptness in the making of first payments in cases where the first report would seem to indicate that the injury is such as will necessitate the payment of compensation. Insistence that the insurance companies locate their claim adjusters in close proximity to the district they are to supervise will expedite compensation payments when first due and help materially in making the future payments regular.

PROPER METHOD OF COMPENSATING PERMANENT PARTIAL DISABILITIES, ESPECIALLY EYE INJURIES.

As is the case in most jurisdictions, this is the most perplexing problem that has confronted Delaware's administrative officials. A proper method of compensating permanent partial disabilities adds greatly to the efficiency of the administration of any workmen's compensation law. Our act, until quite recently, provided for payment of compensation for injuries of this class on the basis of wage percentage for terms of weeks for specific injuries, and all others coming within the class were compensated on the basis of loss of earning power, which was fixed by the industrial accident board after due investigation, but at best it was only an arbitrary determi-

nation. No particular plan was being followed, and awards were made on such earning power loss rather than on consideration of loss of potential earning capacity. Age, mentality, ability to resume old occupation, and capacity for adjustment to new conditions are factors that should enter into the determination of the future earning capacity of an injured workman who has suffered a permanent disability. Frequently the handicapped employee is returned to his former place of employment and given an occupation suitable to his capacity at the same rate of wage as before the injury; but sooner or later he finds himself dropped by the wayside. For instance, a structural-iron worker who sustains an injury which leaves him with a crippled foot has a disability which makes him unfit for climbing. He is given a job on the ground for a while, but as jobs of this nature are scarce in this line of industry, he soon becomes aware of the fact that he must look for another line of occupation at decreased wages. He has but a small proportionate loss of the use of his foot, and his earning power, if based on the wages received, is the same as before the injury, for the time being at least, but his loss of earning capacity can not fairly be measured by the percentage of loss of function or by present earning power.

The Delaware law also provided for the payment of a specific indemnity for the loss of an eye, or for the loss of the use of an eye. There was no authority for graduation for the percentage of loss of vision. Unless the loss of percentage of vision was reflected in the earning power, an award for compensation, other than that provided for the loss of an eye, or the loss of use of an eye, could not be made. Take as an illustration, a glass blower who, from the intense heat incident to the occupation, had a cataract develop on one of his eyes which, while causing him some inconvenience, did not affect his earning power. In a short time a cataract developed on the other eye and he became totally incapacitated for work for more than two years. Operations having been performed on both eyes and the man having been fitted with proper glasses, he secured employment at an occupation which pays well enough to permit him to live comfortably, but without the aid of the glasses he can not earn anything. Thus through an artificial medium, a permanent total disability, to be compensated for the maximum amount payable under the law, became a permanent partial disability to be compensated on the basis of loss of earning power. Being thoroughly convinced that this method of determining compensation for injuries of this class was not the proper one, the board turned to the acts of other jurisdictions for a solution of the problem.

We were aware that this subject had been the storm center of much discussion at your recent conferences, but knew of no definite system that had met with the approval of any considerable number of administrative boards. We had followed very closely the recent report of your medical committee in which is set forth the method of determining compensation for eye injuries, recommended by two reputable and competent authorities, based upon the Snellen system of testing by letters read at a specific distance. As laymen we confess to having been somewhat startled by the recommendation of the committee as to what should constitute a standard eye examination. We were impressed with the discussion as to the prac-

tificability of the establishment of a standard method of eye examination. We also noted the tendency of those participating in the discussion to discount any recommendation for allowances, due to the use of corrective lenses, in computing compensation for this class of injuries. If an administrator of a workmen's compensation act, it would be my inclination to favor a method which would take into consideration, together with the present condition of the injured eye, the age, station in life, occupational requirement, and previous eye condition of the employee.

As to a standard schedule for the rating of permanent partial disabilities, we are unable to see how this ideal can be realized so long as the greater majority of the administrative boards are limited in their decisions to the scope of the various laws as provided by the legislative bodies of the several jurisdictions.

The schedule for specific injuries in the act which the industrial accident board of our State is striving to administer to the satisfaction of both employer and employee was recently supplemented by the following provisions borrowed from our sister States:

In all other cases in this class, or when the usefulness of a member or any physical function is permanently impaired, the compensation shall bear such relation to the amount stated in the schedule as the disabilities bear to those produced by the injuries named in the schedule.

For the loss of a fractional part of the vision of an eye, the compensation shall be for such percentage of the total number of weeks allowed for the loss of the use of an eye (113) weeks as the loss suffered bears to the total loss of an eye.

Already it is contended that the loss of use of function in these provisions has reference to the physical rather than to the industrial use. A 95 per cent loss of vision is to be compensated on the basis of 95 per cent of the period allowed in the schedule, notwithstanding the industrial loss may be 100 per cent. Just so, a 5 per cent loss of vision is entitled to be compensated for 5 per cent of the specific period, although there may be no industrial loss.

Our board is now confronted with the problem of making a decision as to the proper method of applying these provisions, and we are hoping that out of this conference will come the thought that will bring about a satisfactory solution.

ADVISABILITY OF ADMINISTRATIVE OFFICIALS ASSISTING CLAIMANTS IN THE ABSENCE OF COUNSEL.

When the compensation commissioner was created in our State the damage-suit lawyer passed out. We do not wish to infer that attorneys at law do not practice before the industrial accident board, but rather to refer to the fact that a certain class of the legal fraternity does not. Of course, if you make it impossible for claimants to engage such legal talent as can successfully combat the representatives of the employer or insurance company, then the claimant's rights are likely to be seriously affected, unless the members of the board or commission, whose duty it is to pass judgment on the case, intervene to bring out such facts as are necessary for a proper presentation of the matter at issue. On the other hand, if the administrators or the assistants take up the side of the claimant, prepare the case, and help in its presentation, you have perhaps gone a long way toward reaching a decision in the matter beforehand,

and such practice may be the means of causing a lack of confidence in the administration of the law on the part of the general public. In our jurisdiction (due, they say, to inability to secure what they consider fair remuneration for services rendered) few attorneys have delved deeply enough into the principles of workmen's compensation to be able to present the salient points of a case, but come to the secretary of the industrial accident board for information in their preparation of cases. In the last analysis there would seem to be but little difference in the two methods of procedure, except that in the first one the claimant is not obliged to sacrifice a portion of his compensation for legal services. To be sure, there is nothing in the law to prevent anyone from securing such counsel as he may see fit, make such financial arrangements as he may deem necessary, and settle same without the knowledge of the board; but if asked for advice, this practice is discouraged, for very rarely are the services of an attorney needed. The hearing of a claim before our board is more in the nature of an informal conference, surrounded by all the legal steps made necessary by the provisions of the law, court procedure being kept in the background as much as possible. The employer or his representative, the employee, and the members of the board sit down at the conference table and discuss the facts in the case and the law touching the same and within a few days an award is made. If this be bad practice, we can only say that it has proven most satisfactory and would ask to be informed if there is a better method of procedure.

ADJUSTMENT OF MEDICAL, SURGICAL, AND HOSPITAL FEES AS PART OF THE DUTIES OF ADMINISTRATIVE BOARDS.

Someone has said that a very considerable portion of the energy and time of the administrators of workmen's compensation acts is consumed in the attempt to adjust the fees for physicians and hospitals. This statement does not hold good in so far as the jurisdiction we represent is concerned, as up to the present no effort has been made to have such adjustments taken care of, save through the good offices of the secretary of the board. While there has been some discussion as to the right of the employer to choose the physician, rather than to have the injured employee to choose his own, the right of the employer so to do is generally recognized. This means very largely the services of the contract physician or surgeon of the insurance company. On occasion when the employee is given the choice, he is more likely to turn to his family physician in preference to a surgeon. Rather frequently exorbitant charges, supplemented by padding of number of visits or dressings, follow this choice, with resultant controversy. As for various reasons an amicable relationship is desirable between the medical profession and the administrators of a compensation law, the board has hesitated in the calling up of this class of claims and rendering decisions as to whether this bill for services shall be allowed or that bill shall be reduced. By direct provision of the Delaware law, medical, surgical, and hospital services are now a part of the compensation that is payable to an injured employee, and claims for fees for these services are subject to the same procedure as are claims for other forms of compensation. Whether a standard fee system is practi-

cable and the basis upon which such scale shall be determined are problems that are pressing for decision.

That medical, surgical, and hospital services to injured workmen should not exceed the rates regularly charged to other individuals for like services would seem to be a fair basis upon which to build a standard fee system. Fees allowed for industrial cases should not be so low that competent physicians and surgeons can not become interested in this line of work, for competent and efficient service is essential to the injured, and the inferior practitioner should not be permitted to encroach upon this fundamental right.

In presenting a few of the perplexing problems of the Industrial Accident Board of the State of Delaware, in the limited experience that it has had in the administration of a law to compensate workmen for personal injuries sustained by accident arising out of and in the course of their employment, we have been fully conscious of the fact that to those of you who have had a larger experience in administering workmen's compensation acts, most of these problems may have long since been solved and possibly forgotten, so for your kind indulgence we thank you.

DISCUSSION.

Mr. C. A. McHUGH. When we come down to the practical part of this meeting it does seem to me that each of us has a separate bunch of people to deal with. What is good for Virginia perhaps is not good for Kansas, and what is good for Kansas is not good for us. It depends very much upon the people who are subject to the law what its provisions should be and what its enactments should be and all the details of operation, and it seems to me that what we ought to be concerned about is the matter of the fundamentals.

I enjoyed very greatly the other day Mr. Pillsbury's philosophical discussion. I believe that his idea of compensation is perhaps philosophically the most correct that I know of. In other words, what we are trying to do is to furnish compensation to a man during the time of his incapacity and disability, and the very first time that I ever read this compensation act that I have been endeavoring in a humble way to put into operation, I felt that there was one thing that was lacking in the law and should be supplied. It seemed to me that after you had given a man compensation for a stated period that you ought to take him by the hand when these payments, in the natural order, would cease, and if he was a derelict that you should try and get him into some other business. If he was a carpenter and had lost a leg and could not climb any more, see if you could not make a bookkeeper or something out of him. So at the very next session of the legislature we presented a bill providing for a rehabilitation bureau and the legislature, something like the Delaware legislature, was not deaf by any means; it apparently was sympathetic, and it took about three minutes' explanation of what we wanted to get it through. We got only a very small appropriation, \$10,000, to begin with, but that was to be annual, and the Federal Government has supplemented this fund. Whatever the State contributes the Federal Government gives an equal amount, and I believe one of the best things that all of us

could take home to our people, if we have not got it already, would be a rehabilitation bureau, because that goes to make for completeness. The compensation law is only half complete if it has not this corollary and supplement to it.

When I first became associated with this work it occurred to me that one of the most important things we should do was to try to educate the people, employers and employees, and try to make them realize that here was a common bond of union between them, and if they took hold of it in the proper spirit it would build up better relations between them. Following that idea, at our first session after the enactment of the law, the labor people, through the ordinary channels, came to the legislature with a request for a very large increase in compensation. I recognized that it would be possible to travel too fast and that we would defeat our purpose in doing it. I counseled them that the best thing they could do would be to have a conference with the large employers throughout the State and I got probably a hundred of the large employers. We did not invite the insurance companies because it was immaterial to them. They base their premiums upon benefits and therefore the real persons in interest were the self-insurers—practically about one-half of our people are self-insurers. Well, I got about a hundred of them and they came down and we went over this bill. I had told them that what we wanted was to have a fair law and that what had been received heretofore was not sufficient and that the amounts ought to be increased, and they were all of the same opinion. They sat down together and at my suggestion appointed a committee of five to represent them in a common meeting or conference with the labor people, who had a similar committee. They got together and the president of the Federation of Labor in the State came in with a chip on his shoulder. I endeavored to remove it as gently as possible and got him in a fairly good humor and they sat down and discussed this thing from 8 o'clock until 12, and at that time they had reached an agreement upon every single proposition and I was requested to say to the legislative committee that the bill as amended at this conference was the joint effort of employers and employees. When that meeting was over, to me one of the most delightful episodes of it was that one or two of the labor leaders who at first had thought that no good result could grow out of such a conference, that it was a pure waste of time, got up and made a speech in which he expressed his deep gratification that the employers and employees could get together round a table and talk over their difficulties and reach a common issue, and he said he was going home to tell his people about it. That sentiment is worth a whole lot and that has been worth a whole lot to us in the operation of our act and in the elimination of administration troubles, although we still have some.

There is one matter which I might mention. Of course, we are in a sense exercising quasi-judicial functions. A good many of the insurance carriers—and in the main the insurance carriers have co-operated with us as fully as anybody else—and a good many of the large self-insurers, employing thousands of people, wanted to know if there was no means by which they could get the decisions of the commission, and in an endeavor to satisfy this need I took the matter up with a publishing company at Richmond, who published

the State reports every two weeks in the Southeastern Reporter, and after some little discussion these gentlemen agreed that they would publish all of our decisions as they came out, every two weeks, and would sell them to the people interested, at a stipulated price. We simply became the intermediary and we told the insurance people and the self-insurers that they could get this service if they wanted it, and something over a hundred agreed to subscribe. That has been going on now for about a year, so that two weeks after any decision is rendered by our commission it is published, and it is furnished in this way. Of course, they pay for it because we have nothing to do with it, but they get it, and in that way we are able to keep up with our own decisions and everybody knows what our decisions upon specific questions have been. It saves us a world of trouble because after the commission has ruled, they accommodate themselves to the ruling and that makes, as it were, the law of the case in that particular jurisdiction. We have found that that has been very beneficial to us.

On the matter of attorney's fees, I would say that under our law we have held that any contract between an attorney and an employee is absolutely void so far as that litigation is concerned, and we undertake in every instance to fix what we regard as a reasonable counsel fee. We never make it over 10 per cent. I want to say this, that so far as the attorneys are concerned, it is my judgment that it is highly beneficial to have attorneys in cases, that is, in a certain class of cases. We have gotten rid of the ambulance chasing variety entirely. So far as I have been able to perceive, cases will come up in which a man does need an attorney. We can take the facts and examine the witnesses, but an ignorant man does not know anything about it, he does not know what he has to prove and the attorney will get up the proofs and present them properly and represent him so that everything is brought out that is beneficial to him. In our part of the world we have had two persons claiming to be the widow of the same husband. When such cases as these arise the services of an attorney are of some value. As to a doctor's fee, I take it that the spirit of the legislation and the express wording of the act is that the physician should charge fees commensurate with the fees that they would charge for people in the same social status as the person that they are treating. With the attorney, we give what we consider is a proper fee.

Mr. STEWART. I received a letter this morning from Royal Meeker, ex-secretary of this association, and I want to read just one paragraph:

Please remember me to all my friends whom you may see. Tell the conference that I am just as much interested in the work of the industrial boards and commissions as ever. I wish them every success in their efforts to improve administration and legislation relating to workmen's compensation.

The CHAIRMAN. We will see that this letter is placed on file.

Mr. PILLSBURY. On the first of January, my term of office will expire and I will have served ten and one-third years. It is likely, therefore, that this will be my last opportunity to meet with you and if I may crave the indulgence of counseling you on just a few things where I think you may have been led into a false sense of security, I will subside and hold my peace ever after.

As to the knowledge of the compensation law which people have throughout the State I want to say to you that I do not believe that

Nebraska differs so very greatly from other States or that California differs so very greatly from Nebraska. Men know the things that they are connected with in their different spheres of life from day to day and outside of that they know little. My youth was spent largely as a clerk in the post office in a town in Kansas where there was a small college which has become a large one now. I recall that there were 22 professors and not one of them could make out an application for a post-office money order, and do it right. It is a matter of common knowledge that men who go into their voting booths with the little stamp to make out their ballots, make the most ridiculous mistakes and blunders that can be imagined and come out with the consciousness that they have done their duty, but when the votes are counted, they have frequently voted the other way, because they could not handle the little stamp and make it do the work it was intended to do. They had been used to chopping down trees and handling horses and cattle and such things as that and were not competent for that job. There are not a hundred lawyers in California—and California is full of them—who are competent to advise the injured man as to his rights under the compensation law, and that has been going on for 10 years. There have been men who have been injured in California who have not heard that there was such a thing as a compensation law in the State until after they were injured and somebody asked them what they knew about it. The reason that a large number have not interested themselves in the matter is because they did not expect to be hurt. Now, everybody except the railroad brakeman knows that his business is dangerous. He does not. Nobody thinks he is going to be hurt and so he says "Why should I look into this thing or bother myself?" They are optimists; they do not think it refers to them until what Jack London called "The thing" happens.

Now, the California Commission set up this standard, that it was its business to see that every injured man in the State got the compensation to which the law entitled him, all of it, and no more. We have fought just as hard to prevent the man getting what he was not entitled to as to insure his getting what he should have, and we find that we are, in a measure, guardians and trustees of this fund to see that it goes to the right place in the right way. If foreigners understand it a bit better, it is because they have come from countries where they had compensation laws long before we had any in America, and they know something about it, when frequently our own people know practically nothing. Now, if we are to get compensation to those who ought to have it, in the measure that they ought to have it, it is going to be only because of eternal vigilance. It can be done in no other way. We were ourselves lulled into a false sense of security until the investigation in New York got us to prick up our ears. We had felt that the people ought to know their rights pretty well, and if they were not getting them we would hear from them. We took 5,000 cases of permanent injuries and went through them, and we found that the people had been cheated out of thousands upon thousands of dollars. Since then we have had a checking up and have kept tab until now they hardly dare to swindle the people or try to swindle anybody out of his compensation, through fear of being detected. I am not charging the great in-

insurance companies with having any tendency to beat anybody. In my dealings if I can get near the man at the head I have not found much trouble. It is the understrapper, the man of too great zeal to make a record and save money to his employer. He is the fellow, the adjuster, and he thinks if he can cut off something and save it for his employer he is doing his duty to his employer, and many times we have taken up the case, gone higher up, and have had the thing righted. You have to look out for these cases all the time and there is something in the nature of the business of adjusting that tends to make a man regard every claimant as his enemy and the man who will gouge him, if he can, and you will have to watch that very, very carefully.

We are not going to remedy the conditions that exist unless somebody lifts up his voice in protest. Where are the philosophies that the great philosophers taught 50 or 100 or 200 years ago? Where is the medicine and surgery that was practiced 20 and 30 and 40 years ago? In the junk heap. Where is the chemistry that was taught everywhere up to within 15 years ago? Where is the law that was laid down 50 or 100 years ago? It is doing business at the old stand the same as 50 or 100 years ago. The medical men of to-day have their association meetings and discuss how to cure mankind of their ills and how to handle this new thing of industrial medicine. The bankers have meetings everywhere on how to educate the financiers of this country. Did you ever, from the Great Lakes to the Gulf, hear of any meetings of lawyers to consider how to handle the compensation laws? Did you ever hear of a convention of judges to consider how to administer justice? I never did. Have any of you gentlemen ever been to the penitentiary? I have, and a good many of them. I have gone over their records, hundreds of them, thousands of them, to find out how justice was administered, and I will tell you justice was administered according to the idea of each judge. We have 57 counties and 100 judges in California, and you go to San Quentin and you will find 100 different forms of justice. I will show you men there with sentences of 2 years to 25 years on practically the same charge. I say to you that it is unintelligible.

Our friend stated yesterday that in Connecticut if an insurance company ever admits a liability and afterwards there is shown to be probable grounds that the injury never happened, the admission is binding and there is no redress for the insurance company if it has admitted its obligation. Is there anything on earth that could be more stupid than that, more absolutely stupid than that? The administration of justice has not kept pace with the times. If it had kept pace with the needs of the times there would not be a commission with judiciary powers in the confines of this country. It is because the courts have not made good that these commissions have been created and have been given judiciary powers. Now, if we are patriotic and love our country, if we love justice, if we love our kind, it is our duty to help as much as we can to call this condition to public attention, that the publicity may cure the defect. I feel that I ought to say this much.

Just one more thought. Yesterday we had a splendid afternoon with the physicians. I have yet to see the physician who had any

more conception of law than the lawyer has of medicine, and that is saying a good deal. If we were to follow the advice they give us we would deny compensation in many cases where we all grant it. Remember this, that compensation is to cover all who work no matter whether they are old or young. It is not for those who can pass a physical examination. If it were it would be given to those who need it least. It is the subnormal defective that needs the greatest care. Ask yourself this question when the man comes before you, ask yourself "What did the injury do?" Even if the man had a weak heart and he met with an accident and the injury killed that man, his family is entitled to the death benefit provided by law. Keep that point in your minds. What did the injury do to this man, not what disease he had, not what the condition of his heart was. There is a difference between the occasion and the cause. A very trifling thing may cause a man with a very bad heart to drop, but when there is a severe shock or anything of that kind which causes him to drop he might otherwise have lived many years. I knew of a case where when they held the autopsy the heart was like the deacon's one-hoss shay. No one could understand how the man could live, yet hearts will go on and pump and squirm and puff and blow until something happens, and the thing that happens is what causes the loss of life, but it is hard to get the physicians to understand that.

In conclusion, I would say that if I were choosing the members of compensation boards for this country, I would choose the man with good, hard sense every time, as he will stand the best chance of making the law effective.

Mr. CHANDLER. I was the gentleman that Mr. Pillsbury referred to. I called his attention to a decision of the Supreme Court of Connecticut in which they had held that where the insurance company had come before me in conference, and the workman had also brought his representative before me in conference, and the stenographer was present, and the stenographer recorded that the insurance company admitted that the injury had occurred, the insurance company was thereby estopped from thereafter bringing that workman again before me, once more to pay his counsel, once more to produce witnesses, if need be, because it was their business to be ready for that hearing. I do not hold any brief for the supreme court. I do not know whether the decision was wise or otherwise, but I do say that there is a great deal of common sense in that decision and it does show that the Supreme Court of Connecticut is not unduly friendly to insurance companies.

You were discussing the matter of voluntary agreements a little while ago. Will you be patient while I enumerate two instances. We insist that adjusters settle promptly. Speed is our demand and sometimes I think we have overdone it. Not long ago an adjuster for an insurance company said that the company had paid out about \$1,100 in compensation and about \$700 in doctor's bills in a matter of traumatic neurosis. The man was before me twice and I became suspicious. I did not open it up de novo. I called in another commissioner to sit for me and he opened up the matter de novo and it showed beyond peradventure of a doubt that the injury never occurred, that the X-ray plates were fake plates, so you see that it works both ways. I remember another instance of a man

who was working for Archie Holcomb, a tobacco farmer. A neighbor was Ira M. Holcomb. A workman was injured and he came to the insurance company and said he was working for Holcomb. No one will ever know whether he was told to do it or it was a mere inadvertence, and this company paid nearly \$1,000 before they found they were not the insurers of Archie Holcomb but were the insurers of Ira M. Holcomb. Now, these errors occur on both sides. There is dishonesty on one side sometimes and sometimes on the other.

Mr. McSHANE. I am interested in some of the practical problems that are confronting us. I am very interested in the stand which my good friend from California has taken with reference to the administration of justice in compensation cases and I go the full distance with reference to assessing and collecting compensation in all cases, but I am just wondering if it is not possible that we can do the injured class an injustice by going too far. For example, suppose that a man goes out and becomes infected with syphilis and this is working on his system, breaking it down. It is true that the industry accepts him just as he is, but the slightest abuse will line up a condition that may perhaps cause permanent total disability. I do not know just how far to go, but I do know that if we are not careful and if we assess the industry too strongly that conditions of this kind may compel our larger industrial employers to make every man who enters their plant pass a physical examination, and the charge of that examination will be charged against the industry, and it is not impossible that by turning down these men who are unable to pass the physical examination we may create in the United States a great junk heap of humanity that has been rejected by industry. I am a little fearful that we may go just a little too far in that matter, and I would like to ask those who are older than I am in this business and who have had more experience whether there is not a danger of the pendulum swinging from one side to the other.

Mr. WILCOX. During this legislative session I had some very satisfactory help on some legislation that I was preparing from our friend who comes from California. I have always looked to him as a real sage in compensation in this country. I got some very valuable information from him during that session. I wrote to him frequently and also to Mr. French; I wrote to other commissioners. I think the Wisconsin commissioner furnished the Minnesota commission some valuable information that helped them to frame their legislation. We tried our best to do it.

Now, when I am acting on my compensation matters, I want to know what you men are doing in your own State. I want your bulletins. I want to know the result of what you have done, as to how some of those things worked out with you, and if you find something of value I would be mighty glad if you would let me have it, and I would like to let you know if I find anything in the administration of the law in Wisconsin that I think might be of service to you.

Our legislature is convened generally every two years, and I think that is about the way it runs generally, and I wonder if this association, through the secretary as a clearing house, ought not at the

beginning of the legislative sessions to make inquiry from all of the members of this organization, from all the States, as to contemplated legislation and then clear it to us so that we can have the benefit. Sometimes I find at the end of a session something that has been done in some other State that did it so much better than I had any notion of doing it, and that might have helped me much. Just recently I got from Mr. Otis the plan as it was working out in New York, and we have let that lie over because I said I would wait until after I got out of this convention as I felt that out of the experience of this convention I would be better able to consider it. My idea is that we should encourage one another; should help one another in our work.

[Meeting adjourned.]

FRIDAY, SEPTEMBER 23—MORNING SESSION.

CHAIRMAN, CHARLES S. ANDRUS, PRESIDENT I. A. I. A. B. C.

BUSINESS MEETING.

Mr. KINGSTON. You will remember my writing you, Mr. Chairman, some time during the last winter, with reference to the publication of something of a more intimate nature in the form of an association bulletin. I have nothing in my mind at all so elaborate as the *Monthly Labor Review*, nor have I in mind anything which just takes the place of the material that is of interest to compensation boards that is published in that *Review*. That I sincerely hope will continue to be published in the form in which it is; but I have this in mind, that if we could have published monthly, or three or four times a year, a little association bulletin of four or eight pages, just upon matters that are of interest only to compensation boards, it would be very useful in connection with personal matters. We like to know what is going on in other boards. I came up to this convention and was surprised to find out there is so much that has happened in the various boards of the various jurisdictions. You feel disappointed that you did not know more about it before; you feel as if you were not keeping posted. I have in mind the keeping us informed in each publication—that there should be contributions from each of your States. I would suggest that each jurisdiction report, or that some official who is interested in our work should be asked to contribute 100 lines, or something of that sort, to such a bulletin. Perhaps some jurisdiction might undertake the publication of the bulletin on one occasion and another one at another time. This is just in passing. I have no very definite idea, but I wish the executive committee would take up this matter and see if it is not possible, through the office of the secretary or through the services of some member of the association or jurisdiction especially interested in association work, to publish such a bulletin, and in this way keep us in touch from time to time and during the interim between our annual meetings as to what is going on in the different jurisdictions in matters of reorganization of their administrative machinery, in proposed new amendments to the law, and anything of that sort.

Let there be a question box; and I am sure it would be a means of eliciting information and would be of assistance in the administration of the work. I hope I have made my meaning clear. I want to see something produced which will be of assistance and at the same time be interesting to every one of us who have been in the habit of attending this convention.

The CHAIRMAN. If there is no objection that matter will be referred to the executive committee.

I do not know whether it is necessary to take up the matter of the expenses of the executive committee or whether that was the general instruction given at San Francisco. At San Francisco the question of paying the expenses of the executive committee at their meetings was taken up. They had two, and this has not been a one-man proposition. The only thing I have done without taking it up with the executive committee was to give a little assistance such as could not otherwise have been done, not personally, but as president of the association. I did say something for Mr. Stewart, and I am sure that I had to do it in a hurry, and I know that the association will back that up. I could not take it up with anybody, and I think the association can take a little credit for his appointment to his present position. I am only speaking on that, saying that everything was taken up with the executive committee except one thing, which could not be done because of lack of time.

At that meeting in San Francisco it was voted to pay the expenses of the executive committee to their two meetings to attend to all the details and arrange the program. It was realized that it was embarrassing oftentimes for men to take three trips at the State expense, and that was done there. Whether or not that holds over I think should be settled, as there ought not to be any uncertainty about it, and some action should be taken one way or the other.

Mr. KINGSTON. I do not think that there is any doubt at all as to that. If there is, I would move confirming the action taken at San Francisco, that the expenses of the members attending the executive committee be paid during the ensuing year.

Mr. STEWART. In the nature of things an order or motion of that character would stand until repealed. If you reaffirm it now that will create a presumption that it is only a year-to-year arrangement. I would pay the expenses of the executive committee on the California ruling until it was repealed. If you make it a thing that is renewable each year, and then at some convention forget to do it, I do not know whether or not I would be justified in paying it, and I think it would be better just to let it alone.

Mr. KINGSTON. I will read the resolution which I moved in San Francisco:

For some years the executive committee has been meeting, on an average, I think, three times in the interim between sessions. That entails a considerable amount of expense on the part of the individual members of the committee, or the jurisdictions from which they come. I scarcely think it is right that the individual members of the executive committee, or their jurisdictions, should be at that expense. I know it is difficult in some of your jurisdictions to get an appropriation for that particular purpose, and I am prepared to move, and I do it now more readily because I am off the executive committee, that the reasonable expenses of the members of the executive committee involved in attending the meetings of the executive committee be paid out of the funds of the association. I think the time has come when the association ought to take that stand.

That motion was carried. I think Mr. Stewart is quite right.

The CHAIRMAN. I did not talk to anybody about this but I thought it ought to be made clear one way or the other, so that nobody will be embarrassed. We will take no action if that is the sense of the meeting.

[The following resolutions were adopted:]

Resolved by the International Association of Industrial Accident Boards and Commissions:

First. That we have received the sad intelligence of the death of a fellow worker, Mr. A. E. Spriggs, chairman of the Montana Commission. Mr. Spriggs' demise occurred on July 18, 1921. He was personally known to many who have attended these meetings, and his death brings sincere regret, and to his family we extend condolence.

Second. That we hereby reaffirm the position taken by this association at its meeting in San Francisco with respect to the enactment by Congress of a uniform Federal workmen's compensation act, applicable to all maritime employment and employees.

Third. That the Bureau of Labor Statistics of the Federal Government has done and is doing good and valuable work and for this department we feel a lively sense of appreciation. Mr. Ethelbert Stewart, who is connected with it, is a faithful and efficient worker in the vineyard, and for his labors in this capacity and for his work as secretary of this association we give him our thanks.

Fourth. That the program on medical problems by the medical profession, as given the association on Wednesday, September 21, was of most lively interest and was of such excellence as to merit an expression of special approbation. The physicians on the program who participated were: Dr. Clara Seippel, whose paper was of the highest merit, Dr. Hollis S. Potter, Dr. Samuel C. Plummer, Dr. Lewis J. Pollock, Dr. William H. Holmes, Dr. Harry E. Mock, and Dr. Paul D. Magnuson, who was the head of the medical department of the Illinois commission. Dr. Magnuson especially interested himself in the formation and carrying out of this unusually worth-while program.

Fifth. In the personal entertainment of the delegates to this meeting a program was prepared replete with many fine courtesies and pleasures. We have been treated not as strangers within the gates of this great city, but as friends, as fellow workers, and a hospitality, homelike in its warmth, gives us a bright memory which we shall carry with us and cherish. Chairman Withall, of the Illinois commission, prepared this delightful program and helped personally to supervise in the delicate task of carrying it out. In this connection we are happy to acknowledge the gracious treatment given us by the retiring president of this association, Hon. Charles S. Andrus. He was in attendance at every session, and his graciousness of manner, his considerate and kindly treatment, will add to the happy memory of the Chicago meeting which is forever ours.

We would also extend the thanks of the convention to Miss Louise McGinnis, who has by her gracious presence and willing assistance at the desk, aided the proceedings, and we desire to express our sense of appreciation.

Sixth. That the committee on statistics and compensation insurance cost be authorized to formulate a standard permanent disability schedule.

Seventh. That the executive committee appoint a committee on forms and procedure to formulate standard methods of claim procedure.

The following amendment to the constitution of the association was adopted:

Honorary life membership.—Any person who has occupied the office of president or secretary of the association shall be ex officio an honorary life member of the association, with the full privileges.

[This session also included an address by E. E. Withall, chairman of the Illinois Industrial Commission, discussions on various matters of business, and the report of the auditing committee. The convention adjourned, to meet in Baltimore in 1922.]

APPENDIXES.

APPENDIX A.—CONSTITUTION OF THE INTERNATIONAL ASSOCIATION OF INDUSTRIAL ACCIDENT BOARDS AND COMMISSIONS.

ARTICLE I.

This organization shall be known as the International Association of Industrial Accident Boards and Commissions.

ARTICLE II.—*Objects.*

SECTION 1. This association shall hold meetings once a year, or oftener, for the purpose of bringing together the officials charged with the duty of administering the workmen's compensation laws of the United States and Canada to consider, and, so far as possible, to agree on standardizing (a) ways of cutting down accidents; (b) medical, surgical, and hospital treatment for injured workers; (c) means for the reeducation of injured workmen and their restoration to industry; (d) methods of computing industrial accident and sickness insurance costs; (e) practices in administering compensation laws; (f) extensions and improvements in workmen's compensation legislation; and (g) reports and tabulations of industrial accidents and illnesses.

SEC. 2. The members of this association shall promptly inform the United States Bureau of Labor Statistics and the Department of Labor of Canada of any amendments to their compensation laws, changes in membership of their administrative bodies, and all matters having to do with industrial safety, industrial disabilities, and compensation, so that these changes and occurrences may be noted in the Monthly Labor Review of the United States Bureau of Labor Statistics and the Canadian Labor Gazette.

ARTICLE III.—*Membership.*

SECTION 1. Membership shall be of two grades—active and associate.

SEC. 2. *Active membership.*—Each State of the United States and each Province of Canada having a workmen's compensation law, the United States Employees' Compensation Commission, the United States Bureau of Labor Statistics, and the Department of Labor of Canada shall be entitled to active membership in this association. Only active members shall be entitled to vote through their duly accredited delegates in attendance on meetings. Any person who has occupied the office of president or secretary of the Association shall be ex officio an honorary life member of the association with full privileges.

SEC. 3. *Associate membership.*—Any organization or individual actively interested in any phase of workmen's compensation or social insurance may be admitted to associate membership in this association by vote of the executive committee. Associate members shall be entitled to attend all meetings and participate in discussions, but shall have no vote either on resolutions or for the election of officers in the association.

ARTICLE IV.—*Representation.*

SECTION 1. Each active member of this association shall have one vote.

SEC. 2. Each active member may send as many delegates to the annual meeting as it may think fit.

SEC. 3. Any person in attendance at conferences of this association shall be entitled to the privileges of the floor, subject to such rules as may be adopted by the association.

ARTICLE V.—*Annual dues.*

SECTION 1. Each active member shall pay annual dues of \$50, except the United States Employees' Compensation Commission, the United States Bureau of Labor Statistics, and the Department of Labor of Canada, which shall be exempt from the payment of annual dues: *Provided*, That the executive committee may, in its discretion, reduce the dues for active membership for those jurisdictions in which no appropriations are made available for such expenditures, making it necessary that the officials administering the law pay the annual dues out of their own pockets for the State.

SEC. 2. Associate members shall pay \$10 per annum.

SEC. 3. Annual dues are payable any time after July 1, which date shall be the beginning of the fiscal year of the association. Dues must be paid before the annual meeting in order to entitle members to representation and the right to vote in the meeting.

ARTICLE VI.—*Meetings of the association.*

SECTION 1. An annual meeting shall be held at a time to be designated by the association or by the executive committee. Special meetings may be called by the executive committee. Notices for special meetings must be sent out at least one month in advance of the date of said meetings.

SEC. 2. At all meetings of the association the majority vote cast by the active members present and voting shall govern, except as provided in Article X.

ARTICLE VII.—*Officers.*

SECTION 1. Only officials having to do with the administration of a workmen's compensation law or bureau of labor may hold an office in this association, except as hereinafter provided.

SEC. 2. The association shall have a president, vice president, and secretary-treasurer.

SEC. 3. The president, vice president, and secretary-treasurer shall be elected at the annual meeting of the association and shall assume office at the last session of the annual meeting.

SEC. 4. If for any reason an officer of this association shall cease to be connected with any agency entitled to active membership before the expiration of his term, he may continue in office notwithstanding until the next annual meeting; but if for any reason a vacancy occurs in the office of president, the executive committee shall appoint his successor.

ARTICLE VIII.—*Executive committee.*

SECTION 1. There shall be an executive committee of the association, which shall consist of the president, vice president, the retiring president, secretary-treasurer, and five other members elected by the association at the annual meeting.

SEC. 2. The duties of the executive committee shall be to formulate programs for all annual and other meetings and to make all needed arrangements for such meetings; to pass upon applications for associate membership; to fill all offices which may become vacant; and in general to conduct the affairs of the association during the intervals between meetings. The executive committee may also reconsider the decision of the last annual conference as to the next place of meeting and may change the place of meeting if it is deemed expedient.

ARTICLE IX.—*Quorum.*

SECTION 1. The president or the vice president, the secretary-treasurer or his representative, and one other member of the executive committee shall constitute a quorum of that committee.

ARTICLE X.—*Amendments.*

This constitution or any clause thereof may be repealed or amended at any regularly called meeting of the association. Notice of any such changes must be read in open meeting on the first day of the conference, and all changes of which notice shall have thus been given shall be referred to a special committee, which shall report thereon at the last business meeting of the conference. No change in the constitution shall be made except by a two-thirds vote of the members present and voting.

APPENDIX B.—LIST OF PERSONS WHO ATTENDED THE EIGHTH ANNUAL MEETING OF THE INTERNATIONAL ASSOCIATION OF INDUSTRIAL ACCIDENT BOARDS AND COMMISSIONS, HELD AT CHICAGO, ILL., SEPTEMBER 19-23, 1921.

CANADA.

Manitoba.

H. G. Wilson, commissioner, Workmen's Compensation Board.
N. Fletcher, secretary, Workmen's Compensation Board.

Nova Scotia.

F. W. Armstrong, vice chairman, Workmen's Compensation Board.

Ontario.

George A. Kingston, commissioner, Workmen's Compensation Board.

UNITED STATES.

California.

A. J. Pillsbury, commissioner, Industrial Accident Commission.

Connecticut.

George B. Chandler, commissioner, Board of Compensation Commissioners.

Delaware.

V. M. Murray, president, Industrial Accident Board.
Charles H. Grantland, secretary, Industrial Accident Board.

Georgia.

S. J. Slate, commissioner, Industrial Commission.

Illinois.

Charles S. Andrus, president, I. A. I. A. B. C., ex-chairman, Industrial Commission.

E. E. Withall, chairman, Industrial Commission.

Robert Eadie, commissioner, Industrial Commission.

Peter J. Angsten, ex-member, Industrial Commission.

A. V. Becker, secretary, Industrial Commission.

J. S. Cook, labor statistician, Industrial Commission.

George A. Schneider, attorney, Industrial Commission.

Dr. P. B. Magnuson, ex-medical director, Industrial Commission.

L. A. Cambridge, attorney, Illinois Manufacturing Association, Chicago.

H. W. Meyer, assistant manager, Builders and Manufacturers Mutual Casualty Co., Chicago.

Albert N. Powell, attorney, Travelers' Insurance Co., Chicago.

L. A. Tarrell, attorney, Lumbermen's Mutual Casualty Co., Chicago.

Fred B. Marshall, Fidelity and Casualty Co., Chicago.

Thos. E. Cambridge, manager, industrial accident department, International Harvester Co., Chicago.

A. B. Snow, adjuster, Travelers' Insurance Co., Chicago.

Harry P. Beam, attorney, Armour & Co., Chicago.
 S. C. Plummer, M. D., chief surgeon, C. R. I. and P. Ry. Co., Chicago.
 William H. Holmes, M. D., Chicago.
 H. D. Wagner, superintendent, Illinois claim department, Employers' Liability Assurance Corp., Chicago.
 C. W. Baker, M. D., National Malleable Casting Co., Melrose Park.
 Russell D. Herrold, M. D., American Association of Industrial Physicians and Surgeons, Chicago.
 George C. Baker, assistant secretary, Consumers' Co., Chicago.
 Wm. C. Nudholz, M. D., Chicago.
 Clara P. Seippel, M. D., Chicago.
 LeRoy P. Kuhn, chief surgeon, Lumberman's Casualty Co., Chicago.
 N. H. Adams, M. D., Chicago.
 J. C. M. Clow, attorney, London Guarantee & Accident Co., Chicago.
 P. J. V. McKian, insurance editor, Herald and Examiner, Chicago.
 Miss Louise McGinnis, court reporter, Industrial Commission.

Iowa.

Ralph Young, deputy industrial commissioner, Workmen's Compensation Service.
 John T. Clarkson, Albai.
 Fred C. Huebner, assistant general counsel, U. M. W. of A., District No. 13, Albai.

Maryland.

Robert E. Lee, chairman, State Industrial Accident Commission.
 Geo. Louis Eppler, member, State Industrial Accident Commission.

Massachusetts.

John H. Cogswell, member, Industrial Accident Board.
 B. S. Quigley, district claim manager, Liberty Mutual, Boston.

Michigan.

Wm. C. Brown, deputy commissioner, Department of Labor and Industry.
 Robert E. Walker, comptroller department, Ford Motor Co., Detroit.
 Albert E. Meder, attorney, Michigan Mutual Liability Co., Detroit.
 Nic. D. Bragg, Fidelity and Casualty Co., Detroit.

Minnesota.

F. A. Duxbury, chairman, Industrial Commission.
 John P. Gardiner, secretary, Industrial Commission.
 Oscar M. Sullivan, consulting statistician, Industrial Commission.
 Ora E. Reaves, claims manager, M. A. Hanna & Co., Duluth.

Nebraska.

Frank A. Kennedy, compensation commissioner, Department of Labor.

New Jersey.

John Roach, Chief, Bureau of Hygiene and Sanitation, Department of Labor.

New York.

Henry D. Sayer, industrial commissioner, Department of Labor.
 Stanley L. Otis, director, Bureau of Workmen's Compensation, Department of Labor.
 Leonard W. Hatch, State Insurance Fund, Department of Labor.
 Edmund S. Cogswell, general manager, National Association of Mutual Cas. Co., New York.

North Dakota.

C. A. M. Spencer, commissioner, Workmen's Compensation Bureau.
Chester A. Marr, secretary, Workmen's Compensation Bureau.

Ohio.

T. J. Duffy, chairman, Industrial Commission.
Paul L. Bliss, receiver of claims, Industrial Commission.
H. D. Martin, medical director, The Pollak Steel Co., Cincinnati.

Oklahoma.

Baxter Taylor, chairman, Industrial Commission.
I. K. Huber, chief adjuster, Empire Companies, Bartlesville.
Mrs. E. F. Riggins, secretary, Industrial Commission.

Pennsylvania.

Clifford B. Connelley, commissioner, Department of Labor and Industry.
Wm. C. Fisher, actuary, Bureau of Workmen's Compensation, Department of Labor and Industry.

Utah.

O. F. McShane, commissioner, Industrial Commission.
Chas. A. Caine, manager, State Insurance Fund, Industrial Commission.

Vermont.

John S. Buttles, Commissioner of Industries.

Virginia.

C. A. McHugh, chairman, Industrial Commission.
W. M. Miles, deputy commissioner, Industrial Commission.

Washington.

E. S. Gill, supervisor of industrial insurance, Department of Labor and Industries.
F. A. Bird, M. D., chief medical adviser, Department of Labor and Industries.

West Virginia.

Lee Ott, State Compensation Commissioner.
J. W. Smiley, actuary and chief accountant, West Virginia State Fund.

Wisconsin.

Fred M. Wilcox, chairman, Industrial Commission.
Thomas F. Konop, commissioner, Industrial Commission.
Voyta Wrabetz, examiner, Industrial Commission.
B. E. Kuechle, adjuster insurance, Empire Mutual Liability Insurance Co., Wausau.
R. McA. Keown, engineer, safety and sanitation department, Industrial Commission.
Wm. H. Hatton, New London.
A. B. Rounberry, M. D., medical director, Empire Mutual Liability Insurance Co., Wausau.
Grace H. Lewis, assistant secretary and treasurer, Wisconsin Board of Threshermen Ins. Co., Fon du Lac.
S. H. Slaymaker, Fairbanks-Morse Co., Beloit.

Federal Government.

Ethelbert Stewart, United States Commissioner of Labor Statistics.
M. G. Lloyd, electrical engineer, United States Bureau of Standards.
Carl Hookstadt, expert, United States Bureau of Labor Statistics.
Robert M. Woodbury, director of statistical research, United States Children's Bureau.

APPENDIX C.—MEMBERS OF THE INTERNATIONAL ASSOCIATION OF INDUSTRIAL ACCIDENT BOARDS AND COMMISSIONS, 1921-22.

The International Association of Industrial Accident Boards and Commissions now includes the following 35 active members:

United States Employees' Compensation Commission.
United States Bureau of Labor Statistics.
California Industrial Accident Commission.
Connecticut Workmen's Compensation Commission.
Delaware Industrial Accident Board.
Georgia Industrial Accident Commission.
Hawaii Industrial Accident Boards (counties of Kauai, Maui, Hawaii, and Honolulu).
Illinois Industrial Commission.
Iowa Workmen's Compensation Service.
Kansas Court of Industrial Relations.
Maine Industrial Accident Commission.
Maryland State Industrial Accident Commission.
Massachusetts Industrial Accident Board.
Michigan Department of Labor and Industry.
Minnesota Industrial Commission.
Montana Industrial Accident Board.
Nevada Industrial Commission.
New Jersey Department of Labor.
New York State Industrial Commission.
Ohio Industrial Commission.
Oklahoma Industrial Commission.
Oregon State Industrial Accident Commission.
Pennsylvania Department of Labor and Industry.
Utah Industrial Commission.
Virginia Industrial Commission.
Washington Department of Labor and Industries.
West Virginia State Compensation Commissioner.
Wisconsin Industrial Commission.
Wyoming Workmen's Compensation Department.
Department of Labor of Canada.
Alberta Workmen's Compensation Board.
Manitoba Workmen's Compensation Board.
New Brunswick Workmen's Compensation Board.
Nova Scotia Workmen's Compensation Board.
Ontario Workmen's Compensation Board.

One active member, the Delaware Industrial Accident Board, has been added since the last annual meeting.

The United States Employees' Compensation Commission, the United States Bureau of Labor Statistics, and the Department of Labor of Canada are exempt from the payment of dues.

The following are associate members:

Idaho Industrial Accident Board.
Industrial Accident Prevention Association, Toronto, Canada.
Nebraska Department of Labor.
North Dakota Workmen's Compensation Bureau.
Ontario Safety League.
Porto Rico Workmen's Relief Commission.
Republic Iron and Steel Company, Youngstown, Ohio.

One of these associate members, the North Dakota Workmen's Compensation Bureau, joined since the San Francisco meeting. Three members withdrew from the association, namely, the Texas Industrial Accident Board, the British Columbia Workmen's Compensation Board, and the Department of Public Works and Labor of Quebec.

APPENDIX D.—REPLIES TO NOTICE OF AMENDMENT TO CONSTITUTION MAKING PAST PRESIDENTS AND SECRETARIES HONORARY LIFE MEMBERS OF ASSOCIATION.

I am in receipt of your favor of November 1 advising me of the action of the eighth annual convention of the International Association of Industrial Accident Boards and Commissions, held in Chicago September 19-23, 1921, providing for honorary life membership of past presidents, and that I am entitled to such honorary membership.

I wish to thank you for the notice and also wish to thank the association through you for this splendid courtesy.

The writer was one of those who initiated the movement for this organization and took part in the first organization at Lansing in 1914. I have always had the greatest interest in this work and I am glad to feel now that I have the privilege of meetings and other privileges of a membership therein.

(Signed) FLOYD L. DAGGETT.

I acknowledge receipt of your notification that a resolution was passed at the recent meeting of the International Association of Industrial Accident Boards and Commissions conferring on all past presidents and past secretaries of the association life membership in the association with full privileges.

While your letter did not come as a surprise to me, as I was present at the Chicago meeting, it is a source of great gratification to know that I am one of those upon whom this honor has been conferred.

Although I am not a member of the industrial commission at the present time, I am as much interested in the progress of the workmen's compensation legislation as I ever was, and am just as willing to do anything that I can to further this great cause and improve the laws dealing with this subject.

I am under great obligations to this association not only for the information and help these meetings have given me, but also for the honor they conferred upon me by electing me president.

The acquaintances and friendships that I have made with the men engaged in compensation work form one of the brightest spots in my life and this additional honor in which I am allowed to participate is most thoroughly appreciated.

(Signed) CHARLES S. ANDRUS.

I am naturally very much gratified and pleased at the action taken by the association in passing the amendment to the constitution which grants honorary life membership in the association to all persons who have served as president or secretary of the association. Will you not be good enough to convey my feelings of gratification and appreciation of the honor thus conferred upon me to the officers and members of the I. A. I. A. B. C.?

(Signed) ROYAL MEEKER.

I beg to acknowledge receipt of your letter of the 28th ultimo, advising me that under the resolution adopted at your Chicago meeting, I have been made a life member of the International Association of Industrial Accident Boards and Commissions. I esteem this a high honor and will endeavor to make use of my privileges by attending some of the meetings of the association. As the first president of the organization, I am highly pleased to note its growth and prosperity. I presided at the first meeting of the association in Lansing in 1913, the Chicago meeting in 1914, and the Seattle meeting in 1915. Wishing yourself and the association a prosperity and growth fitting the noble cause in which it labors,

(Signed) JOHN E. KINNANE.

I have your letter of October 28, advising me of the resolution adopted by the International Association of Industrial Accident Boards and Commissions

at their meeting in Chicago, and am glad to note that I am now an honorary life member of the association.

Perhaps it may interest you to know that last week I was appointed a member of the Wisconsin Industrial Commission, and expect to take up my duties with that commission on November 15.

(Signed) L. A. TARRELL.

Thank you for your letter of October 3. I was indeed glad to read that I am now an honorary life member of the International Association of Industrial Accident Boards and Commissions. That name does not appear so long now! It was a nice courtesy to extend to those who have endeavored to do some work for the International Association, as well as having been honored by the organization. It is needless for me to say that anything I can do at any time for the International Association will be gladly done.

(Signed) WILL J. FRENCH.

I have yours of the 21st instant advising me officially of the action of the Chicago convention in making past presidents honorary life members of the association.

I value this honor very highly indeed and shall, whether officially connected with the association or not, always take a very deep interest in the association's work.

Thanking you for your letter and with kindest regards,

I am,

(Signed) GEO. A. KINGSTON.

Thank you very much for your letter calling my attention to the amendment of the constitution of the International Association of Industrial Accident Boards and Commissions, which has the effect of making me a life member with full privileges. I certainly appreciate the action of the association.

(Signed) F. M. WILCOX.

