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# THE LEGAL HISTORY OF THE OCCUPATIONAL DISEASE LAW IN WISCONSIN

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FOR nineteen years Wisconsin has made provision for occupational disease in its Workmen's Compensation Act. With the present general interest in occupational disease, a review of the legal history of Wisconsin's law indemnifying therefor should be of value.

This state has had a workmen's compensation act since 1911. The law was based upon the theory that compensation for industrial accidents should be a part of the cost of production. The law necessarily provided as one of the conditions of liability that the relationship of employer and employee must exist. Coupled with this provision was the requirement that the accident must arise out of and in the course of the employment. The law was originally drafted with the thought of traumatic injuries in mind. The various provisions, such as notice of injury and date of liability, were all predicated upon this thought.

Wisconsin has been consistently liberal in its interpretation of the compensation act. Claims have arisen based upon a condition in the nature of a disease, but not truly occupational, for which compensation has been allowed. As early as 1915 the supreme court approved an award for compensation for typhoid fever contracted from drinking contaminated water furnished by the employer.[1] Compensation for

[1] Vennen, Adm. v. New Dells Lumber Co., 161 Wis. 370, 154 N.W. 640 (1915); Ellingson Lumber Co. v. Industrial Commission, 168 Wis. 227, 169 N.W. 568 (1918).

smallpox was approved where the employee while doing repair work in an isolation hospital had been exposed to disease.[2] In these cases the court did not proceed on the theory of an occupational disease, but justified the award upon the finding that the employment had peculiarly increased the hazard of exposure. The rule followed was to grant compensation only for injuries resulting from a hazard peculiar to the industry or substantially increased by reason of the nature of the services which the employee was required to perform.

In 1919 the act was amended to provide for occupational disease. At the time of this proposal there was some apprehension on the part of the employers and insurers as to the consequence of such a provision. The question of occupational disease had not then attracted the general interest of the public as has been experienced in more recent years. Comparatively little publicity was given to the amendment. A general revision of the compensation act was not considered, possibly due to failure to anticipate the many questions to follow later, or possibly in order not to create undue apprehension and opposition to the measure. The amendment therefore was accomplished by adding a new section at the end of the then existing law as follows: "The provisions of sections 2394-1 to 2394-31 both inclusive, are extended so as to include, in addition to accidental injuries, all other injuries including occupational diseases, growing out of and incidental to the employment."[3]

We should note from the amendment quoted "occupational disease" was not more specifically defined, leaving the question as to just what constituted "occupational disease" open to interpretation as the cases arose. The first case to reach the supreme court under this amendment was that of *Belle City Malleable Iron Co.* v. *Industrial Commission.*[4] This was a claim for occupational hernia. The claim was dismissed upon the ground that there had been a failure of proof that the employment had produced the condition. However, the case did recognize the possibility of hernia as an occupational disease under proper showing.

The second case was that of *Wenrich* v. *Industrial Commission,*[5] which recognized that in the stone cutting industry "the consequent filling of the lungs with granite dust necessarily makes one so employed much more, and particularly, susceptible to pulmonary tuberculosis." The development of tuberculosis under such circumstances was then held to come under the provisions of the occupational disease amendment.

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[2] Vilter Mfg. Co. v. Industrial Commission, 192 Wis. 362, 212 N.W. 641 (1927).
[3] Wis. Stat. (1919) § 2394-32.
[4] 180 Wis. 344, 192 N.W. 1010 (1923).
[5] 182 Wis. 379, 196 N.W. 824 (1924).

The question of the constitutionality of the occupational disease provision was not raised until 1924. In *Schaefer & Company* v. *Industrial Commission,*[6] the court held the act to be constitutional with the following statement: "This court has many times sustained action of the railroad commission as constitutional under conditions trenching much closer on judicial power than the action of the Industrial Commission in the instant case. As was said in *Borgnis* v. *Falk Co.,* 147 Wis. 327, 358, 133 N.W. 209, the Industrial Commission 'is an administrative body or arm of the government which in the course of its administration of a law is empowered to ascertain some questions of fact and apply the existing law thereto, and in so doing acts quasi-judicially, but it is not thereby vested with judicial power in the constitutional sense.' We hold the act in question within the constitutional province of the legislature."

The fact that occupational disease develops over a period of time in contrast to a traumatic injury was not presented to the supreme court until 1924.[7] This case presented a situation where the employee was suffering from tuberculosis superimposed upon silicosis. He had been employed part time by three separate granite concerns over a period of years, during which time the condition of silicosis arose. The commission found that he became disabled as of December 8, 1922, due to his tuberculosis, at which time he was actually in the employ of one of the three employers. On the theory that the condition had arisen over a period of time, the commission prorated the compensation due between the three employers. The supreme court proceeded upon the theory that the provisions of the law had been drafted primarily with the thought of traumatic injuries in mind and established liability on the basis of a specific date, which was the date disability commenced. The court announced the rule that liability attached as of the date of disability and that the employer in whose service the employee was at that time was liable for the entire compensation.

This question as to date of liability was again carefully considered by the court in 1928 in the case of *Employers Mutual Liab. Ins. Co.* v. *McCormick.*[8] The question arose due to change of insurance carriers during the period of the development of the disease, the last insurer taking the position that due to the short period of its coverage there was no liability on its part because the period of time was too short to cause or materially contribute to the condition. The court, commenting upon the various provisions of the act with reference to notice, observed: "Unless the date when the employee is disabled from rend-

[6] 185 Wis. 317, 201 N.W. 396 (1924).
[7] Schaefer & Company v. Industrial Commission, 185 Wis. 317, 201 N.W. 396 (1924).
[8] 195 Wis. 410, 217 N.W. 738 (1928).

ering further service be taken as the date that determines liability, it will be very difficult to administer the workmen's compensation act so far as disability resulting from occupational disease is concerned. The protection of the rights of both the employer and the employee requires that liability be fixed as of that date. If liability must be determined as of the date when the disease had its inception, the employee would be under the necessity of giving notice of every slight ailment which might be the incipient stage of some occupational disease that might cause disability at some more or less distant future time, and the employer would be put to the needless expense of investigating all such notices of claims." In this connection the court observed further with reference to insurance liability: "The company that had insured the compensation liability at the time disability occurred is the one that must pay the compensation awarded. This rule will work no injustice to any individual carrier or employer because the law of averages will equalize burdens imposed by this act among the employers and the compensation insurers of the state."

The rule that the insurance carrier on the risk, irrespective of length of coverage, at the date of disability, was liable for the compensation due, was consistently followed thereafter.[9] The same rule that liability attached as of the date of disability was again followed in a case where the employer had withdrawn from the provisions of the workmen's compensation act prior to the date of disability and compensation was denied.[10]

In 1930 another occupational disease was definitely recognized in the case of *Hayes* v. *Industrial Commission*,[11] when the court held that under a proper showing lead poisoning was an occupational disease under the act. The rule that liability attaches when disability occurs underwent further refinement and clarification. The situation arose where an employee had contracted an occupational disease but at the time of disability was working for a new employer whose employment had not caused or contributed to the condition.[12] The court held that the employment at the time of disability must have caused or contributed to the condition, commenting as follows: "There must be some causal relationship between the accident or the disease and the work of the employment. There is no rule of law which attempts to

[9] Falk Corp. v. Industrial Commission, 202 Wis. 284, 232 N.W. 542 (1930); Zurich Gen. Acc. & Liability Ins. Co. v. Industrial Commission, 203 Wis. 135, 233 N.W. 722 (1930); Outboard Motor Co. v. Industrial Commission, 206 Wis. 131, 239 N.W. 141 (1931); Jackson Monument Co. v. Industrial Commission, 220 Wis. 390, 265 N.W. 63 (1936).

[10] Montello Granite Co. v. Industrial Commission, 197 Wis. 428, 222 N.W. 315 (1928).

[11] 202 Wis. 218, 231 N.W. 584 (1930).

[12] Hayes v. Industrial Commission, 202 Wis. 218, 231 N.W. 584 (1930).

shift this burden to a subsequent employer who has in no way caused or contributed to the disability, accident, or disease."

The next qualification arose from a case of temporary or partial disability followed by further exposure. This was the case of *Falk Corporation* v. *Industrial Commission*[13] in which the court held that the subsequent disability following further contributing exposure established a new date of disability and likewise a new liability. This same question received extensive reconsideration in 1930 in *Zurich etc. Insurance Co.* v. *Industrial Commission.*[14] In this case the applicant became ill in 1920. He resumed his employment in 1921. In 1922 the applicant had another period of disability continuing for about five months. He was advised at this time that his employment inside and exposed to dust was detrimental to his health. At his request his employer transferred him to outdoor work, in which he continued until October, 1927. At that time he became totally and permanently disabled as a result of tuberculosis superimposed upon silicosis. At the time of his transfer in 1922 from inside to outside work he experienced a wage loss. The court gave careful consideration to all of the prior decisions and came to the conclusion that a distinction had to be drawn between recurrence of the same condition and a new onset of that condition due to subsequent exposure, and stated the rule as follows: " * * * it is considered that it should be held that the 'time of accident' within the meaning of the statute in occupational disease cases should be the time when disability first occurs; that the employer in whose employment the injured workman is and the insurance carrier at that time are liable for the total consequences due thereto. So that if the end result, whatever it may be, is inevitably due to exposure already complete, that employer and that carrier become liable accordingly. If the disability is partial and there is a recovery and a subsequent disability with subsequent exposure, then it will be necessary for the commission to determine whether the subsequent disability arose from a recurrence or is due to a new onset induced by a subsequent exposure. If it finds that the disability is due to a new onset, the employer and the carrier on the risk at the time the total disability manifests itself shall be liable accordingly. If, however, there is no subsequent exposure which contributes to the disability and the disability is a recurrence of the former occupational disease, then the employer in whose employment the employee is when the recurrence takes place is not liable and so the insurance carrier upon the risk at that time is not liable on that account."

In this case the court recognized that the rule as announced left unprovided for the workman who had been subjected to exposure

[13] 202 Wis. 284, 232 N.W. 542 (1930).
[14] 203 Wis. 135, 233 N.W. 772 (1930).

which did not manifest itself while he was in the employ of an employer who contributed to his disability, and explained this apparent inequity by the statement: "The statute is not aimed at exposure but disability. An accident which produces no disability is not compensable." The court, with consideration for the provisions as to notice and limitation of action, also expressed the opinion that as the statute was worded, to hold that the last exposure should be taken as the "time of accident" would involve the whole matter in great difficulty and uncertainty.

A reasonable number of cases involving the last stated rule were carried to the supreme court, but involved primarily the question as to whether or not the evidence sustained the findings of the commission as to the date disability first occurred from which the end result was inevitable due to exposure already complete.[15] A similar question was raised by the last employers whose period of employment had been comparatively short taking the position that they had not caused the condition and therefore should not be held liable. The court followed the rule that irrespective of the length of the last employment, if that employment had contributed to the condition followed by disability, the employer at the time of disability was liable. In passing it might be worthy of note that the commission held a period of employment from March 10th to May 15th sufficient to contribute to the condition and create liability, and were sustained on the theory that it was a question of fact to be determined by the commission.[16] In another case the man had been discharged from a sanitarium as an arrested case of tuberculosis. He was employed for a period of three months, following which occurred a new breakdown. The commission was sustained in holding liability upon the last employer.[17]

In 1931, for the purpose of making the act more certain and to eliminate as far as possible the numerous questions of fact as to the date disability first occurred from which the end result was inevitable due to exposure already complete, the following amendment was adopted: "* * * 'Time of injury,' 'occurrence of injury,' 'date of injury' is the date of the accident which caused the injury or the date when the disability from the occupational disease first occurs."[18]

Though the actual wording of the amendment appeared clear and in conformity with the *Zurich Insurance Company* case, it will be noted

[15] Outboard Motor Co. v. Industrial Commission, 206 Wis. 131, 239 N.W. 141 (1931); Marquette Granite Co. v. Industrial Commission, 207 Wis. 151, 240 N.W. 793 (1932); Kannenberg Granite Co. v. Industrial Commission, 212 Wis. 651, 250 N.W. 821 (1933); Nordberg Mfg. Co. v. Industrial Commission, 210 Wis. 398, 245 N.W. 680 (1933).

[16] Kannenberg Granite Co. v. Industrial Commission, 212 Wis. 651, 250 N.W. 821 (1933).

[17] Nordberg Mfg. Co. v. Industrial Commission, 210 Wis. 398, 245 N.W. 680 (1933).

[18] Wis. Laws (1931) c. 403 § 2.

that the amendment did not carry the words of the court "from which the end result is inevitable due to exposure already complete." A review of the cases will show, however, that the amendment was so interpreted.

In 1930 the effect of the depression was beginning to be felt. With it came slack employment, staggered employment, and a rather general termination of employment. This condition was the cause of a very substantial increase in claims, both of traumatic origin as well as of occupational disease. A series of cases raising various questions of liability promptly followed. The next few years many more cases involving the act reached the supreme court than in any similar period of time prior. In 1933 the case of *Kimlark Rug Corp.* v. *Industrial Commission*,[19] was decided by the court. This was a claim of occupational dermatitis. Though the employee did actually experience discomfort during his employment, it had not progressed to a condition of disability until subsequent to the termination of the employer-employee relationship. This case is noteworthy because of a definite statement of the rule that the relationship of employer and employee must exist at the date of disability. The rule followed the provision that as one of the conditions of liability this relationship must exist. As hereinbefore pointed out, the provision goes to the fundamental theory of the law that industrial accidents should be charged to the cost of production. This rule has been consistently followed.[20]

At this point it is well to observe that in the *Kimlark Rug Corporation* case the claim was based upon a condition of alleged occupational dermatitis. The case, however, raised no question as to whether or not this particular dermatitis was an occupational disease. Apparently it was assumed to be covered by the act. In this connection a reasonable number of claims involving such conditions as hemlock poisoning, dermatitis due to susceptibility to cement and other substances, have been presented to the commission. The duration of the disability and the compensation involved have to date not justified presenting the question squarely to the court as to whether or not an individual susceptibility without increased exposure can be justified under the occupational disease provisions of the law. When the condition is due to an individual peculiar susceptibility, in the opinion of the writer it does not constitute an occupational disease and should not be recognized.

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[19] 210 Wis. 319, 246 N.W. 424 (1933).

[20] Mass. Bonding & Ins. Co. v. Industrial Commission, 211 Wis. 52, 247 N.W. 343 (1933); North End Foundry Co. Cases, 217 Wis. 363, 258 N.W. 439 (1935); Kannenberg Granite Co. v. Industrial Commission, 212 Wis. 651, 250 N.W. 821 (1933); Nordberg Mfg. Co. v. Industrial Commission, 210 Wis. 398, 245 N.W. 680 (1933); Montreal Mining Co. v. Industrial Commission, 225 Wis. 1, 272 N.W. 828 (1937).

The rule of law that the relationship of employer and employee must exist at the time of disability to create liability brought forth a number of cases involving the question as to just what terminated this relationship. The court recognized or established the presumption that the relationship continued in the absence of a definite showing of its termination. A temporary lay-off for repairs or a temporary shut-down of the plant was held not to be sufficient to terminate the relationship.[21]

The distinctions were drawn closely and another troublesome situation arose over the question of the meaning of "disability." Many men made claim even though experiencing only an early state of uncomplicated silicosis. After considerable study the Wisconsin commission recognized the general medical opinion that uncomplicated first stage and early second stage silicosis were not disabling. Silicosis in any stage complicated by tuberculosis was definitely recognized as disabling, and later second stage and third stage silicosis was a question of fact as to degree of disability with the doubts resolved in favor of the employee.

Due to the rule that disability must occur prior to discharge to create liability, many theories were advanced to overcome the rule. Slack and staggered employment together with customary short periods of illness of people generally gave a golden opportunity for applicants to claim prior disability and under circumstances where it was hard to disprove. Silicosis develops slowly, and it was comparatively easy to date medical opinion back to a lapse in the payroll. Applicants' attorneys were also advancing the theory that though the payroll records showed no time loss when work was available, had it not been for staggered employment the employee would have had to quit at some prior time and in fact there existed a partial permanent disability prior to the discharge. These claims were backed up by medical opinion that the man could not have continued under steady work.[22]

A distinction was also drawn between medical disability and physical disability. Medical disability was defined as a case where the employee had not discontinued work but his condition was such that a medical adviser or examiner would have advised him so to do. Physical disability was understood to mean actual physical inability to carry on. The industrial commission at first were allowing compensation upon these various theories, most probably because of the harshness of the rule that disability must occur prior to the discharge. The supreme

[21] Wisconsin Granite Co. v. Industrial Commission, 208 Wis. 270, 242 N.W. 191 (1932); Michigan Quartz Silica Co. v. Syring, 214 Wis. 289, 252 N.W. 682 (1934); Kannenberg Granite Co. v. Industrial Commission, 212 Wis. 651, 250 N.W. 821 (1933).

[22] Chain Belt Co. v. Industrial Commission, 220 Wis. 116, 264 N.W. 502 (1936); Sivyer Steel Casting Co. v. Industrial Commission, 220 Wis. 252, 263 N.W. 565 (1936).

court, however, refused to recognize so-called "medical disability" in absence of an actual wage loss when there was work available to do.[23] The court did recognize that upon a definite showing of reduced wage due to change of employment made necessary because of silicosis, created a compensable partial disability.[24] The rule was finally established that "disability" under the act as then worded meant "wage loss."[25]

The court, in the *North End Foundry Company Cases*,[26] commented as follows: "The rule was adopted for the reason that the fundamental idea of the Workmen's Compensation Act is to award compensation for a wage loss suffered either by disability, total or partial, permanent or temporary." The right of an employer to discharge an employee in anticipation of disability and thereby avoid liability, was questioned. The court, however, held that medical examinations could be justified upon a humanitarian basis as well as liability and that the employer had this right.[27]

A careful review of all of the decisions was made in the *North End Foundry Company Cases*.[28] This was a series of cases, all argued before the court at the same time. Some of the claimants were actually suffering from tuberculosis superimposed upon silicosis. They had been medically examined at the instance of the employer and thereafter definitely discharged prior to actually having sustained any wage or time loss. The court held to the rule that the relationship of employer and employee must exist at the time of disability, that medical disability was not such disability as contemplated by the act, that compensation disability meant wage loss, and dismissed the claims.

In 1933 the act was amended for the purpose of providing for the cases where disability arose subsequent to discharge. The following amendment was adopted: "Section 102.01 (2) * * * 'Time of injury,' 'occurrence of injury,' 'date of injury' is the date of the accident which caused the injury or in the case of disease, the last day of work for the last employer whose employment caused disability."[29]

[23] Schaefer & Co. v. Industrial Commission, 220 Wis. 289, 265 N.W. 390 (1936); North End Foundry Co. Cases, 217 Wis. 363, 258 N.W. 439 (1935).
[24] Glancy Malleable Iron Co. v. Industrial Commission, 216 Wis. 615, 258 N.W. 445 (1935).
[25] Kimlark Rug Corp. v. Industrial Commission, 210 Wis. 319, 246 N.W. 424 (1933); Michigan Quartz Silica Co. v. Industrial Commission, 214 Wis. 492, 253 N.W. 167 (1934); Kannenberg Granite Co. v. Industrial Commission, 212 Wis. 651, 250 N.W. 821 (1933); North End Foundry Co. Cases, 217 Wis. 363, 258 N.W. 439 (1935); Chain Belt Co. v. Industrial Commission, 220 Wis. 116, 264 N.W. 502 (1936); Sivyer Steel Casting Co. v. Industrial Commission, 220 Wis. 252, 263 N.W. 565 (1936).
[26] 217 Wis. 363, 258 N.W. 439 (1935).
[27] Motor Castings Co. v. Industrial Commission, 219 Wis. 204, 262 N.W. 577 (1935).
[28] 217 Wis. 363, 258 N.W. 439 (1935).
[29] Wis. Laws (1933) c. 314 § 2, c. 402 § 2.

The question as to the definition of "disability" again arose, and the court held that the amendment had not changed the definition as established by court decisions. The effect of the decision was that actual disability—wage loss—had to be shown even under the amendment before liability arose.[30] The theory was advanced that under the 1933 amendment former disability was immaterial and that liability attached as of the last day of employment by the last employer who contributed to the condition. The court held, however, that this was not the meaning of the amendment, explaining: "That statute applied only when a wage loss occurs after the relation of employer and employee is terminated. * * * The law of 1933 was intended to supplement and not to supplant the holding in Zurich Gen. Acc. & L. Ins. Co. v. Industrial Commission, 203 Wis. 135, 233 N.W. 772 (1930), and other cases in which the defect in the law was pointed out," so that if wage loss due to silicosis had occurred prior to discharge, the date of such disability fixed the date of liability notwithstanding the 1933 amendment.[31]

In connection with the 1933 amendment creating liability for subsequent disability at the last day of employment which contributed to the condition, there was a danger of applications being prematurely made. A dismissal on the basis that no actual disability existed, though the applicant actually had some degree of silicosis, might have defeated a legitimate claim at a later date. In order to protect against this possibility and to discourage the bringing of non-meritorious or premature claims, the 1935 legislature enacted the following provision: "Section 102.18—FINDINGS AND AWARD. (1) * * * Where there is a finding that the employe is in fact suffering from an occupational disease caused by the employment of the employer against whom the application is filed, a final award dismissing such application upon the ground that the applicant has suffered no disability from said disease shall not bar any claim he may thereafter have for disability sustained after the date of said award."[32]

It had been discovered that many men with an early stage of silicosis not actually disabling had brought claim because of their inability to obtain further foundry employment. Their inability to obtain further employment was due either to a fear of future liability or because of the fact that in medical opinion further exposure in time would produce disability. With the thought in mind of correcting this inequity or injustice, a further amendment was adopted in 1935. The theory of

[30] Schaefer & Co. v. Industrial Commission, 220 Wis. 289, 265 N.W. 390 (1936); Milwaukee Malleable & Grey Iron Works v. Industrial Commission, 220 Wis. 244, 265 N.W. 394 (1936).

[31] General Acc. Fire & Life As. Corp. v. Industrial Commission, 221 Wis. 540, 266 N.W. 224 (1936); General Acc. Fire & Life As. Corp. v. Industrial Commission, 221 Wis. 544, 266 N.W. 226 (1936).

[32] Wis. Laws (1935) c. 465 § 2.

the amendment was to provide a reasonable sum in the nature of a rehabilitation award so that a man could readjust himself during the period of learning a new trade. The provision was as follows:

"Section 102.565—NONDISABLING SILICOSIS. (1) When the conditions of liability as provided in this chapter exist, except as provided in this section, and an employe is discharged from employment because he has a nondisabling silicosis under circumstances such as to occasion wage loss, the commission may allow such sum for compensation on account thereof, as it may deem just, not exceeding seventy per cent of his average annual earnings as defined in section 102.11.

"(2) Payment of a benefit under this section to an employe shall estop such employe from any further recovery under this section."[33]

Section 102.565 was further amended by the 1937 legislature to cover the situation where, after medical examination, it is determined that the employe should not continue to expose himself further to silica dust though presently not actually disabled therefrom. The amendment increased, in the discretion of the industrial commission, the amount allowable for nondisabling silicosis to a maximum of thirty-five hundred dollars. Neither of these last two amendments has as yet been considered by the supreme court.

A clarification of the meaning of occupational disease was had in the recent case of *Schmitt* v. *Industrial Commission*.[34] In that case the court followed the definition of occupational disease: "If the occupation be one which naturally gives rise to a disease, then the disease acquired by reason of the occupation followed may properly be said to be an occupational disease, even though it might result from more than one occupation."[35] The court, however, points out clearly the following distinction: "Unless, however, the disability be shown to have resulted from an occupational disease, its cause must be found in an accident in order to warrant the award of compensation, and a mere breakdown due to disease is not compensable, even if the physical effort involved in the work made some contribution to the final disability."[36]

A general review of the history of the occupational disease decisions gives rise to certain definite conclusions. Though there was some apprehension on the part of comparatively few people at the time of the first adoption of the law, the actual number of claims and the attending cost were comparatively small prior to 1930. Due to general apathy or ignorance on the subject, occupational disease had received little consideration prior to the depression. The great increase of

[33] Wis. Laws (1935) c. 465 §3.
[34] 224 Wis. 531, 272 N.W. 486 (1937).
[35] Marathon P. M. Co. v. Industrial Commission, 203 Wis. 17, 233 N.W. 558 (1930).
[36] Employers Mut. Life Ins. Co. v. Industrial Commission, 212 Wis. 669, 250 N.W. 758 (1933).

claims, brought about by slack employment and discontinuance of employment, crystallized thought upon this subject. In the large group of claims which followed, many non-meritorious claims were brought. Many cases of non-disabling early stage silicosis were presented to the commission for decision. The actual cost in Wisconsin would have been far greater than it was had it not been for the technical legal defenses made possible by the then existing law. Possibly the experience was costly enough, and it did create an occupational disease consciousness. This resulted in substantial effort to control the hazards. Plant sanitation and medical check-ups came into existence. The substantial decrease of occupational disease claims, even preceding the recent re-employment movement, indicates clearly that much has been done to bring the situation under control.

The pile-up of occupational disease claims as a result of the depression did much to give the industries a house-cleaning and a new start. As pointed out, the Compensation Act has been amended to afford protection in the insidious occupational diseases, so that a halt can be called before real damage has been done, and the worker be compensated for the loss of his trade. This method is not only humanitarian, but will substantially control losses from this source. The general prejudice and fear against provision for occupational disease in workmen's compensation acts, in the opinion of the writer, is rather unfounded. It is far better to have the compensation established on some fair, equitable and definite basis, and the cases tried by an experienced judiciary, as is the case under the workmen's compensation act, than to hazard the allowance of damages by a jury of well-meaning, sympathetic, but inexperienced men.