KU ScholarWorks | The University of Kansas Pre-1923 Dissertations and Theses Collection

http://kuscholarworks.ku.edu

The Problem of Workingmen's Insurance vs. Accidents in the United States - One Phase of Social Insurance

by Diedrich L. Dalke

May 15, 1911

Submitted to the Department of Sociology of the University of Kansas in partial fulfillment of the requirements for the Degree of Master of Arts

KU LIBRARIES
The University of Kansas

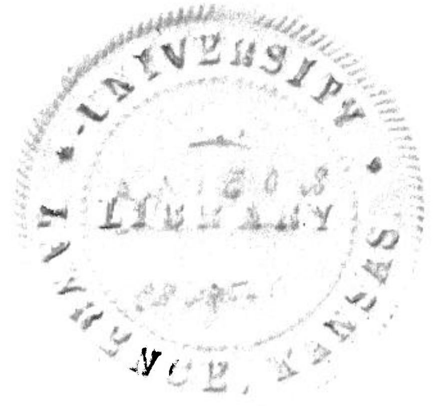
This work was digitized by the Scholarly Communications program staff in the KU Libraries' Center for Digital Scholarship.

Master Thesis

Dalke, D.L. 1911

(Economics & Sociology)

Problem of workingmen's insurance vs. accidents in the United States.


University Library Lawrence, Kansas

THE PROBLEM OF WORKINGMEN'S INSURANCE VS. ACCIDENTS IN THE UNITED STATES.-ONE PHASE OF SOCIAL INSURANCE.

DIEDRICH L. DALKE

Submitted in partial fulfillment for the Degree of Master of Arts in Economics and Sociology in the Graduate School of the University of Kansas.

May 15, 1911.

Contents.

Chapter.

I. THE PROBLEM OF SOCIAL INSURANCE.

II. INDUSTRIAL ACCIDENTS, THEIR CAUSE, NATURE, AND EXTENT.

III. PRESENT LEGAL RULES-EMPLOYERS' LIABILITY.

IV. THE EVILS OF EMPLOYERS LIABILITY.

V. COMPENSATION, THE ENGLISH METHOD.

VI. INSURANCE, THE GERMAN METHOD.

VII. STEPS IN THE RIGHT DIRECTION.

TABLES.

REFERENCE NOTES.

BIBLIOGRAPHY.

PREFACE .

In the following pages we wish to show that the present industrial process in giving rise to a vast number of industrial accidents,both fatal and non-fatal,first,calls for an extended system of prevention and,second,places the workingmen,or the dependents of workingmen who have been killed by means of such accidents,in a position where they need collective care of some sort;that the present legal rules under wich indemnity may be secured,the system of negligence and individual responsibility,known as Employer's Liability, in giving rise to uncertainty,delay,waste and enmity is inadequate to meet these needs;that,therefore,the adoption of a system which will correct the evils of the present system of Employer's Liability is paramount and that of the two methods at our disposal the method of obligatory insurance is the only adequate method.

TABLE 1. * DEATH CALENDAR IN INDUSTRY FOR ALLEGHENY COUNTY.

AS FOUND BY THE PITTSBURG SURVEY.

1906 JULY 1906

SUN	MON	TUES	WED	THUR	FRI	SAT
X 1	2	3	XX 4	X 5	6	X 7
8	X 9	XXX 10	XX 11	XXX 12	X 13	X 14
15	16	17	X 18	X 19	XXXX 20	X 21
XXX 22	X 23	XXX 24	25	26	XX 27	X 28
X 29	X 30					
	35					

1906 AUGUST 1906

SUN	MON	TUES	WED	THU.	FRI.	SAT.
			1	2	3	XX 4
XX 5	X 6	XX 7	XX 8	X 9	10	11
XX 12	X 13	X 14	XXX 15	X 16	17	X 18
XX 19	20	XXXXX 21	XXX 22	XXXX 23	XXX 24	XX 25
X 26	27	XX 28	29	X 30	XXX 31	
45						

1906 SEPTEMBER 1906

SUN	MON	TUE	WED	THU.	FRI.	SAT
						X 1
X 2	3	4	X 5	X 6	7	X 8
X 9	XXXX 10	X 11	XX 12	XX 13	X 14	15
XXX 16	XXX 17	XX 18	X 19	X 20	XX 21	X 22
23	X 24	X 25	X 26	X 27	X 28	XX 29
30	37					

1906 OCTOBER 1906

SUN	MON	TUES	WED	THUR	FRI	SAT
	X 1	XX 2	X 3	X 4	X 5	6
X 7	X 8	9	X 10	11	X 12	XX 13
X 14	X 15	16	XXXX 17	X 18	XXX 19	20
X 21	XX 22	X 23	X 24	XX 25	26	XX 27
28	XX 29	30	XX 31			
35						

1906 NOVEMBER 1906

SUN	MON	TUES	WED	THUR	FRI	SAT
				X 1	XXX 2	X 3
X 4	XXX 5	XXX 6	7	XXXX 8	XXXXX 9	X 10
X 11	12	XXX 13	XX 14	X 15	XX 16	XXXX 17
18	XX 19	XXX 20	XX 21	X 22	XXX 23	XX 24
25	26	XX 27	XX 28	X 29	X 30	
54						

1906 DECEMBER 1906

SUN	MON	TUES	WED	THUR	FRI	SAT
						1
X 2	XX 3	XXX 4	X 5	XXXX 6	XXX 7	X 8
9	XXXX 10	XXX 11	X 12	X 13	14	15
X 16	XX 17	XX 18	19	20	X 21	22
XX 23	X 24	XXX 25	XX 26	XXXX 27	X 28	X 29
30	X 31	48				

1907 JANUARY 1907

SUN	MON	TUES	WED	THUR	FRI	SAT
		XX 1	XX 2	3	X 4	5
X 6	XXX 7	X 8	XXXX 9	XXX 10	XX 11	XX 12
13	X 14	X 15	XXX 16	XXXX 17	X 18	XXXX 19
X 20	X 21	XX 22	XXXX 23	24	25	XXX 26
27	X 28	XXX 29	XXX 30	X 31		
60						

1907 FEBRUARY 1907

SUN	MON	TUES	WED	THUR	FRI	SAT.
					XXX 1	X 2
3	X 4	XX 5	XXXX 6	X 7	XXX 8	XX 9
10	XXXX 11	X 12	X 13	X 14	X 15	16
17	18	XX 19	X 20	X 21	X 22	X 23
24	X 25	X 26	XX 27	X 28		
36						

1907 MARCH 1907

SUN	MON	TUE	WED	THUR	FRI	SAT
					XXX 1	XX 2
3	X 4	X 5	XX 6	XX 7	XX 8	XX 9
10	XXXX 11	X 12	13	XX 14	15	X 16
17	XXX 18	19	X 20	X 21	X 22	23
24	XX 25	XXX 26	27	X 28	X 29	XX 30
XX 31	43					

1907 APRIL 1907

SUN	MON	TUES	WED	THUR	FRI	SAT
	X 1	X 2	3	X 4	XXXX 5	XX 6
7	XXXX 8	X 9	XXX 10	X 11	XX 12	X 13
X 14	XX 15	X 16	XXXX 17	XXX 18	XXXX 19	X 20
XX 21	X 22	23	24	XX 25	XX 26	XXX 27
X 28	X 29	30				
51						

1907 MAY 1907

SUN	MON	TUES	WED	THUR	FRI	SAT
			XX 1	X 2	XX 3	XX 4
XX 5	X 6	X 7	8	X 9	XX 10	XXX 11
X 12	X 13	XX 14	XX 15	XX 16	XX 17	XXXX 18
X 19	20	XXXX 21	22	23	XX 24	25
26	27	X 28	XX 29	30	31	
40						

1907 JUNE 1907

SUN	MON	TUE	WED	THUR	FRI	SAT
						XX 1
XXX 2	XX 3	XX 4	X 5	X 6	7	XX 8
9	XXX 10	XXX 11	X 12	XX 13	X 14	XXX 15
16	X 17	18	X 19	XXXX 20	21	XXX 22
XX 23	X 24	25	26	27	XX 28	X 29
30	42					

Each crass stands for a man killed at work or for one who died as a direct result of an injury recieved in the course of his work.

* Taken from Work Accidents And The Law.

THE PROBLEM OF SOCIAL INSURANCE IN THE UNITED STATES.

Chapter 1.

By social insurance is meant what is usually called "Workingmen's Insurance", that is, the insurance of workingmen against accidents, premature death, sickness, old age, invalidity and unemployment. The term social insurance, however, is thot to be preferable to any other term because it emphasizes the general purpose of the institution.[1] Insurance, being a contract by which one party undertakes to indemnify another against loss, damage or liability arising from an unknown or contingent event,[2] or considered from an economic standpoint, "A scientific method by means of which the burden of a particular loss or damage is distributed throughout a group of persons exposed to similar loss or damage and associated for the purpose of assuming that burden;"[3] is not an end in itself but only a means to an end. "It is a mere device, a machine to accomplish certain objects. It is, primarily, a savings institution by which men are assisted to make provision for future contingencies; secondly, it is a scheme by which men agree to share the risks of certain contingencies to which all are liable."[4] Insurance may be looked upon as a form of organized relief, for it is the substitution of an organized, scientific method for an earlier, unorganized, unscientific method of relieving contingent losses. Social insurance is an institution which applies this scientific method of distribution of

the burden of contingent losses to the peculiar needs of workingmen. It is the aim in developing this institution of social insurance,not only to shift the burden of the contingent losses,suffered by workingmen and their families because of industrial accidents,sickness,old age,invalidity and unemployment,from the individual workingman and his dependents to the whole of society,but also to have the institution by placing a premium upon preventive measures function as an incentive to reduce these losses to their lowest terms.

The problem of social insurance is one that has grown out of the present industrial system. The different position of the laboring man in the present system from that of one in the earlier domestic system of industry is such as to demand insurance. The present system has given rise to a class of people who depend solely upon the earnings of their hands for a living. In order that this class of people may keep up a respectable standard of living it is necessary that the laborer's earning power be uninterrupted by accident, sickness or invalidity and that some provision be made for periods of unemployment and the ~~the~~ time when this earning power diminishes because of old age. These contingencies when they occur are an additional demand upon the workingman's earnings which usually are reduced to such low terms as to admit of no additional drains. In the earlier system of industry the workingman often had some other source of income to supplement the earnings of his hands and consequently these conditions

did not weigh upon him so heavily as they do at present. Moreover, these contingencies were not so frequent then as they are at present for the introduction of machinery, dangerous trades and transportation have greatly increased the possibilities of their occurrence. The laborer of the present day, except in theory, unlike the industrial worker of yesterday is entirely dependent upon the managers of capital both for the opportunity to work and for the determination of the conditions of labor. In theory the present day laborer need not accept work or continue to work under conditions which are dangerous to his life and health. Theoretically he is an independent man but practically he is anything but an independent man. He must live and in order to live he must work, and in order to work he must accept the work that is offered him. For an employe to leave an employment in protest is considered a heinous offense, or for him to complain of conditions and be odiously officious about his employer's business only brings with it idleness, deprivation and suffering.[5] It is the economic position of the present day laboring man that demands social insurance.

Other industrial countries have already met this problem of social insurance and solved it, to a greater or lesser extent, but the United States is conspicuous among them in having successfully ignored the question until very recently. England has repeatedly dealt with the question of compensation for accidents and consequently has laws far superior to ours, indeed, we may well say that we are at present where England was twentyfive years ago. Germany, also, has met the problem and

solved it in the form of triple insurance for workingmen, namely, insurance against accident, sickness, old age and invalidity. There are 22 industrial countries that at present have either compensation or insurance laws relating to some phase of this problem.[6] But the fact that we are behind other industrial countries does not argue that the need has not been as great here as there, but it merely goes to show the effect of our boasted individualism and our total indifference to the welfare of our citizens. The question has been before us for twentyfive years but as yet we have done little with it , except that we have all these years used an outworn legal principle as a basis for recovery for industrial accidents. The question is,however,increasing in importance in this country and is at present,more than ever, demanding solution. It is demanding more attention at present because we are waking up to the fact that the present industrial system places a workingman in a position where it is absolutely necessary that collective care take the place of individual effort in the way of saving; because we are seeing the injustice of our present method of compensating an injured workingman and his family for the lossof time and the medical expenses necessitated because of an injury suffered in his employment and of our present method of compensating the dependents of a workman killed while engaged in his occupation for the loss of their bread-winner. This method is still the method that was

employed in the eighteenth century and even earlier. It is the method that was in use when the workingman was not dependent upon the managers of capital for the opportunity to labor and when the determination of the conditions of life and labor rested in his own hands. It is the method that was employed before the factory system was known;before machinery had been invented;before pulleys,shafts,belts,cogs,buzz-saws, cranes and the like were in use;before the giant motive power of steam and electricity was discovered;before railroads were constructed; before men dug coal and manufactured steel.

The question is demanding solution because today we make extensive use of the factory system,we multiply and complicate machinery,we use steam and electricity,we cross the country on a network of steel rails,we dig down into the earth for coal, iron ore and other raw materials, we reduce the iron ore into pig iron and convert this into steel, in short we have greatly multiplied the dangers of the industrial process but are still living under laws made for eighteenth century conditions. We shall speak of these laws in a later chapter.

That the question has recently grown in importance in the United States is shown by the increase of literature upon the subject as a whole or upon some phase of it; by the interest the question has aroused among sociologists,economists,lawyers, employers and employes; by the activity of the various state commissions that have been appointed to investigate the problem and study the methods that have been adopted in other

countries to relieve the situation;by the federal commission appointed to do likewise and by the fact that the legislatures of eleven states are considering or have been considering legislation upon the subject.[7]

The literature of any importance upon the subject[8] before 1908 consisted principally of John Graham Brooks' "Compulsory Insurance in Germany" published as a special report of the United States Bureau of Labor in 1893,W.F.Willoughby's "Workingmen's Insurance" which represented the conditions as they were in 1898 and has been a comprehensive text upon the subject for ten years,and A.F.Weber's review of "Industrial Accidents and Employer's Responsibility for their Compensation" published as a report of the New York Bureau of Labor Statistics in 1899. But since 1908 a large amount of literature has been published as Lewis' "State Insurance",Seager's "Social Insurance",Henderson's "Industrial Insurance", Eastman's "Work Accidents and the Law", Reports of State Commissions, "The Twelfth Annual Report of United States Bureau of Labor", The Twentyfourth Annual Report of the Federal Commision of Labor", Frankel and Dawson's "workingmen's Insurance in Europe" and numerous magazine articles.

Eleven state and the federal government have commissions to investigate the subject. These are Minnesota,Wisconsin, Illinois, Connecticut, Maine, Massachusetts,New Jersey,Ohio, Michigan and Missouri.[9]

In the following pages we shall consider the need of social insurance in the United States as shown by the nature cause, and extent of industrial accidents and by the present method of compensating them. We shall then consider two methods of solving the problem as typified by England and Germany.

INDUSTRIAL ACCIDENTS--THEIR CAUSE,NATURE AND EXTENT.

Chapter II.

The demand for social insurance as has been seen in the preceding chapter has grown out of the present industrial system because the introduction of factory methods,the growth and multiplication of new and dangerous trades and the development of an extensive transportation system, have greatly increased the contingencies that the workingman is forced to face. This complex industrial system has given rise to numerous industrial accidents and occupational diseases,unknown in the earlier system of industry,which in turn have brought about the need for insurance both because they have placed an additional burden upon the workingman's meager earnings and because their frequency calls for an extended system of prevention. In this chapter we shall look into the causes,nature and extent of industrial accidents.

As to the causes,nature and extent of industrial accidents we have no statistics for the United States as a whole. We,however, have enough information to determine the nature and causes of industrial accidents and to form an estimate as to their extent. Although the information that is at hand is somewhat local in character,it can,nevertheless,be regarded as typical of all our industrial centers. This information has been gathered by the recent Pittsburg Survey,by various labor Bureaus and by the recent State Commissions that have studied and in-

vestigated the subject. Part II of the Twelfth Biennial Report of the Bureau of Labor of the state of Minnesota contains the "most complete statistical study of work accidents that has yet appeared in this country."[10] The material for this report was secured under a law passed by the Minnesota Legislature to aid the Commission appointed in that state to investigate the subject of work-accidents and their compensation. The law required "every employer engaged in industrial pursuits" to make a comprehensive report of all accidents suffered by their employes. Next in importance is the information obtained by the Pittsburg Survey.

As to the determination of the extent of industrial accidents for the United States as a whole the best that has been done is to make an estimate. The absence of any adequate statistics upon this subject in the United States merely goes to show how backward we are in this field of accident prevention and compensation. The conclusion has been drawn from the meager data at hand that accidents are twice as common in the United States in proportion to the number of people employed as they are in the United Kingdom and Germany.[11] In the railroad industry they are nearly three times as common.[11] "We kill nearly three times and injure more than five times as many railroad employes, in every thousand, as Great Britain", and kill two and one half and injure five times as many as Germany.[12] During the five years from 1902 to 1906 an average of three and one third employes in every thousand was killed in the coal-mines of the United States while in Prussia during the period from 1900 to 1904 there were only two and in Great Britain

only one and one fourth per thousand.[13]

The mortality statistics[14] for 1908 showed that in that year there were 44,089 deaths from accidents in the registration area of the United States, which in that year embraced only one half of the population. Of this number 19,287 were gainfully employed men and boys and 683 were women likewise employed. However, it is evident that not all of these were due to the industrial process, but it seems reasonable to assume, as Seager does, that at least three fourths of them had their origin in industry. Since this embraces only one half of the population the conclusion is drawn that in the year 1908 the number of fatalities in the United States aggregated about 30,000. Seager thinks this is not an excessive estimate since the annual number of fatalities in the coal mines and in the railroad industry alone figure up to 5000 and the number of employed in these industries constitute only one tenth of the total number of persons employed in the United States, the yearly average of fatal accidents occurring to railroad employes during the ten years ending June 30,1909 being 3,307 and the average number of fatalities in the coal mines for the period between 1904 and 1906 being 2,2052.

In regard to the number of non-fatal accidents for the whole of the United States, as in the case of those resulting in death, the best that can be done is to make an estimate. Mr. F.L.Hoffman, an eminent authority, estimated the number in 1908 to be about 2,000,000[15] but Mr. R.P.Falkner, said to be an equally qualified authority, considers an estimate of half a

million to be overdrawn.[16] A.B.Reeve,[17] on the other hand, estimates the number of both killed and injured to be about half a million. He arrives at this conclusion from five different standpoints. He first bases his conclusion on French experience and estimates the total in the United States to be 626,000. His second estimate of 500,000 is based on German experience as given by the New York Labor Bureau in 1899. For his third estimate he took the experience of Wisconsin as a basis. This state under the improved law of 1905 had 12,000 accidents in one year. Taking the population of the United States to be forty times the population of Wisconsin he computed the number for the United States to be 480,000. The fourth estimate he based upon the experience of one accident insurance company which gave him a total of nearly 600,000 accidents. Fifth and lastly,he took the figures of another company for a period of fifteen years and estimated the number in the United States to be 564,000. Mr. Reeve,however, recognizes the inadequacy of these guesses when he says that"these figures emphasize the need of facts." Until we get facts we must be satisfied to know that "We send to the hospital or to the grave yard one workman every minute of the year."

We have,however, information from recent investigations which show the actual number for certain parts of the country. The Pittsburg Survey found that in the year from July 1,1906 to June 30,1907, 526 men were killed in Allegheny County, Pennsylvania.[18] It was also found that in the three months, April,May,and June of the same year the hospitals of the

county received over 509 men who had been injured by means of an industrial accident.[18]

The Minnesota Bureau of Labor,referred to above,received reports of 252 fatal and 8,419 non-fatal accidents during the year from August 1,1909 to July 31,1910.[19] This,however,does not include railroad accidents except those which occurred in the shops. But the railroads,during the period,reported 91 fatal and 2,020 non-fatal accidents to the Minnesota Railroad and Warehouse Commission.[19] The total number of work-accidents in this one state alone for the short period of one year is, therefore,345 fatal and 10,439 non-fatal,or 10,832 accidents in all. The report of this Bureau also shows that in the agricultural industry,an industry usually not thought of as being dangerous,there were 53 accidents which came to the attention of the Bureau thru the news papers.[20] During the month of November,1910,43 corn-shredder accidents were reported.[20]

The state of New York shows a larger number of accidents in one year. In this state 25,390 work-accidents were reported to the State Department of Labor and 12,333 were reported to the Public Service Commission.during the year 1910.[21] Since no records were required in certain dangerous trades,such as construction,excavating,engineering,agriculture and others, the total number reported,37,720 does not represent the actual number that occurred in the state during the year.[21] It is probable that the number is twice the number reported.[21]

Railroad accident statistics show that in the year 1907 there were 11,839 persons killed on our railroads.[22] Of this

number 4,534 were workmen,610 were passengers and 6,695 were "other persons." These statistics show,furthermore,that 111,016 persons received injury in railroad accidents. Of these 87,644 were employes,13,041 were passengers and 10,331 were "other persons." The following table[23] shows the record for the last twenty years.

In 1888 there were	5,282 persons killed and	25,888	injured.
" 1895 " "	6,136 " " "	33,748	" .
" 1900 " "	7,865 " " "	50,320	" .
" 1905 " "	9,703 " " "	86,008	" .

The statistics for coal-mine accidents as tabulated in the reports of the United States Geological Survey are merely an assemblage of the reports of the state mine inspectors and are unsatisfactory.[24] The report for the year 1908 gives the number of miners killed as 2,450 and the number injured as 6,772. "The death roll in the coal mines in the United States for the year 1908 was smaller than that in 1907,but with the exception of 1907,it was the largest in the history of the industry,while in the number of men injured the record of 1908 exceeds even that of 1907."[24]

Industrial accidents consist of cuts and lacerations, bruises and crushings,loss of fingers,arms,feet or legs, various kinds of fractures,sprains and dislocations, burns and scalds, and the loss or injury of one or both eyes. Table 2 shows the mechanical cause of accidents as found in the industries of the state of Minnesota.

Table 3 shows the nature of 10,131 accidents in the same state.

Table 4 represents the employers opinion as to the personal cause of accidents. The employers in making their reports to the Minnesota Bureau of Labor were required to give their opinion as to the personal cause of the accident. The table shows that only one tenth of one percent of the accidents were due to the employers fault. Sixty one percent were charged to the hazards of the industry, that is, to no one's negligence. No doubt the judgement of the employers is colored by their prejudices and does not represent the true condition. Nevertheless, it illustrates the employers' view of the subject. The present Employer's Liability law, of which we shall speak later, holds the employer liable for all accidents that occur because of his negligence.

Table 4.[25]
The personal cause of accidents in all industries according to the employers' opinion.

	Number	Percent.
Hazards of industry	2,488	61
Contributory negligence	845	20.7
Hazard&Contr. "	429	10.5
Negligence of injured	149	3.6
" " fellow-workman	127	3.1
Fellow-servant&injured	42	1.0
Employer	4	0.1
Total	4,084	100.0

Table 5 gives the personal causes of accidents as found by the New York Commission, The Pittsburg Survey, Minnesota Bureau of Labor, eand the experience of Wisconsin and Germany.[26]

The Bulletin of the Bureau of Labor for January, 1908, gives statistics for Germany as found in the table.

TABLE 2. MECHANICAL CAUSE OF INJURY-ALL INDUSTRIES *

Cause of injury	Cuts & Lacerations	Bruises & Crushings	Amputations	Fractures	Sprains & Dislocations	Burns & Scalds	Injuries to eyes
Falls of all kinds	113	431	4	120	284		5
Falling ore, rock & ground	191	569	4	40	33		20.
Other falling objects	220	735	7	55	24		20.
Squeezed between	316	488	34	55	39		
Struck by cars, levers, etc.	225	421	6	51	35		13
Struck by flying objects	80	78		12	2		381
Jerked by appliances					8		
Bumped against	56	107		1	16		
Logs and timbers	2	31	1	4	1		
Falling trees		4					
Lifting					184		
Glass, slivers and other sharp material	456	6	1				31
Explosion	32	22	2	5		21	13
Horses and cattle	6	16	1	3	1		
Fire, hot water, steam and sparks						160	210
Electricity						14	
Babbit, acids etc.						5	3
Chips of iron, steel and brass							51
Hot iron, Carbide etc.						33	
Unclassified		4			1	6	3
Machinery	223	137	112	78	16	1	59
Hand tools	353	125	10	5	4		3
Totals	2,273	3,174	182	429	648	240	812

*Taken from Twelfth Biennial Report of the Bureau of Labor Industries and Commerce of State of Minnesota-p.143.

TABLE3. ONE YEAR'S INDUSTRIAL ACCIDENTS, 1910. *

PART OF BODY INJURED.	FATAL	NON FATAL	NATURE OF INJURY.										TOTAL
	ACCI-DENTS	UNCLAS-SIFIED	LOSS OF PART.	BREAKS OR FRAC-TURES	CRUSHES OR BRUISES	LACER-ATIONS	SPRAINS & DIS-LOCATION	BURNS AND SCALDS	INJURIES TO EYES.	INTERNAL IN JURIES.	FROZEN	UN-CLAS-SIFIED	
Unclassified	312	1,606											1,918
Both Legs			3	3									6
One Leg			8	148	322	65	13	28					584
Arm and Leg				1									1
Both Feet			1	1									2
ONE Foot			12	25	480	244	31	22			1		815
Ankle				17	59	22	168	14					280
Clavicle				2									2
Shoulder				13	90	5	45	4					157
Arm			12	67	127	60	25	31					322
Hand			13	20	400	361	20	79					893
Three or more Fingers			21				22	8			2		53
ONE or 2 Fingers			155	58	796	592	66	10					1,677
Wrist				16	42	23	66	21					168
Elbow							1						1
Collar bone				12									12
Skull				16									16
Both eyes			2			1							3
ONE eye			9			1			793				803
Both ear drums				2									2
One ear drum				1									1
Jaw, nose				15									15
Body					369	19	208	9		60		1	666
Back				5	129	6		3					143
Ribs				45									45
Face, Eyes, Head					315	632		62			1	2	1,012
Toes			8	23	200	26					2		259
Hip				8	25		5	2					40
Knee				1	119	33	37	2					192
Neck				1	11	5	3	10					30
Other Serious injuries			6									7	13
TOTAL	312	1606	250	500	3,484	2,095	710	305	793	60	6	10	10,131

* Taken from the Twelfth Biennial Report of the Bureau of Labor, Industries and Commerce of the State of Minnesota. p.127.

TABLE 5. SHOWING THE PERSONAL CAUSE OF ACCIDENTS.

Approximate Cause of Accident.	Number of Accidents	Fault or negligence of Employe	Fault, or Negligence of Employer, or Superior.	Joint negligence of Employe and Employer.	Fault of fellow-servant, or Co-employe.	Trade risk; Cause unknown, or unrecorded.
Germany, 1897, U.S. Bulletin P. 120	46,000	29.89% 13,750	16.81% 7,730	4.66% 2,140	5.28% 2,420	43.36% 19,940
New York Commission, fatal accidents, P. 93	280	7.60% 15	49.5% 98	16.1 % 32	5.6 % 11	21.2% 124
" " " " " P. 98	97	3.01% 3	43.3 % 42	9.2 %. 9	4.12 % 4	40.2% 39
" " " " " P. 97	262	5.7 % 15	36.6% 96	12.2% 32	4.2 % 11	41.3% 108
" " " " " P. 98	60	10. % 6	40. % 24	8.03% 5	1.6 % 1	40.% 24
" " " " " P 98	105	5.7% 6	28.5% 30	17.1 % 18	5.7 % 6	42.8% 45
Pittsburg Liab. Rpt. Miss Eastman, fatalities P. 78.	377	27.85% 105	29.97% 113	15.91% 60	27.85% 105	26.26% 99
Minn. Rpt. Bul. Bur. of Lbr. fatalities P 26.	96	5.2 % 5		3.1 % 3		91.7% 88
" " " " " nonfatal P. 26	1,230	18.1 % 222	1.0% 14	0.9 % 12	3.1 % 39	76.9 % 943
Wisconsin Brief by Atty Hoan 13th Bi. Rpt. 1907-08 Page 4.	238	23.53% 56	11.35% 27	7.14% 17	5.88 % 14	52.1% 124
England 10th An. Rpt. Civ Fed. " 9.	Fatal accidents 3,800; nonfatal 200,000.					
Totals	48,745	29.09% 14,183	16.76% 8,174	4.77 2,328	5.34% 2,605	44.1% 21,534.

The reports received by the Minnesota Bureau and the investigations of the Pittsburg Survey brought out the fact that ignorance and inexperience are a frequent cause of accidents.[27] This is shown by the following table.

Table 6.[27]

Time in the employment where injury was received. All industries.

Period	Number.	Percent.
One week or less	488	12
" " to 1 month	787	19.4
" month to 6 " s	1120	27.73
6 months to 1 year	386	9 .5
1 year to 2 1/2 " s	283	6.99
2½ " " 5 "	470	11.6
5 " " 10 "	293	7/2
10 " " 15 "	67	1.65
15 " and over	160	3.94
Total	4,054	100.

The table shows that 31 percent had worked in the establishment less than a month and 12% less than one week. The Bureau found that many accidents occurred because workmen "did not know how to perform their work properly,were not aware of the dangers that surrounded them,or did not know how to act in an emergency." It was also found that men long accustomed to an industry and its dangers take risks and become reckless. Fatigue and nerve strain also are the cause of many accidents. Youth is often a cause. The failure to take the necessary precautions gives rise to many accidents.

The causes of industrial accidents,indeed,are various and complex. Having thus seen some of these causes,personal and mechanical, as well as the fact that from 20 to 50 percent ofthe accidents are due to the hazards of the industry and

that we know nothing definite as to the number of industrial accidents in this country we shall next consider the legal rules under which our injured soldiers of industry may redeive an indemnity for the loss sustained because of industrial accidents.

THE LEGAL RULES UNDER WHICH THE VICTIM OF INDUSTRIAL ACCIDENTS MAY AT PRESENT RECOVER DAMAGES-EMPLOYER'S LIABILITY.

Chapter III.

We have no law relating to the recovery of damages, or the compensation of work-accidents for the United States as a whole, except the recent Federal Employers' Liability Act which, however, applies only to interstate commerce . Each state, however, has a law of its own under which the recovery of damages for injuries is granted. It is at once evident that no uniformity exists. These laws are known as Employer's Liability Laws. The basis of all these laws is the English common law.[28] These laws constitute our inheritance from earlier times and earlier conditions. They are but slightly modified from those existing at the very beginning of our era.[29] Under the Roman law the party immediately at fault had to respond to the needs of an injured workman. In ancient times when labor was performed by slaves the preservation of property constituted the motive prompting the slave-holder to protect the injured laborer. During the existence of Feudalism there was but little liability. Blackstone mentions no legal right of recovery so we may conclude that up to his time no such right existed.[30] But during the thirteenth century the right to make an employer responsible for a wrong which he had directly or indirectly committed came into existence.[30]

This principle of negligence forms the basis of the common law. At first the employer was held responsible for the injuries suffered by his employe. It was during this early industrial process that the employer was also held responsible for the injuries that occurred to a stranger or a non-employe according to the doctrine of "respondeat superior".

The common law, however, has become much modified both by statutes and by the rulings of the courts. The statutes range in form and effect from a mere restatement of the common law to its partial abrogation.[31] The principles of the common law are also differently interpreted by the various states.[31] Some states hold only corporations liable, while others hold all employers liable for the injuries suffered because of defective machinery, or plant, or because of the negligence of the employers or their agents.[36]

Mr. F.R.Mechem in the Proceedings of the Illinois Bar Association for 1909 summarizes the common law doctrine regarding the employer's responsibility as follows:[32.]

"Stated in its most general terms, the law requires of the master, the exercise of ordinary care in furnishing and keeping in repair a reasonably safe place to work; in supplying and keeping in repair safe tools, machinery and appliances; in employing and retaining reasonably competent servants; and in making and enforcing reasonable rules and regulations for the conduct of business. Where the servant is young and inexperienced the law requires of the master that he shalll inform the servant and warn him against the dangers of the business known to the master and not obvious to the servamt .... Whenever the master fails to preform his duties in any of these respects, he is deemed in law to be negligent, and is responsible for the injury to the servant which directly and proximately results from such failure. If the master confides the conduct of his business to a general manager or superintendent, the master is responsible if such manager of superintendent fials to preform the master's duties....."

An objection to this doctrine of responsibility is that it does not require a definite standard of safety. The "reasonable" standard is held to be the way in which the industry is ordinarily carried on, i.e. ordinary or customary usage. This doctrine, furthermore, as we shall point out later, is carefully hedged in by "loop-holes" through which the employer may escape his responsibility. But in order to understand this common law it will be necessary for us to look into the law relating to personal injury cases in general.

The law in personal injury cases in general makes a person who, by not exercising the care which an ordinary prudent man would exercise under the circumstances, injures another, though it may have been unintentionally, civilly liable to pay the injured person a sum of money equal to the amount of injury that his carelessness has occasioned.[33] There are, however, some important limitations or modifications to this law. First, if the person who suffers the injury himself has in any way, with or without intention, helped to bring about the injury there is no recovery for damages.[33] This is the doctrine of contributory negligence. Second, if a person is injured because of a servant who is engaged in his master's work, recovery is permitted under the principle of "Respondeat Superior".[33] Since the master has the work done he must see to it that it is being done with reasonable care. "This all goes back to the fundamental principle that each must exercise his own rights in such a way as not to impair the rights of others; and when one delegates the exercise of his rights to

an agent, they are none the less his rights that are exercised, and he should be and is responsible for the manner in which they are exercised."[33] The agent ,or servant in question, however, is not exempted from liability by this principle.[34] The third and last limition to this general law of personal injury cases is that the burden of proving negligence is upon the plaintiff, and that of proving contributory negligence in some states is on the defendant but in most of the states the plaintiff must prove the absence of contributory negligence.[34]

When this general law is applied to the relations existing between master and servant it undergoes several important modifications which are based on the idea that the relation between the master and the servant is a different relation than that existing between the master and one who is not a servant, because there is a contract in the former case.[34] The law assumes that certain things are implied in making this contract of hire and that both parties of the contract are equal. It is thought that the servant is free to accept or not to accept the employment offered as he may choose. It was shown in chapter one that such is not the case. The servant must accept the work offered him or go hungry. The law holds that if the servant accepts the employment he assumes all the dangers of the employment, both ordinary and extraordinary. The ordinary risks are those arising from the work as it is[35] ordinarily carried on. "Thus a telophone line-man gets a

shock from an uncovered electric light wire that he touches in passing, and this is an incident of his employment. Or a laborer working in a quarry is badly injured by a heavy stone falling on him, an assumed risk. But, again, the handle of a bucket hauling 4000 lbs. of iron out of the hold of a vessel, pulls out, letting the whole mass of iron fall on the workman in the hold. Upon this bucket, which had been used for eighteen years, the handle was merely clamped while upon newer buckets it is forged. Nevertheless, since the plaintiff cannot show that the old and less safe buckets are not still in common use, he cannot hold the employer liable for his injury.[35] He has assumed the risk of an ordinary ~~risk~~ danger of his employment.

The extraordinary dangers are "Those arising from defective machinery and an unsafe place to work, or from hasty and dangerous methods if he knew about these, or might reasonably be expected to know about them and accepts the work in spite of them, or if he finds out about them or might have found out about them with the exercise of ordinary care, and continues working in spite of them."[37]

Mr. F.R.Mechem[38] speaks of this assumption of risks doctrine in the following words: " Many occupations are inherently more dangerous than others. It is dangerous to be employed in the operation of railroad trains; mining is an inherently dangerous business; working in rolling mills and saw mills is inherently dangerous. However carefully such industries may be carried

on accidents are sure to happen;even when conducted with the utmost regard for safety,danger is constantly present. That every business thus has its dangers is apparent to everyone and to no one so much as to those whose occupation it is to assist in carrying them on. Whenever a man applies for employment in such a business, it is ordinarily ,though of course not always, a safe presumption that he is familiar with the risks of the business in which he seeks to engage. His knowledge of these risks is ordinarily at least as good as the knowledge of the master and in many cases it is,in fact, much better. With this knowledge of the risks,he asks for and accepts employment. Theoretically at least, although it is often urged that practically the situation is otherwise, he may stipulate for a compensation commensurate with the risk to which he is to subject himself. Under these circumstances it is the settled rule of the law that the servant-(not now speaking of the one known to be ignorant or inexperienced), by accepting the employment assumes, so far as his employer is concerned,the risks of the injury from the inherent and ordinary dangers of the business upon which he enters; and if he recieves injury from such cause or danger,he has no claim against the employer."

"Even though the servant at the time of the acceptence of the employment may be presumed to know and therefore to have assumed the ordinary and necessary risks of the business, he may find after he enters upon it that the ordinary and usual risks are greatly enhanced in the particular case by reason of the special circumstances of conditions under which the business is carried on.These unusual circumstances or conditions may be those for which the employer is responsible or they may arise from causes over which he has no control. ....On the other hand,the servant may find that the ordinary and usual risks are greatly enhanced in the particular case because the master conducts his business with so little regard for the safety of his employes that unexpected and unnecessary risks are constantly present. It may be because of the master's violation and disregard of express statutory regulations which were designed to diminish the danger. When the servant finds that such unexpected risks are present he is,of course, legally justified in leaving the employment,and that is often said to be his legal duty. Practically,however, it is often contended,he will be induced by the necessities of keeping his employment to remain in the business and thus subject himself to these enhanced risks. If,having become aware of them,he complains to the employer and remains in reliance upon a promise from the employer that he will remove them he may for a reasonable time continue in the service without assuming these added risks. But,if without obtaining such a promise,or if after it becomes obvious to him that such a promise will not be preformed,he continues in the employment,it is commonly held by the courts....that he has assumed these risks also. This rule is based on the theory that one should not be allowed to claim damages from another for injuries caused by conditions to which he has knowingly and voluntarily submitted himself."

The doctrine of contributory negligence applies in master and servant cases as it does in personal injury cases in general. Mechem says[39] " The general theory of this defense is simple: The action is based upon the employer's negligence; the employe has been negligent also; without the employe's negligence the injury would not have happened;his negligence has in some degree therefore contributed to his own injury; the law has no means of dividing up the consequences and it therefore holds that there can be no recovery. Even though the servant's negligence may have been less than the master's negligence,still if the the servant's negligence proximately contributed to the cause of the injury,the servant cannot recover....."
"This is a matter of great inherent difficulties. It is often asserted that men are not likely to be indifferent to their own safety.On the contrary nothing is more common. Here,as elsewhere,familiarity breeds contempt.No one can have any practical experience with work as it is actually carried on, or read the cases which are constantly coming before the courts without being impressed with the fact that men are constantly being not only careless but even recklessly indifferent,and not simply of their own safety but also to that of their associates. The absolute indifference to and disregard of,many kinds of safety devices,is a matter of common knowledge. On the other hand,there can also be no doubt that in the hurry and fatigue of industry, attention becomes blunted and sensibility becomes dulled,and that part of that which passes as contributory negligence is simply human fraility...."

We now pass to a third limiting doctrine,a doctrine which has brought sorrow and suffering to unnumbered homes for generations,a doctrine which is entirely judge-made, a doctrine which has developed from a decision which,as Mr.F.W. Lewis says,is as baneful and mischievous in its consequences as every fell from any bench,[40] the doctrine of fellow-servant. According to this doctrine a master is not responsible for the injuries recieved by one of his servants because of the negligence of another,servant working for the same employer that is a fellow-servant. The doctrine is entirely judge-made and was first enunciated in England in the Priestly Vs.

Fowler decision in 1837 at a time when the presence of the "factory-age" with its steam and machinery was transforming the industrial world and new standards of law relating to workingmen were consequently demanded.[41] But this particular case was not a case of injury on a railroad or in a factory but only a simple case where one employe was injured by the breaking down of a wagon which a fellow-employe had overloaded. It was a case where, unlike in a factory or on a railroad, the injured workman was in a position to know his fellow workman and to note the fact that the wagon had been overloaded.[41] According to the principle of "Respondeat Superior" the employer would have been liable. It was here that an important distinction was made in the application of this principle to an injury recieved, because of a negligent agent, by a non-employe and by an employe.[42] According to this decision the latter has no claim to damages while the former may recover under the principle of "Respondeat Superior." The decision forms the precedent for the rule that respondeat superior does not apply to common employment. It apparently seemed a hardship to Lord Abinger to hold the employer liable for the injury which resulted "without any real fault of his and which injury the injured employe could have guarded against as well as the employer.' Lord Abinger admitted that there was no precedent for the case and consequently he was at liberty to look at the consequences of the decision one way or the other and then decide it upon general principles.[41] The consequences that came to his mind show that he had no thorough grasp

of the situation and that he was one-sided in his considerat-ion..Furthermore, the examples that came to his mind have no bearing on the situation of a complex industrial process. They are merely a collection of absurd imaginery situations that might occur in the home and not in the factory or on the rail-road. Yet we have built on this decision as a precedent. The first decision in the United States which recognized this new principle is the case of Murray vs. the South Carolina Ry. Co, decided in 1841.[43] In this case the plaintiff was a fireman who had recieved injuries because of an engineer's negligence. The fireman called the engineer's attention to an obstacle on the track but the latter refused to stop. The result was that the engine was thrown off the track and the fireman was injured. In deciding the case the court denied the company's liability. The Priestly decision was not based on any clearly defined principle. But this case first shows the principle upon which the doctrine of fellow-servant rests. It was here recognized that this new order of liability, if allowed, must rest on the the contract of "hire" for an employe is neither a passenger nor a stranger. "But", says Judge Evans, "is it incident to this contract that the company should guarantee him against the negligence of his co-servants?" That the ser-vant assumes the ordinary risks of his vocation had long been the established rule, then, "Why might he not also assume the extraordinary dangers? Aconcording opinion suggests that these unusual risks are covered by the servant's reward.

The case of Farwell vs. the B. and W. Rail Road Corporation

finally established definitly the basis of reason on which the doctrine of fellow-servant rests.[44] In this case the Plaintiff is an engineer who had recieved injuries because the switch-man failed to turn a switch. The latter was regarded as a careful man and had been in his employment for a long time. It is evident that the engineer was in a position where it was impossible for him to guard himself against the carelessness of the switch-tender. This case therefore brought the question squarely before the court,"Is an employer liable to one employe for the negligence of another employe,when neither the employer nor the injured employe could reasonably be expected to forsee that negligence?"[44] Chief Justice Shaw argued that the employer cannot be liable to his own employe in tort,as he would be under the principle of "Respondeat Superior",because "The employe does not stand towards him in the relation of a stranger." The relation is one of contract. Therefore,he concludes,that if the employer is liable that liability must be implied in the contract. But,it is held that this"implied contract"does not extend to indemnify the servant against the negligence of anyone but that of the master himself."[44] This assumption forms the basis of the fellow-servant rule. But why is not the assumption that the liability of the employer to one of his employes for the injuries recieved because of a fellow servant ,as well as for those occasioned by the employers own negligence,is implied in the labor contract equally true as the assumption that such liability is not implied in this contract?[45] It is evident

that the judges in all these cases were dealing with a problem which they did not understand. Judge O'Neal who gave the dissenting opinion in the Murray vs. S.C.Ry.Co. cited above, shows better judgement when he holds fast to the general rules of negligence and says:[46] "If the injury had arisen out of any of the old fashioned modes of conveyence managed by the defendents themselves,could there be any doubt that they would be liable if the injury resulted from negligence? Suppose it had been a stage-coach driven by the owner and the plaintiff was hired as a guard?" The judge held that negligence,either on the part of the employer ar his agents is not included among the risks assumed by the servant upon entering employment."But",said he,"if we look for a policy,then I should argue that the more liability imposed upon the Railway Company,the more care and prudence would be thereby elicited. This is what the community desires."

Today we can see these problems in better perspective and their solution would not have been so difficult if the judges of those days had had a better perspective of the situation. The corporation had to replace the engine wrecked in the same accident whether there was negligence or no negligence. This is merely a risk of the business. The cost is charged to the industry and borne by the public. Why should not both losses,the engine and the engineer, be charged to the industry and thus form an item in the cost of transportation? In what other way,with regard to the rudimentary principles of justice, can the less be met?

The doctrine of the employer's responsibility, limited by the doctrines, of contributory negligence, assumption of risks, and fellow-servant constitute the legal rules of recovery in the United States, except that they have been modified in some respects in various states, especially in abrogating the fellow-servant rule in the case of fellow-servants whose duty it is to superintend. The laws are based on the principle of negligence. Recovery is possible when the employer is directly at fault. The employer is freed from all liability when the injury has been caused by no fault of his. The judges who worked out these common law rules have been guided by the principle that each man is responsible for his own misdeeds and consequently no man should bear the consequences of another man's negligence. From this the deduction was made that, "The employer was not to be held responsible for the financial loss suffered by a workman injured ~~injured~~ in an accident due to the fault either in whole or in part to the injured workman, of a fellow-servant, or any other person or force except the employer or his representative."[47] This deduction, however, seems inconsistent since it frees "the employer of the financial burden of all accidents not due to his negligence but imposes upon the workman" not only the consequencies of his own negligence "but also those due to a fellow-servant" as well as those which are "due to no one's negligence."[47]

Mr. G. M. Gillette, an employer, brought out the real significence of our present Employer's Liability law in an address

delivered before the Commercial Club of Chicago, Feb. 1910.

He said: "A machinist rolls a heavy gear on the floor; it strikes an obstruction which he does not see, falls over and crushes a leg. He is permanently disabled. The crushed leg shrinks and shortens; he is crippled for life. The employer does not think he is at fault. He would like to contribute to the man's relief and to support his family, and a suit is brought for $20,000. The insurance company defends and the case goes to trial. The jury renders a verdict for $4000. The amount of the verdict is paid; the attorney and the injured man divide the proceeds. The costs of litigation are first deducted; the attorney then takes his toll, and the injured man gets what is left. In the average case out of a verdict of this size he would get from $1,500 to $2,600. That is the Employer's Liability Law."

"A bricklayer is at work on the street front of a high building. He lets two bricks fall; one falls down on the sidewalk side and hurts a passer-by, who sues and recovers damages; the other falls and hurts a workman within the building. He also sues, but the court says he is injured by the act of a fellow-workman, and that he cannot recover, and that, too, is our existing Employer's Liability Law."

"An oiler is charged not to do his work while the machinery is in motion. A member of his family is sick at home; he wants to go home at the noon-hour and see the sick one, and he starts to oil the machinery while it is still in motion. His fingers are caught in the moving cogs; his hand is crushed and he is crippled for life. The employer would like to come to his relief, but he feels again that it would be construed as an admission of liability. The man brings suit to recover, and the law tells him that his injury was the result of his own negligence and disobedience, and that there is no relief. This is our existing Employer's Liability Law."

" A man is working in a shop upon a defective machine. he calls attention to the defect. The defect is not remedied, but he continues to operate the machine. An accident accurs, and he is seriously hurt. A repetition of the above scenes; he sues to recover, and the court tells him that he has assumed the risk and that there is no relief for him. This, too, is our Employer's Liability Law."

Having now set before us the legal situation as it exists in the United States at present, we shall pass to the next chapter and consider the principle objections to the present system.

EMPLOYER'S LIABILITY--CRITICISM.

Chapter IV.

In the preceding chapter we saw that the present law under which we expect the injured workingman to seek redress for the loss sustained is the system known as Employer's Liability. This is merely the common law of England limited by a series of judge-made doctrines. Under this law an injured workingman can recover when the accident is directly due to the employer's fault. There is no recovery if the employer can successfully use one or all of the defenses at his disposal. There is no recovery if the injured person himself has contributed to the cause of the accident, or if it has resulted from the negligence of a fellow-servant, or if it is a case of assumption of risk. In this chapter we shall consider some of the main defects of this system of Employer's Liability.

There are many criticisms that might be brought against the present legal rules of recovery. They are unsatisfactory to both parties concerned. They are inadequate and defective. The theory upon which the Law of Employer's Liability is based is false to the present facts of industry. Individual responsibility may have been a sufficient basis upon which to base the legal rules of recovery when the industrial process was simple, but at present when this process is highly complicated such a basis is insufficient. But the fact that the employer was freed by the courts of all responsibility

of bearing the financial burden of all accidents that were not due to his negligence,but placed upon the workingman not only the burden of bearing the financial loss due to the negligence of a fellow-servant along with that occasioned by his own negligence but also the additional burden of bearing the loss resulting from no one's negligence is proof that the courts made false deductions from this principle of individual responsibility at the very beginning of the system.[49]

About one-half of the accidents that occur in the present industrial system are due to no one's negligence whatever. They are mere accidents due to the inherent dangers of the trade. The employer's of the state of Minnesota in reporting the accidents to the Bureau of Labor of that State were required to state their opinion as to the cause of the accident. Though the judgement evidently is one sided in that only one tenth of one percent is,in the employers' opinion, due to the employer's negligence. Their opinion was that

2,488	accidents	or	61%	were due to the hazards of industry.
845	"	"	20.7%	" " " contributory negligence.
429	"	"	10,5	to hazard & " " .
149	"	"	3.6	" the negligence of the injured.
127	"	"	3.1	" Negligence of a fellow-servant.
42	"	"	1.0	" " of injured and " " .
4	"	"	.1	" " " employer.[50]

The Pittsburg Survey traced the indications of responsibility in 377 fatal accidents with the following results. In 29.97 % of the fatalities the responsibility rested with the employer,in 27.85 % it rested solely with the injured or their fellow-workmen,and 15.91 % it rested jointly with

these two classes and in 26.27 % no one was responsible.

The Bulletin of the Bureau of Labor for January 1908 gives statistics of 46,000 industrial accidents. These statistics collected by the German Imperial Insurance Office give the following causes and percentages.

16.81 %	were	due	to	negligence or fault of employer.
4.66	"	"	"	joint neg. of employer & injured.
5.28	"	"	"	negligence of co-employes.
1.31	"	"	"	acts of God.
28.89	"	"	"	fault or negligence of workman.
42.05	"	"	"	hazard.

We may conclude that from 25 to 50 percent of the accidents occurring are the result of no one's negligence. Therefore we criticise the present system of recovery as being inadequate since it does not cover all cases. When about one half the accidents are due to no one's negligence it is evident that a legal system based upon the theory of negligence is not adequate to meet the "needs of the economic situation," and that there is little justice, if any, in a system which frees the employer of all responsibility unless the accident is directly due to his negligence, and his only, but lays the burden of the economic loss of an accident upon the workman whether the accident was due to his negligence, to the negligence of some other person or to no one's negligence.

The defects of the Employers Liability Law are inherent in the system. The mode of recovery is always a damage suit. The rules of the law are so closely drawn that judges are often puzzled as to its application. They are confronted with a mass of conflicting opinions which makes it almost impossible

to determine the rulings of the court. Therefore Employer's Liability cases are always uncertain in their outcome.

As a result of this uncertainty only a small proportion of the injured workmen to whom the law applies recieve any substantial compensation. The employers, on the other hand, complain that juries award verdicts without any regard to justice, measuring their awards more by the amount the employer is able to pay than by the earning power of the workingman.

However, recent investigations show that the great majority recieve no adequate compensation. The New York Employers Liability Commission[53] obtained full information of 279 fatalities of employment, 181 of this number were married men and 98 were single. In 236 of the cases the item of compensation was determined and in 43 suits were still pending. It was found that in 125 Of these 236 cases, or in considerably more than one half, the dependents recieved nothing more than the cost of funeral expenses from the employer. In the case of the married men it was found that out of 114 investigated in Erie County 11 cases were still pending in court and 81 or 78.6 % of the remaining 103 recieved amounts ranging from 0 to $500.00, that is they recieved no substantial compensation whatever. In the investigation of 67 similar cases in Manhatten Borough it was found that 19 cases were still in court and 39, or 81.2% of the 48 that were finished, received amounts ranging from 0 to $500.00. Of the 181 married men, then, 151 had gone through court and thirty were as yet undetermined.

Of the 151 determined cases 110 families received no adequate compensation for the loss of their bread-winner, 19 families received from $500.00 to $2,000.00 and only 12 families received over $2,000.00. Since the average wage of these men was $15.22 per week, or $791.44 per year we may well say that as yet only 12 of the 181 families have received as much as three times the average yearly wage ($2,374.22) the amount figured in the New York Compensation Act of 1910. The following table shows the amount recovered by the dependents of the 181 married men killed in industry whose cases were investigated by the New York Employer's Liability Commission.

Amount	Erie Co.	Manhatten	Total.
Nothing--(Inadequate)-	38	18	56
$100 or less "	9	3	12
$101 to $500 "	34	18	52
$501 " 2,000	14	5	19
Over $2,000	8	4	12
Suit pending	11	19	30
Total	114	67	181.

The New York Labor Bureau 5A obtained full information of 1,040 accidents of employment, of which 40% of the persons were the sole support of a family. 902 cases resulted in temporary disability, i.e. the employe was disabled for work for a period ranging from one week to a year and more, 71 resulted in permanent partial disability, i.e. though each employe was able to go back to work he was unable to earn as much after the accident as before its occurence, 10 resulted in permanent complete disability, i.e. "the workman was unable to earn anything for the rest of his life", and 57 cases were fatal.

In 404, or 44% of these cases the employer paid nothing whatever, not even the medical expenses. In 304 cases the amount was less than one half of the financial loss in wages and expenses incurred because of the injury.

The following table shows the amounts recovered in the 71 cases of permanent partial disability, the 10 permanent complete disability cases and the 57 fatal cases that were studied by the New York Labor Bureau.

Amount recovered.	Permanent partial disability.	Permanent Complete disability.	Fatal.	Total.
Nothing (Inadequate)	18	3	10	31.
$100 or less "	22	1 ($70)	10	33.
101 to 500 "	14	5	15	34.
501 to 2,000	5		12	17.
Over 2,000	1		2	3.
Suit pending	11	1	8	20.
Totals	71	10	57	138.

In 11 of the 71 cases where the workman suffered a permanent loss of earning power the amount was not yet determined. In 54, or 90 % of the remaining 60, the recovery ranged from 0 to $500.00. Since $500.00 is not enough to compensate for the permanent loss of earning power it is evident that in 90 % the compensation is inadequate.

Only one of the 10 men who because of the accident are unable to earn anything for the rest of their days had a suit still undetermined. The other 9 received from 0 to $500. Who would be willing to sell his earning power for the rest of his life for $500? It is obvious that not a single one of these received adequate recovery.

Of the 57 fatal cases 8 were still in court. Only 2 of

the 49 finished cases received anything near a substantial recovery. 35 or 71.4 % of the 49 recieved an inadequate compensation.

The following table shows the compensation received by the dependents of 54 men killed in industry in one year in the state of Minnesota.[55] The information was obtained by the Bureau of Labor, Industries and Commerce of that state.

Amount.	Number.	percent.
Nothing (Inadequate)	13.	24.2 of the 54.
Less than funeral "	5	9.6.
Funeral and medicine "	9	16.2
More than funeral but less than $500 "	8	14.8
$501 to 75o	3	5.66
751 to 1,000	2	3.74
1,000 to 1,500	5	9.14
1,500 to 2,000	3	5.66
2,500	2	3.74
4,000	1	1.85
4,256	1	1.85
5,000	1	1.85
6,352	1	1,85
Totals	54	100.00

We see from the above that in 27 cases there was no compensation for the loss of the bread-winner, in 8 there was less than $500. Therefore 35, or 66 2/3 % of the 54 received no substantial compensation. Thirty nine of the 54 men were married and had 118 persons depending upon them.

The same Bureau investigated 6 permanent disability cases consisting of three paralyzed and two crippled workmen and one who was a physical and mental wreck.[56] Three received no compensation, one received $150, another $175 who paid his lawyer $75 and the fourth received $4,500. $3,000 of this went to pay lawyers. This case is an excellent illustration

of how a seemingly large compensation may be inadequate. The case is one of a Polish immigrant,[56] unable to speak English, who, while working as a kitchen girl in a restaurant, was terribly scalded. She has been in the hospital a year and must remain another year. When she gets out she will be a cripple, unable to do "manual labor, to marry, or to enjoy any of the activities of life." She is 19 years old. Her medical expenses will be about $1,700. When she comes out of the hospital she will be at least $200 in debt and unable to earn anything. Four of these men are married and have 12 persons depending upon them. Four of the six are now living on charity.[56]

Thus we might continue to present statistics, but perhaps enough have already been given to prove our point, that the great majority of the cases that receive compensation are inadequately compensated. The Twelfth Biennial Report of the Bureau cited above is especially rich in statistical information upon this subject. It also gives abundant material that cannot be put into statistical form and yet is necessary to give a proper perspective of the problem.

Another criticism that we wish to bring against the present system of Employer's Liability is its wastefulness. This, again is due to its mode of collection, to its uncertain operation. Because the employer under this system never knows when he will be called upon to pay a large sum of damages, and since he does not know in advance how large the sum will be, nor how often such a call may come to him, he his found it necessary to insure himself against his liability in insurance

companies organized for this purpose. These Liability Insurance Companies are an effort to protect the solvency of the employer against the ruinous effects of the damage suits which the present system necessitates.[57] They are a natural product of the system,an evitable outgrowth of the present situation which is artifically created by law. They represent an element of waste which is inherent in the system,since only about 25% of the money which the employers pay into these companies ever reaches the employe who has been injured in the course of his employment.

During the year 1908,the employers of this country contributed $22,000,000 to Liability Insurance Companies in payment for carrying their accident risk. Of this amount not more than $5,500,000 reached the injured workman or his dependents. This represents an economic waste of $16,500,000.[58]

The Employer's Liability Commission of the State of Ill. obtained classified data from a number of Liability Insurance Companies in the State of Illinois covering a period of six years,1900 to 1905 inclusive. This data showed " That of the premiums paid about 42% was expended for medical attendance and indemnity;about 10% for legal expenses and attorney's fees; and about 10% for investigations and claim expenses, leaving about 38% for expenses of administration,cost of securing business and profit." Since the employe must also employ one or more attorneys,who take from 33 1/3% to 50% of the award, it seems probable that only about 25 cents out of every dollar paid in premiums by the employer ever reaches the injured

employe or his dependents. 59.

Mr. Gillette in the address previously mentioned considers this element of waste the greatest indictment that can be brought against the present system. During the five years ending January 1,1910 the employers of the United States,he says, have paid to the Liability Companies as attested by the sworn statements of the companies to the insurance commissioners of the various states,the sum of $95,000,000. The statements show that only a little over $45,000,000 was paid out in the settlement of losses. Of this $45,000,000,it is estimated only about 25% or 30% has ever gone to relieve the suffering of the injured. 60

The causualty companies in New York State in 1905 received $4,381,634 in preminms from the employers. Of this 68% was used to pay the expenses of the companies,in defending suits, or in profits. Only 32% was paid out to the workingmen as compensation. This is to say that 2/3 of the amount paid out by employers under the present system never reached the injured workmen who need it but went to the insurance companies and their attorneys. Furthermore,50% of the 1/3 which was paid out as compensation by the companies went as contingent fees to the lawyers. Consequently,only 1/6 of the money first paid out by the employer for protection against his liability for accidents was utilized to compensate the injured workmen, while 5/6 of the amount went to pay the expenses,suits,attorneys and profits inherent in the system. 61.

The following table shows the percentage of actual payments and gross premiums received for Employer's Liability Insurance for the years 1906,1907,1908 (New York State Employer's Liability Commission.)[62]

Name of Company.	Premiums.	Payments.	Percent.
Aetna Life Ins.Co. ------	$5,417,444--	$2,145,928--	39.61
Emp.Liab.Assur.Corp. ----	4,216,608--	1,595,126--	37.82
Fidelity &Caus.Co.of N.Y.-	3,010,497--	1.186,991--	39.42
Frankfort Ins.Co.---------	1,321,775--	490,015--	37.07
Gen.Acc.Fire&Life Assur.Co.	506,031--	196,929--	38.91
Stand.Acc.InsCo, --------	1,502,985--	683,973--	45.5
U.S.Caus.Co.-------------	1,332,960--	472,783--	35.49
New Amsterdam Caus.Co.--	606,195--	205,040--	33.82
London Guar.&Acc.Co.----	2,739,036--	695,487--	25.39
Ocean ACC'&Guar.Corp.----	2,870,954--	887,523--	30.91
Totals------	$23,523,585--	$8,559,795---	36.34

This table clearly shows that an average of 36.34% of the money which the employers pay as premiums goes to pay for settlements and suits.

This means that out of every dollar which the employer pays out for protection against liability only 37 cents goes to relieve the needs of the injured workingmen;the remaining 63 cents represents the waste in the system. Thus we see that the present system in giving rise to Employer's Liability Insurance causes a tremendous leakage which represents an unnecessary burden on the industries of our country.

Employer's Liability Insurance is a parasite on our industries whose life the employers of our country are compelled to sustain because of our present rules of recovery.

But Employer's Liability Insurance is not the only element of waste that enters into the present system,for another element of waste is represented by the fact that from 50% to 60% of the business of the courts of the country is taken up

with personal injury cases. This question has not been thoroughly investigated but it is evident that there are possibilities along this line. The Clerk of the District Court of Duluth Minn. investigated the subject to a slight extent.

He found that during one year 369 cases had been tried of which 79, or 21% of the cases had been personal injury cases. The cost of running the court for one year was found to be $42,298.32.[63] The Clerk says " Of course, you understand that there were probably as many more personal injury cases dismissed or settled that never came to trial."[63] In that one court alone, then, $8,882,65 are spent on personal injury cases.

The citizens of the city of New York pay out $6,000,000 in taxes for the purpose of maintaining their judicial system. An attorney of that city who has handled 6000 cases in damage suits states that 60% of the work of this system is taken up in master and servant cases.[64] This is to say that of this $6,000,000 paid for the maintence of the courts, $3,600,000 is expended for the settlement of negligence or accident cases. This attorney says, that in the 6,000 cases which he has handled a total of $1,800,000 was paid in settlements or indemnities, one half of which was taken by lawyers as fees and the other half went to the injured workingman.[64] The city of New York, then, spends $3,600,000 in order to collect $900,000 worth of compensation.

Whatever the actual percentage of the business of the courts of the country that is taken up by accident cases it is certain that there is an element of waste in the

present method of collection.

Another evil inherent in the present system of procedure is the element of delay. If the injured workingman ever needs assistance or indemnity he needs it immediately or at least soon aftér the occurrence of the accident. At this time his wages are cut off and the accident brings with it additional expenses especially the expenses of medical attendence. The family that has lost its bread-winner needs to receive compensation immediately after the fatality has occurred and not after years of deprivation and suffering have passed by. Yet our present system, in the few cases where it does allow compensation, grants this only after a protracted lawsuit. If the injured plaintiff wins, he wins at the end of months and years of poverty, at the end of a time when his most urgent need is over. The tables in the appendix illustrate this point very clearly. They show that it is seldom that the injured employe or his dependents receive compensation in less than three years. One case shown in the Supreme Court table lasted 7 years and 9 months from date of injury to final judgement.[65] Another lasted 7years and 6months and a third 6 years and 5 months. The average for this table of the 22 investigated cases is 4 years and 3 1/3 months.[65]

In the table for the Appellate Court the average for 19 cases of 28 investigated is 3 years and 1 1/3 months.[65] One case covered a period of 9years and 6 months, another 6 years and 11 months, a third 5 years and 10 months, a fourth 5 years and 8 months.[65]

In Minnesota "Of the 13,019 suits outstanding against 15 Liability Companies on Dec.31,1907,2,491,or 19% were for injuries less than a year old; 4,171,or 36% for injuries from one to two years old; 5,051,or 38% for injuries between two and five years old; 723,or 5% for injuries between five and ten years old and 41 for injuries over ten years old." In 74% of the cases,therefore,the injury was from one to five years old and the family had not yet received compensation.[66]

Another evil of the present system is that it antagonizes the employer and the employe. This,too,is due to its method of collection. Mr. Gillette says it is "The greatest disturbing factor today between the employer and the employe. I know of no more disturbing factor under our industrial conditions today than those which flow from and grow out of personal injury suits."[67] Miss Eastman says,[68] "The workman,injured while serving his employer,through no fault of his own, reasons instinctively that he should get some compensation. If his employer does not offer to help him,or does not make what he considers a fair offer, he is glad to listen to the hopes held out to him by the contingent fee lawyer. The employer,on the other hand, instinctively reasons that he ought not to have to pay for an injury to another man which did not result from his fault. He may thru generosity or sympathy, offer to give the injured workman something to help him out,but if an outside party appears for the injured man,or if the employer is threatened with a suit,that puts an end to his feelings of generosity and sympathy. He resents the claim as an unjust one, and with

visions of the jury awarding a large verdict against him, gets ready to fight. From that time on the injured workman and his employer are enemies. A peculiar bitterness seems to enter into these contests, as both parties are convinced of the injustice of the law and the prejudice of court and jury." When the third party, The Liability Insurance Company takes the case in its hands matters are no better. The question is then placed on a strictly business basis. The Company utilizes every possible delay, employes acute lawyers, and employes its full legal rights. The employe is left with no kindly feeling toward his employer.

Finally the present system fails to prevent accidents. The whole reliance on the part of the employer is placed in the issue of the damage suit. There is no incentive in the present system for the employer to use safety devices and precautions in order to prevent accidents. It is cheaper to pay liability insurance premiums than to install preventive devices.

The present Employers Liability Law, then, is unsatisfactory to both parties. It is based on a false theory, the theory of negligence and individual responsibility. It frees one party from the financial burden of injuries not directly incident to this party's negligence and makes the second party bear the financial burden of the injuries due to a third party's negligence and of those due to no one's negligence. It, by making necessary Employer's Liability Insurance

Companies, attorney fees, and extended litigation, causes a tremendous drain on the industries of our country without giving any relief to those who suffer because of industrial accidents. It gives rise to a large body of parasitic middlemen, Liability Insurance Company, the contingent fee lawyer, and the claim agent, who make use of the situation to their advantage, feed upon the money paid out by the employer for his protection and leave the injured, to whom this money justly belongs, empty handed. It antagonizes the employer and the employe. It fails to place a premium upon the introduction of safety devices and preventive measures. In short, the present system is inadequate, uncertain, wasteful, unjust and unsatisfactory in all respects.

Obviously we need a new system. We need a system that will do away with the evils of the present system. We need a system which shall make the basis of compensation not negligence, for negligence is too difficult a thing to define and to locate in the present method of industry, but the fact of injury in the course of employment. The expense of keeping in repair and the loss in human machinery, the burden of repairing and replacing human machinery must be placed upon the industry and become an item in the cost of production just as the expense of repairing and replacing broken and worn out inanimate machinery is placed upon the industry and forms an item in the cost of production. We need a system whose method of collection will not be a damage suit, a system that will not give rise to extended litigation and the parasitic but

necessary by-products of litigation, Liability Insurance and attorney fees, as well as, the delay and meager chances of recovery inherent in the present method. We need a system which will not be wasteful but produce the largest possible amount of efficiency, as well as, a system that will compensate when the need is greatest. We need a system that will protect all workingmen. And last, but not least, we need a system that will place a premium upon the introduction of safety devices and the use of preventive measures as well as lead to friendly relations between the employer and the injured employe.

In the next two chapters we shall consider the methods which England and Germany have adopted to meet the needs of the present industrial process.

COMPENSATION--THE METHOD OF ENGLAND.

Chapter V.

Having thus seen the need of a better system of taking care of our injured,we shall look to our sister nations to see what they have done in this matter of social insurance. Each of the more important industrial nations has recognized the need of a new system of caring for their army of workers and accordingly have adopted the principle of charging to the industry the loss of human machinery as well as of inanimate machinery. Among the 22 industrial countries that have launched out upon this new principle,to a more or less extent,we find three different methods of meeting these contingencies . We may call these three representative systems or methods of meeting these needs. One is a system of pure compensation, another a system of state insurance and a third a system of compulsory insurance,tho the element of compulsion enters into all of them.

In the first named system the employer is required by law to provide compensation according to a scale specified in the law,but the law does not require him to furnish any guarantee that the compensation will be forth coming when demanded. In other words the law fixes the obligation of compensation upon the employer but does not insure his solvency by requiring him to insure or in any other way guarantee the payment of the compensation. This system is found in Belgium,Denmark, France,Great Britain,Greece,Russia and Spain. Although the

law in practically all these countries does not require the employers to insure, it, nevertheless, encourages insurance by relieving the employer of his liability if he does insure.

In the second system as in the first system the law establishes the individual responsibilty of the employer to pay compensation but guards against his insolvency by requiring "him to take out insurance either in a recognized private company or in a state institution, or to furnish a guarantee sufficient to cover his responsibility". [69] This system is found in Finland, Italy and the Netherlands.

In the third system "the law requires the employer to insure in a specified manner, or in a specified institution," [69] in order to guard against his insolvency. This system exists in Austria, Germany, Hungary, Luxemburg and Norway.

England, Holland and Germany may be considered as representatives of these three methods. In this chapter we shall consider the first method as represented by England and in the next we will devote our attention to the third method as found in Germany.

The English system, the system of compensation without insurance, is the result of a gradual growth. At the beginning of the industrial era England left the care of its working - men to friendly societies, seeking to encourage their growth by favorable legislation. [70] At this time the principle that every one is responsible for his own wrong doing reigned supreme. The doctrine of "Respondeat Superior" was evolved at

this time. This doctrine made the employer liable for all accidental injuries received either by employes or non-employes because of the negligence of either the employer or his agent.

In 1837 the Priestly vs.Fowler decision,mentioned in chapter 111,greatly modified the doctrine of "Respondeat Superior"by setting forth in embryo the fellow-servant doctrine.[71] By this principle a non-employe was placed in a more favorable position than an employe.[71]

The unsatisfactory conditions resulting from the common law led to the introduction of a bill in 1872,following a similar bill adopted by Germany in 1871,the appointment of commissions to investigate the situation and to the final adoption of the bill in 1880.[72] This act lessened the rigor of the doctrine of common employment by making the employers liable for all accidents caused by defective works,plant and machinery,or by the negligence of persons in authority.

This act made but a slight advance. It provided several "loop-holes"thru which the employer might evade compensation, one of which was the requirement of a report of the employe of any defect or negligence of which he might be aware. Failure to do this disbarred him from recovery. The act also allowed the employer to"contract out" of the liability.[72]

The results of this act were wholly unsatisfactory.It did not cover all accidents but only a comparatively small proportion of those that occurred,estimated one in ten.[73] Furthermore,in only a small proportion of these did the workmen attempt or succeed in enforcing their claims under the act. Only seven

out of one hundred were compensated.[74]

Dissatisfaction with this measure led to further agitation which resulted in the passage of the Workmen's Compensation Act of 1897.[75] This act completely abolished the doctrine of common employment in the industries to which it applied. By this act England accepted the principle of compulsory compensation and the principle that the burden of industrial accidents should be made to constitute a normal item in the cost of production.[75] By this law England, however, did not merely recognize these principles but also the need of determining the amount of compensation in advance according to a fixed scale.

The act covered the rail road industry, factories, mines, quarries, engineering work and all construction work of any importance. It required compensation for all accidents resulting in death or incapacity to earn full wages at the same work during at least two weeks, the only exception being "serious" and "wilful" misconduct on the part of the employe. The burden of proving such misconduct was placed upon the employer.

The act by a schedule provided the following compensation.[76]

(1) In case of death and the employe leaves persons wholly dependent on him for support, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or a minimum of $730, and a maximum of $1460.

(2) In case of death and only partial dependents a sum some what less. Unless an agreement be reached between the parties

a court of arbitration fixes the amount.

(3) In case of death and no dependents reasonable medical and burial expenses not exceeding $49.

(4) In case of total or partial incapacity the employe during such incapacity, after the second week, recieves a weekly benefit not to exceed 50% of the average weekly earnings during the preceding year. If the workmen has not been employed so long the average weekly wage for any less period the sum not to exceed $4.87 per week.

The act provided that the sum alloted as compensation, in any case might be invested or otherwise applied as agreed or ordered by the arbitrator. It may be deposited in the Post Office Savings Bank, or be used for purchasing an annuity from the National Debt Commissioners.

In order to guard against imposition the employe is examined by a duly qualified practitioner. If the workman is the recipient of a weekly benefit he must submit to examination from time to time.

Disputes are settled by an arbitrator appointed by the county court.

The employe still has the right to sue for damages but he must choose between the acceptance of compensation as provided in the act or suing for damages.

The scope of the act was extended by an amendment in 1900. As amended it covers the industries previously mentioned and common or agricultural laborers.[77] It does not include sailors, domestics and clerks. Only about five in a hundred of these

last named classes were compensated.[77]

In 1906 the act was extended so as to cover all occupations even including domestic servants.[77] This extension of the act added about 6,000,000 to the number already protected, making a total of 13,000,000 men and women covered by the law.[77]

Every employe who receives an injury during working hours is now intitled to a compensation. Clerks and salaried persons who receive an annual salary less than $1217.50 are also comsated. There is no income limit to exclude any class of manual laborers. The act also classes occupational diseases as accidents and requires that they be indemnified as such.

The schedule of compensation[77] with a few modifications is the same as that of the act of 1897, In case of death and dependents, the sum of three years wages, minimum $730, maximum $1460. If only partial dependents a proportional amount. If no diredt dependents medical and funeral expenses ,maximum $49. In event of disability exceeding one week in duration one half of average weekly wage, including board and lodging, maximum $4.87 per week. In case of permanent disability the compensation is payable weekly throughout life.

The act reduces the period of waiting from two to one week and provides that if disability lasts longer than two weeks the injured may be indemnified for the first week also.[77]

If the injury is caused by the wilful act of the workman he is not entitled to indemnity unless the accident results in death or permanent disability.

The injured employe,however,still has the right to take action under the previous measures, the common law,under the act of 1880, or the Fatal Accidents Act of 1846.

Thus we see that under the English system the responsibility rests with the employer and the burden of compensation is palced upon the industries. The law does not require the employer to insure nor does it free him from liability if he does insure,except when he insures in stock companies, mutual-associations of employers,or in friendly societies connected with his establishment or industry,to which his employers also contribute.[78] The employer must satisfy the Registrar of friendly societies that they make contributions at least equal to the benefits of the act. The employer is relieved,in this case, so long as he contributes to the society and it is maintained solvent.[78]

Most of the employers insure in stock companies,These report a reduction in litigation since the passage of the new law which establishes both the fact and the amount of liability.[79] The workingmen,however,complain that the settlements are unfair and that the expense of litigation and adjustment still form a considerable item of the companys' disbursements. Up to the present time the expenses of management, legislation and adjustment have used up nearly one half of the premiums.[80]

Since all of the previous legislation upon the subject is still in force ,legislation must be resorted to to determine the relationship of the three laws each based upon a different principle,the common law,the law of 1880 and the compen-

sation acts.[80]

There is considerable dissatisfaction expressed in regard to the workings of the law. The managers of friendly societies think the operations of the new law to be unfavorable to their societies.[80] They complain that the new law induces persons to refrain from becoming members of their organizations since these persons reason that if they become disabled it will be through industrial accident or disease in which case the employer must indemnify them and therefore there is no need for them to join the friendly societies. They further complain that the law causes malingering since the combined indemnity under the Workmen's Compensation Act and the benefit of a membership certificate of a society may yield a member more while disabled than while at work.

The trade unions, too, are dissatisfied with the act. For several successive years the Congress of British Trade Unions has passed resolutions demanding compulsory state insurance.[80] In advocating this they base their reasoning not upon the economy of state insurance but upon the expectation that adjustments would be fairer and that there would no cases where the workingmen, or their families would fail to be compensated as they do now because of the insolvency of the employer. The trade Unions also say that there is pressure upon the employers to discharge aged employes in order to reduce the risk of accident and thus the premium rates.[81]

This is the system know as Compensation; we shall now consider the system usually but wrongly[82] called Compulsory Insurance as found in Germany.

INSURANCE--THE METHOD OF GERMANY.

Chapter VI.

Germany has followed a different course than England. It recognized the principle of charging to the industries that which properly belongs to them earlier than England and went one step further in the adoption of it than England did. It not only required the employer to compensate the injured workingman but also to insure the forth coming of the compensation. The "German system" consists of three kinds of insurance which are interrelated and supplementary to one another. The system embraces insurance against sickness, industrial accidents, old age and invalidity. Sickness insurance was the first to be adopted and is so closely connected with accident insurance that in order to understand the latter we must consider this form of insurance first.[§3]

The passing of the compulsory insurance laws in Germany was only the last step in the development of collective care for workingmen. Before the passage of these laws the working - men had various organizations, as trade gilds, associations for journeymen, which paid sickness benefits to their members.[§3] The laws of 1845, 1849, 1854 encouraged the development of these societies. The latter law by encouraging the establishment of sickness, burial and relief societies, gave rise to the "sick clubs" and was among the first to make insurance obligatory. By it the local authorities had the power to require the formation of insurance socities and to require one half of

costs to be paid by certain classes of employers. Heretofore, insurance had been enjoyed only by masters and journey men but by this law the factory employe was also given these privileges.

The development of compulsory insurance first took place in the gilds of the mining industry. The oldest laws relating to mining show that benefits in the form of doctor's fees and pensions were paid to sick or disabled workmen, or to widows and orphans. Prussian laws required mine oweners to care for their sick and injured employes. Full wages were allowed to the workmen for a period of about four weeks and pensions were to be given to widows.

The law of 1854 placed these miners' associations on a firmer basis and extended the obligation to form such organizations to other occupations. This law is the embryo of the present system in Germany. It allows clerks, inspectors and civil engineers to voluntarily join the gild. It granted medical attendance, medicines, sickbenefits to the workingman disabled through sickness or accidents. If the workingman was permanently disabled he received a small income and if he was killed his funeral expenses were defrayed, his widow was supported and his children educated. The law required both the miners and the mine owners to contribute to the common fund, the former being limited to a certain percentage of their wages and the latter being required to contribute at least one half as much as the former. The latter, however, was held responsible for the collections of the former's contributions. Upon the mine owner

also rested the obligation to see that the membership of the employe was continued.

During this time the English friendly societies were introduced whose democratic features appealed to the workmen who consequently formed voluntary societies in preference to submitting to the above laws. In the course of time these societies to a large extent replaced the gilds.

In 1876 the friendly societies were given a legal status which placed them on the same footing with the gilds. Other kingdoms also had passed laws so that the situation in Germany toward the end of the seventies was a situation of confusion; compulsory and voluntary, national and local organizations existed side by side; some embodied only certain trades, others were made up of a mixed membership; some granted only sick benefits, others only death benefits, while some granted both; some granted invalidity and old age pensions, some restricted their benefits to widows and orphans, while others covered all these phases of insurance. The amounts of benefits, the duration of payments and the amount of contributions required also differed. "Everywhere was uncertainty as to the obligation resting upon employers"

Thus arose the need for a better institution which was given to the workingmen of Germany in 1882 in the form of a law which required all workmen and officials employed in mines, factories, quarries, etc. whose yearly earnings did not exceed $476 to insure against sickness and permitted communes to

make insurance obligatory upon small masters and mechanics and allowed certain other classes to voluntarily become members of the system.

The sickness insurance law, aiming at mutual insurance and self administration, utilized for this purpose the trade and local institutions which already existed and formed new organizations only to admit members who were not admitted to the existing institutions. Thus eight independent societies for sickness insurance were established by the law. The law requires these societies to make annual reports and to grant the minimum benefits it has established and to invest their funds in certain ways. These provisions unite the various organizations into a common system.

The scope of the law has been extended, from time to time, both as relates to membership and benefits granted so that it now protects 13,000,000 workingmen and grants the following minimum benefits to them. for a period of 26 weeks whether they are disabled because of sickness or accident.

First, free medical attendance, medicines and appliances from the beginning of disability; second, a sick benefit equal to one half of the daily earnings, beginning the third day of disability and continuing during disability, or in special cases free hospital treatment with one fourth the daily wage which is paid to the family; third, a funeral benefit equal to twenty times the daily wage; and fourth, "sick relief" for women members for six weeks after confinement. These minimum benefits may,

however, be extended by the societies.

The cost of insurance is borne jointly, except in the Mutual Aid Societies, by the employer and the employe, the former paying one third and the latter two thirds of it. The amount of contributions is limited to certain percentages of the daily wage of ordinary laborers. The employer without remuneration must see that all his workmen are insured, keep a record of the date of entering and leaving of each of his employes and see that the rules of insurance are not violated.

The system has been directly beneficial to more than one half of the German population. It has defects but these in time willbe corrected. One defect is that at present it does not include agricultural laborers. An amendment is now being considered to correct its defects.

Exclusive of the miners' associations whose reports are not given in the general annual report of the department of labor, the number of societies has increased from 13,942 in 1885 to 23,232 in 1907; the number of insured from 4,294,173 in 1885to 11,721,796 in 1907. The number of miners insured in 1907 was 758,706 which makes the total number of insured in 1907 equal 12,480,502, or, 19% of the population.

Passing now to accident insurance we find that the Prussian laws very early held that the labor contract impliedly imposed upon the master the obligation to care for his disabled servant and to pay his medical expenses. The law held the employer liable for accidents occuring because of his

own negligence and required him to care for the injured employe until restoration had been effected.

By the liability act of 1838 Prussia substituted compensation for industrial accidents for the antiquated common law.

As early as 1838 by the liability act of that year Prussia adopted the principle of compensating both employes and passengers for industrial accidents occurring on railways and thus set aside the antiquated common law in the field of railroad transportation. Then followed the laws of 1845,1849 and 1854 of which we have already spoken. In 1871 the railroad accident law was extended to mines,quarries and factories. But since the burden of proof still rested upon the injured person this law only increased litigation and brought hostile relations between employer and workmen. Furthermore, the law did grant recovery to those injured because of the risks of industry. This unsatisfactory condition finally led to the adoption,in 1884,of a plan which requires employers to insure their employes in mutual associations of employers,against industrial accidents.

The law as first passed applied only to the more hazardous industries,as mines quarries,excavations,factories and branches of the building trades. Supplementary measures extended the benefits of the law to other fields. As revised in 1960 and amended in 1900 and in 1901,the laws now consist of a main section which embodies the rules of organization and a number of separate measures embracing industrial enterprises,agriculture and forestry,building,navigation,prisoners,public

officials and soldiers. At the present time all workingmen irrespective of wages and officials not receiving a salary exceeding $750 per year are covered by the law. The law may be extended to other classes who may at present voluntarily become members.

The employers of the same or allied trades are required to form mutual associations in which they must insure their employes against industrial accidents. Agricultural laborers and those engaged in state service as railroads and telephones are insured in special organizations.

All the associations thus formed are self-governing bodies and are managed by the employers who contribute to their maintenence. The imperial goverment, however, supervises and controls the organizations. Each association classifies the establishments of which it is composed into danger classes and levies a premium upon each establishment according to its danger class. Each association, also, has the power "to enforce rules and regulations, to require the use of safety devices and appliances, and to report for legal action any employer who refuses to insure, fails to pay his premiums, or declines to comply with proper requirements.

The associations are maintained by premiums paid by the employer. The assessment is levied by the association of which he is a member according to a scale of risks for the particular trade, and establishment and according to the total amount of wages he pays out.

The benefits are granted thirteen weeks after the accident has happened. It will be remembered that the employer pays one third of the cost of sickness insurance. Therefore,in justice to him the accidents which occur in his establishment are taken care of by the sick fund for the first thirteen weeks. By this means only the more severe accidents come under the domain of the accident insurance fund. In case of a fatal accident,hbwever,the medical and burial expenses are paid by the employer within a week after the accident. Benefits are paid monthly in advance. Payments are then made through the Post Offices. The Post Offices also advance the amount needed out of their banking departments. The mutual associations re-fund these payments to the Post Offices at the end of the year.

The benefits granted are,first, free medical treatment, including medicines,crutches etc.and a cash benefit.For part-ial disability this cash benefit is equal to two thirds of the impairment of earning power and for permanent disability it is two thirds of the WAGES . Instead of the above free hospital care and a reduced pension to dependents may be chosen. The benefit granted to those permanently disabled may be in-creased to total wages. Second; in case of a fatality a burial benefit equal to twenty times the daily wage and a pension to the dependents as long as they remain dependent,i.e.to a widow during her widowhood and to a child until it is fourteen years old. This pension varies from twenty percent to sixty percent of the yearly wages.

The amount of compensation, being fixed by the mutual association to which the employer belongs, in the first instance, is in the hands ~~of the hands~~ of the employers. In case of dissatisfaction the claimant for benefits may appeal to a board of arbitration. This board consists of two representatives chosen by the employers' association, two by the workmen and a state official as chairman. In important cases either party may appeal against the judgement of this board to the Imperial Insurance Office. This Bureau consists of a president, and several superior state officials appointed for life by the emperor, six delegates of the Bundesrath, three representatives of employers and three of the employes.

The whole system centers attention upon preventive measures. The work of prevention and inspection forms a considerable item in the managing expenses of the mutual associations. During the ten years 1886-1895 the average ratio of total managing expenses to total compensation paid was 28.49 per cent. The ratio has steadily decreased. In 1907 it was only 16 per cent. If the cost of prevention and inspection be subtrated the ratio is only 10.2 per cent.

" The operation of the law has upon the whole been satisfactory to the German people. There has been much improvement in the efficiency of the workmen, and employers have indirectly reaped returns for their compulsory outlay." The workmen, however, are dissatisfied with the method of fixing the amount of compensation. In place of the employers association fixing it in the first instance and appealing from their decision they ad-

vocate the formation of boards of award, consisting of an employer, a workingman and an impartial referee, which shall fix the amount at the outset, with appeals to a higher court. Many of the employers oppose this plan.

12 am. 97
The population of Germany in 1909 was about 63,000,000. 30,000,000 were gainfully employed. Of these 23,000,000 were insured against industrial accidents, 13,000,000 against sickness and 15,000,000 invalidity and old age.

The old age and invalidity insurance plan was the last to be adopted. It was adopted by a law in 1889 which went into effect in 1891. A more comprehensive law repalced this first law in 1899. The law at present requires all wage earners, managers, employers, clerks, marine officers and teachers who do not earn more than $500 per year, and are over 16 years of age to insure themselves against disability (not due to accident) and old age. Exceptions are allowed where the risk is covered by some other provision.

An old age annuity is paid to contributors after they have reached the age of seventy and an invalid pension is paid, irrespective of age to those who become disabled (otherwise than by accident) so that they are unable to earn more than one-third wages. This phase of the insurance also supplements sickness insurance. As has been seen the benefits granted by sickness insurance continue only for 26 weeks. For such persons who are still unable to work after the 26 weeks have expired this branch of the insurance provides a continued sickness benefit.

Contributions must have been paid for at least 1200 weeks before an old age annuity is granted and for 200 weeks before an invalid pension is paid.

The Government pays the expenses of administration and adds $ 12,50 to each old age pension per year. The remaining cost is borne equally by insured and employers.

The amount of contributions and pensions are based on the average yearly wages in which the insured is engaged.

Having thus briefly reviewed the system of insurance in Germany we shall now consider the progress we have made along this line in the United States.

STEPS IN THE RIGHT DIRECTION.

Chapter VII.

In the preceding pages we have seen that the present method of carrying on industry in giving rise to a vast number of industrial accidents demands a legal system which will help the injured workingmen, or the dependents of workingmen who have lost their lives in the industrial process, to meet the loss sustained and which will check the frequency of such accidents by placing a premium upon the adoption and utilization of preventive measures. Attention has also been called to the fact that the present legal rules, under which the victims of such accidents are expected to obtain indemnity for the loss sustained, in giving rise to uncertainty, delay, waste and enmity are inadequate to meet these demands. To meet the demands of the present industrial system and to do away with the evils of the system of Employer's Liability, the adoption of a new method of granting indemnity, the granting of compensation upon a different basis than that of negligence is necessary. The method which we must adopt is the method employed in other industrial countries, the method of charging to the industry in the first instance and ultimately adding to the cost of production the loss due to industrial accidents. Attention has been called to the method of compensation as found in England and the method of obligatory insurance which exists in Germany.

It now remains for us to consider the progress the United States are making in the direction of adopting this principle of compensating all industrial accidents without regard to negligence except such as may have been purposely brought about by the one who suffers the injury.

Attempts have been made by the Federal government and by most of the states to change and modify some of the objectionable elements of the common law especially with respect to the hazardous employments. These attempts,however,have been confined to the passage of various laws "affecting railways and other carriers of persons exercising special privileges upon governmental functions" and have chiefly dealt with such matters as the fellow-servant doctrine,safety appliances, comparative negligence and the like."Laws have been enacted imposing duties in the nature of police regulations such as making it the duty to fence elevator shafts,cover dangerous machinery,"provide fire-escapes,demanding boiler inspection, requiring mine regulation, "limiting the ages of child-labor, the hours of labor for men in hazardous occupations,the hours of labor for women,requiring inspection of mines and machinery and others like these.[87] But until very recently no serious attempt has been made to change the basis of recovery from a theory of negligence and individual responsibility to a principle of making the loss due to industrial accidents a necessary charge of the industrial process.

We have made but little progress in requiring reports of industrial accidents and as a result we know but little about

them. The Federal government requires all common carriers to report accidents to the Interstate Commerce Commission. A few of the states, also, require the report and investigation of accidents, as Alabama, Connecticut, Massachuetts, New York, South Carolina and Vermont.

The principle of compensation, however, has been advocated in this country for several years. The New York Labor Bureau has advocated it in various articles of its bulletins for a period of about ten years. The first compensation bill in this country was a bill introduced in the New York Legislature in 1898.[88] The bill provided that the employer and employe might contract for compensation. Having failed to pass, this bill was taken up by the Illinois Employers' Liability Commission and introduced into the Legislature of Illinois in 1905 where it also failed to pass.[89]

In 1902 Maryland[90] passed a sort of compensation law which made employers in certain industries liable for the death of their employes thru the negligence of the employer or any fellow-servant and providing for the escape of this liability by allowing the employer to pay a certain sum per employe to the State Insurance Commissioner. The employer was allowed to keep back one half of the cost from the wages of the employe. The Insurance Commissioner was to pay $1000 to the dependents of a workman killed in industry. The act was declared unconstitutional by the Court of Common Pleas of Baltimore on the grounds that it invested the Insurance Commissioner with judicial powers. The case was not carried to a higher court.

A compulsory insurance measure applying to miners went into effect in October 1910. in the State of Montana.[91]

In September 1910 the State of New York passed a compensation law, modeled after the English law of 1897 and applying only to certain hazardous employments. This law however has been declared unconstitutional by the highest court of the state from which decision there is no appeal. This decision was rendered on the grounds that it violates the "due process of law" clause in the constitution of the state. The court holds that a compensation law cannot be defended under the police power of the constitution as it "does nothing to conserve the health, safety, or morals of the employe and..... imposes upon the employer no new or affirmative duties or responsibilities in the conduct of his business."[92] It had been hoped by those who framed the law that it might be upheld under the police power but now some other basis must be found. The court suggested the amending of the constitution, and a concurring opinion suggests that it might be possible to uphold such a measure under the taxing power of the state and nation.[93]

Compensation laws have recently been adopted by the states of New Hampshire[94] and Washington.[95] and California.[96]

A number of states, as Illinois, New York, New Jersey, Minnesota, Wisconsin,[97] Connecticut, Maine, Massachuetts, Ohio, Michigan, Missouri and Washington have commissions studying and investigating the problem. Several joint conferences have been held by a number of these commissions. In December 1910 a conference

97. Since this was written Wisconsin has adopted its law. See Survey May 20th '11.

was held in Chicago where nine states were represented. The fundamental points that should be covered by legislation upon the subject and upon which there should be uniformity were discussed.at this conference. The conclusion was reached that such legislation should include all employments;that all injuries should be covered without regard to negligence,except injuries purposely brought about by the employe;that all persons engaged in the industries should be included;that compensation should be paid in installments; that the length of the waiting period shall be two weeks;that employers may substitute voluntary schemes if such schemes cover all the points of the law;that disputes shall be settled by a board of arbitration;that the scheme shall involve compulsory state insurance,or,if this is impossible,compulsory compensation;and that all laws conflicting with the new measure shall be repealed.[98] The amount and duration of compensation was also fixed by the conference so as to produce as much uniformity as possible.

Although the importance of such uniformity is recognized there are difficulties in the various states which prevent the passage of certain measures without modification. The reports of the commissions,therefore,vary in the legislation which they recommend.

These differences arise because of the difficulty of conforming in every respect to the constitutions of the various states which it is well known differ among themselves. Because of the"differences of opinion as to the effect of certain

COMPARATIVE ANALYSIS OF INSURANCE AND COMPENSATION PLANS.*

Plan of.	Remarks.	Compensation, liability, or insurance.	Compulsory or Elective	Single, or Double Liability	Scope of measure. Employments	Installments, or lump sum payments	Rates of Compensation.	Division of Costs of Premiums	Insurable	Estimated Cost.
N. Y. Comm. Bill No. 1.	Cannot recovery at law more than maximum of bill.	Compensation.	Compul.	Optional	Hazardous	Install., or award by court.	Death 1200 days wages. Injury 50% wages.	Employer pays all costs and charges.	Yes.	50% over present liab. insurance.
N. Y. Comm. Bill No. 2.	Same as above.	Comp.	Elective	Optional	all occupations	Same as above.	Same as above.	Same as above, mutual above 50% of wages.	yes.	Same as above.
Wisconsin Commission Rpt.	Modifies present defenses of employer. Provides compensation.	Compen.	Optional "Presumed to have accepted it."	Optional	all occupations	Same as New York.	Death $1,000 to $3,000. Injury 65%	Employer pays all costs and charges.	Insurance expressly required	More than present cost.
Wisconsin Federation of Labor.	Provisions impose lesser restrictions than other bills presented.	Both	Elective	Double English System	Hazardous	Same as New York.	Death $1,000 to $2,000 Injury 35%	Same as above	yes	Present cost.
American Federation of Labor, Bill No. 5.	30 days notice required. Endorsed by Pres. & ex-council of A. F. of L.	Compen.	Compul.	Opt. in certain cases. Other employer exclusively.	Hazardous	Same as New York	Death $1,000 to $5,000 Injury 50%	Same as above	yes.	No estimate
Minnesota		Compen.	Compul.	Single	all occupation	Installments.	Death, max. $3000. Injury 50%		Yes.	no data.
Montana	Effective Oct. 1910.	Insurance	Compul.	Single	Coal-miners only.	Monthly payments	Death, $3,000 Injury 1.00 per day.	Miner 1¢ per ton coal mined. Employer same.	State Insurance.	no data

Plan of.	Remarks	Compensation, liability, or Insurance	Compulsory or Elective	Single or double liability	Scope of measure.	Installments, or lump-sum payments.	Rates of Compensation	Division of Costs of Premiums	Insurable	Estimated Cost.
New Jersey.	Labor representative of Comm. objected to max. pay. in case death, wanted $4,000.	Compen.	Elective	Contract for Comp. presumed unless contracted for liab.	all employments, all employes but casual	Weekly payments	Death $5 to $10 for not more than 300 wks. Injury 50%	Employer		no data.
Massachuetts, Tentative Bill.	Bill oppossed by employer & employes.	Compen.	compul.	Double	all but small employments.	Weekly Payments	Death $4-$10 for 300 wks. Injury, 50%	Employer.	yes.	No data.
Washington	Others occupations may elect. Employer relieved of liab. if pays premiums, except for intentional wrong. Deducts W's share from wages.	Insurance	compul.	Default to pay premiums subject to double.	Extra hazardous.	Monthly Payments.	Death, $10-$35 per wk as long as necessary. Injury $20-35 per mo. during disability.	Employer a fixed % of payroll + 2¢ per day per employe. Employe 2¢ per wkday.	State Insurance	No data.
Ohio	Others may elect.	Insurance	compul.	Single	all employments.	Monthly Payments	Death, 60% of wages for 300 wks. max 3,400 minimum, 1500 Injury, 60%	Employer 75% premiums. Employe 25%	State Insurance.	no data.
Int. Harvester Company.	Protection afforded 25,000 men.	Insurance	Elective	Both	Harvester employes	Installments	Death, $1,500 to 4000. Injury 25% to 50%	Workmen contribute to establish higher benefits	Private Insurance	More than present cost.
Steel Corporation	Compensate married men according to size of family	Insurance	compul.	Single	Steel Corporation employes	Installments	Death, 1½ yrs. Injury 35% to 50%	Employe pays all premiums	Private Insurance.	Paying $1,000,000 per yr. expect increase.

Plan of	Remarks.	Compensation Liability, or Insurance.	Compulsory or Elective	Single or Double Liability	Scope of Measure	Installment, or Lump sum Payments.	Rates of Compensation	Division of Cost of Premiums.	Insurable	Estimated Cost.
American Fed. of Labor, Bill No. 1.	abolishes common defenses of employers.	Liability	Statutory	Statutory	all occupat.	Lump sum.	Trial award.	Legal costs in prosecuting suit.	yes.	No estimate
Illinois Commission Draft 1907.	Opposed by labor representatives; no attention paid to it by employers.	Insurance	Elective	Double Single	all occupation	Weekly Installments, for injury. Death governed by contract.	Death, 3 years minimum $1,000. Injury 50% wages.	Each party to pay 50% of premiums.	yes.	Present cost.
English Compensation	Present law has been amended and strengthened from 1st. draft in 1884.	Compen.	Elective	Double	all occupation	Weekly Installments Court may award lump sum.	Death, 3 yrs not less than $1000 Injury 50% of wages.	Employer pays all	yes.	Established Premiums.
German Ind. Insurance	Probably the original law on the subject of Workingmen's Insurance.	Insurance	Compulsory	Single	all occupat.	Weekly Installments.	Death graduated. Injury 50% to 100%	Employer pays death, injury Mutual agreement.	Employer's Mutual Insurance Companies.	Established premiums.

* Table partially taken from RPT.Ill.Emp.Liab.Comm. (pp.247-248) and partially compiled from information obtained from Survey.Mch.4,1911.

constitutional restriction as to what form of the compensation law is the ideal,and as to the expediency of changing the law immediately to the ideal,or moving toward it by gradual steps." [99]

There is great variation in the scope of the measures adopted or proposed. The arguments for compulsory compensation apply especially to the more hazardous employments. Many of the European laws apply only to these industries as did the English law of 1897 . Believing that a method of gradual approach is the better,some of the plans cover only hazardous industries. Others, again, because of the difficulty of classification have a much broader scope. It is however recognized that some limitation is necessary but there is variation in the limitations adopted by the various commissions. Some have made their bills applicable only to "the employers trade or business" as Illinois and Wisconsin,others except only "casual labor" as New Jersey and others, again, exempt small employers as Massachuetts. [99]

Variation is also found in the extent to which the proposed or adopted measures hold an employer,whether by election or compulsion comes under these measures,liable according to the old liability of damages for negligence. According to the theory of compensation the employer should be liable for damages"only for accidents due to his wilful misconduct." But it is thought that it will be considered unconstitutional to deprive an employe of the right to recover damages for injuries due to the employer's fault. Some of the state considering this

objection unsound relieve the employer of all liability, others avoid the difficulty by leaving "the employer liable under circumstances where he would have been liable at common law" and still others avoid it by making liability a matter of contract, others once more allow the employe to elect under which system he will be compensaated.[99]

Another difference is seen in the elective or compusory features of the adopted or proposed measures. In Illinois, Wisconsin and New Jersey an "elective compensation law" and in Massachuetts and Minnesota a "compulsory compensation law" is proposed. The law recently declared unconstitutional in New York was also a compulsory compensation law. Washington has adopted and Ohio proposes a compulsory insurance law. The reason for an elective compensation law is doubt about the constitutionality of a compulsory law. It is the idea in the elective compensation laws to increase the liability of the employer under the law of negligence to such an extent as to force him to choose compensation instead of Employers' Liability. The reason for such an elective system is to avoid the question of constitutionality which might be raised against a compulsory measure. The compulsory measures, on the other hand, have been framed upon the belief that the constitutional objections toward such measures are unsound. The Ohio and Washington bills, on the other hand, go one step farther, they not only compel the payment of compensation for injuries due to industrial accidents but also compel the employers to insure the

payment of such compensation.

This brings us to the question as to which is the better system a compulsory compensation system or the compulsory compensation plus compulsory insurance system,the former being the method of England and the latter the system of Germany.

The German system is generally esteemed to be the best since it not only requires the payment of compensation but also makes provision that such compensation will be paid. It guards against the insolvency of the employer.

Under the system of England the payment of the compensation is not guaranteed. The employer is left to himself,he may insure or he may not insure,as he chooses. But in order to guard against insolvency he must insure against his liability to pay compensation just as the employer in the United States now insures himself against his liability for damages for negligence. If this system were adopted in this country the employer in order to avoid bankruptcy,which a fire or an explosion or the like would doubtless bring with them.if a number of fatalities occurred, or in the case of the small employer one or two fatalities might bring the same result,must insure himself against his liability as he does under the present system. Now the definite obligation to pay compensation will without doubt raise the premium rates of insurance companies. Fully fifty percent of these premiums will be used up in the payment of running expenses and to make up the profits of the companies. This means that the industries which become subject to the law will be placed under a double tax,a tax to meet the

amount actually paid out as compensation and a tax of 100% more to defray the managing expenses and make up the profits of the liability companies.

The system of compensation plus compulsory insurance ,on the other hand, avoids this objection. By requiring the employer to insure this kind of a law guards against the insolvency of the employer and insures the forth coming of the compensation to the employe. By requiring insurance in mutual associations employers engaged in the same industry the element of profit,the necessity of agents and the like is eliminated and the running expenses are consequently reduced. In Germany these managing expenses as we have seen were only a little over 10% in 1907.

It is obvious that the system of compensation without compulsory insurance will not do away with all the evils of the present system of Employers'Liability. It does reduce the uncertainties to certainties,except where the employer does not insure,but it does not do away with the element of waste which we have seen to be such a large factor in the present system. It is very probable that instead of even reducing this element of waste to lower terms it will only raise it to still higher denominations. This system merely gives rise,or perhaps it were better to say it merely perpetuates the existence of a large number of middle-men who seek to profit by an artificially created situation.

In regard to the prevention of accidents,the system of

insurance is also superior to the system of compensation. The liability companies will without doubt attempt to reduce the number of accidents but the competition to which they would be subjected would prohibit them from enforcing preventive measures to any great extent by high premium rates. Insurance in mutual associations of employers, on the other hand, would be effective in this field, as they have shown to be in Germany.

It is generally agreed by those who have studied the problem that the system of compulsory insurance is the best system. This system will reduce the uncertainties of the present system to certainties, it will do away with the great element of waste inherent in the present system, it will place the two parties of the labor contract upon friendly terms, in short it will do away with the ills of the present system of Employers' Liability.

Furthermore, it seems that England, too, will ultimately have to adopt this system of compulsory insurance, for already much dissatisfaction has been expressed in regard to it by the laborers. The British Trade Union Congress has for several years passed resolutions demanding compulsory state insurance.[40]

Now if the system has not proved to be satisfactory in England there is really no need for us to repeat the mistakes of that country. We might as well profit by that experience and adopt a system from the beginning that will avoid the evils of the system of England. If the principle of compensating industrial

accidents is"right, just and to the best interests of the people",
as we have reason to believe it is, it certainly ought to be
accomplished in the best way possible, both as regards the
employer and the employe. The only difficulty in adopting such
a system seems to be the doubt as to its constitutionality. But
it seems, as is shown by the experience of New York, that this
difficulty is also paramount in the adoption of the other system.
Perhaps it is as hard to secure the one as it is to secure the
other. It might be well, however to act upon the suggestion contained in a concurring opinion to the New York decision and try
to establish a system of compulsory insurance basing its
constitutionality upon the taxing power of the state or nation.[10]
instead upon the police power.

We conclude that the present industrial process, by giving
rise to numerous fatal and serious accidents, places the workingmen in a position where they need protection, both financially
and in the way of accident prevention; that the present Employer's
Liability laws, though designed to meet these demands, by giving
rise to uncertainty, delay, waste, enmity and by not covering all
cases are inadequate to meet these needs; that these evils can
only be corrected by a system of compulsory, or obligitory insurance and that such a system should be adopted by the United
States.

Tables 7,8,9and 10 show the cause and nature of the injuries which have come before the courts of Illnois and were investigated by the Ill. Commission. They show the date of injury and the time of recovery, the general result of the trial,the frequency of appeals, a number of reversals, the number of attorneys engaged and the amounts recovered.

TABLE 7. CASES IN THE ILL. SUPREME COURT.*

NATURE AND CAUSE OF INJURY.	Date of injury.	Date of Recovery	AMOUNT RECOVERED.	General Result.	No. of Trials	No of Repeals.	Remarks.
Slate falling from roof of mine	....	12-22-09	....	Judgm't of trial & appellate Ct. affirmed	1.	2.	Six lawyers engaged.
Scalded in vat of hot water.	8-29-05	12-22-09.	$2,000	Judm't of trial & appelate Ct. affirmed	1.	2	....
Fractured skull; death	1-6-08		Nothing	Reversed, act unconstitutional	1.	Judm't reversed.	$1,500 judgement below.
Knocked off St. car steps by passing wagon.			Nothing	Reversed for error in admission of evidence & remanded for new trial.	another necessary		5 lawyers, $5000 judg'm't below.
Roof of mine fell in	8-14-06	12-22-09	$8,000	Tried twice & now ended in $8000 judgement.	2	2	6 lawyers.
Run over by caboose; both legs amputated		12-22-09	2,000		1	2	8 lawyers.
Mangled foot; derailed engine	10-7-06	2-3-10	5,000		1	2	7 lawyers.
Fell under engine; death	8-26-07	2-3-10.	4,000		1	2	5 lawyers.
Leg broken; pole broke and fell.	8-6-07	2-4-10	Nothing	Judg'm'ts reversed and cause remanded.	1.	1.	$1,500 judgement below.
Right hand torn off; clothing caught by shaft.	11-27-05	12-22-09	7,500		1.	1.	6 lawyers.
Street car collision injured	6-14-02	12-22-09.	Nothing	Judgement reversed	1.	1.	* 5 lawyers. 10,000 in lower Ct. sec. trial.
Thrown off car and run over; died.	3-12-05	12-22-09	Nothing	Jd'm't reversed & cause remanded.	1.	1.	7 lawyers.
Switching; very severely injured		2-16-10		Jd'm't. affirmed	1.	1.	Company guilty of negligence in repair of grab iron.
Caught between push car and moulds; leg amputated.	9-16-06	10-26-09	$5,000		1.	1.	Appellee 16 yrs. old when acc. occurred.
Collission, throwing deceased thru opening death	10-23-07	12-8-09	$1,500	Tried twice 1,500 jud'm't.	2		2 trials in Circuit Ct. each finding defendant guilty.
Overloaded car tilted; injury to ft. & ankle.	7-2-05	12-22-09	Nothing	Jud'm't reversed.	1.	1.	Contrib. neglegence $1,500 Jud'm't. below.
Switch opened in error; leg amputated	8-15-07	12-22-09.	$7,500		1.	1.	3 lawyers.

*Ill. Emp. Liab. Comm. Rpt. p. 76-8-9-82.

TABLE 7 CASES IN THE ILL. SUPREME COURT. (Continued.) *

Collision; amputation of both legs above knees.	12-12 '09	10-14 '09	$22,500	Jud'm't for appellee affirmed; rehearing denied Oct. 14-1909.	1.	1.	5 lawyers engaged.
Arm caught by belt.	9-11-'03	10-26-'09.	11,083	Jud'm't in Circuit Ct. $10,000; same affirmed by appellate Ct.; on 2 appeal jud'm't reversed remanded to circuit ct. for new trial, result jud'm't $11,083	1.	2	4 lawyers.
Collission; death	10-23-'07	10-26-'09	8,000		1	1	Deceased left widow & 4 children; twins were born after his death on Apr. 10 1908.
Wind caused traveler to run off track; deceased fell 70 ft. below bridge.	7-8-'04	6-19-'09	6,000	Jud'm't. trial of appellate Ct. affirmed.	1.	1.	Criminal negligence of foreman.
Arm and one finger; feeding irons into straightening machine.	10-25 '06	2-19- '09	10,000		1.	1.	At time injury injured 13 yrs. 11 mos. 8 days old.
Floor of ice chamber caved in; caught, severely injured		12-15 '08	2,500		1.	1.	3 lawyers.
Death, due falling of passenger elevator	11-5 '02	12-16 '08	5,000	Jud'm't. appellate ct. affirmed	1.	1.	10 lawyers.
Dynamite left in hole of rock exploded, death	12-23 '04	12-15 '08	5,000		1.	1.	
At work beneath bridge when it was set in motion, causing injury	1-10 '01	10-26 '08	5,000	Jud'm't appellate Ct. affirmed.	2	2	5 lawyers.
Collission caused by slippery rail; death	8-17 '05	10-26 '08	2,500	"	1	1	Failed to furnish a reasonable safe place to work.
Fell into pit; arm drawn from socket at shoulder, permanent injury.	7-28-'02	12-18-'08	2,700	"	1	1	

*28 cases from 12/08 to2/10, the last 28 consecutive master and servant cases shown in published reports.

TABLE 8 CASES IN ILLINOIS APPELLATE COURT. (28 cases, 11/08to3/10, the last master&servant casesshown in rpts.)*

Nature & Cause of Injury.	Date of injury	Date of Recovery.	Amount Recovered	General Result.	Number of Trials	Remarks.
Car wheels run over leg; amputation.	..	3-4, 09	Nothing	Judgement reversed & remanded for another trial.	1.	$10,000 judg'm't, reversed.
Train run in on wrong track; killed	9-26, 99	3-4, 09	Nothing	Judgm't reversed	1.	Contributory negligence $1,400 judgm't reversed.
Killed in Collision	...	3-4, 09	$8000	Judgm't affirmed	1.	5 lawyers.
Scalded by steam	9-6, 07	3-4, 09	$1,860	Judgm't affirmed	1.	3 lawyers. Refinery.
Detached wheels & axle of car pushed into plaintiff breaking leg.	5-8, 07	3-4, 09	$184	" "	1.	Not taken to hospital till 16 days after injury remain'd there 29 days.
Collision; killed.	10-23, 07	3-4, 09	$1,500	" "	2.	Dependent mother in Hungary.
Hurt by machinery	....	1-16, 09	Nothing	Reversed & remanded	1.	Prejudicial conduct of attorneys and an error in instructions to jury.
Flask of molton iron fell on leg.	11-21, 07	3-4, 09	Nothing	Reversed with finding of facts	1.	Defendent not guilty. $300 judgm't.
Steel rod used in tamping dynamite; explosion; injury	8-5, 02		Nothing	" "	1.	Contributory neglig. $8,500 judgm't reversed.
Standing on turn table; moved by other servants; injury.	6-18, 05	3-4, 09		Judgm't affirmed	1.	Under 16 yrs of age
Derailed engine; killed engineer		3-4-'09	Nothing	Judgm't reversed & remanded for new trial	1.	Error in instructions to jury. $6,000 judgm't reversed.
Removal of a shaker screen; injury				Judgm't affirmed	1.	5. lawyers.
Coupling, 2 cars run into train catching head severe injury	1-14, 07	3-4, 09	$1000	" "	1.	Employee a ~~mule~~ driver in mine.
Belt ran off main shaft; rt. leg broken	4-16, 06	3-4, 09	$1000	" "	1.	4 lawyers.
Dump wagon struck plaintiff on back, dislocating shoulder & breaking 3 ribs.	4-11, 02	3-22-09	Nothing	Defendent not guilty.	1.	
Carload of loose dirt and rock dumped upon plaintiff	5-7, 07	1-18, 09	$546.66	Judgm't affirmed	1.	Had been employed only 2 days.
Girder dropped on lower " catching hand; fracture.			$2,500	" "	1.	

*Rpt of Ill.Emp.Liab. Commission,p.84-6-8.

TABLE 8 CASES IN ILLINOIS APPELLATE COURT. (Continued)

Standing on sand while knocking out casting; caved in	6-29-04		Nothing	Defendant not guilty.	1.	Plaintiff's negligence.
Circular saw; rt. hand injured	6-10-'03	2-4-'09	$1,500	Judg'm't affirmed	1.	4 lawyers.
Piling up too many rubber sheets breaking leg.	6-25-'05	12-4-'08	Nothing	Reversed with finding of facts	1.	Judg'm't below of $2,488.
While digging, hurt on head by falling dirt and stones	5-31-'07	12-18-'08	Nothing	" "	1.	Assumed $1000 judg'm't reversed.
Bursting of main steam-pipe; blinded and scalded.	12-10-'06	12-18-'08	$1,000	Judg'm't affirmed.	1.	
Fell off ladder; injured		12-18-'08	nothing	Reversed, but not remanded	1.	Assumed risk.
Rolling paper, plaintiff tried to straighten out wrinkles; injured arm and hand.		1-7-'09	Nothing	Reversed with finding facts	1.	Contributory neg. $2,500 judg'm't reversed.
Kicked in front of car by mule; car pulled up against him.	5-31-'07	11-17-'08	$3,000	Judg'm't affirmed	1.	5 lawyers.
Defective condition of platform caused employee to stumble while alighting from train; killed.	12-19-'06	11-17-'08	Nothing	Reversed with finding of facts	1.	No negligence $5,000 judg'm't reversed.
Crane run over his rt. leg while working on girder	10-15-'06	11-17-'08	Nothing	" "	1.	Contributory neg. $6,590 judg'm't reversed.
Came in contact with imperfect insulated cut off, electric current running thru body.			Nothing	Reversed and remanded for another trial.	1.	Erroneous instructions to jury. $4,250 judg'm't reversed.

TABLE 9 CIRCUIT COURT CASES. (38 cases as they appear in chronological order in the files of the court.)*

Nature and Cause of Injury	Date of Injury	Date of Recovery	Amount Recovered	Present Status	Remarks.
Kicked by horse	7-9-'06			Suit removed to U.S. Circuit court.	
Caught in machine	7-6-'06	12/14 '08	$250		Jury.
Struck by heavy timber	4-21-'05		Unknown		Settled behind atty's back.
Struck on head	4-5-'07	4/20 '07	$85		Jury.
Hand severely torn by machinery	10-5-'06			Removed to U.S. court.	
[illegible]	8-20-'07		Nothing	Non-suited because of failure to file suit in time.	2 attys.
Crushed in machinery; death	8/22 '06			Transferred to U.S. Circuit Court.	
Crushed in Steel mill; death			400	Settled by agreem't.	
Burned by explosion of gasoline lamp	8/23 '06	1/16 '09	1,350		
Struck by board from scaffold	8/23 '06		3,500	Settled by agreem't.	
Severely injured by machinery	5-15-'06	3-25-'07	50		
Caught by setscrew and hurled to floor	10/25 '06	3/16 '08	1,250		
Hand injured by machinery	12/21 '06	2/5 '07	125	Settled out of court.	
Bodily injuries; permanent	2/11 '06		700	Settled by agreem't.	
Fell while washing wall	1/11 '06	1/11 '10	111.85	" " "	3 attys. Intoxication
Struck by cars	2/20 '06	12/14 '08	400		
Crushed by falling tank; minor.	2-1-'07	2-27-'07	75		2 attys
Leg cut off and ribs injured	7-16-'06	1-2-'07	1,825		Jury.

*Rpt. Ill. Emp. Liab. Comm. p. 98-100-102.

TABLE 9 CIRCUIT COURT CASES. (continued.)

Hand injured	10/10 '06	11/12 '09	225		Jury.
Permanent body injuries	9-25 '06	3-4 '08	336	Dismissed by agreem't.	
Struck by fall of brick	7-24 '06		270	" "	
Fell from 15th story of Bldg; death	10-16 '06		487	Settled out of court.	
Molten metal; amputation of fingers on both hands	2-6 '07			Dismissed by agreement.	
Defective machinery; chest and arm injured	2/13 '07			" "	
Crushed by piano	12/17 '06	1/29 '10	200		
Electrocution; death	12/18 '06	2/18 '09	250		
Two fingers lacerated by buzz saw	12/4 '06	3/15 '07	200		
Caught in machinery	10/10 '03	5/16 '07	1,500		boy.
Knocked from upper floor of bldg.	11-23 '06			Now in appelate court.	Judgm't for $3000
Killed by engine	5/28 '06			" " "	Judgm't for $2000
Hand caught in machinery	3-13 '06	1-11 '10	450		Satisfied
Fell into vat; burned to death	8/17 '06			Removed to U.S. circuit court.	
Hands mangled & body bruised	8/16 '06	9/18 '07	325		
Leg broken	9/17 '07	9/24 '07	150		
Leg severely bruised	9/9 '07	9/25 '07	85		
Hand mangled by rip saw	8/8 '06	6/29 '09	775		
Hand and arm badly torn	1/9 '07	7/5 '07	200		
Both legs broken by fall of tank	4-5 '07	4-22 '08	275		

TABLE 10 COOK COUNTY, ILL., SUPERIOR COURT CASES.*

Nature of injury	Date of injury.	Date of Recovery	Amt Recovered.	Present Status.	General Remarks	Court or Jury Trials
Right arm torn off by machinery	7-24 '07			Defendant not guilty.		Jury.
~~Crushed~~ by fall of heavy chemicals	2-1 '06	6-15 '08	$750			"
Loss of three fingers in machine	6-15 '06	3-3 '08	$500			
Struck by car; bodily injuries	11-10 '06	12-12 '08	$7,500			Jury
Arm cut off below elbow	12/19 '06	1/29 '08	$5000			"
Knocked into elevator shaft.	9/26 '05		Nothing	Dismissed		Jury
Left hand severely crushed	11/6 '06	1/11 '07	$250	Settled after suit		
Run over by car; fatal bodily injuries	12/18 '01			Removed to U.S. Court.		
Head and chest severely cut.	8/17 '06		Settled with Insurance Co. amt unknown	Dismissed by agreement.		
Three fingers amputated by machinery	5/23 '06	5/4 '08	$3000			Jury.
Broken leg; fall of Railroad iron	8/1 '06	11/21 '07	225			"
General bodily injuries	10/18 '06	7/13 '08	$1,300			"
Head cut by knives of machine	5-5 '06	1-17 '07	$100	Settled after suit		"
Burned to death by molten steel	10/9 '06	6/29 '08	$2,750	" " "		"
Struck by Derrick	1/11 '06	4/12 '08	$200	" " "		
Hand crushed by machinery	12/14 '06	4/22 '08	$2,000			Jury.
Internal and external injuries. Struck by piece of steel.	4-14 '05			Dismissed by agreement.		
Severe bodily injuries	7/12 '06		$1,200	Settled after suit.		
Struck by derrick	11/12 '06		$300			Jury.
Asphyxiation by escape of gas from pipes	8/31 '06	5/25 '08	$1,790	Settled after suit		
Fall from scaffold	7/8 '06	5/21 '07	$500			
Finger amputated by machinery	12/5 '05	5/27 '08	$1,225			Jury.
Hand severely cut by saw.	11/12 '06			Removed to U.S. Circuit Court mch 2 '07.		

*Rpt.ILL.EMP.LIAB.COMM.p.92-4-6.

Table 10 Cook County Superior Court cases-(continued)*

Severely burned by steam	6-19 '06			Removed to U.S. circuit court.		
Crushed to death by fall of derrick	10-23 '06	7-1 '08	$3,500			Jury
Drowned while at work	11/12 '06		400	Settled by agreement.		
" " " "	"		100	" " "		
Knee fractured	11/1 '06		1,250	" " "		
Severe bodily burns by electric current	1/7 '07	5/15 '08	7,500			Jury
Two fingers amputated	11/8 '06	7/21 '08	750			"
Crushed to death by stone	4-23 '06			Settled by agreem't		
Arm rendered useless, caught by shaft	4-22 '06			Transferred to U.S. circuit court.		
Arm amputated	2/13 '06	4/11 '08	15000	Settled by agreem't.		"
Fell into elevator; killed	3/6 '06		500	Settled by agreement		
Crushed in collision of cars; death	10/11 '06	7/13 '10	150			
Hips, arms and other bodily injuries	7/31 '06		1,200			Jury.
Severe internal and external injuries by cable	10/8 '06			Removed to U.S. circuit court. May 6 - 1907		
Foot crushed by car wheel	10/6 '06		350	Settled after suit		
Severe bodily injuries	7/11 '06	'09	Nothing	Verdict for def'dt.		

*The table shows the 40 cases as the appear in chronological order in the files of the court.

REFERENCE NOTES.

1.Twelfth Ann. Rpt. U.S.Bur.of Lab.Vol.I p.4.

2. Cooley-Briefs of Insurance Law vol.I p.4 cited in Wisc. Libr.Comm. Cf.Legislation Bul.No.20 p.15.

3.Willoughby, Workingmen's Insurance p.2-3

4.ibid.p

5. Lewis F.W.-Employers' Liab. Atlantic Ja.'09 p.59.

6. Twelf. ANN.Rpt.Bur.Labor vol.I p

7. Twelf. Bienn.Rpt.Minn.Bur.Labr. prt.II p.125,

8.Survey Mr.18,1911,pp117-121.
Frankel &Dawson-Workingmen's Ins.In Europe. p.vii.

9. 12th. Bienn.Rpt.Minn.Bur.Labr. Prt.II p.125.

10. Survey Mr.25,1911 p.1053.

11.Seager-Social Insurance p.26.

12. Ibid p.25 Cited from New Ency.of Soc.Reform p.7.

13. Seager- Social Insurance p.25 Cited from Coal-mine acc. Their Cause and Prevention U.S.Geol.Survey 1907.

14. Ibid p.26 passim.Bul.74.U.S.Bur.Labr.

15. U.S.Bur.Labr.Bul. No.78 Sept.1908.

16. Seager-Soc.Insr. p.28.Cited from Proceed.9th Ann.Meet. of Nat.Civic.Fed. Dec. 14&15 1908. p.156.

17. Reeve.-The Death Roll of Industry. Charit.&Commons. Feb.2.'o7.vol.17,pp.803-807. Nearing Soc. Adjustment p.233

18. Eastman-Work Acc.&the Law.p.11.

19. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.pp.125-6.

20. Ibid.p.311.

21. Survey-May 13,1911,p.262.

22.Nearing -Social Adjustment pp.226-227.

23. Statistics of R.R.In U.S. Interstate Comm. Comm. 1907,p.116.

24. Nearing - Social Adjustment. p.228.

25. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.p.135.

26. Taken from Emp.Liab.Comm.of.Ill.p.249.

27. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II p.136 passim.
Eastman-Wrk Acc.& the Law,p.87 passim.

28. U.S.Bur.Labr.Bul.No.74,p.1.

29. Rpt.to Legislat.of Minn.Employes' Compen.Commission. pp9-14.

30. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II p.145.

31. U.S.Bur.Labr.Bul. No.74 p.1.

32. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.150.
U.S.Bur.Labr.Bul. pp.2-19.

33. Eastman-Wrkaccid.& the Law p.169.
U.S.Bur.Labr.Bul. pp.23-29.

34. Eastman- Wrkaccd.&the Law,p170.

35. Ibid. p.171.

36. Henderson -Industrial Insurance.p131.

37. Eastman-Wrkaccd.&the Law, p.170.

38. 12th.Bienn.Minn.Bur.Labr.PrttII p.150.

39. Ibid. p.152.

40. Atlantic Monthly,Ja.'o9,p.59.

41. Rpt.Emp.Liab.Comm.Ill.p.41.

42. Eastman-Wrkaccid.& the Law. p.172,passim.

43. Rpt.Emp.Liab.Comm.Ill. p.42.
Eastman-Wrkaccid.&Law p.174.

44. Eastman-Wrkaccid.&Law, p.175.

45. Ibid p.176.

46. Ibid. p.174-5.

47 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.149.

48. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.145.

49. Ibid,p.149-150.

50. Ibid.p.135.

51. Eastman-Wrkaccid.&Law,p.103.

52. Bul.Bur.Labr.1908,p.120.
Rpt.Emp.Liab.Comm.Ill.p.36.

53. Eastman-Wrkaccid.&Law,p.271-272.

54. Eastman- " " p.274-275.

55. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.155.

56. Ibid,p.156-157.

57. Wisc.Libr.Comm.Compar.Legislat.Bul.No.20.p.26.

58. Rpt.Emp.Liab.Comm.Ill.p.37.

59. Ibid.p.11.

60 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.146.

61. Ibid p.147.

62.Eastman.Wrkaccid.&Law. p.291.

63. Rpt.to Legislature Minn.Emp.Compen.Comm.pp.27-28.

64. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.147.

65. Rpt.Emp.Liab.Comm.Ill.p.75.

66. 12th.Bienn.Rpt.Minn.Bur.Labr.Prt.II.p.149.

67. Ibid,p.146.

68. Eastman- Wrkaccid.&Law.p.293.

69.12th.Ann.Rpt.U.S.Bur.Labr. Vol,I.p.5-6.

70. Frank.&Dawson. Wrkmen's Insr.In Europe p.169.

71. Willoughby- " " p.265.

72. Ibid,p.269.
F.&D. " " in Europe p.42.

73. Willoughby-Wrkmen's Insur. p.270.

74. F.& D. Wrkmen's Insr.in Europe p.42.

75. Willoughby- Wrkmen's Insr. p.270.

76. Ibid,p.272.

77. F.& D. Wrkmen's Insur. in Europe p.43.

78. Ibid,p.44.

79. Ibid p.45.

80. Ibid,p.46.

81. Ibid,p.48.

82. Henderson,Industrial Insurance.p.10.

83. Frankel and Dawson,Workingmen's Insurance in Europe pp.227-262.

84. Ibid.pp.89-115.

85. Ibid. pp.345-360.

86. 12th,Ann.Rpt.Us.Bur.Labr. p.978.

87. Minn.Emp.Comp. Comm.Rpt. p.91.
Henderson-Industrial Insurance,pp.288-306.

88. Survey. Apr.29,'11.p.186.
Henderson -Ind.Insur. p.333.

89. Minn.Emp.Comp.Comm.Rpt.p.110.

90. Ibid. p.118.

91. Eastman-Wrkaccidents and the Law.p.209.
Survey Mr.4.'11.p.950.

92. Survey,Apr.29,'11.p.185.

93. Ibid. p.186

94. Survey May 13,'11,p.267.

95. Survey. May.6,'11.p.206.

96. Survey My.20 '11 pp.284-6.

97. Ibid.

98. Survey, Dec.16, 1910. pp.423.

99. Survey Mr.4.'11 pp.949-965.

100. Survey Apr.29.'11, p.185.

BIBLIOGRAPHY.

Alger, Geo.W.--Some Equivocal Rights of Labor. Atlantic Monthly, 97:364.

American Encycl. Art. "Employer's Liability."
Art. "Industrial Insurance."
" " Accident " ."

Accident Relief of U.S.Steel Corporation. Survey May 7,1910.

Bolling, R.C. - Decision of Court of Appeals. Survey May 29,1911.

Barnett, Geo.E.--The End of the Maryland Workmen's Compensation Act. Quar.J.Econ. Feb.1905, pp.320-322.

Beyer, David C.-- Safety Provisions of U.S.Steel Corporation. Survey, May 7,1910.
Safety Devices to Prevent Eye Injuries. Survey, Feb, 18, 1911.

Brooks, John Graham--Compulsory Insurance in Germany. Fourth Special Report 6ftthe U.S.Commissioner of Labor.

Burden of Industrial Accidents. Outlook 94:512-3. Mr.5,'10.

Bird, Francis H.-Standardization of Safety. Survey Mr.18,1911.

Bliss--Encycl. Social Reform.
Art. Employers Liability Laws. p.557.
" State Compulsory Insurane p.740.

Clark, Lindly D.-Employers' Liability in U.S. Bul.No.74 U.S.Bur.Labor JA.1908.

Chute, C.L. - Liability againstCompensation. Survey Mr.14.1910, p.277.
Industrial Accidents A Problem of Today. Review of Reviews Aug.1910.

Cost of Coal in Human Life. Outlook, 93:797-8.Dec.11,'09.

Devine, E.T.- Industrial Accidents Survey, Apr.1,'11.
Economics, Philosophy and Morals against the New York Court of Appeals. Survey Apr.8,'11.
Decision of Court of Appeals " " 29,'11.

Dawson, Miles M. -Art."Insurance"in Bliss's Encycl. Soc.Reform. p.735.
Decision of Court of Appeals.Survey Mr.29,'11.

Dawson, W.H.-German Workman. Chas. Scribners'Sons.N.Y.1906.

Dunham, Sylvester C.- Liability Insurance.Yale Insurance Lectures 1904,Vol.II,pp.226-249.
Accident Insurance.Ibid.pp.204-225.

Eastman, Crystal - Work Accidents and theLaw. Charities Pub. Comm. N.Y.1910.
A Years Work Accidents and Their Social Cost. Charities and the Commons.Mr.6,1909.

Flexner, Bernard- Decision of Court of Appeals. Survey Apr.29,'11.

Freund, Ernst- Decision of Court of Appeals.Survey Apr.29,'11.

Farnum, Henry W.-The Psychology of German Workman's Insurance. Yale Review May.1904. Vol XIII.pp.98-113.
Operation of Compulsory Workmen's Insurance in Germany. Yale Insurance Laectures,VolII. pp.304-328. 1904.
Government Insurance.Ibid.pp.283-303.
German Workmen's Insurance,A Post Script. Yale Review,Feb.1905 Vol.XIII.pp.435-438.

Frankel, Lee K. Accident Insurance in a Republic.(Switzerland.) Survey Apr.24,1909.

Frankel and Dawson-- Workingmen's Insurance in Europe. Charities Pub.Comm. N.Y.1910.

Goodnow, Frank C. -Decision of Court of Appeals. Survey Apr.29,1911.

Greeley, Louis M.- Decision of Court of Appeals. Survey Apr.29,1911.

Hoffman, F.L.- Art. "Insurance" in Encycl.Americana.
Industrial Insurance--ANN.Am.Acd.Pol.Sci. 26:283.
Industrial Accidents in The U.S. Bul.78. U.S.BUR.LABOR. Sept.1908.pp.417-465.
Industrial Accidents in the U.S. in Bliss's Encycl. Soc. Reform.1908.

Henderson, C.R.- Industrial Insurance. University Chicago Press,Chicago.1909.

Henderson,C.R.- Workingmen's Accident Insurance.
Charities Feb.1907.
Improvement in Industrial Life Insurance
AM.J.Soc.VOl.XV. pp.478-501. Ja.1910.

Henderson,C.R.- Workingmen's Insurance. World Today. Feb.1906.

Hard,Wm. - Injured in the Course of Duty. Everybody's Magazine
Pamphlet.
Making Steel and Killing Men. Everbody's.Sept.1907.
Pensioners of Peace. Everybody's Oct,1908.

Hillquit,Morris-Decision of Court of Appeals. Survey.Apr.29,'11.

International Encycl.-Art."Employers'Liability"

Kingsley,S.C.- Standards of Compensation for Sickness,Accidents
and Death. Survey,Sept.3,1910.

Louis, Frank W. - State Insurance. Houghton and Mifflin Co.
N.Y. 1909.
History of Employers Liability. Atlantic
Monthly Ja.1909.pp.57-65.

Liability vs.Compensation as Applied to actual Cases.
Survey May 14,'10 vol.24,277-8.

Mercer,H.V.-Constitutionality of Workmen's Compensation Act.
Proceedings Am. Ass. for Labor Legislation 1909.

Monroe,P.-Workingmen's Insurance.Am.J.Soc.Vol.II,p.511.

Marshall,Louis- Decision of Court of Appeals Survey,Apr.29,'11.

Mechem,F.R.-Employers'Liability-Proceedings Ill.Bar.Assn.
June.1909.

McKitrick,Reuben- Workingmen's Accident Insurance. Bul.20
Wisc, Legislative Reference Library.

Nelson's Encycl.- Art."Liability Insurance."
" "Employer's Liability."
" "Accident Insurance."

Pinkus,Norbert.-Workingmen's Insurance in Germany.
Yale ReviewFeb.1904. Vol.XII. pp. 372-388.
May,1904.Vol.XIII.pp.72-97. pp
Nov. " " " " 296-395.
Feb.1905 " " " 418-434.

Palgrave-Dictionary of Pol.Economy.Art."Employers'Liability."
Vol.I.p.706.
"Doctrine of Common Employment" Vol.I.p.358.
Art."State Insurance."Vol II.p.419.

Problem of Industrial Accidents.Outlook.Apr.16,1910.pp.824-6.

Plan Uniform Law on Accident Prevention.Survey,Dec.10,1910.

Rubinow,I.M.- State Insurance for Workingmen.
Ann.Am.Acd.Pol.Sci. Vol.XXIV,p.331.
Labor Insurance. J.Pol.Econ. VolXII.p.362.

Reeves,A.B.- The Death Roll of Industry. Charities and Commons. Feb.2.'07.Vol XVII.pp.803-807.

Rpt.Employers'Liab.Comm. of State of Ill. 1910.

Rpt.of New York Commission on Industrial Accidents.
Survey Mr.26.'10. pp.966-9.

Rpt. Minn. Employes' Compensation Commission. Ja.1911.

Sherman,P.T.-Decision Count of Appeals. Survey,Apr.29,'11.
The Compensation Commissions. " Mr.4,'11,
pp.949-962.

Seager,H.R. -Social Insurance.MacMillan Company.N.Y.1910.
Decision of Court of Appeals. Survey Apr.29,1911.

State Bar and Employers'Liability. Survey,Feb.5,1910.pp604-5.

Taylor,G. -Aftermath at Cherryvale. Survey,Dec.11,'09.

Weber,Adna F. -Accident Insurance.
Pol.Sci.Quar. Vol.XVII. pp256-83.1902.

Watrous,Paul G. -Work Accidents in Wisconsin.
Survey Apr.9,1910.

Willoughby,W.F.-Workingmen's Insurance. Crowell & Co,N.Y.1898.
Accidents to Labor as Regulated by Law in the United States. Bul.32.U.S.Bur,Labr. 1901.p.1-28.

Twelfth Biennial RPt. Bur.Labr.Ind.&Comm.of State of Minn.
Prt.II,1909.

Twelfth Annual Rpt.U.S.Bur.Labr. Vol.I.

Nearing-- Social Adjustment.

Handwoerterbuch der Staatswissenschaften --Art. "Arbeiterversicherung. Latest Edition. 3 1908-11

Schmoller, Gustav.- Grundris der Allgemeinen Volkswirthschaftlehre. Erste bis Sechste Auflage.
Art. Die Arbeiterversicherung, ihr Wesen, ihre Wirtschaftlichen Voraussetzung. pp. 347-354.

" Die Durchfuehrung der Arbeiter versicherung. pp. 354-375.

Urteil ueber die Deutschen Arbeiterversicherung. pp. 375-382.

University of Kansas Libraries
3 3838 100531033