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Due to the liberal construction that courts give workmen's compensation statutes, the employer has heavy odds against him in most cases. Nevertheless, the author concludes, defense counsel should not despair. Hard work and proper preparation will still yield handsome rewards, especially in those cases in which the principal issue is the nature and extent of disability.

I. Introduction and Background

In order to get a comprehensive understanding of the purpose and scope of workmen's compensation cases, it is both important and helpful to review the conditions and reasons which led to the adoption of workmen's compensation laws. This background data has an important bearing upon the application and interpretation of the various workmen's compensation laws in any given case.[1]

Until about fifty years ago an injured workman found himself in an unfortunate position. For centuries industry had been exploiting labor and the turn of this century saw the growth of big business and vast personal fortunes; during this time the working man was little more than a pawn or tool. By modern standards working conditions were extremely primitive and cruel.

Likewise, the traditional concepts of master and servant relationships, rights, and remedies had developed along lines which were favorable to the employer, but which afforded little protection to the workman. Whenever an employee received an injury or was killed on the job, he or his dependents in far too many cases found themselves in a completely hopeless position. The employers had available the old common law defenses of contributory negligence, fellow servant's negligence, and assumption of risk. These defenses, properly asserted by able attorneys for industry, were fatal to the vast majority of actions brought by the employees to recover damages for these industrial injuries.

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1. For further treatment of the history of workmen's compensation law, see generally Small, *The General Structure of Law Applicable to Employee Injury and Death*, 16 Vand. L. Rev. 1021 (1963).

Society finally awakened to the realization that far too often injured employees or their dependents were becoming public charges and objects of welfare. It gradually became aware of the many grave injustices which had resulted from this medieval system. Not only were the victims unable to find employment when burdened with the handicap of disabilities resulting from industrial injuries, neither could they afford to obtain proper medical, surgical, and hospital care to assist them in recovery from the injuries. Rehabilitation, both medical and vocational, was completely unknown.

Into this picture came the first compensation proposal, which was at the time a most revolutionary concept of social justice and responsibility. Its basic premise was, and still is, that since the hazards of a given industry produced and caused injuries to workmen, the burden and cost of those injuries properly should be borne by the industry which had caused them. Obviously, these hazards were not created by the workman and were beyond his control. Yet he was subjected to them as a necessary part and incident of his employment in the industry. Therefore it was reasoned, and few today would challenge this reasoning, that the burden of caring for these injured employees should be removed from society and placed upon industry, where it properly belonged.

However, because many accidents did, in fact, result from the negligence of the employee himself, or from the negligence of a fellow employee, it was considered that the benefits provided by the compensation laws should be so adjusted as to take care of both the negligent and the non-negligent employee. In fairness to industry, however, because of this proposal it was never contemplated that the benefits should be considered as in lieu of wages. Rather the concept was developed, still generally followed today, that benefits should be sufficient to provide necessities for the injured employee and his family, but should not be large enough to encourage the employee to become a chronic disability or a malingerer. It was thought that there must be some incentive in these laws for the employee to recover from his injuries and return to his employment wherever possible.

As a result, the practice was established of giving the employee a fixed percentage of his weekly wages, subject to both a maximum and minimum amount, and of additionally providing him with suitable medical, hospital, and nursing care at the expense of industry. These amounts vary from state to state under the present laws and generally are adapted to local economic conditions and needs. Thus, in Tennessee the weekly indemnities are based upon sixty-five per cent of the average weekly earnings, with a minimum of not less than fifteen dollars per week, with some minor exceptions, and a maximum of no

more than thirty-six dollars per week. Medical expense is provided for not more than one year in time, or 1800 dollars in total cost.[2] In Missouri, benefits are based upon sixty-six and two-thirds per cent of the average weekly wages, not to exceed forty-seven dollars and fifty cents per week and not to be less than sixteen dollars per week. There medical expense is provided in an unlimited monetary amount for the first ninety days and thereafter where ordered by the commission. Weekly benefits likewise vary in the rest of the fifty states, running all the way from thirty dollars per week in Georgia and Oklahoma to one hundred and fifty-two dollars and fifty cents per week in Arizona.

Subject to minor variations of language, most state workmen's compensation laws today provide benefits only where the employee has sustained an accidental injury and only where the accident has arisen out of, and in the course of, the employment. It is in interpretation and application of these requirements that the great bulk of workmen's compensation cases have been litigated and the great majority of judicial construction has been made. Likewise, as a result of the basic concept that workmen's compensation laws are social legislation in the interest of public welfare, the great majority of the acts contain provisions requiring liberal construction of the laws with a view toward carrying out the objectives promoting the public welfare. As we shall see, it is this type of provision which has resulted in making the successful defense of compensation cases most difficult.

II. Basic Defense Problems in Workmen's Compensation Cases

With this brief sketch and condensation of the history and philosophy behind workmen's compensation, let us now examine some of the basic problems confronting the defendant employer and his insurer in the defense of workmen's compensation claims.

In most jurisdictions, the provisions requiring a liberal construction of the law with a view to the public welfare impose at the very outset of the case a rather substantial handicap upon the employer and the insurer. These provisions uniformly have been construed as effectually barring most technical defenses which otherwise would have been available. For example, it is today substantially impossible to defend successfully a workmen's compensation claim on the theory of late notice, or complete lack of notice, or any other failure by the employee to comply with rules and regulations of the particular act. This is true even though other provisions contain definite and positive requirements which, in normal circumstances, would completely avoid liabil-

2. An additional $700 may be allowed over the $1800 if the medical expenses within one year are unusual and the trial court feels that they are justified.

ity unless there had been compliance by the employee. A classic example is found in the hernia section of practically all compensation laws. Almost without exception those provisions require that a hernia, in order to be compensable, shall occur in precise, deseribed circumstances.[3] Yet, as all attorneys experienced in the defense of these actions well know, it is only rarely that an employee is unable to recover in a claim for hernia, even though the technical requirements are not met.

But this is not the only effect of the provisions concerning liberal construction of the laws with a view to the public welfare. In actual practice, such provisions have been construed as meaning that all doubts which may arise from the evidence are to be resolved favorably to the employee and against the employer. Additionally, while the courts have repeatedly stated that the rule of liberal construction should not operate to relieve the employee of the burden of proving a compensable case, and should not authorize the allowance of a claim that lacks some of the essential elements, nevertheless in the practical application of the rule this is what generally occurs.

The soundness of such rules of liberal construction is unquestionable. The very nature and objective of workmen's compensation laws, being social legislation in the interest of the public welfare, requires that this rule be adopted and applied. However, it has inevitably resulted in placing a most difficult burden upon the employer and the insurer in the defense of compensation cases. In fact, the rule of liberal construction has made it difficult for an employer successfully to defend any but the most clear-cut cases of non-liability.

The employer's burden also has been increased by the increasing tendency of most courts to liberalize their own construction and interpretation of workmen's compensation laws. Thus, in the early days of workmen's compensation most courts were rather strict in interpreting and applying the word "accident," even where that word was not defined in the law itself. In its normal context, as well as in the definitions contained in many of the state laws, the word "accident" had been uniformly interpreted as meaning an unexpected, unforeseen event, happening suddenly and violently, with or without human fault. For many years in the development of workmen's compensation the courts generally adhered closely to this definition and required proof of such an occurrence in more or less the strict sense. Most of these cases considered an accident to be something in the nature of an external force acting on the human body rather than something within the body itself which resulted in disability.

However, as experience with cases under workmen's compensation

3. TENN. CODE ANN. § 50-1009 (1956).

laws increased the courts were confronted in many cases with the necessity of making a distinction between an accidental cause and an accidental result. Frequently this question arose in the so-called "usual exertion" type of case. An example is the case in which an employee who has been doing the same type of work in the same way for a long period of time suddenly suffers a heart attack, which, in the opinion of the doctors, was caused by the work. Some of the states have solved such problems by amending their compensation laws to eliminate the word "accident," or, as in the case of Florida,[4] by changing the definition of the word "accident" so as specifically to include either the event or the result.

In most of the other states, however, the problem has been solved by a gradual relaxation of the construction and application of the word "accident." Many courts have adhered to the "abnormal or unusual exertion" theory, while others have abandoned it and have construed the injury and disability as covered even though it may be the result of the usual exertion in the job. Thus, in Tennessee, in the case of *Patterson Transfer Co. v. Lewis*,[5] the court permitted recovery for the death of a truck driver who suffered coronary thrombosis while unloading plumbing fixtures. The court clearly rejected the unusual-strain test, holding that ordinary and usual exertion on the job which results in injury is compensable. The court stated that, " 'an internal injury that is itself sudden, unusual, and unexpected, is none the less accidental because its external cause is a part of the victim's ordinary work.' "[6]

The situation in New York and New Jersey, two of the states originally requiring unusual exertion and accident, demonstrates a progressive relaxation of these rules. In heart cases, at least, New York, which had originally held firmly to the requirement of unusual exertion, now has reached by judicial construction the point where any heart attack to which the employment has contributed is considered accidental.[7] New Jersey, which also had followed the unusual exertion requirement, while continuing to apply that requirement to heart cases, has generally relaxed its requirements for all other injuries. Even as to heart cases, the courts of that state show an increasing tendency to relax the requirements for showing unusual strain or exertion,[8] and it appears that soon those cases will be generally held

4. FLA. STAT. ANN. § 440.09 (1952).
5. 195 Tenn. 474, 260 S.W.2d 182 (1953).
6. *Id.* at 479, 260 S.W.2d at 185, quoting from Brown's Case, 123 Me. 424, 425, 123 Atl. 421, 422 (1924).
7. See Klimas v. Trans Caribbean Airways, Inc., 10 N.Y.2d 209, 176 N.E.2d 714, 219 N.Y.S.2d 14 (1961), 15 VAND. L. REV. 663 (1962); Brecher v. Bigger Press, Inc., 18 App. Div. 2d 739, 235 N.Y.S.2d 671 (1962).
8. Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 141 A.2d 761 (1958),

compensable.

In my own state of Missouri we recently have witnessed the express overruling of a long line of cases rejecting strain as a compensable injury. In all prior cases, it had consistently been held that any strain was an occurrence within the body and was, therefore, not an accident within the meaning of our law. Now, however, "abnormal strain" has been accepted as an accident, even though not accompanied or preceded by a slip, fall, or other unexpected external occurrence.[9] For those interested in this development in Missouri, see *Crow v. Missouri Implement Tractor Co.*,[10] and *Brotherton v. International Shoe Co.*[11]

In summary, therefore, I think it now reasonably can be stated that, as a general rule, any defense based solely upon a claim by the employer that the employee was not injured in an accident probably will be held insufficient. I also believe that the liberalization of the construction and application of the word "accident" will continue until almost any injury sustained by an employee while on his job will be considered compensable.

The employer and insurer have a much better chance of a successful defense if they have a case in which the phrase "arising out of and in the course of the employment" is involved. It is here that most of the courts have adhered quite closely to the original construction of this phrase. It is now well established in most jurisdictions that an accident "arises out of" the employment when it appears that there is a causal connection between the conditions under which the work is required to be performed and the injury. That is, the injury must result from some hazard which is traceable to the employment itself. It arises "in the course of" the employment when it occurs while the workman is performing a duty for which he is employed. In most jurisdictions compensation is not allowed unless both elements are established. It is possible, of course, to have an accident in which one element is lacking, and as a general rule the employer and insurer should defend the claim when such appears to be the situation. Thus, in *White v. Whiteway Pharmacy*,[12] the Supreme Court of Tennessee affirmed a denial of compensation in a most interesting case. The decedent, a woman, while employed on the premises of the defendant pharmacy, was stabbed and killed by her husband who had come there while she was engaged in her work. The argument which resulted in her death arose out of a domestic dispute. It was held that

discussed in 1 LARSON, WORKMEN'S COMPENSATION § 38.64(b) (Supp. 1962).

9. 1 LARSON, WORKMEN'S COMPENSATION § 38.20, at 519 (Supp. 1962).

10. 307 S.W.2d 401 (Mo. 1957).

11. 360 S.W.2d 108 (Mo. Ct. App. 1962).

12. 210 Tenn. 449, 360 S.W.2d 12 (1962). *But see* Malone, *Some Recent Developments in the Substantive Law of Workmen's Compensation*, 16 VAND. L. REV. 1039, 1046-53 (1933).

while the injury occurred in the course of her employment, the argument did not result from any hazard or peril of her employment, but solely because of an enraged husband who could just as well have stabbed her at home or on the street as on the employer's premises. Incidentally, and interestingly, the court specifically noted that it made no difference that the weapon with which the stabbing was committed belonged to and was obtained on the premises of the employer.

This was, of course, a very clear factual situation, which is not always the case. For example, compensation has been denied as not "arising out of the employment" where an employee was killed on the employer's premises by bricks falling from a smokestack blown over by a tornado, on the theory that this was an act of God and not the result of any hazard or risk peculiar to the employment.[13] On the other hand, an employee who, while watching a baseball game on the employer's premises during his lunch hour, was hit by a baseball bat and blinded, was held to have sustained an injury arising out of his employment, because the company sanctioned and encouraged baseball games of the employees.[14]

Undoubtedly, the most frequent source of litigation in workmen's compensation cases concerns the nature and extent of the disability. It is here that the defense attorney faces his most challenging problems, and it is here that he has his best chance for a successful defense. However, in this area many attorneys are found lacking. Because it is the most important type of case in day-to-day practice, I believe that we should examine it carefully and completely.

III. The Nature and Extent Case and Its Problems for the Defense

Most compensation laws contain a schedule of payments for injuries, with a stated number of weeks of compensation for complete loss, or loss of use, of a given part of the body, and with a percentage of that compensation for less than total losses. Most of the laws also provide that unscheduled injuries or multiple scheduled injuries are to be rated on a percentage of a maximum total compensation. In both Missouri and Tennessee this maximum is 400 weeks, which is theoretically a one hundred per cent permanent partial disability of the body as a whole. One of the perplexing inconsistencies which has resulted from this system, incidentally, is the apparent assumption that an injured workman can be a one hundred per cent permanent partial disability, yet not be a total and permanent disability. I must confess that I have

13. Stone v. Blackmer & Post Pipe Co., 224 Mo. App. 319, 27 S.W.2d 459 (1930).
14. Conklin v. Kansas City Pub. Serv. Co., 226 Mo. App. 309, 41 S.W.2d 608 (1931).

never found anyone who has any logical explanation for this contradiction and I am sure that there never has been a one hundred per cent permanent partial rating made. Surely, any such individual would be a fit candidate for a permanent and total disability finding.

The problems under such systems arise in connection with the percentage rating of disabilities. The importance to the employer and the insurer of complete accuracy in such ratings is readily apparent when we translate various ratings into dollars. For example, let's take the Tennessee law as applied to unscheduled injuries rated on the body as a whole. On a maximum wage benefit of thirty-six dollars per week, each one per cent of rated disability is four weeks, or 144 dollars. Each five per cent is twenty weeks or 720 dollars. When the employee has a doctor who rates at forty per cent, or 160 weeks (5,760 dollars), and the employer's doctor rates at twenty per cent, or eighty weeks (2,880 dollars), there is in dispute a difference of 2880 dollars. And in those cases where some doctors are far too prone to give a five per cent rating as a mere token disability, even though disbelieving that the employee actually is permanently disabled, it is readily seen that the cost to the company in each case is 720 dollars. If those problems are multiplied by the thousands of cases in which these discrepancies in rating, or token ratings, occur, then we have some idea of the vast magnitude of the economic cost involved. This cost, incidentally, is ultimately paid by the consumers of industrial products, since it is added to the price of those products.

For these reasons, it is fundamentally important in the defense of workmen's compensation cases that the defense lawyer, as well as the company, locate and employ the best available medical witnesses for the particular problems presented. The witness must be a man of broad, practical experience in his field, whether it be neurosurgery, orthopedic surgery, or any of the other specialties. Such men have a firsthand working knowledge of their fields, and their opinions are based upon day-to-day personal knowledge and can be most effectively supported in court by such knowledge. To the above, I must also add that the doctor you select must be one who is willing to spend as much time conferring with you about the case as may be needed. It goes without saying that the best doctor in the world is of no assistance to the trial lawyer if he can never be seen by the lawyer until he takes the stand in court.

The problem, however, is not solved merely by selecting a proper medical expert witness. Even the best available medical witness can be of no value unless the attorney himself has enough knowledge and information about the subject to communicate intelligently with the doctor and to comprehend the medical-legal aspects of his case. In

other words, the lawyer must have at least a basic knowledge of the anatomical structures of the body involved in the case; for example, if the action involves injuries to the back, the lawyer should understand the structure of the back, its basic mechanical functions, its common anomalies, and the recognized procedures for testing and otherwise examining any individual claiming disability. It is even desirable for the attorney to acquire a broad and comprehensive background of general medical knowledge. While this may sound so fundamental as to be unworthy of mention, my experience with the trial of cases over a period of many years has revealed an appalling lack of technical medical knowledge on the part of many lawyers attempting to litigate complicated medical questions. Too often this leads to disastrous results that are unfair both to the client and to the medical expert himself. Such a lack of basic understanding, as well as hampering proper proof of the attorney's own medical theory, prevents what could be a most helpful cross-examination of opposing medical experts. In addition, a doctor who is testifying for the attorney, even though he may be an outstanding authority in his field, has no knowledge of the legal questions involved. He cannot advise the attorney regarding the medical points to be developed unless there is a suitable communication and exchange of ideas.

Basic medical knowledge is particularly important in low back cases, which represent a large majority of compensation claims. A vast storehouse of medical literature has been written on this subject. Every metropolitan center has some kind of a central medical library, most of which are excellent and comprehensive and make their facilities available to lawyers, if not directly, at least through the assistance and recommendation of a practicing physician. It is fairly well agreed that the most comprehensive and helpful basic text is still Gray's *Anatomy of the Human Body*. Without question, any attorney who is handling compensation cases involving medical problems should have a good understanding of this text.

Once the defense attorney has selected a doctor and has acquired enough knowledge of the problem to understand its general nature, he then must carefully analyze all the pertinent facts in his case to see how those facts apply both to the employee's claim of disability and to the standard diagnostic procedures. In any case in which there is evidence of prior history of accidents and injuries it is not only helpful but necessary to obtain, if possible, copies of every medical report written concerning those prior accidents. In most jurisdictions copies of medical reports are supplied to the commission or court either at the time of the hearing or at the time of settlement. These are retained and usually are made a part of the permanent file on the

particular case. I know of no instance in which those files cannot be obtained from the commission and the medical reports copied. Once medical reports covering prior injuries have been obtained, they should be assembled in chronological order and carefully reviewed. If the prior injuries involved parts of the body which are also involved in the case to be tried, the complaints of the employee at each examination following the original injury should be compared with those made at the present time. X-ray findings should be correlated, again chronologically, in order to see whether there have been any changes of significance in the bone structure. The original x-rays should be secured, assembled, and made available to the examining doctor for comparative analysis. Hospital records covering prior confinements should be obtained for both the attorney and the examining doctor. Again, hospital records in any compensation case normally can be obtained under proper order of a commission or court.

Having thus studied and analyzed the case, and having obtained all prior history concerning this employee, there remains the problem of conferring with the defense medical expert, for the purposes of outlining his testimony and preparing for cross-examination of the adverse medical witnesses. Closely related to this part of the preparation is additional medical reading and research in the specific areas of the problem at hand; this enables the trial lawyer to have available the medical textbook authorities with which to support the defense expert, and, more important, to cross-examine the opponent's medical witnesses.

Preparation for cross-examination of opposing doctors is of extreme importance. Here again, close cooperation and consultation with the defense medical witness is of utmost value to the trial lawyer. He can, and usually will, suggest many points of pertinent cross-examination, particularly after reviewing the medical reports, the hospital records, and any and all past medical history available to him. Additionally, it is in this area that the defense attorney's study of the particular injury pays its greatest dividends. He must know as much as or more than the opposing doctor about this injury, at least for the purpose of the particular claim. Unless he does, his cross-examination can be both fruitless and ineffectual, as well as dangerous to his client's interests.

Comprehensive preparation for the medical defense of a complex injury problem is a vital necessity. There is no substitute for the methods and procedures suggested. On the other hand, I have seen many cases in which an unjust or excessive award was rendered simply beeause the defense counsel gave no particular thought to the choice of his expert witness and even less thought to the analysis and research required to establish a proper medical defense.

Proper preparation for presentation of medical testimony and for cross-examination of opposing doctors will, in the vast majority of cases, result in a substantial reduction in the percentage of disability found and awarded by the court, commission, or referee. Keeping in mind again that each percentage point of disability means a substantial sum of money for the employer and the insurer, the practical value of this phase of preparation is self-evident.

Procedural questions during the trial of a compensation case, whether before a court or commission, do not usually present a problem, either for the claimant or for the defense. Either by the express wording of the law itself or by judicial construction, strict rules of proof usually are considerably relaxed. The problem, therefore, is not one concerning the admissibility of the evidence under our common law rules of competency. Rather, the question is whether or not there is sufficient evidence in the case to support the finding and award of the court or the commission. In the vast majority of jurisdictions, the award in a given case is tested on the basis of whether or not there is sufficient evidence on the record as a whole to justify and support the finding made. In this respect, therefore, the admission of incompetent evidence is not reversible error per se. While it is true that an award cannot be sustained on the basis of incompetent evidence, nevertheless if there is otherwise sufficient competent evidence to support the award, it will be affirmed even though such incompetent evidence has been admitted.

Likewise, the trial court, commission, or referee in compensation cases is not strictly bound by the evidence, even that of the medical experts. There is no requirement that the trier of the fact shall accept, without question, the estimates of the doctors in their ratings of the disability of the injured employee; those ratings can be completely ignored, and the trier of the fact can rely upon its own judgment in reaching the conclusion and award.

Another noteworthy procedural point in compensation cases is that in most of these trials any written statement obtained from the employee concerning his accident or disability will be accepted and admitted into evidence as a contradiction of the testimony given by the employee at the hearing. Most referees, courts, or commissions will receive such statements and weigh them with other evidence. It has been held that a finding of the referee in which a denial of compensation is made based upon a written statement is supported by competent and substantial evidence, even though the employee testified contrary to the statement and there was no other corroborative contradictory proof. This rule, however, does not extend to the admission and use of any written statement to support any sort of an

affirmative defense asserted by the employer in opposing the claim, such as, for example, a claim that the employee was drunk.

Again, in the uncomplicated compensation case in which the injury is one within the normal and usual understanding of lay people, awards have been sustained in hearings in which no medical evidence was introduced, the award being based solely upon the employee's complaint. This rule, however, has not been followed in cases which necessarily involve complex medical questions. For example, in cases involving the problems of heart disease, heat stroke, cancer, and other matters calling for expert scientific opinion, it has generally been held that awards cannot be sustained unless supported by qualified medical testimony.

In the defense of a compensation claim, just as in the defense of a common law action, nothing produces more satisfactory results for the defendant than positive definite proof that the employee is not, in fact, disabled and that he has perjured himself in his testimony. This can occur in one of several forms. If the employee, for example, should have denied under oath that he had ever had prior injuries, particularly injuries involving the same parts of the body, proof of the fact that he did have such prior injuries can have a devastating effect. Therefore, it is quite valuable to the defense of any workmen's compensation case to make certain that the claimant's background has been checked thoroughly and completely, both through the index bureau and the local commission records and court dockets.

Another most effective weapon in the hands of a defense attorney against this kind of a claimant is the use of moving pictures. If the employee has testified, for example, that he can move an extremity only within a limited area, moving picture evidence of his freely using this extremity during the time when he is claiming his disability can destroy his claim. Of course, proper care must be taken in making certain that the pictures, including, if possible, a good clear photograph of the claimant himself, can be identified, and that those pictures prove the use of the particular member involved.

In that connection, some mention should be made of the permanent and total disability case. I believe that most companies now have a system whereby long-term disabilities are periodically checked. If in the course of such a follow-up it is determined that the injured claimant has apparently returned to some gainful employment, moving pictures of his activities are strong evidence on which to base a reopening of the claim for change of condition. The most dramatic incident of this kind which I have ever encountered involved a young employee of a company who fell headfirst down an elevator shaft, landing on his head and sustaining serious brain damage. It was the

opinion of all medical witnesses that he was a total and permanent disability. After a period of some seven years it was discovered on a routine check of this boy that he had purchased a truck and was regularly engaged in hauling construction supplies, including heavy sacks of cement, on a contract basis to building projects within a radius of 100 miles from his home. Close surveillance revealed that this was a continuous operation in which he was engaged with no apparent physical difficulty. After giving the employee the benefit of all possible doubt and after having observed his activities over a period of many weeks, moving pictures were taken to demonstrate the extent of his work. Application for change of condition was filed and was supported solely by the moving pictures. The result was a termination of his total and permanent disability pension and a very substantial saving to the insurer and employer.

IV. Conclusion

In this article I have attempted only to stress some of the more important factors in the handling of workmen's compensation cases. In summary, I think one fact stands out above all others. This is that although the employer and insurer in most cases have heavy odds against them because of the presumptions indulged in favor of the injured employee, proper preparation, particularly in those cases involving nature and extent of disability, can and does result in an overall saving of substantial amounts of money. In this field, as in any other field involving the trial of issues, there is no substitute for thorough and painstaking preparation by the lawyer concerned.