

THE HISTORY OF PENNSYLVANIA'S WORKMEN'S COMPENSATION: 1900-1916

WORKER'S COMPENSATION, as it is now called in most states has, in the last seventy years turned into a multi-billion dollar enterprise. As countries and states began to industrialize and to experience economic growth, the number of accidents also began to escalate proportionally.¹ Injury and death have been continual problems associated with mechanization and modernization which, unfortunately, will never be totally eliminated. Occupational accidents have caused many more casualties than have wars.² In 1900, two million workers were injured, of which 350,000 were killed instantly or died as a result of their injuries.³ At this time, the courts threw out many of the lawsuits resulting from these accidents. Industrial accidents peaked in the United States in 1907 when 4534 persons were killed in railroading⁴ and 2534 persons were killed in mining.⁵ Between 1889 and 1906 the railroad accident rate had more than doubled.⁶ The personal injury cases began to grow as fast as the railroad. It was, therefore, no surprise that action to minimize occupational injuries and to develop compensation programs to benefit the injured workers, their dependents or survivors was instituted shortly after 1907.⁷

Germany was the first country, in 1884, to introduce worker's compensation.⁸ Great Britain followed shortly thereafter in 1897.⁹ The first compensation legislation in the United States came with the Federal Employees Liability Act in 1908 abolishing the fellow servant rule, followed in quick succession by Montana's worker's compensation legislation in 1909, and New York's in 1910. However, the latter two acts were subsequently declared unconstitutional by the Court of Appeals under the fourteenth amendment to the Federal Constitution. In 1911, New Jersey, California, Illinois, Kansas, Massachusetts,

New Hampshire, Nevada, Ohio, Washington and Wisconsin all enacted statutes that benefited from the experiences in Montana and New York.¹⁰

In 1915, the Commonwealth of Pennsylvania enacted legislation creating the Bureau of Workmen's Compensation, which was to administer the Workmen's Compensation Act of 1915. The 1915 legislation was the same as the legislation of 1913 that had failed to pass. Since 1911 though, the Pennsylvania Industrial Accidents Commission had been monitoring the rising trend in industrial casualties. The Commission's interest was sparked in part by Crystal Eastman's study entitled, "The Pittsburgh Survey."¹¹ A reliable method to assign responsibility for the injured or dead worker had been established. Until 1915, the cost of industrial accidents had been borne by the employee or his family. Pennsylvania, second only to New York in industrialization around the turn of the century¹² was fortunate to have other states precede her in enacting this legislation. All sectors of society lobbied for passage, which was expeditious. The cost of liability for the employer was becoming astronomical; employees were not receiving benefits uniformly and the courts utilized guidelines that were outdated.¹³ It can be concluded that from 1916 to 1925 the Pennsylvania system was essentially left alone by the legislature.¹⁴ The new method of resolving accident claims under the 1915 legislation was far superior to the employer's liability court cases, where juries were awarding bigger and bigger settlements (that is when the judges didn't throw out the plaintiffs' case on a technicality). The Workmen's Compensation Act of 1915 established a ceiling on the amount of money an employee could receive in compensation but it also, more importantly, guaranteed most employees that they could receive compensation without regard to responsibility for the accident. Until 1933 no effort was made to determine the effectiveness of the workmen's compensation laws.¹⁵ In that year, the Governor's Committee on Workmen's Compensation, commonly known as the Kulp committee, was formed and recommended major changes in the system.

Before the first legislation was enacted, there existed non-statutory laws to provide for workmen's compensation, but these remedies were designed for a pre-industrial society. They were now long outdated and outmoded. The advent of modern technological processes clashed with the familial like employer-employee relationships based on a small industrial organization.¹⁶ Often employers only had ten employees and all were present at the business establishment at the same time. The employer would take care of problems or accidents as they arose.

Usually mutual satisfaction was achieved. Around 1900 industry developed to such a degree that the smaller establishments were displaced by larger ones and personal relationships between the employees and their employer eroded. The courts held the only remedy when disputes existed.¹⁷

Personal injury damage suits under common law were the recourse left open to employees injured on the job. The suits were based on common law remedies that in Pennsylvania in 1907 were modified by employers' liability statutes. These common law defenses had a terrible effect on the injured workers.¹⁸ Often the injured workers failed to bring their cases to court because their fellow employees feared reprisals or loss of their jobs for their testimony as witnesses to the incident. Establishing fault was the object of the trial and the injured employee would seldom be treated in the same manner by the employer once the trial was over. Injuries on the job became a no-win situation. Even if the employee was awarded a settlement there was no guarantee that he would ever see much of it. Attorneys worked on a contingent fee for their services and expenses of the injured could reach upwards of one-half of the settlement.¹⁹ Settlements were often delayed for years, forcing out-of-court settlements and providing no immediate help to the family of the plaintiff. The economic loss was borne by that part of society that could least afford it. The awards were inconsistent as no standards existed, and the public, not industry, eventually bore the cost of the injuries. Employees were refused the same rights any person walking down the street would be accorded.

The laws regarding employers' liability arose from the English common law of tort liability. The system used in Pennsylvania, as in many of the states, closely resembled and relied upon English cases.²⁰ A tort is a civil wrongdoing that leads to a lawsuit, of which negligence is an ancillary category.²¹ Under these guidelines the burden of proof was on the employee, and the employer held three major defenses:

- "1. Fellow Servant Rule: An employer could not be held liable for injury caused by the negligence or carelessness of fellow employees.
2. Contributory Negligence: The employer had no responsibility if the negligence of the employee contributed to the cause of the accident.
3. Assumption of Risk: The employee accepted all of the obvious and customary risks of his occupation and his wages reflected the level of danger associated with his job."²²

The second law was the favorite among judges, who wanted to keep decisions from juries, as judges often made plaintiffs prove both negligence on the part of the defendant, the employer, and that they, the plaintiffs were faultless.²³ More frustrating was the common law doctrine that said that once dead, even if from wrongful death, a person gave up all rights to legally pursue someone who had committed a tort against him.²⁴ This doctrine unfortunately included the dead man's survivors. The employee was left with a set of rules that were not absolute and left far too much interpretation to the judges and juries. The abuses and absurd decisions in Pennsylvania alone arising from these laws, have been discussed in depth by Crystal Eastman.²⁵

One exception to the assumption of risk law occurred when an employee notified the employer of a dangerous or hazardous situation and there was a promise by the employer to alleviate the danger. However, the employee assumed the risk again if, after a reasonable amount of time, he continued to work without the necessary repairs being undertaken. The essential items were the complaint, the promise to repair and the amount of time before a repair could be expected to be completed.²⁶

The fellow servant rule arose from the case of *Priestly v. Fowler* decided by the English courts in 1837. Lord Abinger, in the majority opinion of the court, held that the employer was not liable to one employee for injuries sustained as a result of the actions of another employee. The court failed to limit the rule to servants or retainers and concluded that "the inconvenience and absurdity of the consequences is a sufficient argument against this principle."²⁷ The first case in the United States involving the fellow servant rule was *Murray v. The South Carolina Railroad* in 1841. The suit was brought by a fireman who was injured by the negligence of an engineer with whom he ran the train. The employee was held to be in a no-man's land between passenger and stranger and assumed the "ordinary risks of his employment,"²⁸ thus denying the liability of the railroad. In *Farwell v. The Boston & Worcester Railroad Corporation* (38 Am. Decis. 339, 1842) the plaintiff was also denied remuneration for the loss of his hand because of the actions of a fellow employee.²⁹ The plaintiff could not have known or prevented the act of his fellow employee. Such also was the case in *Mitchell v. Penna. Railroad* (1 Am. Law Reg. 717) relieving carriers of negligence to shippers. Working for the same employer, regardless of location, classified two men as fellow servants.

If the plaintiff was shown to be negligent to any degree, the case was usually dismissed and no recovery was to be made from the defendant.

Juries tended to be influenced by emotions rather than by details and, when allowed, awarded large settlements against business, especially large corporations. The newspaper accounts of the day detailed the horrors of industrial accidents fueling the accusations of the unions. The legislature on the other hand was under the powerful influence of the industrialists. As the number and the size of claims rose, judges frequently made plaintiffs prove that they were in no way negligent as well as proving negligence on the part of the employer.³⁰

In order to establish negligence, the injured worker was forced to show that (1) his employer had a legal duty to exercise care, (2) the employer had breached that duty, and (3) there existed "an absence of distinct intention to produce the precise damage."³¹ The three points constituted negligence on the part of the employer. There also had to be proof of a natural and continuous sequence that connected the breach of duty with the damage. Filing against a negligent fellow employee, although legal, was not feasible as neither party could realistically afford the costs of litigation and settlement. In 1854 the Supreme Court of Pennsylvania heard the first case of loss by negligence of another party, *Ryan v. Cumberland Valley Railroad* (23 Pa. 384). Ryan was injured while riding a railroad car that was not "properly secured" by the engineer.³² Justice Lowry stated that Ryan, while acting as an employee, was injured by a careless fellow employee, and:

... "if we declare that workmen are warranted against such carelessness, then the law places all careless men, which means all men who are badly educated or trained, it places those that have even not acquired a reputation for care and under the ban of at least a partial exclusion from work. And this is the ordinary result of all undue attempts to protect by law one class of citizens against another. It is done at a practical sacrifice of liberty on the part of those intended to be protected, and to the embarrassment of the common business of life by imposing upon the people a rule of a new and unusual character, which may require half a century to become fitted like a custom and adapted to the customs already existing which it does not have the effect of annulling." (23 Pa. 384)

The company was not held negligent because operators of vehicles typically knew more about their operation than did the owners³³ especially in larger corporations, of which there were a substantial number in Pennsylvania. "Often the servant was the more intelligent of the two."³⁴

The injured workers of some of the larger Pennsylvania corporations were fortunate in that some form of assistance was available. The Employee's Legal Security Corporation was established in Pittsburgh around the turn of the century to provide legal assistance to injured workers. Certain trade unions also established their own legal departments for just such a purpose. Assistance of this type was very valuable as the insurance companies representing the defendants were "powerful organizations equipped with a system, money, skill and experience—a formidable antagonist."³⁵ The Pennsylvania Railroad Voluntary Relief Department, although not under the control of its members but controlled by management, provided benefits for sickness and accident according to the workers' earnings. Association with the department was not "voluntary" as it was indirectly a condition of employment. The company guaranteed and paid operating expenses of the fund but the employees provided the financial base. By maintaining such a mutual insurance program the company indirectly gained immunity from negligence claims. The employee, in accepting benefits, released all claims against the company. The company thus protected itself and helped to insure a steady work force, as an employee received nothing if he left his employment, regardless of the amount of his contributions.³⁶ Although not perfect by any means, this type of assistance, similar to mutual insurance groups that preceded workmen's compensation in Austria,³⁷ was a step in the right direction.

Even though the employee appeared to bear the burden of responsibility for his own safety, the employer was to perform certain duties prescribed by law to assure that his employees were safeguarded and to prevent himself from being held liable. "These duties were:

1. To employ suitable fellow servants
2. To establish and promulgate proper rules and instruct inexperienced workmen
3. To provide a safe place to work
4. To furnish safe appliances and materials
5. To warn of danger"³⁸

Obviously none of these categories was absolute and their interpretation was left to the courts. Due care and ordinary diligence depended on the type of business involved and would change from butchers to powder mills. The burden of proof was still on the employee who had to show in court that the employer had neglected one of these five duties.³⁹

The Casey Act, passed by the Pennsylvania legislature on June 10, 1907 was the first major attempt to modify Pennsylvania's liability rules with a statute:

Act No. 329: Liability of employers for injuries to employees.

Section 1. In all actions brought to recover from an employer for injuries suffered by his employee, the negligence of a fellow servant of the employee shall not be a defense, where the injury was caused or contributed to by any of the following causes; namely, any defect in the works, plant or machinery, of which the employer could have had knowledge by the exercise of ordinary care; the neglect of any person engaged as superintendent, manager, foreman, or any other person in charge or control of the works, plant, machiners; the negligence of any person in charge of or directing the particular work in which the employee was engaged at the time of the injury or death; the negligence of any person to whose orders the employee was bound to conform, and did conform, and, by reason of his having conformed thereto, the injury or death resulted; the act of any fellow servant, done in obedience to the rules, instructions, or orders given by the employer, or any other person who has authority to direct the going of said act.

Sec. 2. The manager, superintendent, foreman, or other person in charge or control of the works, or any part of the works, shall under this act, be held as the agent of the employer, in all suits for damages for death or injury suffered by employees.

As a result of the Casey Act, supervisors and superiors were now considered agents of the employers and not fellow employees. The employer could not be held liable for the acts of his supervisory personnel. The employee had only to prove that the superior was negligent in performing one of the duties of the employer. Pennsylvania was one of the last states to enact legislation of this type, the "vice-principal" doctrine, but it is unique in that it encompassed all employment.⁴⁰ Many states enacted laws applicable only to certain types of dangerous work. The Casey Act still left the employee assuming the risks of working next to (or across the state from) another employee but it established some control over the employer's chain of responsibility and liability. "Notwithstanding this effort of the legislature to include as many of the minor bosses as possible, recovery by an injured employee was still so difficult that employer's liability insurance rates in Pennsylvania were lower than they were in perhaps any other state in the Union."⁴¹ The employer's liability forced the employee who was injured to incur the costs of the accidents unless it could be proven that the employer was negligent and therefore liable. Accidents will happen in industry. Before workmen's compensation the employee had to bear all

consequences of his employment or prove in court the existence of negligence. As a result many industrial accidents simply went uncompensated. In 1907 fifty-nine out of two hundred thirty five industrial fatalities (25.1%) among married men in Pittsburgh went uncompensated altogether.⁴² In those cases that were compensated the awards did not reflect economic realities. In the case of fatalities only the funeral expenses were covered and sometimes these were not even met.⁴³ When awards were made to injured employees, relationships between employers and employees became strained, if not outright hostile. The system under employer's liability was wasteful, slow and encouraged misrepresentation.⁴⁴ A more equitable system of allocating the economic loss associated with accidents had to be developed.⁴⁵

Modern industry precipitated major changes in the relationship between employee and employer. With the larger employers, the employee possessed no power to guarantee or affect the safety of his performance on the job. The accident rate became staggering, and a replacement for the litigious employer's liability rules had to be found, based on liability without fault. The new system was called workmen's compensation as it substituted a schedule of pecuniary benefits, as determined by the injured's wages, for the 'blind verdict of a jury.'⁴⁶ Unless the accident was directly caused by the negligence or willfulness of the employee there was to be indemnity in all accident cases. The United States Congress had passed compensation laws regulating interstate commerce and the District of Columbia had disallowed the common law defenses of employers. In May, 1910, New York's legislature passed an act that disallowed the common law defenses of assumption of risk and fellow servant. A fixed compensation scale was allowed, although it was not determined by the state but by mutual agreement of employer and employee. In June of 1910, New York fixed the compensation by statute for those industries it declared were dangerous. The latter legislation proved to be in conflict with the state constitution as a limited confiscation of property and an overextension of the taxing power of the state.⁴⁷

The problem was that many saw the statutes as creating a new liability that the employer could be subjected to by the police power of the state. Another opinion held that the statutes only regulated the old forms of liability.⁴⁶ Yet a third opinion put the new statutes under the taxing power of the state as it benefited the public much more than the compensation benefited the injured.⁴⁷ Either the state fund or an independent insurance company would distribute the liability through varying insurance rates. The employer was liable to compensate his

injured employees regardless of guilt or innocence, thus the liability principle closely resembled taxation.⁴⁸ The problems of New York's statutes could have been cured by taxing all employers, regardless of the danger involved. The tax would have been a cross between an excise tax and an indirect assessment. If the statute was to be sustained, it had to comply with the established tax principles. Eventually, the consumer would have felt the brunt of the tax. However, the benefits to society outweighed the nominal cost of taxation.

In Rome, Italy in 1908 the Permanent International Committee of the Social Assurances adopted the expression of the phrase "social assurances" to group workmen's compensation and labor accidents together. The United States delegation was headed by the Commissioner of Labor, who, at the time, was being pressed for advice on workmen's compensation by many states. The compensation for accidents was now part of the social insurance package as the monies paid to injured workers were (in theory) paid to active producers of society, not individuals.⁴⁹ The payment of compensation to workers from an insurance fund supported by taxation permitted the workers to return to society as productive members, or in severe accidents the workers were protected from squalor and poverty.

There were two major objections to the compensation laws. One held that the Bill of Rights only permitted contracts and common law torts as the foundation of liability. The second was that the fourteenth amendment of the Constitution of the United States specifically stated: "Nor shall any State deprive any person of life, liberty or property without due process of law; not deny to any person within its jurisdiction the equal protection of the laws." Although this clause was originally intended to prevent arbitrary action by the king as stated in the Magna Carta of 1215, it now prevented the state from solving a great social problem. Under workmen's compensation laws, responsibility for injuries that were not the fault, directly or indirectly, of the employer, belonged, nonetheless to the employer. Although this responsibility could have forced many into financial ruin, the proper administration of the compensation laws, as dictated by legislation, would have distributed the total risk among many employers over many years. Under compensation laws, the employers would still attempt to reduce their accident rate for in turn they would be reducing their premiums.⁵⁰

It is important the cases regarding the tests of constitutionality in other states be discussed so that the framework under which those who drafted Pennsylvania's workmen's compensation laws can be established. As discussed previously, the New York statute was the first to be

enacted as well as being the first to be declared unconstitutional (*Ives v. South Buffalo Railway Company*, 201 NY 271, 1911) by the Court of Appeals of New York. The court found that such a compulsory act was unreasonable as it forced employers to be directly liable for compensation and thus violated the due process clauses of both the state and federal constitutions.⁵¹ "Laborers" "socialists" and financiers, laymen and sober legal reasoners joined in the denunciation of the New York Court of Appeals.⁵² New Jersey's legislators, afraid that their courts would follow those in New York, solved the problem of compulsory compensation by giving the employee and employers a choice, albeit a nominal one, to, at the commencement of employment, either accept the act or resort to common law employer's liability. Rejection of the act by a prospective employee often lessened his chances of becoming employed. Other states quickly followed suit and enacted elective laws.⁵³ In 1914, the Federal Supreme Court ruled that elective compensation acts were indeed constitutional (*Jeffrey Manufacturing Company v. Blagg*, 235 U.S. 571, 1914). The state of Washington, however, adopted a compulsory act that closely resembled the legislation of New York with an important exception. The act created a state fund that was supported by mandatory contributions from employers and "was liable for compensation payments."⁵⁴ In *State ex rel. David Smith Company v. Clausen* (117 Pac. 1101, 1911) the Supreme Court of Washington found that the act was a proper use of the state's police power in placing the burden on the employer, thus disapproving of the New York court's decision. "Nothing in the decisions of the Supreme Court (up to 1912) appeared to prevent legislation" from shifting the financial burden to the employer.⁵⁵ It was not until March 6, 1917 that the Federal Supreme Court found both compulsory and elective systems constitutional.⁵⁶ At the time of the drafting of the Pennsylvania legislation (as discussed in the next section) however, the passage of a compulsory act was in danger of being declared unconstitutional. Under elective systems, the only alternatives being common law remedies, "the cries of deprivation of property without due process, no liability without fault, the loss of jury trial, the unequal treatment before the law, the loss of employer's right to contract—all fell" before the rights of the state through police power to protect the "welfare of workers."⁵⁷

At the legislative session of 1911, several bills were introduced that called for changes in the liability laws of Pennsylvania. The House of Representatives actually passed a workmen's compensation act that was very similar to the law New Jersey was to successfully enact the same year. The labor interests in the state were anxious to see a workmen's

compensation bill enacted, but many of the stipulations of the 1911 legislation were not "satisfactory."⁵⁸ Furthermore, the bill was not passed by the Senate. By the year's end, ten other states had successfully passed (or would within the next six months) workmen's compensation laws resembling either Germany's universal insurance plan or England's system of employer's direct responsibility for employees' accidents: California, Illinois, Kansas, Massachusetts, Nevada, New Hampshire, New Jersey, Ohio, Washington and New York. After the Pennsylvania Senate sidelined the bill, much to the joy of the industrialists the governor, John K. Tener, was under pressure by the population of Pennsylvania to appoint a commission to study the prevention of industrial accidents and the compensation of injured workmen.⁵⁹ Pursuant to the Act of June 14, 1911, P.L. 917, The Industrial Accidents Commission was established.

The Commission was composed of seven members—two employers, two employees, two law scholars and one investigator, and all but one were to remain on the Commission until the legislation was finally passed in 1915. The seven members represented the industrialized areas of the state and were all unpaid except the secretary. The Commission immediately set to work and issued a tentative draft of the Workmen's Compensation Act. The Commission publicized its work and held public hearings and conferences to gauge public opinion.⁶⁰ One such conference was with the delegates of the Pennsylvania Federation of Labor, held in Harrisburg on July 3, 1912, "for the purpose of suggesting to the commission certain changes in their proposed act."⁶¹ The Central Labor Union of Philadelphia then issued a report on July 5, 1912 to "all the workers of Pennsylvania" explaining the proposed legislation, calling it the greatest piece of legislation ever attempted in Pennsylvania in the interest of labor,⁶² and suggested that everyone become involved in assuring the passage of the legislation.⁶³ According to the report "the commission wants to do all that can be done to remedy the crying injustice of the present system."⁶⁴

In this report the delegates reminded the reader of the disadvantages and injustices of the present system that made it very difficult, if not impossible, for an employee to recover damages for injuries sustained on the job. Labor was obviously very dissatisfied with court decisions in cases of liability where property rights took precedence over human rights. The delegates incited an emotional response from the readers by reminding them that the courts would rather uphold the interests of the powerful property groups, who were influential in court appointments, than of the injured worker. It was obvious that labor's demand for a

workmen's compensation act was a result of its dissatisfaction with the courts' operation within the realm of the employers' liability laws. The unions felt that there were three advantages to the act: (1) damages would be recovered by all injured parties, (2) litigation would be reduced to a minimum and (3) accident prevention would become profitable for companies. The only way an employee could reject coverage under the act was to send written notice to the Bureau of Industrial Statistics. Otherwise the employee was automatically covered by the provisions of the act.⁶⁵

The labor delegation suggested twelve changes in the compensation act.⁶⁶ For those who were totally disabled as a result of their injuries, the act called for half wages for four hundred weeks, but labor wanted that compensation to be extended to cover the balance of their lives. The report suggested that a man who was totally disabled had a life expectancy that was not much longer than four hundred weeks, depending on his age at the time of the injury. Permanent pensions were in force in Illinois, Ohio, Washington and Wisconsin, while California's limit was fifteen years and the limit in Kansas and Massachusetts was ten years. Although the act called for only twenty-five dollars for medical expenses for the first two weeks before compensation started, the labor report suggested that twenty-five dollars was too small an amount to be paid for even that period. Other expenses were bound to be incurred and medical expenses were usually much higher than twenty-five dollars. The labor report proposal for trial by jury in disputed cases was to be expected because of labor's great distrust for the justices who, they felt, were prejudiced against laborers as their appointments were influenced by property groups. Compensation for non-resident aliens, a substantial part of the labor force, was called for in the act, but the compensation was restricted to wives and children, often slighting the families of immigrants. The labor report suggested that compensation be made regardless of who was the next of kin avoiding the issue of forcing the morals of one country on its immigrants. As would be expected, the other proposals centered around the amount and type of compensation. The report suggested that the compensation called for in the act be increased, that industrial diseases be held compensable, that compensation be made even if death occurred from other than the original injury, that the statute of limitations to file a claim be lengthened to one year, that all wives and children were dependents whether or not they were living with the injured, that lump sum settlements be made for the full amount, that no agreements between employers and employees could supersede the act, and that protection be provided for insolvency of the

employer. It was to become obvious that the Commission listened intently to the recommendations of the labor delegation in its attempt to properly and justly implement workmen's compensation in Pennsylvania.

On October 1, 1912, the Industrial Accidents Commission issued its Fifth Tentative Draft of The Workmen's Compensation Act. Many changes had been incorporated since the original draft had been issued, some of which will now be discussed. In Article I, Damages by Action at Law, the negligence of an employer was no longer an issue. The phrase "of which the actual or lawfully inputted negligence of the employer is the natural and proximate cause" was deleted and now "injury to an employee in the course of his employment" was the only qualification for compensation. In Article I section 4 of the fifth draft, the Commission permitted compensation to be paid even if the employee received other benefits from any other organization.

Article II, Elective Compensation, contained more revisions, many of which were suggested at the labor conference mentioned above. The Act had to be elective in order to be considered constitutional, but to be effective the Act had to be as compulsory as permissible. In order to evade the constitutional question altogether, the employer was given the option to accept or reject the act, but to reject the act would mean accepting the old liability laws. The employer was compelled to accept the Act because the liability law was that from which everyone wanted to escape. In the Act, only willful negligence, as decided by a jury, remained, but was narrowly defined as reckless indifference or intoxication. With the fifth draft, employers were liable for all accidents so that they would have no incentive to reject the Act. For example, under the New Jersey version, only three employers rejected the Act, the Standard Oil Company, the Singer Sewing Machine Company and the School Board of Montclair, and it was because they had established compensation schedules of their own. Such a situation was not permissible under the Pennsylvania Act.⁶⁷

In section 1 of Article II injury was still defined as violent physical damage to the body and did not include occupational diseases which were not even added in draft until 1937, even though a commission to study the problem was formed in 1913 (P.L. 1363). Compensation for a continued permanent disability was increased in section 5a, as after the first three hundred weeks forty percent of the wages received at the time of injury could be paid for the remainder of the injured's life, with a minimum of four dollars per week and a maximum of eight dollars per week. However, if the injured died from a cause other than his injury all

compensation was to cease. In section 6 the Commission did not alter the ability of dependents to receive benefits based on whether or not they were living with the injured. In section 7 of the fifth draft, which determined the wage rate to be used for compensation, seasonal employments were added, as determined by one-fiftieth of yearly wages or by other methods if inclement weather did not allow the wages to be fairly ascertained addressing the needs of migrant workers. In section 13 the fifth draft made the employer financially responsible for all of the expenses of the employee for each subsequent examination by a physician after the first. Section 15 increased the statute of limitations from six months to one year after the date of the injury. Lump sum settlements, discounted at six percent, were permitted in section 17 but only under petition to the Court of Common Pleas. With the fifth draft no lump sum settlements were allowed except in cases of non-resident aliens. Also, any agreements made between employer and employee were subject to court review as detailed in section 19 and were not valid if they were made within fourteen days of the accident or if there was a difference in the percentage of wages to be paid as compensation between the agreement and the Act. The Commission also added the prothonotary's monthly report to the Bureau of Industrial Statistics in section 21 of the fifth draft. Lastly, in Article III (General Provisions), section 2, the Commission forbade any liens to be placed against the compensation unless the written approval of the presiding judge was received by the employer.

In the 1912 Report of the Industrial Accidents Commission⁶⁸ (read at the 120th session of the legislature in 1913) the Act presented was essentially the fifth draft. The Commission stated that it found that twenty percent of industrial accidents were due to employer's negligence, twenty percent were due to other employees and twenty-five percent were due to the injured's negligence. In thirty-five percent of the cases there could be no assignment of responsibility. Less than five percent of all of these accidents resulted in a monetary recovery by the injured employee or his dependents. "The pecuniary advantage to the employer of a decrease in the number of accidents is hardly great enough to furnish a powerful incentive to the introduction of safety appliances."⁶⁹ The Commission concluded that the employer must be supplied with a financial incentive to protect and guarantee the safety of his workers otherwise there would be no change.

The Commission suggested that the Legislature enact a law requiring all employers to report to the state all employee accidents, resulting in more than two days of disability within thirty days of the accident. A

compilation of all of the accidents would establish a data bank on which future legislation or changes of existing legislation could be accurately based. It would also be possible to observe the effect of any legislation through the use of the accident reports. The legislature did pass such a bill requiring the reporting of accidents on July 19, 1913 (P.L. 843).

The Commission cited the large amount of public opinion in favor of a workmen's compensation for injuries that would be financially supported by the industries in which the accidents had occurred. As Pennsylvania was one of the nation's industrial leaders, the existing system of employer's liability was to be replaced by a system that guaranteed "just and equitable compensation."⁷⁰ Of the three systems investigated, the Commission recommended that compulsory or elective insurance funds not be considered even though other countries and states had successfully implemented such systems. Above all, these systems removed the incentive of the employer to improve the safety record of his establishment by placing the financial responsibility on a fund in which the interest of the employer was virtually non-existent. Ohio's system even required the employee to pay a portion of the premium. The operation of this type of system, besides raising many constitutional questions, would have required the implementation of a new bureaucracy. The cost of such a bureaucracy would have very likely exceeded the premiums collected.

Compulsory compensation by the employer to the employee was "unquestionably the best"⁷¹ system as it placed responsibility directly on the employer. The Sutherland bill (then pending in Congress), the English Workmen's Compensation Laws of 1897, 1900 and 1906 and the New York Act of 1909 were all examples of this type of legislation. However, the English laws failed to define adequately their terminology and produced much more litigation than desired. The New York Act, as discussed previously, had been found to be unconstitutional and such an act in Pennsylvania would have probably met the same fate under Article III, section 21 of the State Constitution. The Commission therefore recommended that section 21, article 3 be amended as follows to permit future implementation of such a system:

"No act of the General Assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be

brought against corporations for injuries to persons or property, or for other causes, different from those fixed by the general laws regulating actions against natural persons, and such acts now existing are avoided; so that it shall read as follows:

The General Assembly may enact laws requiring the payment of the employers, or employers and employees jointly, or reasonable compensation for injuries to employees arising in the course of their employment and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertaining of such compensation and the maximum and the minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided."⁷²

The third type of legislation investigated was that of elective compensation. The advantages of an elective compensation system were identical to those of the compulsory system. In addition, the elective system did not involve any questions of constitutionality. The only drawback was the limitations of the scale of compensation to make the choice to accept the act inevitable. Elective systems had already been held constitutional in three other states: New Jersey (*Sexton v. Newark District Telephone Co.*, N.J. Law Journal, Vol. 34, p. 368) Wisconsin (*Borgnis v. Falk Co.*, 147 Wisconsin 327) and Ohio (*State v. Creamer*, 85 Ohio St., 349). The Commission felt that this type of system was best for Pennsylvania and accordingly submitted its draft of the legislation.

The Commission also proposed three other related Acts. In 1912 the laws of Pennsylvania authorizing the creation of mutual insurance associations did not allow for the creation of such associations for employer's liability insurance. The Commission's proposed act gave these associations the power to enforce their own safety regulations which were to exceed state minimums. The second law required all insurers to pay outstanding claims even if the insured became insolvent

and prohibited all insurers from establishing single event liability limitations. Thirdly, the Commission suggested that the life of the Industrial Accidents Commission be renewed for two years to study the operation of the laws it proposed in its report.

In 1913 the House of Representatives quickly passed the Workmen's Compensation Act, but a committee of the Senate held it for several months. Finally, the Senate, influenced by numerous industrial organizations amended the bill to render it ineffectual. The problem in the Senate was that many Senators felt that a state managed insurance fund should be provided. As was expected, the House of Representatives refused to agree with the amendments made in the Senate. The bill died a slow and painful death in conference committee.⁷³ The majority of the opposition came from a small group of employers who were exempt from any responsibility to injured employees under the current employers' liability laws.⁷⁴ The Senate did attempt to placate the irate public by passing a resolution (38 to 6) near the end of the session on June 27, 1913, in which compensation was admitted to be universally correct and was observed to be successfully in operation in many other countries and states. The Senate also authorized three unnamed Senators to draft new legislation⁷⁵ to be presented at the next session in 1915. On the same day, the Industrial Accidents Commission was given new life by P.L. 650, passed by both the House and Senate. The "new" Commission was never to completely fulfill its mandate, as the bill called for the Commission to study the effect of the Workmen's Compensation Law of 1913.⁷⁶ However, the legislature was also able to pass the joint resolution on the Constitutional Amendment of section twenty-one of Article three. A second passage in the session of 1915 was required before the amendment could be submitted to a general vote by the citizens of Pennsylvania.

In 1914 the Industrial Accidents Commission issued a bulletin⁷⁷ that described the results in the twenty-two states that had enacted some form of workmen's compensation law. A marked decrease in the number of accidents in these states was observed as was the substantial decrease in the amount of litigation between employers and employees. Concerning the proposed legislation, the Commission made one interesting change in the benefits schedule, but did not give an explanation for doing so. The compensation for total disability was reduced to the first four hundred weeks after the fourteenth day of the injury after which time no benefits were forthcoming. This change was detrimental to the financial stability of the seriously injured workers of Pennsylvania, however little comment was made by the labor organizations. The Commission also

made an important addition to the bill it presented to the legislature in 1913. The addition provided for optional state insurance through the State Workmen's Insurance Board for employers who did not want to be insured in mutual or private stock insurance companies. The State was also permitted to write insurance at rates ten percent lower than other insurance carriers,⁷⁸ thus guaranteeing its existence. The workmen's compensation law would still apply in every case regardless of the type of insurance (if any) carried. The insurance companies valued the importance of workmen's compensation insurance as evidenced by the formation in December of 1910 of the Workmen's Compensation Service and Information Bureau to assist member insurance companies. Insurance companies were especially active in accident prevention in order to prevent losses by the insured and to protect their financial stability. Aetna Life Insurance Company maintained a large number of safety inspectors to help reduce the number of accidents. Aetna was also the leader in establishing a merit rate plan schedule.⁷⁹

By 1915, twenty-three states had enacted workmen's compensation acts, ten of them in the previous four years. Only Pennsylvania, Indiana and Missouri, among all of the industrially important states, had failed to enact some form of protection for their injured workers. The failure of the state legislature to enact any law was certainly not consistent with the progressive stance taken by the state in other areas. The Industrial Accidents Commission made its report to the Governor of the Commonwealth, John K. Tener, on January 15, 1915 for transmission to the General Assembly.⁸⁰ Once again, the Commission recommended passage of its proposed Workmen's Compensation Act and related acts providing for insurance coverage. Although the Commission's report in 1913 was predicated on the anticipated benefits of proposed legislation in other states, the commissioners were now able to observe acts in existence for one to two years and make corrections or additions to their previous work. Understandably, there were few amendments. Most importantly, the Commission found a substantial decrease in the amount of litigation regarding injuries in other states. In some states litigation had all but disappeared. Payment of compensation to the injured employees was usually swift even when the action of a commission was required to grant payment. The expenses to employers had been small and had a negligible effect on the price of consumer goods. Most importantly, safety conditions in plants and factories had improved. In Michigan, a thirty-five percent decrease in the number of accidents followed the enactment of Michigan's Workmen's Compensation Act. National sentiment in favor of workmen's compensation

legislation became overwhelming as evidenced by the joint hearings of the American Federation of Labor and the National Civic Federation held late in 1913.

Instead of disallowing each county's common pleas courts (sitting without a jury) to have jurisdiction over compensation disputes, the Commission suggested that Pennsylvania follow the lead of other states and not succumb to political pressures. It was proposed that the English system of utilizing a courts system to act as a tribunal to answer all questions arising from the proposed act be adopted. Although many "feared that the courts (would) be prejudiced,"⁸¹ the Commission observed that this claim was only hearsay and that the litigation in those states under the English system was minimal. For an industrial state as large as Pennsylvania, with numerous accidents reported each day, a single commission could not have dealt adequately with all of the cases submitted for decision or review. The sixty-five court districts in the state would have provided greater security for the injured employee. Even in cases of insolvent employers the courts would be able to guarantee the payment of compensation.

The Commission desired passage of a workmen's compensation act that would include all forms of employment. Although many others in the state wanted to exclude agricultural laborers, mostly immigrants, and domestics because of the difficulty in insuring their risks, the problem was now avoided by creating the State Insurance Fund. The distress of all injured workers would be alleviated by the act which, once passed, would permit the Commonwealth of Pennsylvania to take its "place among those civilized communities who make proper provision for their killed and wounded in the battles of peace."⁸²

1915 proved to be the year of the workmen's compensation legislation in Pennsylvania. Having learned their lessons in 1913, both the Senate and the House introduced and passed, in a little over two months, the workmen's compensation legislation proposed by the Industrial Accidents Commission. Thirty states had already passed such legislation,⁸³ and the national movement was spearheaded by labor organizations, such as the American Association for Labor Legislation, manufacturers' associations, insurance companies, the National Safety Council and the Workmen's Compensation Service Bureau.⁸⁴ It was argued that workmen's compensation would foster a reduction in the number of industrial accidents.⁸⁵ That had been proven to be the case in other states that had been operating under such laws. In drafting the proposed legislation (there were seven drafts⁸⁶) the Industrial Accidents Commission encountered unique and difficult problems caused by the diversity of

Pennsylvania's labor force.⁸⁷ It was now up to the House and Senate to pass the legislation.

The proposed legislation was introduced on March 15, 1915 in the House by W. H. Wilson and simultaneously in the Senate by William E. Crow, a Senator from the 32nd District. In the Senate, Crow introduced the following seven bills: No. 494, providing for an employer to pay damages for injuries to injured employees; No. 495, providing for administration of the Act; No. 496, providing for the State Insurance Fund; No. 497, providing for regulation of insurance companies involved in compensable liability; No. 498, providing for mutual insurance companies; No. 499, exempting domestic servants and agricultural workers from the provisions of the Act; No. 409, proposing amendment of section twenty one of Article three of the State Constitution. All of these bills were referred to the Committee on Corporations. In the House, the bills (also known as House Bills in the Senate) were: No. 929 (Senate No. 862), defining the liability of employers and establishing a schedule of compensation; No. 930 (Senate 863), providing for administration of the Act; No. 931 (Senate No. 864), providing for the State Insurance Fund; No. 932 (Senate No. 865), providing for insurance regulation; No. 932 (Senate No. 865), providing for insurance regulation; No. 933 (Senate No. 866), providing for mutual insurance associations; No. 934 (Senate No. 867), exempting domestics and agricultural workers from the provisions of the Act; No. 935 (Senate No. 868), proposing amendment of the constitution. The bills in the House were all referred by the Speaker on March 15 to the Committee on the Judiciary, of which Wilson was chairman. In the Senate, all of the bills were referred, on April 13, to the Committee on Corporations, except Senate bill No. 864, which was referred to the Committee on Appropriations, also on April 13.⁸⁸

The legislators had changed two parts of the Act proposed by the Industrial Accidents Commission, the system of administration and the exemption of domestic servants and agricultural workers from the provisions of the Act. A satisfactory explanation for the latter change was not indicated, although these workers were generally employed in small businesses that were usually exempt. The exemption was incorporated into the Act by an auxiliary bill (House Bill No. 934, Senate Bill No. 867) and stated, in one short sentence, that those two groups of workers were exempt.

The changes in the administrative system of the Workmen's Compensation Act were more drastic. The legislators felt that the court system recommended by the Industrial Accidents Commission was too slow and

wanted to provide the workers of Pennsylvania with a more expedient system. More importantly, they also had the foresight to realize that a staggering number of claims would clog the court system. Thus, they created a new bureaucracy to handle the administration with a commission handling the disputes, similar to the German, New York and Ohio systems. Article four of the Workmen's Compensation Act now provided for a procedure for filing or disputing a claim. Workmen's compensation referees would pass judgments on the claims for compensation where disputes arose between the employed and the employer. The cases were to be assigned to the referees by the Bureau. If necessary, the referee would make an investigation into the claim and would appoint experts, with the consent of the Board, to examine the facts and the plaintiff. Both the Board and the referees would have the power to investigate all claims or appoint an inspector of the Department of Labor and Industry to do so. Any hearings by either the Board or the referees would be open to the public. The findings of the referee could be appealed to the Board, whose findings could be appealed to the courts. The Board was given both executive and judicial authority. Upon receiving an appeal, the Board could either sustain the referee's findings or grant a hearing *de novo*. The Board would be empowered to review all of the agreements executed by employers and employees. Hearings for commutations would go directly to the Board. Senate Bill No. 863 (House Bill No. 930) provided for the administration of the act and detailed the responsibilities of the Workmen's Compensation Board and its referees. This act created the Bureau of Workmen's Compensation within the Department of Labor and Industry. The Board was to supervise and direct the Bureau. It was composed of three members, one of which was the chairman, appointed by the governor, subject to review by the Senate, with salaries commensurate for the time. The Commissioner of the Department of Labor and Industry and the Attorney General were to sit as *ex-officio* members of the board. The Attorney General was to appoint the general counsel and the Board was to appoint a secretary. The Board was also assigned the task of dividing the Commonwealth into districts and the Commission was to appoint referees for each district, not exceeding ten in total.⁸⁹

The other parts of the Workmen's Compensation Act and its auxiliary acts were essentially identical to those proposed by the Industrial Accidents Commission with two minor exceptions: all employers were required to be insured, either under the State Fund or a private association; the compensation for total disability was to be paid

for a period of five hundred weeks, raised from four hundred weeks.⁹⁰ However, the Board was authorized to exempt employers.

In the House, where the proposed act quickly passed in 1913, the committee report on the group of bills was presented by Wilson on March 30, for the Committee on the Judiciary. On March 31, the first reading took place and the second reading, with minor amendments, took place on April 7. Shortly thereafter, on April 12, the House heard the third reading of the bills and voted. The bills passed 38 to 3. In the Senate, the Committee on Corporations reported on April 27 without any amendments. The Senate passed the bills after the first reading on April 28 and recommitted them to the Committee on Corporations. On May 5, the Committee reported, again without any amendments. On May 6, the Senate heard the second reading and recommitted the bills to the Committee. The Committee reported on May 17 with minor amendments, which were passed at the third reading on May 19. It was a unanimous decision for passage of the bills. On the evening of May 19, the House unanimously concurred with the Senate's amendments, and on May 20, the President of the Senate and the Speaker of the House signed the bills.⁹¹ On June 2, Governor Martin G. Brumbaugh approved the Workmen's Compensation Act and all of the auxiliary acts except Senate Bill no. 867, which was approved on June 3.⁹² On June 7, 1915, all of the bills were signed into law as follows:⁹³

Act 338: Workmen's Compensation Act, effective January 1, 1916.

Act 339: Bureau of Workmen's Compensation, effective immediately.

Act 340: State Workmen's Insurance Fund, effective July 1, 1915.

Act 341: Regulation of Liability Insurance, effective immediately.

Act 342: Allowing mutual insurance associations.

Act 343: Amendment to Act 338 exempting domestic servants and agricultural workers.

Governor Brumbaugh appointed the Workmen's Compensation Board on July 12, 1915. The Board consisted of Harry A. Mackey, Chairman (Philadelphia), James W. Leech (Edensburg), and John A. Scott (Indiana). As stated by the chairman: "For so conservative a state, Pennsylvania entered into a great experiment; but when once committed to the idea of compensation she went further in experimental adminis-

tration and engaged in a more ambitious program than any of her sister states."⁹⁴ The Board appointed Lee Solomon (Philadelphia) the secretary and divided the state into eight districts. In late August, the Commissioner of Labor, John P. Jackson, and the Governor appointed ten referees with their headquarters in Reading, Scranton, Harrisburg, Williamsport, Altoona, Erie, Pittsburgh, and Philadelphia, the latter two each having two referees reflecting the five-fold greater population.⁹⁵ The Attorney General, Francis F. Brown, who was counsel ex-officio, appointed Francis H. Buhlen as counsel for the Board.⁹⁶

The Department of Labor and Industry was the logical home for the Bureau of Workmen's Compensation. Many of its mandated duties were already being executed by one of the department's agencies, the Bureau of Statistics and Information. Accident reports formed the basis for compensation and were required by law to be reported to the Bureau of Statistics and Information, which kept all statistical facts and records of the Department. By approval of Governor Brumbaugh and by action of the Board of Statistics and Information the merger of the activities of the Bureau of Statistics and Information with the Workmen's Compensation Board went forward.⁹⁷

In the summer of 1915, the Board also made arrangements for the dissemination of information explaining the new act. A great number of people, employers and employees alike, were ignorant of the workings of the Act. Over two hundred thousand pamphlets, known as Bulletin No. 1, were mailed to all parts of the state explaining the act. It was followed by Bulletin No. 2, explaining the procedures and practices of the Board. The Board, dealing with the largest compensation system in the country, placed great importance on publicity in order to educate the citizens of Pennsylvania, and avoid the mistakes of its predecessor, the Industrial Accidents Commission. It took great pains to publish Board decisions. The value of the publications was evidenced by the reduced litigation before the Board. Decisions in many cases, such as those involving frost-bite and heat prostration, were rendered based on previous cases. "The Board's attitude, thus publicly announced, tended to reduce to a minimum, litigation of that kind."⁹⁸

Even before the January 1st effective date for the Workmen's Compensation Act, the Board began ruling on various issues to avoid a flood of litigation in January. The Board required all state defined authorities to insure their compensation liability. Exemptions would be made upon application to the Board, but it became obvious that the Board was not likely to grant many exemptions. The Board also ruled that private chauffeurs were not covered by the act and that nonprofit

corporations were required to abide by the provisions of the act.⁹⁹ In accidents that resulted in mutilation, but not in a compensable disability, the Board's counsel wrote an opinion that these accidents, which were very infrequent, usually did not involve a loss of earning power. Therefore, these accidents were not compensable and the Board should not make or suggest any changes to bring these accidents under the auspices of the act.¹⁰⁰ In January, 1916, Chairman Mackey stated: "It is contrary both to the letter and the spirit of the Workmen's Compensation Act of 1915 for an employer to levy contributions upon his employees for the purpose of meeting his liability."¹⁰¹ The Board had gathered information that many employers were preparing to do so and the Board wanted to ensure that everyone knew that an action such as this violated the law.

In 1916, there were 255,616 accidents (193,232 minor accidents), out of which 54,500 agreements for payment of compensation under the act were made. In addition there were 1,241 agreements involving 2,670 fatal accidents.¹⁰² The nonfatal group received 1.26 million dollars, while the survivors of the fatal group received 147,282 dollars with an additional 2.97 million dollars to be paid over a number of years. The average compensation paid was 2,400 dollars. 1,728 cases were assigned to the referees. 662 were dismissed before being heard and 44 were withdrawn. Out of the 699 cases actually heard by referees there were awards made in 479. The Board heard 225 cases. Only 5 decisions by the referees were reversed. The Board also heard 147 cases for commutation. Of all of the employers in the state, only 400 were on record in the Bureau at the end of the year as having rejected the act. About 1,000 employees were involved and most of them were employed in small non-hazardous operations.¹⁰³ Four hundred ten corporations and two hundred sixty governmental units were allowed by the Board to carry their own insurance. There were also a significant number of cases involving interstate carriers that were placed on a postponed calendar on August 18, 1916.¹⁰⁴ The Supreme Court had yet to decide on any of the cases pending before dealing with the conflict between federal and state jurisdiction.

In *Anderson vs. Carnegie Steel Company* (1st Mackey 15, also 255 Pa. 33), the Supreme Court of Pennsylvania (Western District October Term, appeal from the Common Pleas Court of Allegheny County), under Chief Justice Brown, sustained the constitutionality of the act. William Anderson was injured on the job on January 12, 1916. Carnegie Steel refused to provide compensation because the company claimed that the act was unconstitutional as Article II, section 201, of the

act (disallowing common law defenses) violated Article I, section 9 of the state constitution, thus depriving a man of property under circumstances other than a law or a judgment of his peers. In addition the company held that it violated the fourteenth amendment of the Federal Constitution, thus depriving a man of his property without due process. Chief Justice Brown stated that these contentions were groundless as in the case of *Mondou v. N.Y., N.H. and H.R. Railroad Company* (223 U.S. 1), it was determined that it was impossible for anyone to claim property in the common law, which could be changed at the discretion of the legislators. Precedent had also been set in many other states: *Young v. Duncan* (218 Mass., 346), *Borgnis v. Falk Company* (147 Wis., 327); *Section v. Newark District Telephone Company* (84 N.J.L., 85); and *State v. Creamer* (85 Ohio State, 349). The third point of contention was that Article II, section 204 disallowed any agreements altering the liability for future negligence of employers, but in the case of *Pennsylvania Railroad v. Butler* (57 Pa., 335) this question had already been settled before the act became effective.¹⁰⁵ The fourth point of contention involved Article III, sections 301, 302 and 313, which allegedly violated Article I, section 6 of the state constitution allowing for trial by jury. The court stated that, because the act was elective, neither party was deprived of a trial by jury. The fifth contention was that the act violated Article III, section 21 of the state constitution but, again, the court stated that the amount could be limited only when agreed to by a contract prior to the accident which in itself, was not allowed. The constitutionality of the Workmen's Compensation Act was thus upheld. The work of the Industrial Accidents Commission had proved fruitful.

In the fall of 1915, twenty-six women were sentenced to serve from three to six months in jail for the illegal sale of alcoholic beverages. The court discovered that each of these women were mothers and had an average of three children each. John P. Jackson, Commissioner of the Department of Labor and Industry, was curious and ordered an investigation into the reasons for the mothers illegally selling liquor. Most of the mothers were the widows of men killed on the job or the wives of men who had been permanently disabled. The mothers were forced into doing whatever they could to support their families.¹⁰⁶ It was obvious that some form of compensation for injured and fatally wounded workers was desperately needed. Almost every manufacturer in the state was in favor of some form of workmen's compensation, as stated by F. W. Walker, President of the Manufacturers' Association of Beaver County¹⁰⁷: "a fortress of immunity" had been erected "against the claims

of the injured workmen."¹⁰⁸ Unfortunately, for these women the passage of the Workmen's Compensation Act had come too late.

The time that elapsed between the drafting and the enactment of such a major piece of legislation in Pennsylvania was insignificant. In a matter of four years, an appointed commission drafted the legislation seven times, solicited opinions from many people across the state and helped to push the bills through the legislature. The new system was seen as a scientific method to equitably assign the costs of industrial accidents. It proved successful in its first year of operation. It was also hoped that accident prevention would be a secondary benefit.¹⁰⁹ In 1919, there were indeed 103,000 fewer accidents reported than in 1916,¹¹⁰ indicating progress but with room for much improvement. The Workmen's Compensation Act provided quick, reliable relief to injured workers in the form of a check. By the end of 1915, thirty one states and two territories had enacted workmen's compensation laws.¹¹¹

In the words of John P. Jackson in December, 1916: "The people have apparently given the Pennsylvania workmen's compensation system a general verdict of approval."¹¹² The comments from everyone in the state were favorable and they applauded the administration of the act as being as responsible for its success as were the legislators who passed it. The cooperation of employers and employees in the state was also fundamental to the success of the act. When the act had been in effect for nine months Chairman Mackey solicited the employers and labor leaders of the state for their comments. All who responded were in favor of the law, because it had increased accident prevention measures, increased benefits and fairness to the employees, and increased the limit set on liability. Many labor leaders called it the best piece of legislation that had ever been enacted. Simply stated, no one wanted to return to the common law liability under any circumstances.¹¹³ The medical profession was also credited with insuring the success of the system. The doctors "have with great unanimity and self sacrifice given their best diligence and energies and have taken a particular interest in helping the work along."¹¹⁴ As early as February 17, 1916, physicians and surgeons were meeting to discuss workmen's compensation.¹¹⁵

Once the Workmen's Compensation Act had proven its effectiveness in redressing wrongs in Pennsylvania, it was not long before "an old age pension law and a non-employment law would become a leading topic."¹¹⁶ As Francis Feehan predicted in 1915, Pennsylvania would again follow the lead of European countries with the enactment of additional social reform legislation.

NOTES

*The assistance of Professor Robert B. Stevens, Haverford College, and Linda Ries, Assitant Archivist of the Division of Archives and Manuscripts of the Pennsylvania Historical and Museum Commission, is gratefully acknowledged.

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