FOR OCCUPATIONAL DISEASES

The subject of occupational diseases is increasing in gravity daily. For months past it has been the subject of intensive study by the undersigned committee. At the moment, the outstanding occupational disease with which industry is confronted is silicosis. Briefly, silicosis may be described as a fibrotic condition of the lungs due to prolonged inhalation of an inorganic dust. It is not a novel disease; but it has increased alarmingly during recent years through exposures incident to the use of modern machinery.

It is not immediately or quickly disabling as is usually an "accident" but produces disability slowly with many subtle developments. Consequently, along with other occupational diseases of gradual contraction, it creates novel, legal, medical and engineering problems different from those involved in compensation for accidents.

From the legal viewpoint heretofore prevailing in this country, occupational diseases generally have not come within the scope of the workmen's compensation law. Such diseases have been regarded as compensable injuries in but a few states. In a few other states, and there only after prolonged litigation, have certain occupational diseases come to be treated as compensable injuries. In the majority of the states, silicosis and other occupational diseases have been the subjects for speculative damage suit litigation between employer and employee; and in quite a number of such states, such litigation has developed into a serious and demoralizing racket. In the light of recent court decisions the present day viewpoint is changing and the prevailing belief is that occupational diseases where medically traceable to an occupational origin should be included as compensable injuries under special conditions.

From the medical viewpoint, occupational diseases require diagnosis by highly specialized medical experts in order to make certain that the symptoms evidence a true occupational injury and not some other affection or affections not chargeable to industry. Without special safeguards and provisions for expert adjudication of medical questions in controverted cases, compensation for silicosis and other occupational diseases would be apt, in practice, to develop into a system of compensation for disability or death from any and all diseases, at a cost to industry which would be prohibitive and destructive in very many occupations.

From the engineering viewpoint, machinery must now be resorted to intensively in order to mitigate the evils of the diseases which machinery has itself created. As preventive measures, two things are especially requisite at

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present. One is to remove dust and other hazards from work places to the extreme limit practicable. The other is to remove the worker from exposure to such hazards at the first sign or indication of a disease or of especial susceptibility thereto. It is true that industry in general has made great progress in the improvement of working conditions by the introduction of mechanical equipment and devices designed to control or eliminate hazards to health; but in the light of the flood of claims and suits being presented and instituted on account of silicosis and other diseases, genuine or alleged, it is evident that much yet remains to be done.

The situation has become so acute that in a number of states hurried and ill-advised legislative proposals have been made to bring silicosis and other diseases under the compensation plan, whereas in other states commissions have been appointed to study the problems involved, particularly with reference to silicosis - which problems, it is now coming to be realized, are extremely difficult and far reaching and of vital importance to industry and the community as a whole. To bring silicosis under the workmen's compensation law will extend that law into an uncertain field, making it apply to a form of ill health, of slow contraction and difficult to trace reliably to an origin in the hazards of an occupation. Manifestly, such an extension of the workmen's compensation law is a subject for extreme caution.

What has been said above about silicosis, applies with equal force to asbestosis - which is a less familiar disease than silicosis and only now coming to be recognized as an occupational disease. But to go further and make compensable either pneumonoconioses (dust diseases of the lungs) indefinitely, or other affections of the lungs and respiratory passages, would saddle industry with a crushing burden of reparation for ills for which industry is not truly responsible. Even a program for compensation - on a scale approaching that provided in case of injuries by accident - limited to the recognized occupational diseases, including silicosis and asbestosis, will undoubtedly entail a very heavy increase in cost in many occupations, over the mounting cost of compensation for accidents only or over the cost of compensation for accidents and the occupational diseases heretofore compensable in some states. What such increase in cost may amount to will depend largely upon the specific provisions of the legislation enacted.

Even more intolerable than compensation for pneumonoconioses indefinitely is the so-called "all-inclusive plan" of compensating for occupational diseases, meaning thereby provisions for compensation for "occupational diseases" indefinite-

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in great and needless uncertainty and litigation, to the detriment of all concerned. In the better procedure, the diseases to be deemed "occupational" and made compensable are listed in a "schedule" and definitely described. We strongly recommend that this latter plan be adopted.

Not only are special provisions needed to regulate compensation for silicosis and asbestosis (and such other dust diseases of the lungs as may eventually be determined to be occupational), but it is evident also that many of the provisions in the present workmen's compensation laws have been drawn only with particular reference to "accidents" - i.e. sudden and definite happenings, causing immediate harm - and are inappropriate in application to occupational diseases - which are nearly all of slow contraction and gradual development. Therefore, we believe that the workmen's compensation law - where extended to cover occupational diseases - should be divided into two parts, correlated but distinct, the first part to contain provisions, such as are common in existing compensation laws, restricted to apply only to injuries caused by sudden accidents, and the second part to contain special and appropriate provisions regulating compensation for occupational diseases.

Accordingly, we have drawn the appended "Suggestions for Provisions for a Workmen's Compensation Plan for Occupational Diseases", in the hope that they may be of assistance, in the various states in which this subject is agitated, in drafting amendatory legislation to reframe the existing compensation laws along the lines above recommended. We realize, of course, that in each state the problem will be different; and we submit our recommendations and suggestions as points to be considered - to be adopted or modified as local exigencies may dictate. Moreover, in some states some of our suggestions, especially those embraced in brackets, may be needless because the present law of the state may be satisfactory on the point.

In conclusion, we would emphasize that the true remedy for occupational diseases is not to be found in "compensation" and much less in suits for damages for theoretical negligence. The most potent and effective means of dealing with all occupational diseases and more especially silicosis, asbestosis, and kindred dust diseases, is by PREVENTION. The novel and complex problems confronting industry, in which the hazards of silicosis and asbestosis are present, can be solved most successfully only by intensified industrial hygiene and sanitation. By the most thorough investigations on the part of Medical Boards, Bureaus of Hygiene, or State Health Departments, can be evolved the proper preventive measures and regulations which, when promulgated and followed, can and, we believe, will greatly mitigate the evils of [illegible]

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as a whole. In this connection, it is to be emphasized that in some states there are statutory provisions imposing upon industry indefinite duties for the protection of the health of employees, for non-compliance with which - in the opinion of a jury - an employer is liable for damages. We are strongly of the belief that all such statutory provisions imposing upon industry indefinite duties for the protection of the health of employees should be repealed, to the end that the employers' duties for prevention may be definite and certain and that speculative litigation may be avoided.

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