What is the Human Body Worth?

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WHAT IS THE HUMAN BODY WORTH?

There are posted in many thousand factories and workshops throughout the United States, notices, telling the employees that they are protected by the provisions of their various state compensation laws. Lest any should not see and understand them, these notices often are printed in several languages. Yet in different states, there are various legal and medical interpretations of the forty-two workmen's compensation laws now in force, the laws themselves having taken on widely different meanings in questions of personal injury and other accidents. In an effort to call attention to these disagreements, which are constantly being brought before the State Legislatures and Courts, the National Industrial Conference Board has just completed an exhaustive report on the medical phase of workmen's compensation acts in the United States.

Every workmen's compensation case is a medical case, either actively or potentially. The Board points out that time must be lost from work because of injury to entitle a worker to compensation and this presupposes medical attention in practically all cases. The medical problem is one of the first to be encountered
and one of the most important to settle in a manner satisfactory to all. At present there is so much conflict among the different states' administrative laws, and such a lack of facilities for collecting the information on this question, that the report was undertaken by the National Industrial Conference Board as a new contribution to this vital American problem.

Records of thousands of personal injury awards have been studied by the medical authorities in reaching their conclusions and some surprising facts were brought out by the inquiry. Identical injuries are compensable in widely varying amounts in the various states, and there is a similar inequality in the Courts' interpretation of identical sections of the various laws. What is needed most in the administration of the workmen's compensation laws, in the opinion of the Board's experts, is greater consideration of the opinion of medical men in the administration of the laws and more uniform opinions among those concerned with their administration.

In several states, legislatures have failed to appropriate sufficient funds to permit any extended analysis of the records accumulated in the laws' administration. For this reason, most of the improvements and amendments have been brought about by legislative intent rather than past experience.

The only states which have no workmen's compensation laws are Arkansas, Florida, Mississippi, Missouri, and North and South Carolina. The experience of the other forty-two states have now been sufficiently extended, in the opinion of the Board and its research staff, to render the record of the physician's part in the workmen's compensation laws worthy of being permanent.

There is an increasing tendency to give due consideration to the value of adequate medical treatment in the administration of the laws. Early in their administration, the doctor's part received scant attention. In some states, even for the most serious injuries, only two weeks' medical treatment could be legally provided. "A period of experience has now elapsed," says the report, "sufficient to enable those who make the laws and those who administer them to obtain a better view of the problem. Such experience has shown the advisability of greatly increasing both the time and amount of medical service rendered, until at this time in twenty states such service may be limited."

The report shows that employers, for failure to report accidents to their men, may be fined various amounts, ranging from $10 in
California, Delaware and Illinois to a year's hard labor in Alabama or $2,500 in West Virginia. Wisconsin is first among the states in promptness and initial compensation payments.

The term "medical service" receives widely different interpretations in various states. Ohio and Connecticut have freed employers from liability when injured workmen took their troubles to quacks, masseuses and "doctors of medical electricity." Similarly the California State Commission refused to reimburse a worker who consulted a Chinese herb doctor. Iowa and Connecticut do not regard osteopaths as qualified to act in compensation cases, while California permits them. In Wisconsin Christian Science treatment may be resorted to by an injured worker with his employer's consent. Sec. 2394-9(1) Wis. Stat. There a death from a bruised shinbone infection which was treated by prayer was held compensable. However, a Boston elevated railway employee who presented a $14 bill for services by a Christian Science practitioner lost his claim.

One result of many of the laws has been to break down the universally accepted principle of privileged communication between doctor and patient. In many states physicians can be compelled to testify as to their treatment. Sec. 2394-12 Wis. Stat.

States differ in the laws' rulings on various surgical operations. For instance, the hand extends to the elbow in the legal opinion of Alabama, Connecticut, Delaware, Kansas, Nebraska, New York and other states, while it extends only to the wrist in Colorado, Idaho and Montana. The human foot in Colorado extends only to the ankle, but in Alabama it extends to the knee. New York takes a middle ground, merely qualifying it as some place "between the knee and the ankle." A Pennsylvania worker lost the power to walk easily with the one foot and received compensation, while in Minnesota the Supreme Court refused to affirm a similar award because "the foot was still there," but authorized partial compensation.

Various state courts and commissions have answered in various ways the question: "What is the human body worth?" For example a thumb is worth $225 in Wyoming, $600 in Oregon, and in New York and Alabama the legal compensation for sixty weeks, Wisconsin eighty-six weeks. Wyoming holds a human hand worth $1,600, while its value rises to $1,600 in Washington, $1,900 in Oregon, and 244 weeks' compensation in New York, and it is worth 104 weeks' compensation in Colorado. Wisconsin
240 weeks. Similar variations in legal value occur with reference to the loss of an eye, a toe, a foot and fingers.

New York holds that when a worker is injured so that only his good looks are impaired, he may collect from his employer owing to the humiliation entailed. In New York and Michigan compensation was awarded when horses bit off ears of workers, but in New York the award was based on the common law. One worker collected in New York because he was unable to replace his lost eye with one of glass, and a drooping eyelid which made the injured person appear to be winking at whatever he observed, resulted in another award. Another New York workman, whose nose was bitten off by a horse, received $2,500 from the compensation board. Deafness has been valued at $3,000 in Oklahoma, and deafness in one ear at $1,500. In Washington, loss of hearing is only compensable at $1,900 and of one ear's deafness at $500.

Pennsylvania has held in the case of an automat lunch-counter attendant, that heat prostration at work causing death was an accident, while in Connecticut frostbite was similarly judged. In New York, however, the courts held that a sunstruck brewery-wagon driver was not entitled to compensation. Pennsylvania authorities showed regard for the injured worker in the case of a dogcatcher in New Castle, who was bitten by one of the captives and died of hydrophobia. His estate received compensation. In Wisconsin a foreman using profane language, provoking a sudden exercise of physical force on the foreman's person, held to have created a hazard not peculiar to employment. Also viewing a parade from window held not to be service incidental to employment.

Persons bitten by insects, when spotted fever has resulted, are not entitled to damages in the opinion of the Idaho Industrial Accident Board. However, New Jersey authorities held that a chef pinched by a lobster was entitled to five weeks' disability award for infection. In California, on the other hand, a farm hand bitten on the leg by a spider failed to get damages. The same commission, however, reversed this ruling in the case of a sailor whom a spider bit, holding that spiders had no business aboard ship and that the ship's owner was liable. Poison ivy injuries have been held compensable in New York and Massachusetts, but a municipal laborer in San Francisco was denied an award for poison oak injuries.

One of the sharpest controversies among compensation boards
is over the proper valuation of the impairment of sight. Various tables and tests have been evolved, but they display wide discrepancies. They agree, in fact, only on one item: what constitutes normal vision.

Montana, Idaho, Utah and Wisconsin allow twenty weeks' more compensation for the removal of an eye than for blindness in one eye without removal. Pennsylvania, however, holds that where there is blindness, the removal of the eye makes no difference, and allows nothing additional.

One of the most important phases of the report is that which shows the widely varying amounts expended for medical treatment under the awards of various states. For instance, in Wyoming, in one year allowed only 3.6 per cent of the total awards was for medical expense, while the percentage in Connecticut for two years was 38.2, totaling $1,665,077.08, and in Massachusetts, where industrialism has reached one of the highest points of development, the percentage was 20.8 with medical expenses of $1,602,057.74. Wisconsin in 1923 allowed $838,180 for medical aid, 23.3 per cent of all benefits.

In only one state, New Mexico, is there a provision for the physical examination of workers before an injury occurs.

Summing up its investigations, the report shows that both interested parties to compensation laws, the workers and the employers, have accepted as just the principle that one group should be charged with major responsibility for injuries suffered by another group. Differences which have appeared are not of sufficient importance to cast doubt on the value of the work as a whole, the report concludes.

V. W. DITTMANN, Editor