The Class Character of Workmen's Compensation, Accident and Insurance Laws in the U.S.A.

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(*continued from April, 1930, issue*)

Partial disabilities divide themselves into two groups: permanent partial, that is, "minor" injury for life, such as loss of hearing, loss of an arm, etc. and temporary partial, such as sprained wrists, dislocations, injuries to the face or body requiring various periods of healing. In the former cases there is a definite loss of functional activity, in the latter only recuperation is necessary. Do the States take the nature of the specific injuries into serious consideration? A few do. The vast majority are purposely ambiguous and vague, leaving the matter entirely in the hands of Industrial Commissions, who are invariably the friends and boon companions of the employers. Hence, in the table following we have indicated such vagueness in a separate column.

AMOUNTS PAID BY STATES FOR TEMPORARY TOTAL DISABILITIES

State	*Weekly Average Amount*	*Per Cent Wage Loss*	*Not Over (years)*	*Total Not Over*	*Remarks*
Alabama	$10.00	50-60	6	——	Statute confusing
Alaska	——	—	—	$6,240	Provide lump sum
Arizona	——	50	—	4,000	
California	——	65	$4^{2}/_{3}$	5,000	
Colorado	10.00	—	—	1,560	
Connecticut	11.50	50	$10^{1}/_{3}$	——	Statute confusing
Delaware	10.00	50	$5^{1}/_{3}$	——	
Georgia	9.00	50	6	——	Statute confusing
Haiwaii	9.00	50	$6^{1}/_{4}$	5,000	
Idaho	10.50	50	3	——	
Illinois	11.00	50-65	8	——	
Indiana	8.50	50	6	——	
Iowa	10.50	?	?	——	Statute confusing
Kansas	9.00	60	8	——	
Kentucky	10.00	65	$6^{2}/_{3}$	4,000	
Louisiana	12.50	65	6	——	
Maine	10.50	$66^{2}/_{3}$	6	——	

Maryland ...	11.50	50	?	3,500	
Massachusetts.	10.50	66⅔	—	4,000	
Michigan ...	10.50	60	10	——	
Minnesota ..	14.00	66⅔	6	——	Statute confusing
Montana ...	6.25	50	1	——	
Nebraska ...	10.50	66⅔	6	——	
Nevada	8.00	50	5	——	
New Hamp..	10.00	50	6	——	
New Jersey .	?	66⅔	10	——	
New Mexico	9.00	—	—	——	Statute confusing
New York ..	14.00	66⅔	—	3,500	
North Dakota	12.50	66⅔	—	——	
Ohio	12.50	66⅔	—	3,750	
Oklahoma ..	?	66⅔	6	——	Statue vague

Permanent partial disabilities consist primarily of dismemberment in all its forms. The number of dismemberment cases for 1922-23 were over 75,000—a colossal offering to the inveterate greed of capitalist production, when it is borne in mind that practically all industrial accidents are eliminable if proper safety devices be installed and if sufficient rest periods be granted during work hours. However, industrial murder of workers is perfectly legal under capitalism.

Besides dismemberment there were for the year 1922-23 about 29,000 other permanent partial disabilities, such as rupture, disfigurement, etc. The nature of this group of accidents is such as to alter completely the injured man's mode of life, for whom the injury is permanent the compensation is—with the exception of the Federal Government—temporary. Take a worker who has lost a hand—the State grants him compensation for about 2 years, sometimes 3 years, in few cases 4 years. But what is the wage earner to do after the period of payment has expired? He is no longer fit for his old work. His skill, if he was a skilled worker, has been destroyed. The same applies equally to semi-skilled workers. But even so, an unskilled worker cannot any longer command the same wage he received before the accident, for what the employer will pay a one-handed man, when he can get plenty with two hands. Hence the permanent partial disabled worker is compelled to seek odds and ends of employment, such as night watchman, ticket passer, etc., at a reduced wage for in no case can he compete successfully against workers not so disabled.

The methods employed by the several States to compensate this group of accidents are not uniform. It would seem from the data that the various State governments overdo themselves in their ser-

vility to the employing class interests. However, general schemes are observed as follows: (1) States paying lump sums. (2) States paying a percentage of wages for limited periods. (3) States paying weekly sums for limited periods in addition to temporary total during healing time. (4) States paying weekly sums for limited periods allowing no extra compensation for healing time.

During healing time the injured worker is in fact totally disabled, yet over 20 States make no provision in such cases. The reader should not be misled by the large figures when given in weeks. 400 weeks may sound high, but in reality it is less than four years.

PERMANENT PARTIAL DISABILITY

1) States paying lump sums for permanent partial disability are. Alaska, Washington, Wyoming. The payments average between $750 and $1,000.

2) States paying percentage of wages for a limited period are: Arizona, New Hampshire, Porto Rico, and the Federal Government. The payment averages between $10 and $12 a week over a time period of 5 to 6 years.

3) 36 States deny healing time period but pay weekly sums for limited number of weeks. The averages, in dollars, are as follows: For the loss of arm at shoulder, $2,000; hand, $1,500; thumb, $600; Index finger, $350; middle finger, $300; ring finger, $200; little finger, $150. Leg at hip, $1,700; foot, $1,250; big toe, $300, other toe, $100. One ear, $400; both ears, $1,200; one eye, $1,100.

4) 17 of the States pay weekly sums during healing time for a limited number of weeks, averaging $10 per week.

Practically all the States in this group designate a maximum payment which in effect nullifies the provisions allocating a percentage of wages. An example: the State of Colorado declares it would pay 50% of wages. Suppose the injured worker earned $50 per week—his allowance would be $25. But the qualifying clause which follows explicitly states that in no case shall an injured worker be paid *more than a maximum sum of* $12 *per week.* Hence the 50% provision only applies to wage earners who receive less than $24 per week in wages. The insurance laws might just as well declare that they will pay 100%. One does not buy bread with percentages, but with money.

The State of Georgia in the above group provides a uniform period of 10 weeks for healing time.

The State of Wisconsin, where La Follette's liberal millenium reigns, provides as follows: "Specified major injuries, fixed percentages of total disability, specified lesser injuries 65% of wages

for fixed period subject to extension; others proportionate based on 70% schedule, all in addition to temporary total." Since the Department of Labor has not included the schedule of payments there is no way of computing the definite sums paid to the disabled workers of that State, but of what we know of experience, the system is the same as in other States.

In the class of workers under Permanent Partial Disability, the States in Group 4 grant the most "liberal" treatment. The apparent liberality exists only when viewed from the parsimonious attitude of the remainder of the States. Minnesota, a State where labor is more or less influential, allows $14 per week for the loss of arm at the shoulder, plus $14 during healing time, a total of $28 per week. But this comparatively high allowance is in reality a myth since its duration is on the average not more than 4 months. The worker's arm is ripped by an unprotected machine; he is taken to a hospital and the wound is treated until healed. While he is at the hospital or at home in a weak condition the temporary total of $14 continues, but no sooner does the physician declare the dismembered worker's wound healed, the State immediately cuts off the healing time grant and leaves the armless worker with $14 per week. And this is the most favored State!

Colorado allocates for the same disability $8.50 per week.

And in the State of Oregon the colossal sum of $6.25 per week!

For all States the average is not more than $12 per week.

The outstanding feature of the treatment of Permanent Partial Disability by the several States is the punishment of the wounded worker for the misdeeds of the employer. For in no State is the principle of permanent allowance for Permanent Partial disability recognized. In effect the employing capitalists say to the workers: "You complain to us that we fail to install safety devices in our factories. *But do you realize that safety devices cost money and if we were to accede to your demands our profits would be cut down, dividends decreased, and the volume of our stock on the stock exchange reduced? Hence if your arm is dismembered by the machine you will be punished by a decrease in your earning power. Capital must make profits, and comes before all.*"

We now come to the negative provisions of the Workmen's Compensation and Insurance Laws; the "buts" and "excepts" which the cunning bourgeois law-makers sneak into the clauses of the laws in order to effect stealthily what they cannot accomplish openly. As has already been noted at the beginning of this survey, the "buts"

and the "excepts" are so numerous as to render the laws a typical expression of capitalist Christian hypocrisy.

WHEN A LAW IS NOT A LAW

In 31 States the law is entirely optioned. That is to say, if the employer chooses to disregard it, that is all there is to it. It is up to him! Of course the worker will be solemnly assured that he has his remedy at the courts, that is exactly what these "laws" are supposed to replace. If the courts had been effective instruments in the redress of worker's injuries, why have the "laws"? Why duplicate the apparatus? The trickery of the lawyers in the interests of the employers whom they serve in collusion with the courts is commonplace and need not be dwelt on here. What we wish to point out is that the Workmen's Compensation and Insurance Laws were designed to camouflage the brutal industrial murder and crippling of the workers because the archaic brutal class methods of capitalist courts had to be reformed on wholesome lines. However, the practical result is that *the disabled worker must have means immediately, but the lawyer can by means of appeals and demurs, prolong the case until the worker is penniless and then force him to settle out of court for a song.* When the legislatures in 31 out of 48 States declare the laws optional it is in most cases merely another way of saying that the laws are no laws, but only a *subterfuge.*

In 14 States the law is compulsory. However, "no law," as asserts the Department of Labor, "*is of complete coverage,* and the terms 'elective' and 'compulsory' apply to the laws in regard to the occupations said to be covered by the acts." Translated into English this means that the "laws" are a makeshift and cover only a small amount of the workers engaged in production. The Optional and Compulsion States are as follows:

Optional States: Alabama, Colorado, Delaware, Connecticut, Georgia, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Kentucky, Louisiana, Maine, Massachusetts, Nevada, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin.

Optional States: Arizona, California, Hawaii, Idaho, Illinois, Maryland, New York, North Dakota, Oklahoma, Porto Rico, Utah, Washington, Wyoming, and Ohio.

CATEGORIES OF WORKERS DISCRIMINATED AGAINST

There are in all *ten distinct categories* of workers against whom discriminations have been effected. These range from total denial of the benefits provided under the "laws" to reduced benefits as in

the case of non-resident workers, that is, workers from Mexico, West Indies and Canada. They are as follows:

1. *Agricultural Laborers.* This group numbering according to the 1920 census, 5,449,332 working men and working women, is *specifically and totally excluded* from operation of the laws in all States with the exception of Hawaii and New Jersey. In three States, Kentucky, Minnesota and South Dakota, workers engaged in the threshing of grain are covered by the laws.

2. *Domestic Workers.* New Jersey is the only State which makes provision for domestic workers. All other States specifically and totally exclude these workers. According to the last census, this group numbered 3,034,000.

3. *"Casual" Workers.* What the law-makers meant by casual workers is not clear. That the phrase is highly equivocal is obvious. Indeed, we believe that it was purposely inserted in order to grant the Commissions, who adjudicate the claims, a greater latitude in their rulings favoring the employers. What then can be the reason for embodying in a law such a mystic and ambiguous phrase as "casual workers"? A worker may be "casual" to a specific employer, but so far as the employers as a class are concerned, he never is, for if he does not labor for Capitalist *A*, he labors for Capitalist *B*, and if not for *B*, then for *C*. He is not a wage slave of any particular employer, but of all employers as a class. Marx long ago analyzed the bourgeois platitude about "free" labor. The worker is *not* the wage slave of Gary, Rockefeller, etc., but is bound under capitalism to all the capitalists as a class.

Under the circumstances an estimate of the number of "casual" workers who are totally and specifically excluded from the benefits of the laws is impossible. In a strict interpretation of the phrase the vast majority of the workers are casual, for the turnover of labor-power is great. The Department of Labor, seeing the cat in the bag, declares: "Employes whose employment is but casual and (sometime "or") not in the usual course of the employer's trade (*sic*) or business are quite generally excluded."

The exclusion of this group of workers is general in practically all States.

4. *Workers Receiving More Than a Specified Wage or Salary.* The State of Hawaii excludes all workers earning more than $36 per week. Porto Rico places the sum at $30 per week. Rhode Island—at $36 per week, and Vermont—at $40 per week.

5. *Public Workers.* Public workers are excluded in six States: Alaska, Arizona, New Hampshire, New Mexico. Tennessee and Texas.

F. *Exclusion where there is less than the designated number of workers.* There are 21 States which make this discrimination as follows: States excluding operation of law where minimum number of workers is less than:

Two—Oklahoma.
Three—Kentucky, Texas, Ohio, Utah and Wisconsin.
Four—Colorado, New Mexico and New York.
Five—Alaska, Connecticut, Delaware, Kansas, New Hampshire, and Tennessee.
Six—Maine and Rhode Island.
Ten—Georgia.
Eleven—Vermont and Virginia.
Sixteen—Alabama.

7. *Non-Resident Workers.* This group consists of workers "imported" into the U. S. by agents of big business from Canada, West Indies and Mexico. Some States place workers from Canada on a reduced benefit schedule, a few on the same footing as local workmen, but the vast majority of the States do not do so. The forms of discrimination in this group are varied.

a) Specific exclusion is provided by four States: Alabama, Hawaii, New Mexico and South Dakota.

b) Indirect exclusion is provided by 12 States by omitting from its laws all provisions for such workers and by raising questions of dependency; they are: Arizona, Indiana, Louisiana, Massachusetts, New Hampshire, New Jersey, North Dakota, Porto Rico, Vermont, California and Montana.

c) Reduced benefits. 19 States provided reduced benefits to "non-resident" workers:

I. Benefits reduced to 75%: Alaska, Maryland, Nebraska and Pennsylvania.

II. Benefits reduced to 60%: Nevada.

III. Benefits reduced to 50%: Delaware, Georgia, Idaho, Iowa, Kentucky, Maine, New York, Utah and Washington.

IV. Benefits reduced to 33%: Wyoming.

V. Benefits reduced to 25%: Colorado, Kansas and Virginia.

The States which make no discrimination against "non-residents" are ten: Connecticut, Illinois, Michigan, Minnesota, Ohio, Oregon, Tennessee, Texas, West Virginia, Wisconsin and the Federal Government.

The waiting period required by most States is in reality a backdoor method of discrimination. The data supplied by the Labor Bureau statistician is unsatisfactory because he is not interested in uncovering data from the workers' point of view. However, it appears that in general all States, except Oregon, Porto Rico, South Dakota,

deny injured workers the benefits provided by the "laws" when the injury is less than a specified number of days, or weeks. For example, in New Jersey a disability which lasts less than 10 days is not compensated. This simply means that the worker loses 10 days' wages out of his own pocket, because he was disabled by unprotected machinery of his employer. The "laws" with the exception of the 3 States cited above adhere strictly to the principle of transferring the losses of industrial accidents to the shoulders of the workers, regardless of the fact that they—the employers are the guilty culprits.

STATES DENYING COMPENSATION WHEN DISABILITY IS LESS THAN A SPECIFIED PERIOD

Three days: Maryland, Utah, Washington, U. S.
Five days: Oklahoma.
One week: Alabama, California, Connecticut, Georgia, Kansas, Iowa, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New York, New Jersey, North Dakota, Ohio, Rhode Island, Tennessee, Texas, Vermont, West Virginia, Wisconsin.
Ten days: Colorado, New Jersey, New Mexico, Pennsylvania, Virginia.
Two weeks: Alabama, Arizona, Delaware, Iowa, Montana.

The following States dock the waiting period if the disability is less than a fixed number of weeks. Thus in the State of New York, if a worker is disabled for less than 49 days—let us say 48 days—he is docked for the first week. Instead of receiving compensation for 48 days—the duration of disability—he gets compensation for 41 days only.

STATES DOCKING WAITING PERIOD WHEN DISABILITY IS LESS THAN A FIXED NUMBER OF WEEKS

One week: Nevada, New Hampshire, North Dakota.
Two weeks: Arizona.
Three weeks: Wisconsin, Wyoming.
Four weeks: Connecticut, Illinois, Massachusetts, Minnesota, Rhode Island, Alabama, Delaware.
Six weeks: Louisiana, Maine, Nebraska, Tennessee, Virginia, Montana.
Seven weeks: New York, New Jersey.
Eight weeks: Alabama.

9. *Hazardous employment*: The phrase "hazardous employment" recalls the equal imputation of "casual" workers. As a matter of

fact the employers in practice make practically no distinction as to what employments are hazardous or not. The coal diggers' occupation is about the most hazardous there is. Yet the pay of these workers does not average more than those whose labor is not so hazardous. But when it comes to paying compensation benefits the cunning employers dig up such metaphysical distinctions as "casual hazardous," "non-resident," etc. Perhaps we will soon hear of some State solemnly declaring that bald-headed workers are excluded.

In this connection it should be borne in mind that in no case does the decision as to what employments are hazardous rest with the workers. The decision is invariably made by the bourgeois legislatures or their commissioners. The workers organized or unorganized have absolutely no voice in the matter at all.

There are twelve States in all which make their compensation and insurance laws apply only to hazardous employments; all other workers being barred. They are as follows: Arizona, Illinois, Louisiana, Maryland, Montana, New Hampshire, New Mexico, Oklahoma, Oregon, Washington and Wyoming.

10. *Disability caused by occupational diseases*: It is a common fact that occupational diseases disables a man far more than dismemberment or general injuries. By attacking the vital organs, occupational diseases reduce the earning capacity of a worker for a longer period of years, if not for life. Yet the various States refuse to recognize such disabilities. It is not here a question of fact. The fact is admitted. The medical experts have fixed a definite connection existing between particular employments and diseases. Silicosis, for example, is a lung disease induced by inhaling silica, a fine sand found around mines. Similarly, tuberculosis is a disease generally induced by long hours of labor in stuffy overcrowded factories or any other work place. The long hours exhaust the vital organs and leave them a prey to the attacks of the various bacilli. These facts are today admitted by all, even the employers. But when it comes to recognizing such diseases as compensable by the State, the employers with their tongue in their cheek, pretend that it would be discouraging to the "independence" and "self reliance" of the workers to grant any benefits to them. Ever since the capitalists became statesmanlike strategists and changed their tactics from a direct frontal attack against the workers to that of indirect domination their hypocrisy knows no limits.

Occupational diseases are recognized by only twelve States and the Federal Government, and even in these States recognition is not general but only for designated employments. They are as follows: California, Connecticut, Hawaii, Illinois (in certain em-

ployments by separate act), Massachusetts (by court decision), New York (listed occupations), North Dakota (by constitution of Bureau), Ohio (listed occupations), Porto Rico, Wisconsin, Kentucky, and U. S.

MINOR FEATURES

The principle features of the "laws" have already been enumerated. The minor clauses — three in number — consist of: Fund provisions, hospitalization, and administration.

1. *Method of providing funds*: Eight States provide their own facilities. Payment is made directly by the State. These are: North Dakota, Ohio, Oregon, Porto Rico, Washington, West Virginia, Wyoming and Nevada.

Ten States provide both State and private insurance, leaving the deciding factor to competition. It should be stated, however, that the Labor Bureau statistician withholds all details, so we are at a loss as to the real workings of the plan. The ten States are: California, Colorado, Hawaii, Maryland, Michigan, Montana, New York, Pennsylvania, Tennessee, and Utah. The remainder of the States provide private insurance or self-insurance. Self-insurance is recognition by the State of the employers' solvency.

2. *Hospitalization*: Hospitalization during disability is generally allowed by all States. A few States grant the needed funds for operations when such are deemed necessary for the injured worker's health. The maximum expenditure for operations, however, is limited to $150.

3. *Administration*: The administration of the Workmen's Compensation and Insurance Laws is invariably placed in the hands of bourgeois bureaucrats. In no State is representation given to organized labor. The Governor appoints a Commission of five or more bureaucrats, as the individual laws may provide, to administer the laws. Their decisions in thirty-eight States are of a summary character. The worker can expect little sympathy and less justice from this group of men, mostly corrupt cogs in the capitalist political machine, who are by a thousand invisible threads tied to the class of exploiters.

In ten States settlements are left to the "agreement" between the worker and employer. This is an indirect way of letting the boss decide how much he will pay his maimed worker. Of course, if the worker refuses to accept his boss's decision, he can seek a "remedy" in the courts. This sounds very democratic and liberal; in fact, it is like applying to the hangman for mercy.

It must be added in conclusion that the latest data from highly industrialized States show an increase of accidents up to thirty

per cent and more, which is due to the terrific speed-up in production in this emperialist era, which American imperialism imposes on the worker in order to build on the pyramids of industrially maimed, discarded, crippled and murdered workers this "glittering marvel" of a bourgeois world empire of the United States of America.