THE RELATIONSHIP OF PROGRESSIVISM TO THE
IOWA WORKMEN'S COMPENSATION ACT OF 1913

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by
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IOWA WORKMEN'S COMPENSATION ACT OF 1913

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Approved by Committee:

[Signatures]

Dean of the Graduate Division
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CHAPTER I

THE PROBLEM, ITS SIGNIFICANCE, AND METHODS TO BE USED

One of the most interesting periods in Iowa history is the span of years from about 1900 to 1914, during which the forces of progressivism became the dominant force in the political climate of the state as well as the nation. The reasons for the growth of progressivism were many, and numerous events and laws may be held up as examples of progressivism in action. Such a law is the Iowa Workmen's Compensation Act of 1913, which drastically modified common law practices governing employers' liability and facilitated the compensation of injured workers. No known study to date has attempted to establish the relationship of the progressive movement to the passage of the Iowa law.

I. THE PROBLEM

Statement of the problem. The purpose of the study was to find out what forces provided the impetus for passage of the Iowa Workmen's Compensation Act of 1913, and to assess their relationship to progressivism.

Definition of progressivism. Each writer who sets out to define the progressive movement first admits the difficulty
of the task. It is a large and diverse subject, and while experts seem to agree about certain basic characteristics of progressivism and the progressive movement, significant differences of opinion exist.

For Eric Goldman, progressivism related primarily to opportunity—including opportunity for the increasingly class-conscious members of the laboring class.

For Progressives, as for Populists, the central problem was opportunity. . . . Government was to be democratized in order to make it amenable to reform. Reform meant primarily the ending of governmental interventions that benefited large-scale capital and a rapid increase in the interventions that favored men of little or no capital.

More urban in its base than populism, Progressivism was much more genuinely concerned with the problems of labor. . . .

George E. Mowry sees the movement as less concerned with the problems of labor, but as a broader-based social movement.

In its essence the progressive movement was a great social reaction against the preceding age. Compounded of moral, political, economic, and intellectual revolt, it was not restricted to one party but ran through the entire gamut of political organizations. Nor was it a product of a single economic class. Farmers and laborers were at its core, but they were soon joined by multitudes from the white collar and small business classes and even by some of the very rich.


In his study, Arthur S. Link does very well at the task of dividing the movement into its component parts. Contrary to Mr. Goldman and Mr. Mowry, he depicts the progressive movement as more of a middle-class phenomenon, which was little concerned with the problems of labor.

To begin with, there was no such thing as a progressive movement, that is, no organized campaign uniting all the manifold efforts at political, social, and economic reform. On the contrary, there were numerous progressive movements operating in different areas simultaneously. There was, for example, the effort of social workers and students of the labor question to bring the power of the state and national governments into the economic struggle on the side of women, children, and other unprotected groups. This movement for social justice was often, but not always, independent of the movement for political reform. Or, there was the far-reaching campaign, getting under way about 1900, to restore representative government to the cities and to bring an end to the reign of corruption in them. Next came a movement to bring state governments out of their subservience to railroads and corporations and to make them instruments for advancing social welfare. Finally, there was a progressive movement on a national level, which took form in attempts to subject railroads, industrial corporations, and banks to effective public control.

In the second place, the progressive movement, in its political manifestations, was essentially a revolt of the middle classes ... against a state of affairs that seemed to guarantee perpetual control to the privileged few who owned the wealth of the United States. Although it drew support from organized labor, the movement had no solid basis of support among the masses of workers, nor was it particularly sympathetic to labor's needs. ...

Thirdly, the degree to which progressives were united in a common cause with well-defined objectives varied from movement to movement and from area to area. Social
justice champions, for example, were organized in state and national associations and united behind common programs. Although the city and state reformers never formally combined regionally or nationally, they all faced the same problems, attacked them in much the same way, and profited from one another's experiences.¹

Since definitions of progressivism vary, one must evolve his own guideposts for identifying progressivism in events, personalities, and institutions. Fortunately, there are certain characteristics of what may be called the progressive point of view which will seldom conflict with a responsible assessment of the progressive movement. The progressive attitude included (1) opposition to the arrogance and power of organized wealth which had built up by 1900 in the United States; (2) a recognition of deplorable living and working conditions brought on by the industrial revolution; and (3) a belief in the necessity of using government power to weaken the hegemony of wealth and improve the lives of the majority of citizens. These criteria have been applied in this study.

Justification of the problem. Iowa progressives formed an important part of the national progressive movement, which had its true beginnings in the Middle West.²

²Mowry, op. cit., p. 11.
Governor Albert Baird Cummins and Senator Jonathan P. Doliver of Iowa were probably the best known Iowa progressives on the national level.\(^1\) Within the state, Governor Cummins and many other lesser-known progressives opted for legislation which reflected national progressive trends.\(^2\) Students of Iowa history should logically be concerned with the ramifications of progressivism within the state, and this study was designed to supplement present knowledge of Iowa progressivism as it related to workmen's compensation. The study was not designed as a comparative study of workmen's compensation laws. Many such studies have been published. Nor did the investigation cover the Iowa law after its passage in 1913. It was an investigation of the forces which led to the law's passage in Iowa.

Two other works were found which related to the subject of the thesis. The first was a fine book in the progressive vein, *History of Work Accident Indemnity in Iowa*, written by Professor E. H. Downey, Kenyon College, Gambier, Ohio, for the "Iowa Economic History Series," in 1912. At first, it appeared that this book covered the

\(^1\)Ibid., p. 50.

proposed topic. Further examination revealed, however, that there was still ample material which might be presented. Mr. Downey's book was written in 1911 and 1912. The law itself was not passed until 1913. Downey's treatment was one of legal-historical justification for the law, and may well have been an important factor leading to the law's passage, but it was not a study of the progressive movement itself, nor was it an investigation of political forces leading to the law's enactment. The book was a great help to the writer, in that it provided a large amount of accurate background material. It is hoped that this study has complemented Mr. Downey's work.¹

The second work related to the problem was a Master's thesis, "Progressivism in Iowa," by William L. Bowers, Iowa State Teacher's College, 1958. This paper, while a good guide to progressivism in Iowa in general, did not go into detail about the Workmen's Compensation Act. In fact, it included only the following reference to the Act:

> It was not until the Thirty-fifth General Assembly met in 1913 that concern with what has become known as "workmen's compensation laws" became evident to any large degree, and in that particular session . . . several such bills were introduced. . . . Although none of them was enacted into law, they indicated the increasing concern for such laws.²

¹E. H. Downey, History of Work Accident Indemnity in Iowa (Iowa City: Iowa Economic Series, State Historical Society in Iowa, 1912), pp. ix, x.

²Bowers, op. cit., p. 122.
Contrary to the above quotation, the Workmen's Compensation Act was in fact passed by the Thirty-fifth General Assembly in 1913. Senator John T. Clarkson had proposed such a law in 1911, and a committee had been formed to research and recommend such a law to the 1913 session. Extensive hearings occurred between 1911 and 1913. Thus, the workmen's compensation fight can be set back at least two years in historical perspective. The single justification of putting the subject in its proper place in history should be sufficient for a study of this scope.

II. ORGANIZATION AND SOURCES OF DATA

Organization. The second chapter of the study includes a historical preview of the problem with a short review of work accidents in general, traditional common-law practices in regard to employers' liability, and early European, then American laws which legislatively modified these common-law practices. The chapter attempts to place workmen's compensation in proper perspective vis-a-vis the national progressive movement. From the national scene, the third chapter moves to Iowa, with a section on work accidents in Iowa, and earlier statutory modifications of common-law doctrines on employer's liability within the state, prior to the switch in emphasis from employer's liability to workmen's compensation. The
fourth chapter recounts the story of the groups and individuals which began to shape the 1913 law, from 1910 to 1912. Chapter five deals with the 1913 legislative battle, and the law's enactment. The sixth chapter summarizes the report, and attempts to answer the question posed by the title: Was the Iowa Workmen's Compensation Act of 1913 related to progressivism, and if so, what progressive forces provided the main impetus for its passage?

**Sources of data.** The research employed was empirical in approach, including a variety of sources. Among them were the reports of the Iowa Bureau of Labor Statistics, contained in the Iowa Legislative Documents; the newspaper library of the State Department of History and Archives; personal interviews; research in the archives of the Iowa State Federation of Labor, the Employer's Mutual Casualty Company, and the Iowa State Manufacturers' Association; documents of the Iowa State Law Library; the Iowa State Traveling Library; and the newspaper department and business library of the Chicago Public Library.

The data was collected with the goal of factually resolving the problem. It was placed chronologically in historical context, but divided topically to make different divisions of the subject stand out more clearly. It is hoped that this project will be of some aid to the many students of history in Iowa and elsewhere, who are interested in the Iowa progressive era.
CHAPTER II

HISTORICAL OVERVIEW OF WORKMEN'S COMPENSATION

One of the mainstays of progressive thinking was the evolving idea that, contrary to the Laissez Faire doctrines of the earlier industrial revolution, government and industry were, in fact, responsible for improving the lives of citizens and laborers. Of the several areas in which this doctrine found fruition, one of the most important was a body of laws which began to take the financial burden of work accidents from the backs of those least able to pay, the laborers, and pass the cost on to industry, and ultimately to the public. These laws came to be known as "workmen's compensation laws." They began in Europe, then were taken up with only slight modification in the United States. Placing the enactment of the Iowa law in the proper perspective, therefore, requires a short review of the growing problem of work accidents about the turn of the century, and the basic content and history of early workmen's compensation laws, prior to the legislative battle for such a law in Iowa, in 1913.

I. WORK ACCIDENTS

As the industrial revolution proceeded in each leading manufacturing country, humanitarians as well as many of those
concerned mainly with industrial productivity began to recognize the extreme cost annually exacted by work accidents, both in human and economic terms. Although early reports on accidents were often inaccurate, the magnitude of the problem may be illustrated by the fact that in 1911, the German Empire, which maintained the most accurate such statistics of the day, reported 662,321 work injuries, 9,687 deaths, and the disabling of 142,965 workers for periods exceeding thirteen weeks.¹ In the same year, the United States Bureau of Labor estimated that each year, work accidents in the United States were causing 2,000,000 injuries, 35,000 deaths, and 500,000 cases of personal disability lasting more than one week.² E. H. Downey pointed out that:

... the industrial casualties of a single year in this country alone equal the average annual casualties of the American Civil War, plus all those of the Philippine War, increased by all those of the Russo-Japanese War.³

Almost every day, newspapers carried chilling descriptions of train wrecks in which passengers and workmen were crushed or roasted. Mine cave-ins and explosions were almost commonplace, frequently snuffing out lives by the hundreds. And day after day, accidents involving one or a few men occurred with depressing regularity. These "routine" accidents were:

¹Downey, op. cit., p. 2. ²Ibid., pp. 1, 2. ³Ibid., p. 14.
the biggest killers.¹

The increasingly unbearable toll was a phenomenon of the industrial revolution. Workers were crushed in the mines, mangled by machinery, broken while coupling freight cars, and made sick by the atmosphere in which they worked, usually through no fault of their own. The necessity of placing the "fault," so important in common-law interpretations of accident liability, was no longer realistic. E. H. Downey described the plight of the modern industrial worker thus:

Modern technology makes use of the most subtle and resistless forces of nature—forces whose powers of destruction when they escape control are fully commensurate with their beneficent potency when kept in command. Moreover, these forces operate not the simple hand tool of other days, but a maze of complicated machinery which the individual workman can neither comprehend nor control but to the movements of which his own motions must closely conform in rate, range, and direction. Nor is the worker's danger confined to the task in which he is himself engaged, nor to the appliances within his vision. A multitude of separate operations are combined into one comprehensive mechanical process, the successful consummation of which requires the cooperation of thousands of operatives and of countless pieces of apparatus in such close interdependence that a hidden defect of even a minor part, or a momentary lapse of memory or of attention by a single individual, may imperil the lives of hundreds. A tower man misinterprets an order, or a brittle rail gives way, and a train loaded with human freight dashes to destruction. A miner tampers his "shot" with slack, and a dust explosion wipes out a score of lives.²

²Downey, op. cit., p. 3.
Human nature operates against the worker. He is not adapted to the rhythm, accuracy, and force of a machine. Fatigue enters the picture. His movements become slower and less accurate. His reactions slow down. He is unconscious of his wavering performance until suddenly he has failed to remove the forging from a stamping machine fast enough, and his forearms are mangled. At the turn of the century in the United States, far too many such accidents were ruled "negligence of injured workmen," and the workman was barred from financial aid.

Until the inception of workmen's compensation laws, the injured worker and his dependents could look for little or no aid when they needed it most. The only avenue for recovery was through the courts, which were dominated by precedents emphasizing private rights, rather than the common good.1 When aid did come, it was frequently diminished considerably by lawyer's fees, and delayed by litigation until it was of little practical use to the injured party, his dependents or survivors. Crystal Eastman's pilot study of Allegheny County, Pennsylvania, included one sample group of 258 families who lost fathers in one year. Of these, fifty-nine families received no compensation at all, sixty-five received only funeral expenses, forty obtained

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1Ibid., p. 14.
less than $500.00, while forty-eight received over one year's wages of the lowest paid worker in the group. In another group of twenty-seven men who suffered mutilation, such as loss of an eye, a leg, or an arm, not one received more than $225.00.1 If one adds to these inadequate judgments the fact that the delay from injury to compensation ran from six months to six years, it may be seen that the common law was woefully inadequate as an avenue for compensation of injured workers.2

II. COMMON LAW DOCTRINES ON WORK ACCIDENTS

Prior to statutory modification of common law as it related to liability for work accidents, courts in the United States relied on precedents which ultimately rested upon prevailing judicial reasoning in Great Britain during the early nineteenth century, in the heyday of Blackstone and of Laissez-Faire. The basic assumption was that the laborer entered into a contract with the employer entirely at his own risk. Thus, while the employer was bound to exercise "ordinary care" in providing for the safety of his employees, the worker, in accepting employment, assumed all the risks normally associated with the job he had taken.

The case of Priestly vs. Fowler, decided by the

1Eastman, op. cit., Chap. VIII.
2Downey, op. cit., p. 79.
British Exchequer Court in 1837, is frequently cited as the beginning of a long chain of decisions which became the basis for American common law on the subject.¹ Priestly, a butcher driver's helper, was injured while delivering meat. He sued his employer on the grounds that (1) the van was insufficient for its purpose (unsafe); and (2) it had been negligently overloaded by the driver. Priestly won in the first court, but the decision was reversed upon appeal.

Lord Abinger, in delivering the opinion of the court, laid the groundwork for the development of the doctrines of "assumption of risk" and "fellow-servant." The decision even hinted at what later became known as "contributory negligence."² The court held that (1) the "master," if held liable in this case, might conceivably be held liable for an almost endless list of obscure instances in which some negligence on his part might be proved.

(2) The servant is not bound to risk his safety in the service of his master, and may, if he sees fit, decline any service in which he reasonably apprehends injury to himself. . . . The plaintiff must have known as well as his master, and probably better, whether the van was sufficient, whether it was overloaded, and whether it was likely to carry him safely.

(3) To allow this sort of action to prevail would be an encouragement to the servant to omit that


²Infra, pp. 15 and 16.
diligence and caution which he is in duty bound to exercise on behalf of his master, to protect him against the misconduct or negligence of others who serve him, and [such diligence and caution] are a much better security against any injury the servant may sustain by the negligence of others engaged under the same master, than any recourse against his master for damages could possibly afford. 

An American case four years after the Priestly decision showed clearly the influence of British legal philosophy. In 1841, in its decision in the case of Murray vs. South Carolina Railroad Company, the South Carolina Court of Errors denied recovery to a locomotive fireman, injured as the result of negligence of the engineer with whom he worked. The decision stated that

(1) The contract of employment did not make the company a guarantor to one employee against the negligence of other employees; (2) that the fireman was, or ought to have been, aware of the perils to which his employment exposed him, ... ; and (3) that the plaintiff was paid for his labor and for the dangers to which he was exposed.

Thus the doctrines of assumption of risk and fellow-servant were imported. Other doctrines developed from these, as the courts modified and re-interpreted decisions. New doctrines were still based upon the prevailing orientation of the common law--toward the preservation of property rights. The law, as it had developed by 1910 in the United States, may

1Downey, op. cit., pp. 26, 27.
2Ibid., pp. 27, 28.

**Duties of the employer.** This principle states that "the employer is liable only for such injuries as are due to some 'fault' or negligence on his part, that is, some breach of the employer's legal duty to provide for the safety of his employees." In order to prove that the employer had failed in this duty, the injured worker had to prove that the employer had failed to exercise "reasonable" care in providing for safety.  

**Burden of occupational risks.** The employer could plead as a defense that the employee had, by accepting employment, taken upon himself the risk of any danger which "the servant, as a reasonably careful and prudent man, should expect to encounter in the course of his employment."  

**Fellow-servant.** If, under this rule, the employer could prove that the injured employee's misfortune was "attributable to error of judgment, forgetfulness, or want of skill,

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care, or attention on the part of co-employees,\textsuperscript{1} the employee was barred from recovery.\textsuperscript{1}

**Contributory negligence.** Even if the employee was successful in proving that his work injury was the fault of the employer, he was still required to prove that he, the worker, was completely free of fault, or contributory negligence.\textsuperscript{2} Any form of negligence might invalidate his claim.

**Assumption of risk.** As a last defense, although the employee might have proved that he did not assume the particular risk in question when employed, that his injury was not the fault of a fellow employee or himself, the employer could still plead that the employee had assumed the risk in the course of employment. Assumption of risk was proved by establishing that

(1) the employee knew, or in the exercise of ordinary care should have known, of the defect that occasioned his injury, (2) that he appreciated the extra hazard resulting therefrom, and (3) that with such knowledge and appreciation he continued to work, exposed to such abnormal hazard, without any special inducement to do so. . . .\textsuperscript{3}

If assumption of risk were proved, the employee was again barred from recovery.

\textsuperscript{1}Ibid., pp. 25-29. \hspace{1cm} \textsuperscript{2}Ibid., pp. 48-51. \hspace{1cm} \textsuperscript{3}Ibid., pp. 57-70.
The common-law barriers against recovery of damages by an injured employee were truly formidable. Both the pain and the cost of work injuries were borne by the worker, who was least able to pay. The logical and humane course of action was to transfer the cost of these accidents from the laborer to the employer, and in turn to society at large, which reaped the benefits of his labor.

III. PIONEER WORKMEN'S COMPENSATION LEGISLATION

The size of the industrial establishment, the new dangers involved, and the appalling accident toll made it increasingly obvious that a new approach to compensation for work accidents was required. What was needed was a large-scale, organized program of compensation which prepared in advance for the expense of injuries, was tied to a safety program, and which compensated injured workers without forcing them to resort to the lengthy, expensive and inadequate avenue of litigation.¹ West Prussia, (1838),² then Great Britain, (1897), passed pioneer statutes which led to workmen's compensation laws. By 1907, twenty-two European countries had workmen's compensation statutes.³ Shortly

¹Downey, op. cit., p. 303.
³Appendix A, p. 154.
thereafter, legislatures in the United States began to enact laws based on the European models.\textsuperscript{1}

The German law. The Germans, prodded by their own socialists, were the first to act on the need for workmen's compensation. The need for a system which did not depend upon fixing "fault" may be shown by the fact that within the German Empire, only one-eighth of the industrial injuries were found to be due to "defective apparatus, . . . absence of or defective safety appliances, . . . absence of or defective regulations, supervision, . . . or other faults."\textsuperscript{2}

In 1830, an accident bill was passed which applied to Prussian railroads.\textsuperscript{3} In 1833, Prussia enacted a sickness bill,\textsuperscript{4} and in 1834, a general compensation bill was passed by the Reichstag. Bismarck supported the bill strongly, as part of his welfare program designed to undermine the growing strength of the socialists. While Bismarck's motives were not pure, the results were very beneficial. The German law was one of the best. Within twenty-five years, all European nations had workmen's plans, many of them nearly:

\textsuperscript{1}Appendix B, p. 155. \textsuperscript{2}Downey, \textit{op. cit.}, p. 71.
\textsuperscript{3}Somers, \textit{op. cit.}, p. 29.
\textsuperscript{4}Mehrf and Cammack, \textit{op. cit.}, p. 464.
identical to the German plan. ¹

Of the two general types of plans which evolved, the "compensation plan" and the "insurance plan," the Germans originated the latter. Under the insurance plan, the employers in an industrial group, for example, steel-making, were collectively responsible for the compensation of injuries occurring within that group. Germany, Austria, Hungary, Luxembourg, Norway, and Switzerland all adopted variations of this plan.²

German manufacturers found that the law hit their pocketbooks hard. In the first two years of its existence, the law cost them 150 million marks. Their answer was to form associations within each industrial group.³ Membership was mandatory. Each association in turn formed a mutual insurance company, which paid compensation costs out of yearly premiums collected from the members. Premiums varied with the size of a company's payroll, and its loss experience. A "risk tariff" was assessed against companies which failed to comply with the desired standards of safety. If premiums were found inadequate to pay the losses incurred by the industrial group in a given year, the losses over and

¹Somers, loc. cit. ²Downey, op. cit., p. 93.
above premium revenues became a lien against members of the group. A peculiarity of the system was that workers were assessed for part of the cost of the part of the insurance which covered "non-serious" injuries. Workers paid only about 8 per cent of the cost of the total program, however.

Insurance covered manual workmen and other employees receiving less than five thousand marks per year. Almost all industrial accidents were covered. Compensation was based upon the wages of the injured worker. Benefits included medical care and medicines; a monthly pension while disabled; a burial allowance in cases of death, and a pension plan to provide for the surviving dependents of a deceased worker.

The mutual companies became the nucleus of a self-administered compensation system in which most claims were expeditiously settled with little argument. First, each claim was passed upon by the executive committee of the local section of the accident insurance association. If a dispute arose, the case was referred to an arbitration court composed of equal numbers of employees and employers, with a government official as "umpire." From this arbitration, appeals could be made to the Imperial Insurance Office. In practice, 18 per cent of the cases went to arbitration court, and only 3 per cent eventually reached the Imperial Insurance Office. The cost of administration of the program was much less than a system (or non-system) of legal battles.
The best feature of the German plan was that it was virtually self-administering. Other advantages of the plan were reasonably liberal benefits; the practice of paying monthly pensions, rather than lump-sum awards, to either injured or survivors; guaranteed medical care, arranged in such a way that it was in the pecuniary interest of the employer to provide the best available care; an aggressive accident-prevention program, supported by safety inspections and the "risk tariff"; and compulsory participation and contribution by all industrial concerns.\(^1\)

The **British law.** Great Britain passed its original compensation act in 1897 under the leadership of Premier Asquith.\(^2\) The law was modified in both 1900 and 1906.\(^3\) The British "compensation" approach was to hold each employer individually responsible for injuries sustained by his employees. His only defense was that the employee had engaged in "serious and wilful misconduct." Insurance was "elective," that is, the employer could choose to bear the liability for work accidents himself, or insure it.\(^4\) Most

\(^1\)Downey, *op. cit.*, pp. 96-101.


\(^3\)Somers, *loc. cit.*

\(^4\)Downey, *op. cit.*, p. 94.
employers found it advisable to insure themselves with commercial companies, apparently a very expensive process at that time.\footnote{Ibid.}

The British law was less welfare-oriented than the German plan. It attempted to "pay" the worker for his injury, rather than to take care of him. The essential characteristics of the system were best described by E. H. Downey:

The schedule of compensation is as follows: (1) in cases of death, where there are no dependents, reasonable medical and funeral expenses, not to exceed 10 pounds; (2) in cases of death, where there are persons wholly dependent on the deceased, three years' wages, but not less than 150 pounds nor more than 300 pounds; (3) in cases of death where there are none but partial dependents, payments proportional to such partial dependency; (4) in cases of total disability, one-half of weekly wages (full wages if less than 10 shillings per week) during disability; and (5) in cases of partial disability, one-half of the loss of earning capacity. No compensation is paid for disability lasting less than one week, nor for the first week where incapacity does not last more than two weeks. In other cases compensation dates from the time of the accident. To guard against simulation claimants are required to submit themselves for examination to a physician selected and paid by the employer or to a medical referee appointed by the county court.

Disputes under the act may be adjudicated (1) by an arbitration committee representing the employer and his employees, (2) by an arbitrator agreed on by the parties, (3) by a county judge, or (4) by an arbitrator appointed by him. Findings of fact, whether by an arbitrator or by a county judge, are final. On questions of law, appeals lie to the Court of Appeals and ultimately to the House of Lords. In practice, nearly all claims are settled by agreement, only one-fifth of the death claims and one-half of one per cent of the disability claims
being taken into court. The number of appeals to higher courts is likewise extremely small. . . .

A peculiar feature of the British system is the survival of the earlier employers' liability act alongside of the compensation law, so that an injured workman may make his claim under the latter and also bring suit under the former, though double recovery is not permitted.¹

The German system paid more adequate awards than the British system; it was more secure, because insurance was mandatory; it had a better safety plan; payments to workers were better designed to promote continuing welfare; it was more economical. The British plan with its more "elective" aspect, was generally more palatable to American legislatures, but certain features of both plans were incorporated in many laws in the United States.

IV. EARLY LAWS IN THE UNITED STATES

Employers liability laws. During the period from about 1898 to 1908, the primary efforts of both the labor movement and of progressives in general, in dealing with the problem of industrial accidents, were directed toward modifying existing common-law rules through so-called "employer's liability" laws, intended to make it easier for injured workers to recover through the courts. Along these lines, a Federal Employer's Liability Law was passed as late

¹Ibid., p. 95.
as 1908, but it was the last federal law of this type prior to the inception of compensation laws.

The Federal Liability law of 1908 covered employees of common carriers engaged in interstate commerce, and merely modified the employer's common-law liability defenses in regard to contributory negligence, and the fellow-servant rule. If the employee were injured because of his own negligence, he did not completely forfeit recovery as before, but only forfeited a percentage of the judgment which was in proportion to his contributory negligence. The employer (usually a railroad) was also held responsible to:

... employees in cases in which their officers, agents, or other employees were negligent or in cases of defects in cars, engines, machinery, tracks, and so forth, which were due to negligence. ... Contacts between employers and employees of exemption from the law's operation were prohibited. ¹

The idea of compensation legislation, which took cases entirely out of the courts, was still only slightly known by many men in power, and was considered novel or even dangerous. Labor was not behind workmen's compensation prior to 1908, either. While the American Federation of Labor did not consider such laws dangerous, Samuel Gompers felt that workers could recover more through the courts if the existing common law was modified, than they would be able to get through the

the limited workmen's compensation statutes he felt were possible.¹ No evidence was found to indicate that any other labor organization had taken any stand on workmen's compensation at the time, pro or con.

**Workmen's compensation laws.** The content of pioneer workmen's compensation statutes in the United States was largely imported. Legislatures inexperienced in such laws often borrowed phrases directly from British or German models, and some infant statutes bogged down before passage or were passed only to be declared unconstitutional. Proponents of the new laws had to fight conservative legislatures and courts, and had little outside support from pressure groups. Members of the New York state legislature attempted to enact a workmen's compensation law modeled after the English law in 1898, but the measure failed to pass.² Maryland passed a law in 1902, but the Baltimore Court of Common Pleas declared it unconstitutional within a year. Between 1902 and 1908, special commissions to investigate the subject were active in both Massachusetts and Illinois, but no decisions were reached in either case.³

The turning point came in 1908, when, led by Theodore Roosevelt, the Congress enacted a federal workmen's compensation law. The new United States Employees Compensation Act

¹Somers, op. cit., p. 31. ²Lang, op. cit., p. 7. ³Mehr and Cammack, op. cit., p. 465.
covered certain civilian employees of the federal government. Previously, these employees had only been able to secure compensation through special act of congress.\(^1\) In the same year, Samuel Gompers and the American Federation of Labor changed positions and began to agitate for state workmen's compensation laws.\(^2\) The first successful state law was the Montana law, passed in 1909.\(^3\) By 1913, when the Iowa statute was passed, fifteen states had passed laws.\(^4\) By 1917, thirty states and three territories had passed laws.\(^5\)

Although the status of workmen's compensation laws had come a long distance, the barrier of the judiciary still had to be breached. The New York Court of Appeals declared the 1910 New York law unconstitutional on the ground that its mandatory nature violated the due-process doctrine of the constitution in that it deprived the employer of his property (money) without due process of law. The court stated as well that the act was "'plainly revolutionary,' and 'in its final and simple analysis [took] property of A and [gave] it to B, and that cannot be done under our constitution.'"\(^6\) This decision proved to be a great worry to compensation

\(^1\)Ibid. \(^2\)Somers, op. cit., p. 31. \(^3\)Downey, op. cit., p. 280. \(^4\)Appendix E, p. 155. \(^5\)Link, op. cit., p. 72. \(^6\)Somers, op. cit., p. 32.
commissions in trying to form laws for their states which would pass the test of constitutionality, yet be effective in aiding workers. New York amended its constitution to allow for compulsory insurance in 1913, and proceeded to pass another compulsory law. It was again contested, but held constitutional by the United States Supreme Court in New York Central Railroad vs. White, 1917. The Iowa elective law provided another key case, Hawkins vs. Bleakly, 1917, and was ruled constitutional by the United States Supreme Court. The third crucial case was Mountain Timber Company vs. Washington, 1917. It was a test of the Washington law, which excluded commercial insurance, covering compensation liability through a state fund. The Supreme Court also declared this law constitutional.¹

The general provisions of workmen’s compensation laws as they had evolved by 1911, may be briefly summarized. Usually, agricultural laborers and domestic servants were excluded from coverage. Industrial workers were covered for injuries arising "out of and in the course of employment," including first aid. Financial benefits usually began after a waiting period of from seven days to two weeks, in the form of weekly cash payments. The laws fixed maximum and minimum

¹Somers, op. cit., p. 33.
amounts to be paid, and decreed specific amounts to be paid for certain injuries. Weekly compensation payments were based upon a percentage of the workers' salary, usually 50 per cent. Death benefits were provided for survivors of workers who died from injuries. The employer was required, in most cases, to pay the entire cost either to a state fund, or to an insurance company or mutual. His premiums varied with his payroll and loss experience. Compulsory systems required all employers (with minor exceptions) to join the compensation system. Elective systems gave the employer the right to join or not to join the plan, but any employer who chose not to join would be deprived of all his common-law defenses if sued by an injured worker. The program was administered by a state industrial commissioner, who supervised accident prevention and inspection, and had jurisdiction over compensation claims. Claims were appealed, if necessary, through committees or boards, equally divided between representatives of the employer and the employees. The commissioner's authority extended to all questions of fact, although certain questions of law might be subject to judicial review.¹

¹Mehr and Cammack, op. cit., p. 466.
V. UNITED STATES PROGRESSIVISM AND WORKMEN’S COMPENSATION

The territorial aristocracy was bound by law, or believed itself bound by custom, to aid its servants or relieve their misery. But the manufacturing aristocracy of our day after impoverishing and brutalizing the men whom it uses leaves them to be supported by public charity in times of crises.

De Tocqueville. *Democracy in America.*

Progressivism was directly related to the development of workmen’s compensation in the United States. The nature of the laws was basically progressive. Each law embodied recognition of the defenseless position of the injured industrial worker; a recognition of the obligation of society, industry, or the state to aid him; and, by removing the employer’s arsenal of common-law defenses, a reversal of the trend toward ever-greater legal protection of organized wealth.

Just how did workmen’s compensation fit into the progressive movement? Arthur S. Link, as discussed above, separates the national movement into several individual movements: (1) social justice; (2) political reform; and (3) the national effort at effective control of large corporations and banks. Workmen’s compensation was advanced by both the social justice and political reform movements,


2Link, op. cit., p. 66.
but received its original impetus from the social justice movement:

The social justice movement was the first large-scale attempt to palliate the grosser aspects of American life—the miserable living conditions of the city masses, the exploitation of women and children in industry, and the degradation of the submerged, unprotected workers.¹

The first leaders of the social justice movement were priests and ministers, but by 1890, a separate class of social workers had appeared, working in settlement houses and charity organizations. "As time passed, . . . the social workers became departmentalized, some concerned with care of immigrants, some with problems of labor, some with juvenile delinquency."²

Mr. Link delineates four major objectives of the "champions of social welfare." The first three were the fight against child labor, protection of women in industry, and minimum wage legislation for women workers. The fourth was industrial accident insurance:

The last major objective of the champions of social welfare was the establishment of public systems of industrial accident insurance. By 1900 the western European nations had long since demonstrated the excellence and feasibility of such systems; but in the United States the common law rules relating to industrial accidents still governed the payment of damages.

The obvious injustice of throwing practically the entire financial burden of industrial accidents and deaths on the workers and their families—. . . . led to an early movement to abrogate or modify these

¹Ibid., p. 69. ²Ibid., pp. 69-71.
doctrines. By 1910 most states had modified the common law rules in favor of the injured worker; even so, he was little better off than before because he still had to recover damages. . . . After official investigations were concluded, a wave of protest and legislation swept over the country.1

Based upon his own description of the social justice movement as part of the progressive movement, one might logically question Mr. Link's assertion that the progressive movement "was not particularly sympathetic to labor's needs."2, 3

Mr. Joseph G. Rayback of Pennsylvania State University, while disagreeing with Mr. Link's view of progressivism and labor, agrees that workmen's compensation was part of the movement.

For many reasons, the Progressives gave much attention to labor and its demands. . . . The very nature of the . . . movement involved labor.

The labor problem which the Progressives made the strongest effort to solve was that of responsibility for industrial accidents. . . . But the Progressives' most significant contribution to a solution of the problem involved the suggestion that insurance systems be established to cover industrial accidents. The suggestion was based on the idea that workmen should be compensated for accidents regardless of cause and that compensation for accidents was to be regarded as a part of production costs.4

In his description of progressivism as an outgrowth of populism, Eric Goldman said:

1_Ibid., pp. 71-72.  
2_Supra, p. 3.  
3_Ibid., p. 68.  
In the spirit of populism, progressives took up new proposals for direct democracy or the advancement of lower-income groups, most notably popular primaries, recall of elected officials, workmen's compensation legislation, and minimum-wage and maximum-hour laws.¹

The progressive campaign for compensation legislation began with the printed arguments of social justice champions. It received its prestigious political impetus from Theodore Roosevelt, and was carried to fruition by pressure groups led by the American Federation of Labor.

Writers and other intellectuals of the social justice movement were important in creating a national mood which was receptive to progressive legislation. The most famous book on the subject of work accidents was the very effective Work Accidents and the Law, well described by Somers and Somers:

A survey of Pittsburgh, sponsored by the Russell Sage Foundation in 1909, became famous and especially influential after the hair-raising findings were published in popularized form /Crystal Eastman's Work Accidents and the Law/ which became a best seller. A striking feature of this work was its frontispiece entitled "Death Calendar in Industry for Allegheny County." It pictured 12 monthly pages of a calendar covering July 1906 to June 1907, with small red crosses appearing under almost every date. "Each red cross stands for a man killed at work, or one who died as a direct result of an injury received in the course of his work." What startled many people was the fact that the march of death was not sporadic or due to special catastrophes but was a day-in, day-out affair, the little red crosses never failing to average at least one a day in every week of the year.²

¹Goldman, op. cit., p. 76.
²Somers, op. cit., p. 31.
The Chicago Daily News may be cited as an example of a progressive newspaper of considerable influence. As early as 1906, the News was running a series of articles on accidents and compensation, on the average of one per week, highlighting the accident toll in industry, the defenselessness of the worker, and the necessity for insurance to protect him. The articles were written by well-qualified people. Several were written by Professor David Kinley, economist of the University of Illinois, later president of the university,\(^1\) and Professor Charles Richmond, a sociologist of the University of Chicago.\(^2\) It is hard to assess the great influence such articles may have had. They were not only read in the immediate area, but may have been seen in many other locales through the medium of the labor press. For example, the Dubuque, Iowa Labor Leader featured many of these same articles quoted directly from the News.\(^3\)

Other important opinion-makers of the time were John R. Commons of the University of Wisconsin and John B. Andrews of the American Association for Labor Legislation.\(^4\)


\(^4\)Somers, op. cit., p. 31.
The importance of the intellectual effort during the period from 1906 to 1912 should not be underestimated. Writings and speeches of the time were widely read by employers, laborers, and politicians. Writers influenced each other. Professor Downey's book on Iowa work accident indemnity makes frequent use of quotations from Eastman's *Work Accidents and the Law*, for example. The entire book by Downey was read by John R. Commons. Intellectuals and writers laid the groundwork for acceptance of new legislation. For fruition, the movement still needed a positive push, however. That push came in January of 1908.

The keynote was sounded by Theodore Roosevelt, "the best publicity man progressivism ever had." In his message to Congress on January 31, 1908, President Roosevelt spoke out strongly for a federal workman's compensation law. His speech was unquestionably progressive, and showed an excellent understanding of the advantages and content of such laws.

Almost all civilized nations have enacted legislation embodying the complete recognition of the principle which places the entire trade risk for industrial accidents (excluding, of course, accidents due to willful misconduct of the employer) on the industry as represented by the employer, which in this case is the government.

... Exactly as the working man is entitled to his wages, so should he be entitled to indemnity for injuries sustained in the natural course of his labor.

1 Downey, *op. cit.*, pp. xi, 205.
2 Howry, *op. cit.*, p. 16.
The rates of compensation and the regulations for its payment should be specified by law, and the machinery for determining the amount to be paid should in each case be provided in such a manner that the employee is represented without expense to him. In other words, compensation should be paid automatically.1

This statement encapsulated all of the essential features of workmen's compensation: liability without fault; compensation as a right, the same as wages; specific compensation for specific injuries, without the necessity of litigation; cost of the program as part of the cost of production, with no expense to the worker. The American Federation of Labor was later to take up the fight for such laws, using almost a carbon copy of President Roosevelt's program.

There is little doubt that it was Theodore Roosevelt's personal push which sent the national legislative program for workmen's compensation on its way. Eric Goldman has said that one of Roosevelt's biggest contributions to progressivism was the fact that he "brought the federal government into the workmen's compensation field for the first time."2 Somers and Somers credit Roosevelt with providing the "first major impetus" to action on workmen's compensation. While the federal law he sponsored was "crude" and "limited," it gave "Federal leadership and prestige to the movement and stimulated more active interest in many states."3 Roosevelt

1Lang, op. cit., pp. 7-8.  
2Goldman, op. cit., p. 163.  
3Somers, op. cit., p. 29.
continued his interest in the new movement. In his famous speech at Osawatomie, Kansas, August, 1910, he came out strongly for a more comprehensive federal compensation act.\(^1\) Edward Wagenknecht quotes a singularly humanitarian statement by Roosevelt on the subject in the same year:

"It is hypocritical baseness to speak of a girl who works in a factory where the dangerous machinery is unprotected as having the 'right' freely to contract to expose herself to dangers of life and limb."\(^2\) Roosevelt's sympathy for the injured, his understanding of the benefits of workmen's compensation, his wide audience of middle and upper class social justice advocates as well as large segments of the laboring group, and his superb timing, combined to make him the natural tribune for this legislation.

In 1908, a crucial change occurred in the platform of the American Federation of Labor. Samuel Gompers, who had previously opposed workmen's compensation legislation, changed his position to one of active support. He shares credit with President Roosevelt for passage of the Federal Employees Workmen's Compensation Act in 1908. The American Federation of Labor's very effective group of state organizations took up the right for state laws in 1909.\(^3\)

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\(^1\)Mowry, op. cit., p. 144.


\(^3\)Mehr and Cammack, op. cit., p. 465; Somers and Somers, op. cit., p. 31; and Rayback, op. cit., p. 264.
federations were most effective instruments in the fight for legislation at the state level. At the same time, the American Bar Association began a study directed toward drawing up uniform compensation legislation, and the National Association of Manufacturers "reported that a poll of manufacturers had shown a very large majority to be in favor of compensation legislation."¹ The American Federation of Labor did most of the spade work, however, and may be given most of the credit for the very successful legislative program from 1908 to 1917.²

While progressivism in the United States cannot be credited with the origination of the basic features of compensation statutes, which were largely imported from Great Britain and Germany, the enactment of the laws themselves was a milestone for the progressive cause. The social justice movement, with its middle-class, reforming bent, intellectual spokesmen, books and newspapers, created the necessary atmosphere for acceptance of workmen's compensation legislation. Theodore Roosevelt gave the movement its crucial legislative push, and, from 1908 to 1917, the American Federation of Labor, through its state lobbies, provided the pressure necessary to pass a truly amazing series of laws.

¹Somers and Somers, loc. cit.
²Rayback, loc. cit.
CHAPTER III

THE IOWA BACKGROUND

In Iowa, the movement to alleviate the plight of the injured workman paralleled the movement on the national level. Although the problem of work accidents had reached sizable proportions by the turn of the century, little was heard of employer's liability laws until 1906, when the progressive element gained control of the legislature,\(^1\) and the Iowa State Federation of Labor began its drive for new legislation.\(^2\) First efforts in Iowa, as on the national level, were directed toward reducing the employer's common-law defenses when sued by employees. The Assumption of Risk Acts of 1907,\(^3\) 1909,\(^4\) and the Railway Labor Act of 1909\(^5\) were such laws. It was not until 1911 that the newer concept, workmen's compensation, was introduced to the Iowa legislature by Senator John T. Clarkson.\(^6\) It is appropriate to review the scale of work accidents in Iowa during the period under investigation, and early efforts to facilitate recovery.

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\(^1\) Bowers, op. cit., p. 33. \(^2\) Downey, op. cit., p. 66.
\(^3\) Laws of Iowa (Des Moines: State Printer, 1907), p. 182.
\(^5\) Ibid., pp. 117-118.
\(^6\) Davenport Democrat and Leader, June 6, 1911, p. 2.
of damages by the worker, with emphasis upon the men and institutions responsible.

I. WORK ACCIDENTS IN IOWA

The seriousness of the problem of work accidents may be partially shown by statistics. During the period of interest, three state agencies were active in reporting accidents: The Railroad Commissioners; the State Mine Inspectors; and the Bureau of Labor Statistics, which reported industrial accidents other than in mines and on railroads. The reports of these agencies were compiled, under widely varying formats, in the Iowa Legislative Documents, biennial compilations of reports of state agencies to the Governor. Since the Bureau of Labor Statistics did not report accidents until 1906, the table which appears on the following page begins with the 1906 reports (which cover 1905). Certain figures cover two-year periods. These figures appear opposite the second of the two years they cover.
### TABLE I*

**WORK ACCIDENTS IN IOWA, 1905-1911**

<table>
<thead>
<tr>
<th>Year</th>
<th>Iowa Bureau of Labor Statistics</th>
<th></th>
<th></th>
<th>State Mine Inspectors</th>
<th></th>
<th></th>
<th>State Railroad Commissioners</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fatal</td>
<td>Non-fatal</td>
<td></td>
<td>Fatal</td>
<td>Non-fatal</td>
<td></td>
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</tr>
<tr>
<td>1905</td>
<td>11</td>
<td>1,384</td>
<td></td>
<td>24</td>
<td>116</td>
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<td>74</td>
<td>1,376</td>
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<td></td>
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<td>37</td>
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<td></td>
<td>80</td>
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<td>27</td>
<td>846</td>
<td></td>
<td>35</td>
<td>209</td>
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<td>64</td>
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<td>21</td>
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<td>28</td>
<td>216</td>
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<td>77</td>
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<td>39</td>
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<td>28</td>
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<td></td>
<td>36</td>
<td>296</td>
<td></td>
<td>81</td>
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<td>87</td>
<td>7,457</td>
<td></td>
<td>237</td>
<td>837</td>
<td></td>
<td>560</td>
<td>12,156</td>
</tr>
</tbody>
</table>

*Compiled from the Reports of the Iowa Bureau of Labor Statistics, State Mine Inspectors, State Railroad Commissioners, Iowa Legislative Documents (Des Moines: 1907, 1909, 1911, 1913).*
The fatal and non-fatal accidents from 1905 through 1911 totaled 884 and 20,450, respectively. The average number of fatal accidents reported per year was 126. Non-fatal accidents averaged 2,921 per year. These figures agree very closely with E. H. Downey's tally of average reported yearly fatal and non-fatal accidents during the same period: 125 per year fatal, 3,000 per year non-fatal. Mr. Downey, however, felt that the accident toll was probably much higher than the reported figures showed. If one accepts Mr. Downey's estimate, average annual injuries by 1910 were over 5,000, rather than 3,000.

Along with the figures, which are in themselves distressing, the Bureau of Labor Statistics each year included cryptic comments briefly describing the nature of reported injuries. On almost every date in each year, the reports described the deaths and injuries of workers who became entangled in revolving shaftings, were crushed by moving machinery, and torn apart by the dangerous apparatus with which they worked. In even the worst of the cases, it is easy to imagine an argument which might be presented in court to prove that the accident was, at least in part, attributable to negligence of the employee or his fellow workers, thus barring him from recovery. Since the Bureau of Labor

Statistics did not follow up the cases or name the injured, one can only speculate on what they, their dependents, or survivors might have received.

As an example of the operation in Iowa of the common law rules of fellow-servant, contributory negligence, and assumption of risk, the reasoning of three important Iowa decisions will suffice.

Sullivan v. Mississippi and Missouri Railroad Company, 11 Iowa 421, 424, (1860), hinged on the fellow-servant rule:

The law supposes that the relation which the several employees sustain to each other, and the business in which they are engaged, would enable them better to guard against such risks and accidents, than could the employer. Besides, the moral effect of devolving these risks upon the employees themselves would be to induce a greater degree of caution, prudence, and fidelity than in all probability be otherwise exercised by them.¹

The twisted reasoning sometimes used in denying employees recovery because of "contributory negligence" is shown by Doggett v. Illinois Central Railroad Company, 34 Iowa 284 (1872), as summarized by Downey:

An employee, not engaged in the operation of the train, rode upon the engine-tender, and was killed by the breaking down of a culvert. Had he ridden in the caboose, he would not have been injured. It was held that he could not recover.²

Sutton v. Des Moines Bakery Company, 135 Iowa 390 (1907), denied recovery to the injured employee on the basis

¹Downey, op. cit., pp. 237-238.
²Ibid., p. 253.
of "assumption of risk":

Mr. Justice McClain, rendering the opinion of the Court, treated the statutory provision that "all machinery of every description shall be properly guarded" as simply declaratory of the common law . . . --i.e. as of no effect--and remarked . . ., "If the plaintiff knew of the absence of a safety hood, and was, as a reasonably prudent man, charged with knowledge of the danger to him in continuing in his employment in the absence of such a safety hood, he assumed the risk."

The traditional common-law defenses worked in the same way in Iowa as elsewhere: mainly as an elaborately constructed and almost air-tight series of barriers to relief of injured workers.

II. EARLY LEGISLATION

The first efforts toward relieving the defenseless position of the injured worker in Iowa were directed toward decreasing the more unfair defenses provided to employers by the common law. The first significant law of this type, combining the preliminary statutes of 1862, 1870, and 1872, is contained in the Iowa Code of 1873. It applied to the fellow-servant rule only, and only in railway cases. The fellow-servant rule, one of the five basic defenses which the employer might plead against an injured employee's claims, was particularly illogical because it prevented an injured workman from receiving any compensation from the employer if the latter could prove that the injury was

\[1\text{Ibid., p. 263.}\]
attributable to the fault or lack of skill of a fellow employee. Presumably, if his injury was caused through the fault of another employee, the injured party could bring suit against his fellow worker. In fact, the fellow worker was usually one of those least likely to be able to pay, so the fellow-servant rule operated mainly as a protection for the employer, giving little or no benefit to the employee.

The 1873 law stated in part that:

Every corporation operating a railway shall be liable for all damages sustained by any person, including employees of such a corporation, in consequence of the neglect of agents, or by any mismanagement of engineers or other employees of the corporation. . . .

This law was a step in the right direction, but it was very limited. It applied only to corporations operating railroads; no guidance was given in regard to specific awards; the worker was not spared the cost of litigation; the employer still had numerous other defenses available: Burden of Occupational Risks, Contributory Negligence, and Assumption of Risk. Traditional rules were not further modified for thirty-four years.

The Iowa State Federation of Labor. During the legislative lull between 1873 and 1907, the Iowa State Federation of Labor was formed. Founded in 1893 at Burlington, Iowa, the Federation grew to be the major influence in

1Downey, op. cit., p. 33.
employer's liability legislation in Iowa. Very few references were made by general news and labor newspapers of the day to the direct action of the Federation in the legislature. The records of the legislature itself are very abbreviated, and no record of lobbyists was kept at the time. Secondary sources published at the time, however, contain numerous references to the role of the Federation in labor legislation. No other labor organization seems to have been recognized by writers of the period as a leader in employer's liability legislation. The records of the Federation's conventions give credence to a strong educational and lobbying effort, as do the reactions of rival and friendly groups, and the testimony heard by the Iowa Employer's Liability Commission, all to be discussed later in this study. Lorin F. Stuckey, in his history of the Federation published in 1916, stated that:

The Iowa State Federation of Labor has agitated /for employer's liability and workmen's compensation laws/ at nearly every session of the legislature since it was organized in 1893. . . . /But/ it was not until 1907 that any definite results were attained.1

The precursor of the Iowa State Federation of Labor was the district assembly of the Knights of Labor. The national organization was secret until 1881, but it was known

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that local assemblies were established in Iowa, chiefly in the larger towns. On May 7, 1897, various locals of the Knights of Labor met in Des Moines to organize District Assembly #28 (the 28th in the United States). Little is known of the activities of the group until after 1881, when the organization was no longer secret. The Iowa Assembly began to print its proceedings with the assembly in Oska-loosa, January 10 and 11, 1883. Membership in the Iowa Assembly varied greatly, from 1884, when the membership included forty-one local assemblies with 3,200 members to 1888, when it counted 188 locals and 30,000 members.

The trade union movement was strengthening at the same time, and strikes called by local unions were beginning to appear. In 1877, Dubuque, a growing stronghold of labor activity, recorded strikes by the Dubuque Typographical Union, five unions of the Brotherhood of Locomotive Engineers, two lodges of the Locomotive Firemen, and three unions of the Order of Railway Conductors. In 1880, fourteen strikes were recorded in Iowa, and between 1881 and 1905, 446 strikes and twenty-three lockouts were recorded by the United States Commissioner of Labor. By 1890, the Iowa Bureau of Labor Statistics reported seventy-eight trade unions in the state.

The appeal of the American Federation of Labor, with its emphasis upon organizing local trade unions into viable
forces, was strengthening throughout the nation. In 1893, the Burlington Trades and Labor Assembly invited all labor and trade unions to meet in Burlington to form a state organization. The convention, however, was held in Des Moines, May 15-18, 1893. The fortunes of the Federation varied considerably, from a membership of seventy-seven locals in 1903 to twenty-seven in 1909 to seventy-three in 1914. On the average, the Federation claimed membership of about forty locals.¹ The great political influence of the Federation, which experienced such varying support, is evidence of the quality of its leadership, of a state political program backed by a powerful national organization, and the value of an organization which continued from year to year to represent the workers' interests, even with less than stable support.

The eloquent leader of the Iowa Federation from 1903 to 1913, during the fight for employer's liability and workmen's compensation laws, was Mr. A. L. Urick. His speeches were inspiring, educational, and moving. He appeared frequently in the midst of the fight for progressive labor legislation, and was well respected throughout the state:

... He has been accorded the respect of men in all walks of life, ... and he ranks high among the labor leaders of the United States.

¹Stuckey, op. cit., pp. 10-102.
His success has been attained chiefly by persistence and systematic effort along the line of legislative enactments, and a consistent effort to educate his constituency to an appreciation of the needs of organized labor. He has not only addressed himself to the labor elements of the state, but educational institutions, church organizations, social workers, women's leagues, . . . have accorded him a respectful hearing.¹

In addition to his aggressive program within the legislature, Mr. Urick's speeches to groups such as those mentioned above, groups likely to be concerned with the progressive-social justice movement, were an important part of the effort which created a favorable atmosphere for employer's liability laws.

The Iowa State Federation of Labor's accelerated program for passage of employer's liability laws began in 1905, when its thirteenth annual convention announced the following legislative program: (1) compulsory schooling for all children under fourteen years of age; (2) greater power to factory inspectors for enforcement of recommendations; (3) a law prohibiting the employment of children under fourteen years of age in factories, mines, stores, et cetera; (4) a bill making existing mining laws applicable to gypsum mines; (5) an employer's liability act; and (6) no convict labor.² From this time on, the efforts of the Iowa State Federation of Labor found fruition in the legislative enactments to follow.

¹Ibid., p. 21. ²Ibid., pp. 42-43.
III. THE EMPLOYER'S LIABILITY EXPERIMENT, 1905-1909

In Iowa, as on the national level, the first serious efforts toward helping the injured worker to recover some of his financial losses were directed toward enactment of so-called "employer's liability" statutes, designed to reduce some of the employer's traditional defenses under certain conditions. Progressive labor, academic, and political figures all contributed to the passage of the new laws.

As has been discussed above, the Iowa State Federation of Labor began its campaign for new legislation in 1905, a reflection of the policy of the American Federation of Labor. Shortly thereafter, the Dubuque Labor Leader, closely allied with the Iowa Federation, began to run a series of strong articles in favor of employer's liability laws. The Labor Leader was the only paper found which advocated such laws consistently during the period as an editorial policy. The paper was founded in October of 1906, was endorsed by the Dubuque Trades and Labor Congress and the Dubuque Building Trades Council, and published by J. M. Conley, member of the Dubuque Typographical Union, Number 22.¹

¹Dubuque Labor Leader, December 8, 1906, p. 2.
"Liability of employers for injury to health, body, and life" of workers in their employ, as plank number five of twelve in its platform. Articles relating to the various planks appeared on a rotating basis, the features about employer's liability sharing space almost equally with those on convict labor, et cetera. The articles themselves, as well as their order of appearance, were largely dependent upon out-of-state guidance. Most of the articles on employer's liability were quoted directly from the very progressive Chicago Daily News.¹

Some of the writings quoted by the Labor Leader were quite stimulating. The most advanced of these was an article by Professor David Kinley, economist and later president of the University of Illinois. While most writers were still opting for employer's liability laws, Mr. Kinley spoke out for a true compensation law:

Insurance against accidents, occupational diseases, sickness, invalidism, and old age is an established institution in some of the countries of Europe. Even England, the home of individualism, has gone so far as to pass a law providing for compensation to workmen for injuries incurred in the course of their occupation. Our country alone of all the great industrial countries has done nothing.

The ordinary man's opinion is that there is no need for such a law in this country because with the higher

¹Dubuque Labor Leader, January 12, 1906, p. 1; December 15, 1906, p. 3; March 9, 1907, p. 4; and August 22, 1908, p. 2.
rate of wages and greater intelligence our workmen are able to care for themselves and that the occurrence of industrial accidents is not frequent enough to justify it. The facts, however, are all against this view.

Mr. Kinley went on to point out that the only recovery then available was a suit, and that both the injured worker and the employer were "mulcted" by the delay of the law, large court costs, and lawyer's fees. Kinley showed a remarkable degree of perception, as he predicted the future course of compensation statutes:

Under a compensation law, with a fixed scale of damages, ..., the average amount in such cases certainly would be no more than the law awards in a successful suit, and both parties would avoid the expense of the litigation. The workingman could afford to take a little less compensation if he knew that the award was certain. ...

If a scale of compensation for accidents were established by law, to be paid irrespective of the employer's liability, the employer should be compelled to insure against his probable payments so that the workman would be protected in the event of his employer's failure. The imperfect workings of the compensation law in England are partly due to the absence of a clause compelling insurance.¹

Such advanced views were held by a few, but very few, in 1906. The primary emphasis was still upon employer's liability statutes.

The first attempt in the new campaign for employer's liability laws failed at the 1906 legislative session. The

¹Chicago Daily News, November 12, 1906, p. 8; and Dubuque Labor Leader, December 8, 1906, p. 4.
proposed law, which would have allowed employees to relieve themselves of the legal barrier of assumption of risk by notification of the employer of extraordinary risks, was "defeated by the combined opposition of manufacturers and railways."¹

In his message to the 32nd General Assembly, January 17, 1907, Governor Albert B. Cummins gave a powerful boost to the fight for new laws. He said that "the rules of law which in the State govern the liability of an employer to employees are, in many respects, flagrantly unjust to the employees." He went on to recommend a state employer's liability law, although he did not state what should be its provisions.² Little evidence was found to indicate what may have prompted Governor Cummins to support the new laws. He was a progressive, however, and employer's liability was a concern of certain elements of the progressive movement.³ He also drew political support from organized labor.⁴ It is plausible to suppose that after the defeat of the 1906

¹Downey, op. cit., p. 66.

²Message of Governor Albert B. Cummins to the Thirty-second General Assembly of Iowa, January 17, 1907.

³Link, op. cit., pp. 71, 72.

⁴Rodney C. Wells, Marshalltown, to A. B. Cummins, May 1, 1904. The Albert Baird Cummins Papers (Des Moines: Iowa Department of History and Archives, 1941).
liability law, representatives of labor asked Governor Cummins to come out in favor of such legislation, although evidence to support this view was not found. Whatever his motivation, Cummins' speech gave powerful support to the arguments of those lobbying for improved liability laws.

The Assumption of Risk Act, 1907. The legislative committee of the Iowa State Federation of Labor achieved its first success in the area of employer's liability at the thirty-second General Assembly, 1907. The battle was not well recorded. The Des Moines Register and Leader presented fairly complete listings of bills proposed and passed, but made little comment on the Assumption of Risk Bill. Similarly limited space was given to many other issues of the day, while some received special notice, such as railroad anti-pass legislation, insurance company regulation, and a special controversy about the regulation of the length of skirts worn by chorus girls. It is somewhat surprising to find so little comment in the Register and Leader, especially in connection with the tremendous accidents which continued to occur, such as the explosion at the Fayetteville, Virginia mine, January 29, 1907, in which eighty men working five hundred feet underground were entombed by an

1Des Moines Register and Leader, January-May, 1907.
explosion. In the case of this disaster, the Register and Leader noted that "most of the men were married and had large families," but left it at that. No editorial suggestions about remedy or relief in these situations were forthcoming.¹

The Assumption of Risk bill was introduced by Senator Sherman W. DeWolf from the 38th District, (Blackhawk and Grundy counties), on February 21, 1907. It was referred to the judiciary committee on the same day.² The cryptic comments of the Register and Leader indicate that consideration of the bill was postponed again and again, until it was passed by both houses late in March, and approved March 28, 1907.³ The bill's enactment was probably aided by the fact that it was one of many passed in a record flurry just prior to adjournment.⁴

The bill apparently had tough sledding. Its passage may be credited to the legislative forces of the Iowa State Federation of Labor. E. H. Downey credits the law to the

¹Ibid., January 30, 1907, p. 1.
²Ibid., February 22, 1907, p. 2.
³Thirty-second General Assembly of Iowa, Laws (Des Moines, 1908), p. 182.
⁴Des Moines Register and Leader, March 25, 1907, p. 2.
Federation, which had to compromise on some points with the "State Manufacturer's Association" to get it passed.¹ In contrast, L. D. Stuckey said that the Federation of Labor, "in cooperation with the State Manufacturer's Association," agreed on a compromise measure which later became the law.² The act provided that:

. . . In all such cases where the property, works, machinery, or appliances of an employer are defective or out of repair and the employee has knowledge thereof, and has given written notice to the employer . . . ; no employee after such notice . . . shall . . . be deemed to have assumed the risk incident to the danger arising from such defect or want of repair.³

The legislative committee of the Federation reported mixed successes to the delegates assembled for the 15th annual convention at Keokuk, June 11-14, 1907:

The legislative committee reported its first real fight against convict labor in the legislative assembly of 1907. Their efforts had also been inaugurated with regard to a definitely outlined plan concerning the modification of assumption of risk, contributory negligence, and fellow-servant rules. A number of other bills in which organized labor was interested were reported lost or killed. The report shows considerable activity on the part of the legislative committee, and undoubted progress in protective legislation.⁴

The essential features of the new assumption of risk law were printed for the membership in the convention's report,

¹Downey, op. cit., p. 66.  ²Stuckey, op. cit., p. 102.  ³Ibid., p. 44.  ⁴Ibid.
which stated that the new law was "of primary importance" to organized labor within the state.¹

The leaders of the Federation, while happy that the pioneering statute had been passed, were unhappy with certain provisions of the law. The most objectionable part of the law was the requirement for the employee to provide written notice of defects in machinery, et cetera, in order to avoid assumption of risk.² Workers are generally not prone to make written reports. If they were, they might fear for their jobs, because of the possible reaction of the employer. It is doubtful whether workers in general would have been very well informed of their rights under this law. The law left open an opportunity for the defense to prove that the employee knew, or should have known, of the defect, and yet did not inform the employer in writing. The mere absence of written notice in a case could thus quickly become a strong argument that the employee had known of some obscure defect which caused his injury, but had assumed the risk thereof, merely by continuing to work. It might be observed that very little work would get done if every miner or trainman informed his employer in writing of each minuscule defect relating to the job, which might conceivably cause an injury. The burden

¹Iowa State Federation of Labor, Constitution and Proceedings of the Fifteenth Annual Convention at Keokuk, June 11 to 14, 1907, p. 24.

²Downey, loc. cit.
of industrial accidents remained largely where it had been before: with the worker.

The *Register and Leader* gave credit for the new act to Governor Cummins in its summary of legislation for the year.\(^1\) Its analysis of the effectiveness of the act, however, was somewhat optimistic:

> Not the least important of the measures enacted by the legislature was the law known as the employer's liability and assumption of risk bill. This measure protects the life and ensures the safety of employees of railroads, factories, and other institutions.\(^2\)

To the modern observer, it will be obvious that the Assumption of Risk Act did little or nothing to ensure the safety or protect the lives of workers. Such commentary may give credence to the belief that most people removed from direct contact with the problem had no idea of the magnitude of the legal, human, and financial importance of the industrial accident crisis.

The 1907 law was a step in the right direction, however, and first fruit of a strengthening legislative effort by the Iowa Federation of Labor. The Federation reaffirmed its determination to push employer's liability statutes at the 1907 convention, encouraged by the report of John F. Raem, delegate to the 26th annual convention of the American

\(^1\)Des Moines Register and Leader, April 7, 1907, p. 1.

\(^2\)Ibid., April 10, 1907, p. 2.
Federation of Labor, whose report emphasized the importance of new liability laws. The American Federation's 1907 "Declaration of Principles," read by Mr. Raem, included "liability of employers for injury to body or loss of life" as point 10 of 18 points. A. L. Urick spoke fervently about the importance of more and better laws, apparently with the intention of motivating the members of the Iowa Federation to agitate more effectively.

While the legislative efforts of the Federation were increasingly successful, it may be unrealistic to portray the enactment of new employer's liability and workmen's compensation laws as the result of a "grass-roots" movement generated among the laborers themselves. During the legislative period which began with the campaign of the Iowa Federation in 1905, and ended with the workmen's compensation law of 1913, the Iowa Bureau of Labor Statistics was routinely conducting annual polls among workingmen in Iowa. The standard question asked was: "What specific legislation would benefit wage earners in your occupation?" Of the 645 individual replies received by the Bureau during the period

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\[1\] Iowa State Federation of Labor, Constitution and Proceedings of the Fifteenth Annual Convention at Keokuk, June 11 to 14, 1907, p. 30.

\[2\] Ibid., p. 24.
from 1903 to 1911, only twelve were found which recommended new employer's liability or workmen's compensation legisla-
tion.\textsuperscript{1}

In 1913, the Bureau of Labor Statistics, then under its well-known new commissioner, Mr. A. L. Urick, switched from individual questioning to the procedure of requesting recommendations from local unions, divided into thirty-eight trades. The Bureau's sixteenth annual report, 1913, contained recommendations for a workmen's compensation law from one of four bricklayer's locals, and one of eight mine worker's locals. Sixty-five locals reported, in all.\textsuperscript{2}

By far the majority of replies to the Bureau's admittedly small-scale surveys had to do with the need for an eight-hour day, higher wages, child labor laws, initiative and referendum, and anti-trust laws, with some scattered opinions such as "sending the entire supreme court of the United States of America to the penitentiary for life."\textsuperscript{3} The small number of replies having to do with improved employer's

\textsuperscript{1}Compiled from the Biennial Reports, Iowa Bureau of Labor Statistics, Iowa Legislative Documents (Des Moines: 1905, 1907, 1909, 1911, 1913).
\textsuperscript{2}Ibid., Vol. IV (1915), p. 244.
\textsuperscript{3}Ibid., Vol. II (1909), p. 240.
liability laws may be due to the large number of important labor issues at stake at the time. Employer's liability was only one of an average of eighteen planks in the platform of the American Federation of Labor, and the Iowa Federation. Other important planks had to do with issues which concerned the worker on a day-to-day basis, or issues which evoked more emotional responses, such as child labor.¹

The very abundance of problems may thus have diminished the importance of employer's liability and workmen's compensation in the minds of many workers. The Iowa Federation kept up its efforts to educate its members, and by 1912, members of the Federation who testified before the Iowa Employer's Liability Commission were generally better informed than members of other groups.²

In 1908, the American Federation of Labor switched from advocacy of employer's liability laws to workmen's compensation. Very little of this was heard in Iowa, however. The Iowa Federation kept up the pressure for employer's liability laws. Perhaps the Iowa legislature was judged not ready to accept workmen's compensation. It is certain that very little was known of the subject by 1908. William Howard Taft, in a speech given to the 9th annual dinner of the

¹Iowa State Federation of Labor, Constitution and Proceedings of the Fifteenth Annual Convention at Keokuk, 1907, p. 30.

National Civic Federation in New York, December 23, 1908, exhibited a lack of appreciation for the difference between employer's liability and workmen's compensation. He spoke in favor of "employer's liability," but probably meant workmen's compensation. His words gave evidence of a basic change in approach:

... If by an employer's liability act we could remove from the courts nine-tenths of those damage suits, the great number of which are responsible in part for the overcrowding of our courts, we could not only help our laboring men, but we could remove from the courts the great burden of litigation, so that they would not be as clogged as now.  

By 1908, after the departure of Governor Cummins to Washington and the United States Senate, little executive backing was available for employer's liability in Iowa. Governor Garst, formerly lieutenant governor and only to be Governor for one year, was not the dynamic figure that Cummins had been. He was generally satisfied with liability laws as they stood. Under the heading "Protection for Labor," in his outgoing address to the General Assembly, just before Governor Carroll took office, his only reference to labor legislation was as follows:

While there has been great progress in the perfection of our laws relating to labor in recent years, I believe that we can still further improve them. ... The growth of our industries has been such that there is an increasing number of accidents to employees in factories, and I

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1_Dubuque Labor Leader, December 26, 1908, p. 1._
would suggest that you provide for reports of such accidents to be made promptly to the state labor bureau. 1

The progressive mood in the state seemed to cool upon Cummins' departure. Much to the good fortune of labor, however, John T. Clarkson of Albia was elected to the Iowa Senate in 1908. This remarkable man was born December 16, 1861, in Johnstown, Pennsylvania, to parents of English and Welsh descent. He received a meager education before he became a full-time coal miner. After moving to the Iowa mining center of Ottumwa, he studied in the evenings, then read law in the office of A. C. Steck of Ottumwa. He was admitted to practice by the Supreme Court of Iowa on May 25, 1895. He was elected county attorney of Monroe County in 1896 and 1898. In 1908, he was elected to the Senate, and took his seat in 1909. 2 He immediately took the lead in the employer's liability and workmen's compensation fight. He was primarily responsible for the passage of the 1909 Assumption of Risk Act, 3 introduced Iowa's first workmen's compensation bill in 1911, very ably headed the Employer's

1Des Moines Register and Leader, January 13, 1909, p. 2.

2Iowa Official Register, 1911-1912, XXIV (Des Moines: 1911), p. 396.

Liability Commission of 1912, led the successful fight for the Workmen's Compensation act of 1913, and was responsible for a number of other progressive measures.

The Assumption of Risk Act, 1909. Governor Beryl F. Carroll, in his inaugural address, January 14, 1909, spoke on at least three progressive subjects: "Simplify the ballot," "Tariff revision," and "Protect our resources." The speech contained no reference, however, to suggested labor legislation. Governor Carroll seemed to take the attitude that he, as Governor, should concentrate mainly upon good administration, not attempt to be the fountainhead for new legislation. He was satisfied to accept and consolidate the gains of the Cummins era, and was even less dynamic than his immediate predecessor, Governor Garst, who filled the office from Governor Cummins' departure for the United States Senate in 1908 until January, 1909. Commenting on the inaugural address, the Register and Leader said in an editorial: "That Governor Carroll will not follow the example of his predecessor in taking leadership in legislative matters is evidenced at every turn."  

Leadership in the field of labor legislation had to come from another source.

1 Des Moines Register and Leader, January 15, 1909, p. 12.
2 Ibid., p. 6.
Senator J. T. Clarkson's first effort on behalf of employer's liability came with his introduction of Senate File 81, in 1909. The new bill was designed to get rid of the more objectionable features of the 1907 Assumption of Risk Act. By this time, Senator Clarkson had the aid of a new and very effective chairman of the Legislative Committee of the Iowa State Federation of Labor: Mr. A. L. Urick. The bill passed, and was strongly praised at the Federation's 1909 convention at Dubuque, that summer. The combination of Clarkson and Urick was surely one of the best that could have occurred. Clarkson, the hard-driving, idealistic, well-informed Senator, led the fight for new legislation on the floor, while the eloquent and respected Urick led the lobbying efforts of the Iowa Federation. The 1909 law removed the requirement that the employee notify his employer in writing of defects or need of repair, and made contracts which might restrict the employer's liability illegal:

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... \text{the employee shall not be deemed to have assumed the risk, by continuing in the prosecution of the work, growing out of any defect ... of which the employee may have had knowledge when the employer had knowledge of such defect, except when in the usual and ordinary course of his employment it is the duty of such employee to make the repairs, or remedy the defects. Nor shall the employee under such conditions be deemed to have} \]

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1Iowa State Federation of Labor, Constitution and Proceedings of the Annual Convention at Dubuque, 1909, p. 28.
2Ibid.
waived the negligence, if any, unless the danger be imminent and to such extent that a reasonably prudent person would not have continued in the prosecution of the work; but this statute shall not be construed so as to include such risks as are incident to the employment. And no contract which restricts liability hereunder shall be legal or binding.1

The Railway Labor Act of 1909. Another act passed in 1909 relating to employer's liability was the Railway Labor Act. This law, very similar to the United States law of 1908, and undoubtedly a reaction to it, attempted to reduce the adverse effects of contributory negligence common-law doctrines upon injured railway workers.2

The Iowa statute, however, still diminished the employee's recovery in proportion to his own "fault" in the matter:

... in all actions hereafter brought against any such corporation (operating a railway) to recover damages for the personal injury or death of any employee under or by virtue of any of the provisions of this section, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee; provided, that no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier or corporation of any statute enacted for the safety of employees contributed to the injury or death of such employee.3

2Lang, op. cit., p. 8.
The employee was thus not relieved of the onus of contributory negligence; he was helped by the 1909 law slightly, but he still had to prove the employer guilty of negligence or of breaking the law, and, of course, the statute only applied to railroad employees.

The effectiveness of employer's liability laws in Iowa. The Assumption of Risk Act and the Railway Labor Act of 1909 were the high water marks of the employer's liability movement in Iowa, prior to the inception of workmen's compensation. It is appropriate to summarize briefly the status of Iowa law at the time, prior to an evaluation of the effectiveness of employer's liability. E. H. Downey, writing in 1911 and 1912, presented the following succinct summary:

As the law now stands in Iowa a workman who has been injured in the course of an ordinary employment may recover if he can show, by a preponderance of evidence, that his injury was immediately caused by his employer's failure to exercise ordinary care for his safety and was not in any degree proximately contributed to by any want of ordinary care on the part of the injured workman. Conversely, he cannot recover if his injury was due to an "ordinary hazard" of his employment, or to the negligence of a fellow-workman, or to a defect, although produced by his employer's negligence, which it was the employee's duty to repair or which was so manifestly and immediately dangerous that a "reasonably prudent person would not have continued the prosecution of the work." By way of exception a railway worker is permitted to recover for an injury arising out of the operation of trains notwithstanding that the injury may have been immediately caused by the negligence of a co-employee and although it may have been in some
measure contributed to by the negligence of the injured workman himself.  

In reality, statutory modification of traditional common-law doctrines on employer's liability in Iowa made only a very small dent in the fortress of defenses available to the employer against the injured employee.

More important, just how well did the common law (as modified by 1909), work as a method for compensation of injured workers? The answer is quite simple: it was totally inadequate. With the purpose of assessing the adequacy of existing laws, the Iowa Employer's Liability Commission conducted a sample survey in 1912, covering the years 1909, 1910, and 1911. Total fatal accidents reported were nineteen. Fifteen of the deceased workers had dependents. In four of these cases, nothing at all was recovered by the dependents. In eleven cases, widely varying amounts from $200 to $8,700 were awarded by the courts to surviving dependents. The average amount paid was only $1,510. In the cases of the four men who had no dependents, no damages at all were paid to their estates in three cases, but in one case, $4,000 was awarded.

In the same compilation, 2,285 non-fatal accidents causing partial or total disability for varying amounts of

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1Downey, op. cit., p. 70.
time were reported. The average injured worker received only $67. Judgments varied in the injury cases, too, but the highest amounts cannot be estimated from the format used. The lowest amounts may easily be found. Many received nothing.¹

Employees were not alone in their distress. A. L. Urick himself pointed this out to his Federation in 1910:

The entire story of our senseless rules of employment is not wholly one of wrong to employees. While these bear the great bulk of the risks... there is no doubt but that in many cases employers are subject to mulcting by juries...²

The Iowa Employer's Liability Commission concluded that the employer's "business and all of his earnings and investments are under constant menace and liable to be swept away, only awaiting a catastrophe that is likely to occur that will subject him to a series of law suits."³

The employee's misfortune under the common law was by far the worst, however. The system was outmoded, its awards were fragmentary and ineffective. It failed to deal with the real problem—the fact of the growing number of industrial workers being injured, usually in accidents in which


²Iowa State Federation of Labor, Constitution and Proceedings of the Annual Convention at Waterloo, 1910, p. 11.

the placing of "fault" or liability was meaningless. The Liability Commission concluded that the workers were suffering all the "pain and anguish"\(^1\) in industries where hazards were annually increasing, with little relief to be expected under the common law.\(^2\) An insurance plan which limited the employer's financial danger, yet assured scheduled compensation for the worker, was the logical solution, and was not far away.

\(^1\)Ibid., p. 16. \(^2\)Ibid., p. 3.
CHAPTER IV

THE INCEPTION OF WORKMEN'S COMPENSATION IN IOWA

It is a matter of humiliation to the nation that there should not be on our statute books provision to meet and partially atone for cruel misfortune when it comes upon a man through no fault of his own while faithfully serving the public. . . . In theory, if employees were all experienced business men, they would employ that part of their wages which is received because of risk of injury to secure accident insurance. But as a matter of fact, it is not practical to expect that this will be done, by the great body of employees. An Employers' Liability Law makes it certain that it will be done, in effect, by the employer, and it will ultimately impose no real additional burden upon him. . . . Theodore Roosevelt.

The quotation above was brought to the attention of a reluctant legislature by the Iowa Employer's Liability and Workmen's Compensation Commission, in 1913. The job of moving the Iowa legislature, particularly the Senate, to acceptance of the idea of Workmen's Compensation was a prodigious task. Little had been heard in Iowa of Workmen's Compensation prior to 1910. With the exception of a few avant-garde articles, such as those of David Kinley (1906) in the Dubuque Labor Leader, and a few cryptic announcements of events in the growing national movement in other papers, little reading material was readily available. Maryland had

passed its law in 1902, but it was declared unconstitutional. In 1908, the legislative ice was broken by the enactment of a compensation act for United States employees. In the same year, the American Federation of Labor switched from its former support of employer's liability laws to active agitation for workmen's compensation. Montana passed the first successful state compensation statute in 1909.¹

In 1909, special commissions were appointed in Minnesota, New York, and Wisconsin to investigate the employer's liability-workmen's compensation question. In 1910 Illinois, Massachusetts, Ohio, and Washington appointed commissions.² These few scattered successes were not well known. The first task for anyone in favor of workmen's compensation in Iowa was one of education.

The first stirrings on the subject in Iowa came in 1910. This chapter will follow the story of the effort toward a workmen's compensation law from its beginnings in 1910 through the conclusions of the Employer's Liability Commission in 1912. Much of the Cummins progressive drive had faded from both the executive and legislative scene in Iowa before 1910. The progressive spirit was revitalized in the fight for compensation legislation by the Iowa State Federation of Labor and its legislative forces.

¹Downey, op. cit., p. 280. ²Ibid.
I. THE BEGINNINGS

A. L. Urick, President of the Iowa State Federation of Labor, sounded the keynote for workmen's compensation in 1910. While he still placed his new proposals under the heading of "employer's liability," he was in reality making a smooth transition from advocacy of laws which reduced the employer's defenses in court, to the newer idea of a compensation system. In his address to the Federation's convention at Waterloo, June 14-17, 1910, Mr. Urick admirably summarized the best arguments for workmen's compensation:

In the legislative field, the subject of employer's liability is at present one of the foremost. . . . A government estimate for the year 1908, gives the number of fatal accidents at 30,000 to 34,000, one writer estimating the total of all industrial accidents . . . at 500,000. Statisticians generally agree that approximately 80 per cent of such accidents are incident to the employment. That is no particular negligence is traceable to either employer or employee. The burden of these accidents under the rules of Assumed Risks, is placed completely upon the shoulders of the employees. In another 10 per cent, it is impossible for the employee to make his case good in Court, this usually because of that unholy trinity of Judicial reasoning--Assumption of Risk, Fellow-Servant Rule, and Contributory Negligence. In the remaining 10 percent of the cases, employees are supposed to receive some degree of compensation for their injuries. . . . Nor is this all, in the cases in which compensation is awarded, it is a very common custom for the attorneys in the case to receive 50 percent of the amount, and in numerous instances in excess of this amount.

It is also a very common incident for damage cases to be pending in courts anywhere from two to ten years.
In many states, employer's liability laws are at this time under consideration, . . . Our efforts to abrogate the old laws of Assumption of Risk, Fellow-Servant Rule, and Contributory Negligence, should continue. . . . Experience has taught that accidents in employment cannot be completely eliminated, but they can be greatly reduced by more definite regulations and inspection, and by placing the burden of risk upon the industry where it may be distributed among the users, having them pay the cost of production including the loss of lives and limbs of employees the same as they do all other elements of cost. This would make it profitable for employers to install the safest and best machinery. . . . This would also be a step in the direction of a well defined and equitable system of compensation in accord with the particular degree of injury suffered, and without expensive litigation.

There is no reason why the proper officers of the Federation should not be instructed to meet with responsible representatives of associations of employers of this state, with a view of reaching some understanding and agreement upon matters relating to this all-important subject.1

Mr. Urick was obviously very familiar at this early date with the essence of workmen's compensation.

At the same time, J. T. Clarkson of Albia was preparing a workmen's compensation bill, the first ever attempted in the state. He introduced it at the 1911 General Assembly. It contained all of the essentials of a workmen's compensation law: scheduled compensation for injured workers; liability placed upon the employer, regardless of "fault"; a commission to administer the law without litigation; and a state insurance fund.2 It is unlikely that Senator Clarkson thought his

1Iowa State Federation of Labor, Constitution and Proceedings of the Annual Convention at Waterloo, June 14 to 17, 1910, p. 11.

2Davenport Democrat and Leader, June 6, 1911, p. 2.
bill would pass. He more likely presented it to (1) educate the legislators; and (2) to place himself in a good position to win a compromise measure. Representatives of the Iowa State Manufacturer's Association were horrified at the prospect of an insurance fund run by the state.¹ In the legislature, however, their argument was that while the Association favored the principle of compensation, the bills were "ill-digested," and that the subject should be more fully considered before action. (This argument would reappear in 1913.) G. A. Wrightman, Secretary of the Iowa Association of Manufacturers, and A. L. Urick stated to E. H. Downey that "a compromise was at length effected" which resulted in the creation of an Employer's Liability and Workmen's Compensation Commission.² Such a compromise was about the best that Senator Clarkson could have expected. Opposition was too strong. Too little was known about the subject. The legislature passed the compromise measure, also written by Clarkson, which empowered the governor to appoint a commission.³

¹Interview, Mr. Edward A. Kimball, Assistant Secretary, Iowa State Manufacturer's Association, 1912-1920; Executive Vice President, 1920-1951.

²Downey, op. cit., p. 156.

³Monroe County News, Albia, Iowa, June 8, 1911, p. 1.
The Iowa Federation of Labor was well satisfied with the compromise. A. L. Urick, still President and Chairman of the Legislative Committee, celebrated the creation of a commission. He told the 1911 convention:

The law creating an Employer's Liability Commission has been enacted and the commission appointed. The progress is wholly and solely due to the strong fight made by the Iowa Federation of Labor to have the burden of injury in industry placed where it properly belongs upon the industry itself. . . .

A little more than five years ago when the first effort was made to change the rules relating to personal injury cases, practically everything and everybody was against us, but now it is almost universally conceded by employers as well as employees, that the old liability laws are out of date, unjust, even barbaric, and that some other equitable system must take their places.

. . . It may remain for the Iowa Commission to blaze the way for legislation that will meet the pleasure of the courts.1

A. L. Urick could well take credit for the increasingly favorable attitude of key groups within the state. Even members of the Manufacturer's Association, while quite chary of Senator Clarkson whom they considered a radical, felt quite comfortable with Mr. Urick, who was very persuasive and well respected. Largely as a result of his efforts, the Manufacturers (who also represented employers other than manufacturers) adopted a resolution supporting workmen's compensation at their 1911 convention.2 As they became more

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1Iowa State Federation of Labor, Constitution and Proceedings of the Annual Convention at Sioux City, June 13-16, 1911, p. 54.
2Downey, op. cit., p. 1.
familiar with the advantages of a compensation system, many of the employers were beginning to favor it over the older liability system. According to E. A. Kimball, judgments of $12,000 to $20,000 against employers were occurring more frequently. Organized labor was stronger than ever in the state, and it had succeeded in getting laws passed which took away some of the employers' many important legal defenses. Members of the Manufacturers Association were also concerned about the large lawyer's fees and rising court costs inherent in the old system.¹

Although the written records of the Association were not made available to the writer, it is reasonable to suppose that by 1911, the leaders had seen the "handwriting on the wall," realizing that a compensation statute was inevitable. Their primary concern was with the question of how to indemnify themselves at minimum cost against losses under the new law. The premiums charged by the national stock companies for workmen's compensation insurance were thought exorbitant.² One possible solution was to accept state insurance. This was unthinkable to the manufacturer's group. Another solution was to form a mutual company supported by a large number of member business which would pay premiums based upon losses experienced by the membership as a whole, plus operating costs.

¹Interview, E. A. Kimball, op. cit. ²Ibid.
Members of the Association took positive action to provide themselves with economical insurance, even before the creation of the Employer's Liability Commission. On April 24, 1911, several prominent members of the Association met in Des Moines to form the provisional board of directors of the Employer's Mutual Casualty Company. The new mutual company was the answer of the manufacturers to the fiscal problems associated with the coming law, and the reluctance of established insurance concerns to accept certain compensation risks.

There was a close relationship between the leadership of the Employer's Mutual Casualty Association and that of the Manufacturer's Association. Mr. John A. Gunn, elected President of the provisional board of Employer's Mutual on July 14, 1911, became President of the Manufacturer's Association the following year. Mr. B. J. Ricker, elected Vice-President of the new mutual at the July, 1911 meeting, was elected President of the Manufacturer's Association in 1911. Mr. G. A. Wrightman, who had earlier nominated J. Gunn for President, and B. J. Ricker for Vice-President of the mutual,

1Employer's Mutual Casualty Association, Minutes, Meeting of the Provisional Board of Directors, Des Moines, April 24, 1911.

2Fifty Years of Service to Iowa Industry (Des Moines: Iowa State Manufacturer's Association, 1953), p. 4.
was elected Treasurer of Employer's Mutual at the same meeting.¹ Mr. Wrightman was at the same time Secretary of the Manufacturer's Association, a very influential post.²

Mr. Wrightman appeared as the representative of the Manufacturer's Association at the hearings of the Employer's Liability Commission in 1912.³ From the tone of his remarks at the first hearing of the commission, it was evident that the Manufacturer's Association was retreating from its earlier statement in support of the principle of compensation.⁴ One of the reasons for this was undoubtedly the fact that the leaders of the Manufacturer's Association were also the directors of the Employer's Mutual. They expected the commission headed by Clarkson to recommend a bill which embodied state insurance. To them, such a provision was "socialistic," and it would have obviously meant the end of the Employer's Mutual, a potentially profitable enterprise.

The reactions of other influential groups within the state during the early period of agitation for the new law were generally slow. One might expect to find, for instance,

¹Employer's Mutual Casualty Association, Minutes, Meeting of the Provisional Board of Directors, Des Moines, July 14, 1911.

²Downey, op. cit., p. 156.


⁴Downey, op. cit., p. 1.
that women's clubs were interested in the compensation question, but their history does not mention any such interest. The main concern of the Iowa State Federation of Women's Clubs at the time seems to have been with child labor.¹

The interest of one important charitable group is well recorded. In 1911, the Iowa State Conference of Charities and Corrections heard speeches by both E. H. Downey and A. L. Urick. Mr. Downey, who at the time was writing his excellent book on work accident indemnity in Iowa, gave an expert review of the history of work accidents and compensation, arguing for a new law, explaining the inadequacies of the old system, and the obligation of society to correct them. On the same platform with Mr. Downey was A. L. Urick, President of the Iowa State Federation of Labor. In a characteristic speech, he said:

...There remains too great a forgetfulness of the fact that the true wealth of a nation exists in quality of citizenship, other natural resources being simply incident to the conservation of a happy, prosperous, well matured people.

We are indebted to Professor Downey and the State Historical Society for a remarkable concise first historical effort in Iowa Labor Legislation.

...the organization of which I have the honor of being an officer is largely responsible for conditions that brought about the appointment of a state

commission to thoroughly investigate and to prepare a
bill for the most scientific solution of the problem. 1

It may be assumed that Mr. Urick, and perhaps also Mr.
Downey, spoke with equal effect to other organizations within
the state.

The Iowa State Bar Association, while it could have
been a leader in drafting the proposed legislation, missed
its opportunity by failing to act in 1911. In 1911, the
Committee on Legislative Reforms of the State Bar Associa-
tion recommended the enactment of an "Employer's Liability
Law and Workmen's Compensation Act." 2 Its annual convention
later that year heard a speech by Governor John Burke of
North Dakota entitled "Employer's Liability and Compensation
Acts." Because of "limited time," however, the convention
postponed further consideration of proposed legislation until
the next annual meeting. 3

Although the cause of workmen's compensation had come
a long way in the state during 1910 and 1911, a large piece
of work remained to be done before the 1913 General Assembly.
A bill which was acceptable to the legislature was yet to be

1Iowa State Conference of Charities and Corrections,
3Iowa State Journal of History and Politics, X, No. 2,
drafted. In order to pass, such a bill had to be well written, supported by strong arguments and evidence, with the help of favorable public opinion. This was the task undertaken by the Liability Commission headed by John T. Clarkson.

II. THE EMPLOYER'S LIABILITY AND WORKMEN'S COMPENSATION COMMISSION

From the beginning, Senator Clarkson dominated the new commission. The act which authorized the commission was written by him and had been enacted mainly as the result of his legislative tactics. He was far ahead of the other members of the commission initially in understanding the subject. His progressive philosophy was evident in the introduction of the authorizing act:

Whereas, the industrial conditions of this state, . . . have outgrown the common-law and statutory remedies given to employees in this state for injuries incident to their employment, and which in most instances are borne by the workmen, who are least able to sustain same . . . [the Governor is empowered to appoint an Employer's Liability and Workmen's Compensation Commission.]

The commission was to consist of five members: two employees; two employers; and one disinterested party. The commission was to elect its own chairman. Governor E. F. Carroll appointed Mr. J. O. Staley of Des Moines, a coal miner,

Mr. P. S. Billings of Valley Junction, a conductor with the Rock Island Railroad, Judge J. L. Stevens of Boone, "largely interested in the manufacture of clay products," Mr. W. W. Baldwin of Burlington, a Vice President of the Chicago, Burlington, and Quincy Railroad, and Senator J. T. Clarkson of Albia. Welker Given of Des Moines was later chosen by the commission as Secretary. The members of the commission elected Senator Clarkson Chairman, because of his recognized leadership in the field of workmen's compensation.

The "one disinterested party" was definitely missing from the commission. Clarkson, Staley, and Billings were all solidly on the side of labor. Later complaints of manufacturers that the committee had been stacked against them were not without justification. No evidence was found, however, to indicate that Governor Carroll had the intention of slanting the findings of the commission through selection of its members, or that Edward Van Duyn, Labor Commissioner at the time, influenced Carroll's choices. Senator Clarkson, the key figure, was apparently chosen more because of

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1Davenport Democrat and Leader, June 6, 1911, p. 2.
2Monroe County News, Albia, Iowa, June 8, 1911, p. 1.
his reputation as an expert than for his political views.

Broadly, the commission was directed to investigate the problem of industrial accidents, current laws, and inquire into the "most equitable and effectual methods of providing for losses suffered," and report its findings on September 15, 1912, with a draft of a bill or bills recommended. The sum appropriated for the expense of the commission was $8,000.00.¹ This sum, rather large for the support of a state-level legislative commission at the time, may indicate that the General Assembly considered the subject an important one. The commission used its appropriations conscientiously. Members of the commission visited Illinois, New Jersey, Ohio, and Wisconsin, to observe the operation of laws first-hand. They read all other laws in force, as well as recommendations made by other workmen's compensation commissions. Within the state, they conducted a comprehensive accident survey of both employers and employees, collected voluminous data on insurance rates, and conducted extensive public hearings. They wrote a proposed bill, as well as one minority report and bill. The final report (410 pages), was bound and placed in the Iowa State Law Library at the Capitol.

Investigation. The commission began by discussing the general forms which compensation laws might take, first the

¹Thirty-fourth General Assembly of Iowa, Acts and Resolutions (Des Moines, 1911), p. 231.
British and German laws, then state laws in the United States. The main question at this point was constitutionality, although the companion issues of insurance and administration were also discussed.\(^1\) There was some question of the ability of compulsory compensation laws to stand the test of constitutionality. The 1910 New York law, which had required employers to participate, had been declared unconstitutional on the ground that it deprived the employers of their property (money) without due process of law. The New York Court of Appeals had labelled the law "plainly revolutionary."\(^2\) The handling of the insurance question varied from state to state, too. Legislatures had chosen employer's mutual associations, stock companies, or state funds as the insuring agencies, both exclusively and in combination. Thirdly, states differed on the matter of administration of their plans in regard to the status and tenure of the administrative commissions, and their powers.

The New Jersey plan was discussed first as a possible answer to the constitutionality problem. The law circumvented the question by declaring that it was an "elective" plan, similar to the British law. Each employer was presumed to have elected to pay compensation damages specified by the


\(^2\) Somers and Somers, op. cit., p. 33.
law unless he had first given the state notice that he did not intend to come under the compensation plan. If he rejected the plan, however, the employer was immediately deprived of the common-law defenses of assumption of risk, contributory negligence, and fellow-servant. Employers were allowed to select their own insurance companies. A permanent, but weak, commission was appointed to make recommendations for improvements in the law.¹

Illinois did not even have a permanent commission to monitor the law. The Iowa commission preferred the strong, permanent commission adopted by Wisconsin. The Wisconsin commission had broad powers, including all powers and duties formerly performed by the Commissioner of Labor.

The Michigan plan differed from the New Jersey, Wisconsin, and Illinois plans in that it required employers coming under the plan to carry insurance in either a stock company or a mutual company formed by five or more employers who should contribute to a fund administered by the state insurance department.²

The Massachusetts commission's recommendations and the General Assembly's enactment were discussed at length. The history of the Massachusetts law had bearing mainly

²Ibid.
upon the insurance question. The Massachusetts investiga-
tive commission had recommended an elective law, similar to
New Jersey's, except that the employer was not to be assumed
covered unless he had given the state written notice of
intent to be covered. If he failed to give written notice, he was deprived of his standard common-law defenses. The
commission suggested that the law should provide that every
employer who came under the law would automatically become
a member of the "employer's insurance association to which
contribution would be required to be made from time to time
according to the rates to be fixed by the employer's insurance
association and approved by the insurance department."¹

The General Assembly of Massachusetts did not, however,
follow the recommendations of its commission with regard to
insurance. The enacted law left it optional with the employer
to insure with either a stock company or the employer's insur-
ance association. In discussing this option, the Iowa
commission's report listed the arguments which it later used
as justification of a state-administered insurance fund:

... It is claimed by many that ... the stock
companies would seek the cream of the risks, leaving
to the employers' insurance association the greater
number of the most undesirable ones and in addition
thereby reduce the number of patrons of the employers'
insurance association to the point which would not

¹Ibid., p. 8.
enable them to obtain and apply the rule of average, it being a recognized established principle of insurance that unless you can obtain a sufficient number of insureds, you cannot obtain a reasonable and satisfactory safe average to determine an equitable rate to meet the requirements without overburdening the industries.

In talking with many interested parties in Massachusetts it was claimed that the change to optional coverage would not have been made but for the strong influence brought to bear on the Massachusetts Assembly by the Indemnity insurance companies doing business in the state of Massachusetts. Although all insurance of all companies must first be submitted to the insurance department of the State of Massachusetts, this fact does not eliminate the detrimental phase of the proposition that the insurance companies support a retinue of insurance solicitors, adjusters and the element of profit thereof, duplicating many times over the same field of endeavor.

It may be seen from the above quotation that the Iowa commission was not afraid to investigate arguments which flew in the face of the old line stock insurance companies, in the progressive tradition. The report, in this section at least, did not mention the controverting argument that while premiums under a state fund might be initially lower, the cost of administration of the fund would be paid by the taxpayer, although losses would be paid by employers. Premiums charged by independent insurance companies included the price of both administration and losses, and would usually be paid entirely by the employers.

\[1\text{Ibid., pp. 9-10.}\]
From the Massachusetts plan, the commission proceeded to the Washington and Ohio plans, both of which incorporated state-administered funds. Washington's plan was compulsory, and it was the only such plan which had received the approval of its state's supreme court. The exclusive repository for insurance funds was a state fund, into which employers were required to pay, according to rates fixed by statute. The fund was administered by the state commission, which was not empowered to fix rates. The Iowa commission members observed that rates fixed by the legislature, not by an insurance department or commission, were likely to be rigid and unresponsive to changing conditions.¹

The Ohio plan also used a state fund as the only legal avenue for workmen's compensation insurance. Unlike Washington, membership in the state fund was optional, but, as in other states, employers who elected to stay out of the plan were deprived of their common law defenses. A feature peculiar to Ohio was the provision that employees were assessed for an amount equal to 10 per cent of the total cost of the compensation system. The idea was that by sharing the costs of the program, employees would be more personally involved in it, and therefore less likely to malingering. The Iowa commission, especially the chairman, who had inspected the Ohio

¹Ibid., p. 10.
system first-hand, agreed with critics who claimed the Ohio commission was too small. It was observed that the commission of three members could not possibly review all claims as they were supposed to, and thus might lean toward leniency, in preference to painstaking investigations of claims. The commission's power to fix rates was also a worrisome point. In most states, rates were proposed by one agency, approved by another. Clarkson felt that any commission empowered to fix its own rates might conceivably use its "arbitrary" power to unsavory political advantage. ¹ The commission concluded its comments on state laws with Washington and Ohio. A very complete synopsis of existing laws, in abbreviated form, was contained in the 11th Appendix to the report. ²

On the question of constitutionality, the Iowa commission concluded that it was best to propose an "elective" plan. The New Jersey, Ohio, and Wisconsin elective laws had already been found constitutional in test litigation. It was deemed wise to "adopt that plan which at this time is fully sustained by authority and await future developments as regards the advisability of adopting what is known as the compulsory plan."³ The commission's opinions on insurance and administration were deferred until later.

The commission next set out to evaluate the law as it stood at that time in Iowa. As has been discussed before,

¹Ibid., p. 11. ²Ibid., pp. 142-153. ³Ibid., p. 13.
the Iowa law was found completely inadequate. The commission found that "from the standpoint of the employer . . . , his business and all of his earnings and investments are under constant menace and liable to be swept away," while the employee suffered all of the "pain and anguish," as well as most of the pecuniary loss under the old system.

To support its contentions, the commission collected voluminous evidence, which was compiled in the appendices of its report. Since the commission found the accident statistics of the state Bureau of Labor Statistics inadequate for its purposes, it was felt necessary to conduct a survey of manufacturers and workers in the state in an attempt to find positive evidence of the effectiveness of the old law. The Secretary sent out comprehensive questionnaires which were collated and summarized. Of a list of eighty-seven employers who answered the questionnaires, seventeen carried some type of mutual benefit or liability insurance, and seventy carried none at all. From the statistics on injured and deceased employees, it was easy to see that the old system was ineffective as a means of compensating injured employees or their survivors. For emphasis, the report included opinions favorable to workmen's compensation from several

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1 Supra, pp. 69-71.
3 Ibid., p. 16.
4 Ibid., pp. 84-94.
prominent figures, including William Howard Taft, Woodrow Wilson, Theodore Roosevelt, Justice Hughes, and Samuel Gompers.

The commission also set out to estimate the cost of workmen's compensation, should it come to Iowa. This it did by recording the premiums paid to insurance doing business in the employer's liability field in Iowa, 1902-1911. Losses paid by the same companies in the same period were compared with the premiums. It was found that the loss/premium ratio was 51.1 per cent. That is, for each two dollars paid by employers in premiums, about one dollar was paid out in damages to injured employees. It should be kept in mind that damage judgments were further diminished by court costs and lawyer's fees before they reached the injured. The nationwide loss/premium ratio also was investigated, and found to be exactly the same: 51.1 per cent. A consulting actuary, Mr. S. H. Wolfe of New York, was employed to estimate the average cost of workmen's compensation insurance in Iowa based upon payroll outlay. In his report, he recommended that the proposed insurance should apply to all but "casual employees," that the law be elective, similar to the

1 Ibid., pp. 141-142, 120-122.
2 Ibid., pp. 101-103. 3 Ibid., p. 104.
New Jersey plan, that "state" insurance should not be contemplated, because of the evils of "bureaucracy," and that those who elected to come under the plan should be required to insure their liability with either a stock company or a mutual of their own creation. Mr. Wolfe went on to estimate that the average cost in premiums of a comprehensive workmen's compensation insurance program in Iowa, based upon a minimum of 50 per cent of normal salary while disabled, would be $5.00 per $100.00 of payroll.¹

Hearings. In March of 1912, the members of the Liability Commission set out on a series of public hearings which took them throughout the state: Des Moines, Council Bluffs, Sioux City, Fort Dodge, Waterloo, Dubuque, Cedar Rapids, Davenport, Burlington, Ottumwa, and again Des Moines. The purpose of the hearings was to obtain first-hand evidence of support or opposition for a compensation bill among the employers and employees of the state, and to find out just what sort of compensation measure might best suit their needs. The commission heard 102 witnesses, many of whom represented organized groups. Twenty-two letters and documents were submitted. Senator Clarkson led the hearings, with considerable help from Judge Stevens. Clarkson's name appears ninety-seven times in the minutes, Judge Stevens'

¹Ibid., pp. 75-81.
seventy-five times, Mr. Staley's fifteen times, Mr. Baldwin's thirty-seven, and Mr. Billings' not at all.¹

Before the commission visited each city, announcements were sent in advance by Secretary Welker Given to newspapers, businesses, civic and labor organizations. The announcements specified the time and place of the proposed meeting, (usually a convenient hotel). The Secretary's letters also included a short review of the accident and compensation problem, the questions to be discussed at the hearing, with a recommendation that members of interested groups study the question in advance, submit written conclusions if possible, but in any case, all should feel free to testify.

The hearings were usually opened either by Senator Clarkson or Judge Stevens with a statement of the purpose of the commission and the hearings. After a short review of the accident and employer's liability question, the commission called for witnesses. Each witness was allowed to make a verbal statement or submit a written one, after which the members of the commission asked questions. Generally, the commission members always wanted to know the witness's name, occupation, and whether he was for or against the principle of compensation, as well as his reasoning. Some witnesses

¹Ibid., Part II, Public Hearings.
were asked to give their opinions on insurance, state fund or otherwise; benefits, lump sum or installments; and whether or not employees should be required to contribute to the cost of the compensation system.

It was useful, in assessing public opinion at the time, to note the minutes of the commission, and the reaction of local newspapers to its visits. The actual visit of a legislative fact-finding body was usually more successful in evoking comment from newspapers than any previous news on the subject. The first hearing was held in Des Moines, March 18, 1912, at the Capitol. On March 16, 1912, the Register and Leader printed a very small article under "Announcements": 
"The state liability commission will hold public sessions Monday afternoon and all day Tuesday in the senate judiciary room at the state house." On March 18th, The Register and Leader asked:

Are you interested in the question of employer's liability and the compensation of workmen injured on the job?

If you are the state liability commission would like to have you go over to the state house today and tell the members of the commission what your views on the question are. . . . Welker Given has invited "students of economic problems." Merchants, and Manufacturers and employees of shops have also been invited.²

¹Des Moines Register and Leader, March 16, 1912, p. 2.
²Ibid., March 18, 1912, p. 8.
The Register did not report the hearings, however.

The minutes of the Des Moines hearings recorded the most discordant note sounded in the entire series. The very first witness, Mr. G. A. Wrightman, Secretary of the Iowa State Manufacturer's Association testified, in essence, that he really did not want to say anything until after the Association met in May of 1912. He encouraged the commission to get the opinions of individual manufacturers, but felt he was not authorized to speak for them. He did claim that the members of the Association strongly desired that "some measure may be arrived at by the next General Assembly of Iowa," but that "on account of the great doubt that still surrounds the whole question, we believe it is best for Iowa not to do the whole thing now, but lay a foundation from which we can do it."¹

Such remarks seemed strange, since the Manufacturer's Association had already endorsed a workmen's compensation law in 1911,² and Mr. Wrightman himself had been instrumental in agreeing upon the compromise which resulted in the appointment of the Clarkson commission.³ One would expect that the powerful executive committee of the Association had discussed the question by this time, and could have sent some pertinent

¹Commission Hearings, op. cit., pp. 7-8.
²Downey, op. cit., p. 1.
³Ibid., p. 156.
suggestions to the commission. At the very least, it seems logical that Mr. Wrightman should have reiterated the Association's former endorsement of workman's compensation, rather than casting doubts upon the whole question.

The Manufacturer's Association had opposed the 1911 Clarkson compensation bill on the grounds that it was "ill-digested." The commission had been formed for the purpose of more fully investigating the question. By the time of the hearings, the Association had been afforded enough time to come up with some recommendations. It appears, therefore, that Mr. Wrightman was engaging in some artful foot-dragging. While the minutes of the Iowa Association for this period were not made available to the writer, it seems reasonable to assume that the board of the association had decided that the Clarkson commission was not likely to recommend a law acceptable to the association's leadership. Accordingly, the association was engaged in drafting a law of its own which would be introduced at the 1913 General Assembly. They probably realized that the association's position would be subjected to some compromise in the legislature, and did not feel it desirable to subject it to dilution by the commission before it ever reached the floor.

1Ibid. 2Interview, E. A. Kimball, op. cit.
At the same session, March 18, Mr. J. A. Meers, representing the Des Moines Trades and Labor Assembly, read an excellent paper which cited the wrongs of the employer's liability system. He described lawyer's fees which absorbed from 25 per cent to 75 per cent of the judgments awarded to injured workers, the agony of review and appeal, and the possibility of reversal or retrial. Mr. Meers also expressed the opinion that the judgments against manufacturers were excessive in some cases where the jury was hostile or the plaintiff's lawyer unusually skillful. On the question of insurance, Mr. Meers thought the money ought to be "kept in Iowa," not paid to the indemnity companies of the East.¹

Mr. W. E. Dodds and two others, representing the "state miners' convention" appeared, but were not as well prepared as Meers had been.² This trend was to continue throughout the hearings. Representatives of the trade unions seemed better informed than members of other laboring groups, and most manufacturers.

In contrast to Mr. Wrightman, Mr. A. K. Campbell of the Campbell Heating Company, Des Moines, spoke strongly for a compensation statute. He discussed the animosity and injustice caused by the old law, and pointed out the social

¹ Commission Hearings, op. cit., p. 8.
² Ibid., pp. 10-11.
justice of a compensation statute. On insurance, he felt that extant types were very expensive, and should be replaced by a fund monitored by the state.¹

At the March 19th meeting in Des Moines, Mr. L. W. Warfield of the Travelers Insurance Company appeared. He said that the insurance companies were generally in favor of workmen's compensation statutes, but felt that state insurance funds were unsound. For example, he cited a case in Washington State. The Washington fund was so minutely divided into classifications of industries for rating purposes that one of the classifications left room only for the three powder mills in the state. One of the mills exploded, immediately bankrupting that portion of the fund set to protect that classification of risk. He felt that experienced insurance companies would never make such an underwriting blunder.²

In contrast, Mr. Charles A. Pratt of the Washington State industrial commission appeared, and presented a favorable report on the Washington law. He felt the state insurance fund was working out quite well, and was less expensive than commercial insurance. He presented a number of letters from employers and others in his state to support his argument.³

¹Ibid., op. 11-13. ²Ibid., pp. 14, 15. ³Ibid., op. 18-34.
From Des Moines, the commission travelled to Council Bluffs. The *Council Bluffs Nonpareil* gave the hearings much more notice than had the Register and Leader. On March 19, 1912, it announced that

The state convention of coal miners /Des Moines, March 18/ today appointed a committee to appear before the state liability commission and present to that body the views of the Iowa miners as to what they want in legislation.¹

On March 20, the *Nonpareil* devoted a large article to the first sessions of the commission in Des Moines:

The opening session of the commission was somewhat disappointing. The delegation of miners representing the convention of district 13 appeared . . . and urged a radical change in the Iowa law, but did not offer anything of practical value as a system to be adopted.

While the commercial bodies of Des Moines, just now busy with other matters (city elections), failed to take any interest whatever in the meeting, Malcolm Smith, representing the Cedar Rapids Commercial Club, . . . told the commission that a good meeting would be had in that city as the business men and manufacturers were greatly interested. Members of the commission remarked on the enterprise shown by Cedar Rapids compared with the indifference of Des Moines.²

In the same issue, the paper devoted another large article to description of the purpose of the commission, the time and place of meeting in Council Bluffs, and an invitation to all to present their views.³

²Ibid., March 20, 1912, p. 2.
³Ibid., p. 5.
The Council Bluffs hearings took place on March 20, and were accurately reported by the Nonpareil:

While but a half dozen employers and employees appeared ... the hearing was a most interesting one. ... The three commissioners ... present [Clarkson, Stevens, and Staley] were content for the most part to let other people do all the talking, but they asked questions at times which clearly showed the trend the investigation is taking.

Following the lines of liability laws already enacted in other states, the questions of the different members of the commission indicated a trend of mind toward some method of compulsory insurance in each line of industry, preferably to be handled by the state itself, without profit.

The article contained a discussion of the probable provisions of the law, and the opinions of union members. Three carpenters, J. M. Hibbard, M. H. Ward, and A. A. Whitlock, appeared and urged adoption of a compulsory law, the insurance to be paid for by deductions from employee's pay. A differing view was held by President B. F. Knight of the local typographical union, who spoke for insurance paid entirely by employers. Chairman Clarkson spoke, and complained that the commission had "found a lamentable lack of definite information," and that there were very few corporations who kept an accurate account of accidents.¹

The paper failed to mention the testimony of Orville F. Towne of the Council Bluffs Commercial Club, who gave no

¹Ibid., March 21, 1912, pp. 1 and 10.
definite opinions. He indicated that he thought most
employers were for a law, but he had not found much inter-
est in the subject among those he had contacted. Mr. J. H.
Kimbball of Kimball Brothers, Council Bluffs, testified that
he "hadn't looked into the matter," but he couldn't under-
stand paying losses to anyone unless the fault was first
established. Apparently, the employers of Council Bluffs
were not at all prepared. Realizing this, Chairman Clarkson
and Judge Stevens launched into a long discussion of the
whole concept of workmen's compensation, with special emphasis
on the idea of liability without fault. The commission was
performing an additional important function: education. 1

The commission visited Sioux City on March 21, 1912.
Neither the Sioux City Tribune 2 nor the Union Advocate 3 men-
tioned anything about the commission's hearings. Minutes
of the hearing show that nine witnesses appeared. No
representatives of labor appeared. The Very Reverend V. F.
Brune of Alton, Iowa, gave a wide-ranging and well-informed
speech which supported the viewpoint of labor, however. He
was for compensation insurance, a state fund, installment-type

1 Commission Hearings, op. cit., pp. 35-54.
2 Sioux City Tribune, March, 1912.
3 Sioux City Union Advocate, March, 1912.
benefits, supported 90 per cent by employer contributions, 10 per cent from labor.

Of the eight other witnesses, four favored a compensation law, two did not, and two gave no opinion. The best informed of the group was S. H. Lockwood, general time keeper for Armour and Company, who spoke in favor of a new law. He said such a law would be of considerable benefit to employer and worker, and gave examples of how well Armour's voluntary first aid and medical assistance program had worked. R. H. Burtonsmoth, a lawyer who had switched to business enterprises, described the hardships of injured workers, and recommended a compensation system in which employers contributed 80 per cent, employees 20 per cent. W. E. Thackaberry and O. J. Moore spoke against the compensation idea, but said little else.¹

The Fort Dodge sessions, March 22, 1912, were again dominated by employers. The Fort Dodge Messenger ran a long article on the first page, March 21st, explaining the goals of the commission and the importance of the hearings to employees and employers alike.² Four persons spoke at the hearings, all of them employers. Each was in favor of a

¹Commission Hearings, op. cit., pp. 35-54.
²Fort Dodge Messenger, March 21, 1912, p. 1.
compensation law. Two expressed preference for a state fund. Three felt that employees should contribute some of the expenses of the system.\textsuperscript{1} The \textit{Messenger} summarized their testimony:

\textit{The Fort Dodge businessmen who spoke... all seemed to believe that the trend was toward such legislation... They are only anxious that Iowa shall not be given such extreme legislation, that it will give a black eye to its manufacturing facilities just before the state has begun to attract outside capitalists...} \textsuperscript{2}

The commission's next stop was Waterloo. Neither the \textit{Waterloo Evening Courier}\textsuperscript{3} nor the \textit{Times-Tribune}\textsuperscript{4} announced the scheduled hearings. The minutes show that seven employers and four representatives of labor spoke, all in favor of a compensation law. Mr. W. M. Marsh, engaged in the cream-separator business, made an especially strong progressive statement. He felt a new law was a "very great necessity," and that the "interests of employees and the interests of the employer were identical." Marsh estimated that injured employees only received 30 per cent of awarded damages under the old system. S. D. Moore, a general contractor representing the Waterloo Commercial Exchange, said it was the consensus of the employers that "injuries are a burden of the

\textsuperscript{1}Commission Hearings, \textit{op. cit.}, pp. 70-75.

\textsuperscript{2}Fort Dodge Messenger, March 22, 1912, p. 6.

\textsuperscript{3}Waterloo Evening Courier, March, 1912.

\textsuperscript{4}Waterloo Times-Tribune, March, 1912.
community." Mr. F. M. Michael, another employer, spoke for compensation as a method for avoiding "giving a fat job to some lawyer" in each accident case.¹

George W. Miller, a bridge builder who operated in Illinois, Wisconsin, and Iowa, expressed concern over rates. He was afraid they might triple, as they had in Wisconsin, or double, as they had in Illinois.² In regard to rating, W. W. Baldwin of the commission expressed his preference for a law which allowed for a voluntary mutual association formed by the employers, which would charge rates based upon experience, rather than "a rigid cast iron assessment made upon each . . . such as they made under the law of Washington and Ohio."³

Mr. H. L. Erickson appeared as the representative of the Carpenters' Local of Waterloo (260 members), to speak in favor of the law.⁴ H. L. Bloom, representative of the electrical workers, spoke in favor of the law, but said they were more interested in accident prevention than anything else.⁵ Mr. J. F. Deets, a laborer, described a case

¹Commission Hearings, op. cit., pp. 80-93.
²Ibid., p. 96. ³Ibid., p. 85.
⁴Ibid., pp. 93-96. ⁵Ibid., p. 96.
in which his son was injured. Mr. Deets was "deluged" by lawyers advising action against the employer. He refused. As soon as the employer found out that Deets was not going to sue, he paid all of the son's medical expenses. The theme so well illustrated by Deets appeared frequently in the hearings. Many workers and employers saw the new law as a way to end the distrust and animosity generated by the old methods of settlement.

The Times-Tribune gave the story of the Waterloo hearings first-page notice. Article headings read: "Commission Held Great Meeting," Waterlooans exceptionally well posted on employer's liability," and "All Interests Unite." The paper went on to say:

That it would be hard to find a community more fair and liberal minded than Waterloo, was the consensus of opinion among the members of the Employers' Liability and Workmen's Compensation Commission at the close of an all day session at the Ellis Hotel.

W. W. Marsh, a local manufacturer, gave an interesting and comprehensive talk on the subject. He is strongly in favor of the measure and maintains that the employees need not contribute to the compensation fund to insure its effectiveness.

Professor McKitrick, of Iowa State Teacher's College, who was a member of the Employer's Liability and Workmen's Compensation Commission of Wisconsin stated yesterday that the speakers at the meeting were far more versed on the subject than were many of those who attended the sessions in Wisconsin.

The approach of the commission's hearings in Dubuque

1Ibid., p. 97.
was well-heralded by the enthusiastic Dubuque Labor Leader. On March 9, 1912, the Leader featured a major article about the hearings, scheduled for March 25th. It discussed the compensation question at length, and said it was of great importance to employers and workers. All of those interested were encouraged to appear, preferably with written statements. On March 23, the Leader carried another announcement about the hearings. In contrast, the Dubuque Times-Journal gave the commission no notice at all.

The Dubuque Trades and Labor Congress, forty unions and four thousand members, was represented by Mr. Vax Mathen-berg, a printer. He presented both written and oral statements which fully discussed the inadequacies of the old laws, demanded their abrogation, and advocated the following features in a new law: (1) safety standards enforced by the state; (2) workers should be permitted to examine the premises of employment, and bring deficiencies to the attention of the employer, without fear of discharge; (3) the law should be compulsory for all employers; (4) compensation payments should not be "charity," but should be large enough to protect the

1Dubuque Labor Leader, March 9, 1912, p. 1.
3Dubuque Times-Journal, March, 1912.
worker and his family; (5) the employer should pay the entire cost of the plan.\footnote{Dubuque Labor Leader, March 30, 1912, p. 1.} Five Dubuque employers spoke, as well. All favored a workmen's compensation law.\footnote{Commission Hearings, op. cit., pp. 98-110.}

The Cedar Rapids sessions, March 26, were quite successful. The Gazette described the well-prepared presentations of employees and employers:

From the arguments advanced by both manufacturers and labor men it was evident that in Cedar Rapids both the manufacturers and wage earners would be in favor of a specific liability compensation law. Both sides seemed anxious to eliminate the third party, the lawyer, and long-drawn lawsuits. \ldots However, no particular plan was endorsed.

R. S. Sinclair represented the manufacturers. He stated emphatically that the manufacturer has more than a commercial interest in the employee, and that the manufacturers desire a law which would bring the employer and wage earner into closer relationship.

C. B. Kent, a painter, who with P. T. Dunn and R. G. Stewart represented the Federation of Labor \ldots answered questions in such a way that members of the commission crowded about him after the meeting to compliment him on his logic and knowledge of the subject.

Mr. Kent stated that the working people have long awaited a liability compensation law, for they have seen their comrades torn and mangled by machinery and often had to dig into their own pockets to give financial help to the injured employee. \ldots\footnote{Cedar Rapids Gazette, March 27, 1912, p. 7.}

Eight employers spoke, and seven favored compensation legislation. One, George T. Hedges of the Cedar Rapids Commercial
Club, expressed concern that such a law might cost so much that manufacturers would be driven out of the state. For the most part, the Cedar Rapids hearing was a very strong forum in support of the law.¹

The tenth session was held in Davenport, March 27, 1912. The first speaker was Mr. N. V. Ely, a lawyer who had represented both manufacturers and injured employees in suits under the old system. He estimated that employees were only receiving 26 per cent of the money paid by employers for compensation of injured workers.² Judge Nathaniel French presented a written statement on the legal problems associated with workmen's compensation. His paper was the longest and most detailed of all of the documents presented, and augmented the findings of the commission in regard to the constitutional question.³

Judge French favored a compensation statute, the cost paid 50 per cent by the employer, 25 per cent by the employee, and 25 per cent by taxes. In his oral statement, he commented:

This is a subject that I gave a great deal of attention to years ago and in expressing my views several years ago on the subject I was considered a Socialist by my fellow manufacturers but I believe they have progressed a little.⁴

²Ibid., pp. 127-133. ³Ibid., pp. 229-250.
⁴Ibid., pp. 141-146.
Four union groups were represented at Davenport: The Brewery Workers, the International Association of Machinists, the International Brotherhood of Electrical Workers, and the Carpenter's Union of Davenport. All representatives spoke in favor of a non-contributory law. Two employers spoke, both in favor of the law.

While the Davenport Democrat and Leader did not report the testimony, it did carry a statement by W. W. Baldwin about the impression the members of the commission had gained from the hearings:

We have found a general disposition throughout the state, on the part of manufacturers as well as representatives of the workingmen, to favor the passage of a just and equitable compensation law...in place of the present unsatisfactory condition...of...lawsuits, at the expense of both sides...We are meeting with a cordial reception everywhere.

On March 28th, the commission met in Burlington for its eleventh session. The Commercial Exchange of Burlington had appointed a two-man committee from the employer group and a like committee to represent labor. E. C. Noelcke of the employer's group spoke against a compensation law. He was the only official representative of a group of employers who spoke out clearly against a new law in any of the hearings. He did, however, favor more stringent inspection practices,

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1Ibid., pp. 133-141.  
2Ibid., pp. 133, 138-140.  
3Davenport Democrat and Leader, March 28, 1912, p. 16.  
4Burlington Hawk-Eye, March 29, 1912, p. 10.
with penalties for manufacturers who did not comply, and "a law which would take care of indigent employees through state taxes."\(^1\) Mr. C. E. Turner, a locomotive engineer, represented the workers of the city. He presented a very well-informed and progressive argument in favor of a new law.\(^2\)

During the hearing, Judge Stevens gave his estimate of the testimony thus far heard by the commission:

\[\ldots\ldots\text{we have been in about seven of the largest cities in Iowa and have had the representatives of two or three hundred manufacturing establishments before us and with two or three exceptions, including the gentlemen who just spoke to us, they appear to be unanimously in favor of such a law and that the majority of the State Manufacturing Association last year were in favor of it.}\(^3\)

The commission's last actual hearing, in Ottumwa, brought out the largest group of any of the hearings. Two employers and four representatives spoke to this large gathering, and all favored compensation laws which "differed only in detail."\(^4\) A. L. Urick, President of the Iowa State Federation of Labor, appeared, and gave a very convincing address as the representative of his organization of 40,000 workers. He spoke in favor of a compulsory law which would

\(^1\)Burlington Daily Gazette, March 25, 1912, p. 8.
\(^2\)Commission Hearings, op. cit., pp. 150-151.
\(^3\)Ibid., p. 157.
require no contribution to premiums by the workers of the state.\textsuperscript{1}

The commission's last session, in Des Moines, June 4, 1912, was devoted to an address by Mr. P. Tecumseh Sherman of New York, a member of the employer's liability committee of the National Civic Federation. His was a generally conservative address, not in favor of rushing ahead to compensation plans such as those of Washington and Ohio, which he considered radical departures from established custom, carrying grave political and actuarial implications.\textsuperscript{2}

Analysis of the hearings shows them to be an overwhelming endorsement in favor of workmen's compensation. Persons who could be identified as employers in the minutes numbered forty-five. Of these, thirty-seven spoke in favor of a compensation statute, four against. Individual laborers and representatives of laboring groups who spoke numbered twenty-eight. Of these, twenty-six favored a new law, and two did not. Only twenty-six persons expressed opinions on the question of state vs. commercial insurance. Of these, twenty-three favored a state-administered fund, and three favored commercial insurance. On the question of whether employees should contribute to the program, twenty-eight of them said they should, sixteen said they should not.

\textsuperscript{1}Commission Hearings, \textit{op. cit.}, pp. 191-193.

\textsuperscript{2}\textit{Ibid.}, p. 197.
The largest difference of opinion between employers and employees emerged over the contribution question. Labor's position was almost unanimously one of opposition to any contribution to the cost of a compensation plan.

Representatives of groups of employers and employees were generally well-informed. Representatives of trade union groups in general, and especially the members of the Iowa Federation of Labor, seemed to be the best informed on the questions posed by the commission.

The members of the commission were satisfied with the hearings. They had given a good indication of public opinion within the state, and had sparked new interest in the subject of workmen's compensation in many cities. The commission could submit a bill with the knowledge that they had the support of both manufacturers and the laborers of the state. The equivocal remarks of Mr. G. A. Wrightman at the first hearing could be disregarded, in the face of such obvious support from individual manufacturers throughout the state.

Conclusions. The conclusions of the commission were reached at different times, and were not summarized except in the form of recommended bills, which are quite long and detailed. It is useful, therefore, to review the major decisions of the commission before proceeding further.
The primary questions answered by the commission were:

(1) Was the prevailing system for financial relief of injured employees adequate? (2) If not, was a workmen's compensation plan a desirable replacement, supported by workers and employers of the state? (3) If so, should it be a compulsory or elective plan? (4) How should it be administered for maximum integrity, economy, and enforcement of safety standards? (5) What sort of insurance fund should be sanctioned?

During the investigation phase, the commission found the common law as statutorily modified in Iowa to be completely inadequate as a method for compensation of injured workers, and unfair to employers as well.\(^1\) The extensive investigations and hearings of the commission convinced the members that a compensation plan should replace the old laws, and such a plan was supported by nearly all of the workers and employers who testified before the commission. On the question of constitutionality, it was felt that a so-called "elective" plan would be best, considering the objections likely to be voiced, and possibly upheld, against a compulsory plan, thus rendering it unconstitutional.\(^2\) W. W. Baldwin dissented on this point, favoring a compulsory plan.\(^3\)

On administration, the majority of the members concluded that the entire compensation system should be placed

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\(^1\) Supra, pp. 69-71.

\(^2\) Ibid., p. 92.

in the hands of a strong industrial commission. The commission would administer claims, thus completely removing compensation claims from the courts.

A special plea to the General Assembly was made in regard to accident prevention. The commission's hearings had convinced the members of the importance of this provision to the workers:

If the General Assembly will provide efficient and adequate means for the enforcement of laws relating to accident prevention, injuries to employees in this state can be reduced, in a very conservative estimate, 50 per cent, and thereby very materially reduce the cost of any new system for compensation. To the workmen, accident prevention is of greater importance than . . . workmen's compensation and the two logically should go hand in hand.¹

W. W. Baldwin dissented from the view that an industrial commission was necessary. He felt that the courts, dispersed throughout the state, provided a more economical avenue for the workman in pleading his case than "expensive and unnecessary State boards and State administrative machinery of doubtful utility."² He feared that the three-member industrial commission would prove inadequate in the attempt to arbitrate the numbers of disputes sure to evolve.³ Mr. Baldwin was not convinced of the importance of removing the deluge of personal injury cases from the courts, usually considered one of the primary justifications for a compensation statute. His fears about overburdening the commissioners

¹Ibid., p. 18. ²Ibid., p. 53. ³Ibid., p. 52.
seem to have been exaggerated. For example, in 1911, only nine cases were submitted to the Wisconsin Industrial Commission for final settlement upon disagreement. Mr. Baldwin avoided the question of accident prevention.

On the fifth important question, insurance, the commission decided in favor of an exclusive state-administered Employers' Indemnity Association. The Association was to be empowered to issue policies, pay claims, and fix rates, subject to the approval of the state insurance department. The commission realized this provision would incur the displeasure of the insurance community, but felt a state fund would be better than company or mutual insurance, based on cost. The feeling was that:

... the Employers' Indemnity Association [would] at least to a very large degree, eliminate the cost of soliciting business, and it is claimed by those in authority that the cost of soliciting insurance as now in force is from 20 to 36 per cent.2

The commission did not give recognition here to the fact that insurance "solicitors" are often more than just solicitors, but perform valuable administrative and advisory services to the insured. Under a state fund, their administrative functions would still have to be performed by employees, and their advisory services might not be adequately replaced. The comparative costs of the two possible systems were not adequately presented in the commission's report. The orientation toward

1Ibid., p. 21. 2Ibid., p. 23.
a state fund persisted throughout the commission's existence, and may probably be laid primarily to the political philosophy of Chairman Clarkson, which was decidedly against the invasions of eastern companies, in the progressive tradition.

W. W. Baldwin again dissented strongly from the view of the majority of the commission. He argued that, since the employer was to pay all of the cost of insurance, he would prefer to engage companies or mutuals which employed skilled actuaries, were experienced in investigating claims, and already had adequate reserve funds.¹ On the other hand, the proposed state fund smacked of "state socialism and bureaucratic management. . . ."² Mr. Baldwin's political views were showing, as well. His contention that employers would prefer stock or mutual insurance to a state fund was not supported by the testimony heard during the commission hearings. The issue of state vs. commercial insurance would continue to be the main bone of contention in the workmen's compensation question, both sides of the argument characterized by considerable emotionalism.

III. THE PROPOSED ACTS

Four members of the Employer's Liability and Workmen's Compensation Commission submitted a bill embodying their

¹Ibid., p. 53. ²Ibid., p. 54.
findings. Mr. W. W. Baldwin also presented a proposed compensation act as an appendix to his minority report. Both were contained in full in the commission's report to the General Assembly. The following table analyzes the basic features of both bills, and simplifies their comparison:

**TABLE II**

<table>
<thead>
<tr>
<th>Character of plan:</th>
<th>The Commission Bill</th>
<th>Mr. Baldwin's Bill</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Scope of bill:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employments covered</strong></td>
</tr>
<tr>
<td>All employees of government bodies. All employees of establishments employing 5 or more.</td>
</tr>
<tr>
<td>All establishments employing 5 or more persons.</td>
</tr>
<tr>
<td><strong>Injuries covered</strong></td>
</tr>
<tr>
<td>All arising out of and in the course of employment.</td>
</tr>
<tr>
<td>All arising out of and in the course of employment.</td>
</tr>
<tr>
<td><strong>Employees included</strong></td>
</tr>
<tr>
<td>All employees except casual employees.</td>
</tr>
<tr>
<td>All employees.</td>
</tr>
<tr>
<td><strong>Election:</strong></td>
</tr>
<tr>
<td>Compulsory for state employers. Private employers assumed to accept unless notice to contrary.</td>
</tr>
<tr>
<td>Compulsory.</td>
</tr>
</tbody>
</table>


TABLE II (continued)

<table>
<thead>
<tr>
<th>Insurance Provisions:</th>
<th>The Commission Bill</th>
<th>Mr. Baldwin's Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Compulsory state mutual fund. &quot;Employers' Indemnity Association.&quot;</td>
<td>Permissive only.</td>
</tr>
</tbody>
</table>

| Defenses abrogated by employer: | If employer rejects act: fellow-servant, assumption of risk, contributory negligence. Injury assumed to be caused by employer's negligence. | Not applicable. |

| Liabilities abrogated: | Acceptance of act cancels all other liabilities of employer. | Act cancels all other liabilities of employer. |

| Negligence and wilful misconduct: | | |
| Of employer | Employers' Indemnity Association has right of action vs. employer if injury caused by violation of safety statutes. | No penalties imposed. |
| Of employee | Forfeits compensation if injury caused by wilful intention to injure self or fellow workman or by intoxication. | Forfeits compensation if injury caused by wilful negligence or removal of safety device. |

| Funds provided by: | Employer. | Employer. Employees may contribute to provide benefits in addition to those of act. Approved by Auditor of State. |
### TABLE II (continued)

<table>
<thead>
<tr>
<th>The Commission Bill</th>
<th>Mr. Baldwin's Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employer's voluntary relief:</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Administration:</strong></td>
<td></td>
</tr>
<tr>
<td>Administrative body.</td>
<td>Industrial commission of 3 members, appointed for 10 years by governor. Non-political during tenure.</td>
</tr>
<tr>
<td><strong>Primary determination of claims</strong></td>
<td>By agreement between employer and employee. Approved by Industrial Commission. Disputes determined by 3 arbitrators with member of commission as chairman. Reviewable by commission.</td>
</tr>
<tr>
<td><strong>Court review</strong></td>
<td>On questions of law only.</td>
</tr>
<tr>
<td><strong>Jury trial</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Fees of claimants' attorneys.</strong></td>
<td>Subject to approval of Industrial Commissioner.</td>
</tr>
<tr>
<td><strong>Medical aid:</strong></td>
<td>Limited to 4 weeks and $100.</td>
</tr>
<tr>
<td><strong>Total disability:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Compensation</strong></td>
<td>60 per cent of wages, 35 minimum to $12 maximum per week.</td>
</tr>
</tbody>
</table>
### TABLE II (continued)

<table>
<thead>
<tr>
<th></th>
<th>The Commission Bill</th>
<th>Mr. Baldwin's Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total disability</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(continued)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Continuance</strong></td>
<td>400 weeks. (After 400 weeks, $10 to $25 per month for life.)</td>
<td>400 weeks. No provision for lifetime pension.</td>
</tr>
<tr>
<td><strong>Temporary disability:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Compensation</strong></td>
<td>60 per cent of wages, $5 to $12 per week.</td>
<td>50 per cent of wages, $5 to $10 per week.</td>
</tr>
<tr>
<td><strong>Continuance</strong></td>
<td>300 weeks.</td>
<td>300 weeks.</td>
</tr>
<tr>
<td><strong>Waiting time:</strong></td>
<td>Two weeks.</td>
<td>Two weeks.</td>
</tr>
<tr>
<td><strong>Specified Injuries:</strong></td>
<td>Specified compensation.</td>
<td>Fixed compensation for certain dismemberments.</td>
</tr>
<tr>
<td><strong>Death:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total dependents</strong></td>
<td>Weekly pension, $5 to $12, for 300 weeks. 60 per cent of wages.</td>
<td>Not more than 50 per cent of average earnings for 300 weeks. Not more than $3000 total.</td>
</tr>
<tr>
<td><strong>Partial dependents</strong></td>
<td>Proportional to support received from deceased. 300 weeks.</td>
<td>Proportional to support received from deceased.</td>
</tr>
<tr>
<td><strong>Alien dependents</strong></td>
<td>Not mentioned.</td>
<td>Excluded, except non-resident widow may receive not more than 312 days' wages of deceased.</td>
</tr>
</tbody>
</table>
### TABLE II (continued)*

<table>
<thead>
<tr>
<th>Death (continued)</th>
<th>The Commission Bill</th>
<th>Mr. Baldwin's Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mode of payment</strong></td>
<td>Weekly, commutable to weekly.</td>
<td>Weekly.</td>
</tr>
<tr>
<td></td>
<td>lump sum by order of district court.</td>
<td></td>
</tr>
<tr>
<td><strong>No dependents</strong></td>
<td>$100 medical and burial expenses, unless $100.</td>
<td>Funeral benefit of burial expenses, unless $100.</td>
</tr>
<tr>
<td></td>
<td>death caused by employer's breach of safety statutes. If so, full benefits paid to estate.</td>
<td></td>
</tr>
</tbody>
</table>


To the modern reader, it may seem that both proposed bills offered unduly conservative monetary relief to injured workers. The commission bill, however, compared very favorably to the most liberal compensation statutes of other states, and was superior to most. An excellent table comparing all state laws of the time is available in E. H. Downey's invaluable book on work accident indemnity. The Iowa commission's bill did not closely resemble any other state's law, but incorporated features from many of them. It most nearly resembled

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1Downey, *op. cit.*, pp. 113-118, 130.
the Massachusetts plan. The most controversial feature of the bill was the provision for a state mutual insurance association.

Mr. W. W. Baldwin's bill was shorter and less detailed than that of the majority of the commission. The main objective of the bill, stated or not, was to hold back the development of a bona fide workmen's compensation system in Iowa.

In his dissenting opinion, Mr. Baldwin said:

... My strong inclination has been to recommend postponement of action in this State, and further study of the methods and experience under other states' numerous experiments, with a view of securing for Iowa the full benefit of such experience elsewhere under American conditions.

But if legislation upon the subject must be enacted, I respectfully submit herewith some provisions for an Act...  

The proposed bill was not a true compensation act. The most glaring omission in Mr. Baldwin's bill was the failure to set up a commission to administer the law, arbitrate disputes, and oversee safety standards. One of the primary justifications of workmen's compensation statutes in the first place, accepted by businessmen and jurists alike, was the standard feature which removed work accident indemnity from the courts.  

Also, accident prevention had lagged lamentably in Iowa. The state needed a commission which could simultaneously administer...  

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1 Commission report, op. cit., p. 49.  
2 Supra, p. 62.
accident prevention and compensation, with power to penalize offending employers.\(^1\) Anything less would leave the industrial safety program very nearly in its old haphazard condition.

Two other weaknesses were apparent in the W. W. Baldwin bill: The idea of placing the injured worker under county medical care for the first two weeks after the injury had no precedent, and was of very doubtful merit. And, in the matter of negligence, while the employee was deprived of compensation for wilful negligence or intoxication, no provision was made to penalize employers for wilful wrongs or violations of safety statutes. Again, the safety aspect was weakened.

Lastly, the Baldwin bill made no provision for a state mutual insurance fund. It required employers to insure, either with an established company, or with a mutual of their own creation, supervised by the state department of insurance. This provision was a reflection of Mr. Baldwin's attitude on such "socialistic" projects as state funds. To be fair, it must be said that neither Mr. Baldwin's preference for commercial insurance nor the commission's inclination toward a state fund, was adequately supported in the report by comparative cost figures.

The work of the Iowa Employer's Liability and Workmen's Compensation Commission was conscientious and complete. All

of its duties were fulfilled. Its surveys and investigations showed clearly that the law in force in Iowa was inadequate to cope with the growing work accident rate, and was ineffective as a method for compensation of workmen. Its recommended bill embodied the commission's well-considered conclusions as to the "most equitable and effectual method of providing compensation for losses suffered" by workmen and employers alike, and was presented to the Governor along with extensive documentation. The commission's report represented a very strenuous effort by a serious and accomplished group of men, and was an indispensable part of the campaign for a new law.
CHAPTER V

THE LEGISLATIVE BATTLE AND THE LAW

On April 1, 1913, the bill recommended by the Employer's Liability and Workmen's Compensation Commission, the "Clarkson" bill, as it came to be called, was reported to the Iowa Senate. The Senate Judiciary Committee had been unable to agree upon the merits of the bill, so it was reported without recommendation, and was in for tough sledding.1 The Senate then referred the bill to the committee on appropriations, which also reported the bill without recommendations. The Des Moines Register and Leader commented that "on account of the opposition made to the bill by employers in general it is considered doubtful whether the measure will even pass the senate."2 However, judging from the hearings of the liability commission, it appears that most manufacturers supported a compensation bill similar to the one proposed.3 One may imagine that the opposition, rather than coming from "employers in general," may have originated at a higher level--perhaps within the leadership of the Iowa State Association of Manufacturers.

1 Des Moines Register and Leader, April 2, 1913, p. 2.
2 Ibid., April 3, 1913, p. 2.
3 Commission Hearings, op. cit.
The bill was made a special order of business for
Friday, April 4, when debate opened. Senator Clarkson spoke
for two hours, describing the bill and discussing the work
of the commission. He singled out Secretary G. A. Wright-
man of the Iowa State Manufacturer's Association as one "who
was in a position to help the commission and refused to do
so." Clarkson said that Wrightman
informed the commission he had definite conclusions
about workingmen's compensation, but that he did not
care to express them, ... Instead of helping us he
waited until the commission had reported and then
devoted his time to poisoning the minds of the
employers of the state against our bill.1

Senator Cowles of Des Moines filed a motion to substi-
tute a bill by Senator Mattes for the bill recommended by the
commission. The Mattes bill was "prepared by the Iowa State
Manufacturers Association."2 The same morning, Senator
Clement F. Kimball of Pottawattamie County offered another
substitute bill. The Register did not identify what inter-
est Mr. Kimball represented. The Kimball bill was designed
to kill the Clarkson bill by authorizing another commission,
to report at the next legislature. Senators sympathetic to
the manufacturer's association maintained that employers were
united against the Clarkson bill. Clarkson angrily retorted

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1Des Moines Register and Leader, April 5, 1913, p. 2.
2Ibid.
that only a portion of the state's manufacturers were against the bill, and that these were the big ones. (Again, on the basis of the commission hearings, it is evident that Clarkson was correct.) Further consideration of the bill was postponed until Tuesday morning, April 8.

The April 8th session was particularly stormy. Debate went on for six hours over the Kimball substitute bill, which, if passed, would have discredited the work of the Clarkson commission. Kimball took the surprising position that the state was not ready to accept a law about which it knew so little, and the success of other states was not sufficient reason to warrant passage of a bill in Iowa. Perhaps recognizing the obstructionist nature of the Kimball bill, the Senate voted it down 38 to 7.

Debate continued through April 9th, 10th, and 11th. The final vote was repeatedly postponed. On April 9th, Senator Webber of Wapello County proposed the key compromise measure, designed to satisfy the manufacturing interests of the state, or perhaps more accurately, the leadership of the Iowa State Manufacturer's Association. Webber's measure struck out the portion of the Clarkson bill which required

1 Commission Hearings, op. cit., Part II.
2 Des Moines Register and Leader, April 5, 1913, p. 2.
3 Ibid., April 9, 1913, p. 2.
state mutual insurance, and inserted a new section which required employers to insure their liability under the Workmen's Compensation Act, but allowed them to choose their own insurer. There was to be no state fund. The Webber amendment specifically named mutual insurance associations as acceptable insurers.\(^1\) No evidence was found to indicate the extent of influence exerted by the insurance lobby, but one may suspect that it was considerable. It will be recalled that members of the Massachusetts legislature told members of the Iowa liability commission that Massachusetts would never have had commercial insurance if it had not been for "the strong influence brought to bear over the Massachusetts Assembly by the Indemnity insurance companies doing business in the state of Massachusetts."\(^2\) As to the mutual provisions of the amendment, one may recall that top-level members of the Iowa State Association of Manufacturers had formed a mutual insurance association of their own in 1911.\(^3\) After two full days of further debate, the bill passed, on April 11, 1913, 33 to 15. It was sent to the House of Representatives, where it was passed with little discussion.\(^4\)

\(^1\)Ibid., April 10, 1913, p. 2.
\(^3\)Supra, pp. 78-80.
\(^4\)Des Moines Register and Leader, April 13-18, 1913.
The bill was then officially approved April 18, 1913.¹

I. THE LAW

The Employer's Liability and Workmen's Compensation Act of 1913 contained three sections. Part I of the bill, the Employer's Liability and Workmen's Compensation portion, was to take effect July 1st, 1914. Parts II and III, creating the office of industrial commissioner, and specifying acceptable methods of insurance, were to take effect July 4th, 1913.

Part I defined the employer's liability under the act. Employers were presumed to have elected to provide compensation for injuries arising out of and in the course of employment. The employer had the option of rejecting the terms of the act, in writing, but if he did reject, he could be sued by the employee through normal legal channels. If sued under these conditions, the employer would forfeit his common-law defenses of assumption of risk, fellow-servant, and would be presumed to be wholly at fault for the conditions which gave rise to the injury. Under Part I, the Iowa Industrial Commissioner was also given the very important power to "fix standards of safety for safety appliances or places of employment, except mines under the jurisdiction of

¹Thirty-fifth General Assembly of Iowa, Laws (Des Moines: 1913), Chapt. 147.
the mine inspectors.\textsuperscript{1}

Part II created the office of Industrial Commissioner, appointed for six years by the Governor. He was given the power to make rules and regulations for carrying out the provisions of the act, including the power to subpoena witnesses, and examine the records of persons under investigation. The district court was directed to enforce proper actions of the commissioner. A system for deciding claims was set up. The injured employee and the employer first had the opportunity to agree upon a settlement under the act. Failing in this, they would petition the commissioner, who set up an arbitration committee of three. The chairman would represent the commissioner, and the other parties would be named by the employee and employer respectively, to represent their interests. The decision of the arbitration committee was subject to review by the commissioner. A claim for review could be filed. If so, the industrial commissioner would hear the parties, and if he felt it advisable, could refer the matter back to the arbitration committee for further findings of fact. After the commissioner's determination of the facts, no appeal in regard to facts was to be allowed. Questions of law could be appealed to the district court.

\textsuperscript{1}Ibid., Part I, Section 20.
Part III of the act was the compromise section which provided that:

Every employer, subject to the provisions of this act, shall insure his liability thereunder in some corporation, association or organization approved by the state department of insurance.¹

... groups of employers by themselves or in an association with any or all of their workmen, may form insurance associations ... subject to such reasonable conditions and restrictions as may be fixed by the state insurance department. ... ²

Thus, both mutual and stock companies were legitimate insurers, but there was no provision for a state fund.

The essential features of the 1913 act are contained in the table below, which will facilitate comparison of the law itself with the proposed bills of the liability commission and W. W. Baldwin.³

| TABLE III |
| THE IOWA EMPLOYERS' LIABILITY AND WORKMEN'S COMPENSATION ACT, 1913 |

| Character of plan: | Quasi-elective compensation |
| Scope of bill: |
| Employments covered | All employees of state and municipalities. All other employees except casual workers, agricultural workers and domestic servants. |
| Injuries covered | Arising out of and in course of employment. |

¹Ibid., Section 42. ²Ibid., Section 43. ³Supra, pp. 119-122.
TABLE III (continued)

<table>
<thead>
<tr>
<th>Election:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>By employer</td>
<td>Presumed to have elected unless notice to contrary given in writing to the Industrial Commissioner.</td>
</tr>
<tr>
<td>By employee</td>
<td>Presumed to have elected unless notice to contrary given in writing to the Industrial Commissioner.</td>
</tr>
</tbody>
</table>

| Insurance provisions:         | Employer's liability under the act must be insured with some "corporation, association, or organization" approved by department of insurance. Evidence of compliance required within 30 days of effectiveness of act. Mutual insurance specifically sanctioned. |

<table>
<thead>
<tr>
<th>Defenses abrogated:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>By employer</td>
<td>If employer rejects act: assumption of risk; fellow-servant; contributory negligence. Employer presumed negligent. Employer's burden to prove otherwise.</td>
</tr>
<tr>
<td>By employee</td>
<td>If employee accepts act, he may not sue in court. If employee rejects act, employer may use all traditional common-law defenses against employee.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Liabilities abrogated</th>
<th>Acceptance of compensation act releases employer from all other liabilities.</th>
</tr>
</thead>
<tbody>
<tr>
<td>by employer</td>
<td></td>
</tr>
</tbody>
</table>

<p>| Gross negligence and wilful misconduct: |                           |
| Of employer:                          | Not mentioned. |
| Of employee:                          | Forfeits compensation if injury caused by wilful intention to injure self or another, or as a result of intoxication. |</p>
<table>
<thead>
<tr>
<th>Funds provided by:</th>
<th>Employer. Misdemeanor for employer to allow any contribution by employees. (Employees may contribute to a plan approved by the industrial commissioner which provides benefits greater than the law requires, if equitable.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer's voluntary relief (Contracting out):</td>
<td>Not allowed.</td>
</tr>
<tr>
<td>Administration:</td>
<td></td>
</tr>
<tr>
<td>Administrative body</td>
<td>Industrial commission, empowered to fix safety standards.</td>
</tr>
<tr>
<td>Primary determination of claims</td>
<td>Agreement between employer and employee, approved by industrial commissioner, or arbitration committee of 3 members, with member of commission as chairman. Committee's decision reviewable in second hearing by commissioner.</td>
</tr>
<tr>
<td>Court review</td>
<td>Appeal to district court on questions of law only.</td>
</tr>
<tr>
<td>Jury trial</td>
<td>None.</td>
</tr>
<tr>
<td>Fees of claimant's attorneys</td>
<td>Approved by court of record or industrial commissioner.</td>
</tr>
<tr>
<td>Medical aid</td>
<td>Limited to two weeks and $100.</td>
</tr>
<tr>
<td>Total Disability:</td>
<td></td>
</tr>
<tr>
<td>Compensation</td>
<td>50 per cent of average weekly earnings, $5 to $10.</td>
</tr>
<tr>
<td>Continuance</td>
<td>400 weeks. No provision for life pension.</td>
</tr>
<tr>
<td>Temporary disability:</td>
<td></td>
</tr>
<tr>
<td>Compensation</td>
<td>50 per cent of average weekly earnings, $5 to $10.</td>
</tr>
<tr>
<td>Continuance</td>
<td>300 weeks.</td>
</tr>
</tbody>
</table>
TABLE III (continued)*

<table>
<thead>
<tr>
<th>Waiting time:</th>
<th>Two weeks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specific injuries:</td>
<td>Specific compensation.</td>
</tr>
<tr>
<td>Death:</td>
<td></td>
</tr>
<tr>
<td>Total dependents</td>
<td>50 per cent of weekly earnings, $5 to $20, for 300 weeks.</td>
</tr>
<tr>
<td>Partial dependents</td>
<td>Proportional to dependency. Not more than 300 weeks.</td>
</tr>
<tr>
<td>Alien dependents</td>
<td>Not mentioned.</td>
</tr>
<tr>
<td>Mode of payment</td>
<td>Weekly. Lump sum allowed by approval of district court judge.</td>
</tr>
<tr>
<td>No dependents</td>
<td>Maximum of $100 for last sickness and burial.</td>
</tr>
</tbody>
</table>

*Source: Thirty-fifth General Assembly of Iowa, Laws (Des Moines: 1913), Section 43.

From the viewpoint of the employee, the enacted law was only slightly less advantageous than the bill proposed by the liability commission. The requirement for company insurance instead of a state mutual fund did not effect the benefits which the employee received. The payments contemplated were based upon 50 per cent of weekly income instead of 60 per cent, as proposed, but compared very favorably to the payments of other states at that time. Two omissions were slightly more notable: the lack of a provision for lifetime
pensions for permanently disabled employees was unfortunate, but again, the law in this regard compared well with other states. Also, the employer was not penalized by the act for breach of safety standards, as had been desired by the liability commission. The commissioner's right to fix safety standards was a step in the right direction, however.

Reactions to the law. Generally, the law was received favorably. The manufacturers were pacified by the exclusion of the state insurance provision, and had prepared themselves well for the costs of the new program by creating a mutual of their own.¹ The law was, of course, a compromise, and could not satisfy all factions. The Iowa Unionist expressed the feelings of some union personnel:

The General Assembly, just before adjournment, succeeded in placing Iowa abreast of the times, in a measure at least, on the question of workmen's compensation. Senator Clarkson scarcely recognized his offspring in the present measure, . . . . The bill had a strong passage through both house and senate. . . . Our sister states are many of them still ahead of us, but the Clarkson bill is a start in the right direction.²

Mr. J. M. Leonard, newly elected President of the Iowa State Federation of Labor, expressed a more moderate view to the convention held in Des Moines in 1913:

¹Executive Committee of the Iowa State Association of Manufacturers, Minutes, Des Moines, December 15, 1914.
²The Iowa Unionist, Des Moines, April 18, 1913, p. 4.
While a few states enacted workmen's compensation laws prior to Iowa, yet in no state has the matter been more thoroughly considered.

While the law passed is far from perfect, yet it can safely be said that the Iowa law to go into effect July 4, 1914, is one of the very best thus far enacted. What is now required is the most careful consideration of its provisions with a view to properly amending the law from time to time.

Thus, 'r. Leonard announced his intention to continue the very effective legislative program of the Iowa Federation: organized, planned, evolutionary, backed by intelligent, persistent leadership.

1Iowa State Federation of Labor, Constitution and Proceedings of the Annual Convention at Des Moines, June 10-13, 1913, p. 20.
CHAPTER VI

CONCLUSIONS

The objective of this study was to learn what forces provided the impetus for passage of the Iowa Workmen’s Compensation Act of 1913, and to assess the relationship of those forces to progressivism. While it appeared that the compensation act was related to the progressive movement, the relationship had not been established. Since the movement was actually composed of many separate parts, it seemed desirable to identify which of the many phases of the progressive movement (if any) had spawned the law.

The first task was to define progressivism. As expected, authorities on the subject advanced widely varying definitions for this diverse phenomenon. Among those investigated were Eric Goldman, Arthur S. Link, and George E. Mowry. It seemed advisable to evolve a set of criteria which would suffice as a definition for the progressive attitude, adequate for the purposes of a study of this scope. From analysis of the opinions of authorities, the progressive attitude was found to include: (1) opposition to the arrogance and power of organized wealth which had built up by 1900 in the United States; (2) a recognition of deplorable living and working conditions brought on by the industrial
revolution; and (3) a belief in the necessity of using government power to weaken the hegemony of wealth and improve the lives of the majority of citizens.

The historical study began in Europe, where the idea of workmen's compensation began. With the growth of the industrial revolution in Europe, the accident toll among workers began to take on major proportions. The laws of earlier days were found to be inadequate in providing for the indemnification of workers injured in the mushrooming industrial complexes of the last half of the 19th century. Great Britain, for example, relied on a series of outmoded common-law doctrines in determining whether or not an injured worker should be compensated for an injury received on the job. In order to recover damages, the injured worker had to sue through the ordinary courts. The employer had available a formidable arsenal of defenses, dating from the heyday of Laissez Faire, the law of Blackstone, and his followers. Among the employer's defenses were the famous three: assumption of risk; contributory negligence; and fellow-servant. The employee had to prove that he was free of negligence, that his fellow-workmen also were, and that he had not assumed the particular risk which caused his injury as part of his job. After proving this, he had to prove that the injury was the result of the employer's "fault" or "negligence." The fact was that it was extremely easy for the
employer to avoid paying for injuries received by employees in his service, and it was nearly impossible for employees to recover damages.

Persons acquainted with the grim facts about industrial accidents began to realize that "fault" and "negligence" had virtually no meaning in the vast majority of industrial accidents, where the worker was subjected so frequently to forces of danger beyond his comprehension, prediction, or control, and which maimed and killed more than war. It was felt that the industrial worker injured in the service of the public should be compensated for his injuries without regard to "fault" and without resort to litigation. The cost of compensation should be paid by the employer, thence passed on to the consumer as part of the cost of the article or service he purchased. The system which put this philosophy into practice came to be known as "workmen's compensation." First Prussia, (1838), then Great Britain, (1897), passed pioneering laws in the workmen's compensation movement. By 1907, twenty-two European countries had compensation statutes. These laws all contained elements of progressive thinking. They embodied recognition of the deplorable living and working conditions of the laborer, brought on by the industrial revolution. Each law used government power in favor of injured workers, who, before compensation, had borne all of the pain and
anguish and most of the financial burdens of accidents. Workmen's compensation took injury cases completely out of the courts, set up employers' insurance systems to pay for industrial accidents, with the idea that the cost of the system would be added to the cost of production. A bureau or commission was set up to arbitrate claims. Specific awards were guaranteed for specific injuries, as well as weekly payments for workers while disabled. Many of the compensation systems included provisions for strong accident prevention and safety inspection programs.

From Europe, the problems which led to compensation legislation were imported into the United States. Work accidents had assumed serious proportions by 1900. In 1911, the United States government estimated that at least 2,000,000 injuries and 35,000 deaths per year were taking place in the industrial establishments of the United States. The courts in the United States largely imported the common-law doctrines earlier elicited by British courts, and the workers of this country found recovery in case of injury an equally formidable problem.

As in Germany and England, certain far-thinking members of society began to opt for workmen's compensation legislature. The campaign began in New York State in 1898.
The first successful compensation statute in this country, however, was to be the United States Employees Compensation Act of 1908. The originator of this legislation was none other than Theodore Roosevelt, whose connection with progressivism has been variously argued, but who in this case was definitely displaying one of his progressive facets.

Was the workmen's compensation movement in the United States a child of the progressive movement? The answer was found to be yes. The new laws met all of the criteria set up for judging progressive enactments in this study. ¹ Authors of note, while disagreeing about the progressive movement itself, agreed that workmen's compensation was one of its most important facets. ² Of these authors, the most instructive was Link, who logically partitions the progressive movement into at least three separate movements. He places the workmen's compensation campaign within what he calls the "social justice movement," as one of its "four major objectives." ³

Those who were most instrumental in promoting new laws were first the writers, such as Crystal Eastman, who

¹Supra, pp. 29-30.

²Rayback, op. cit., p. 27; Goldman, op. cit., p. 28; Somers and Somers, op. cit., p. 28; Mowry, op. cit., p. 31; and Link, op. cit., pp. 25, 27.

³Supra, p. 33.
wrote the sensational Work Accidents and the Law,¹ E. H. Downey, who wrote History of Work Accident Indemnity in Iowa,² and newspapers, including the progressive Chicago Daily News³ and the Dubuque Labor Leader.⁴ Second came the political figures, who kicked off the legislative campaign. The major figure on the national scene was Theodore Roosevelt. In Iowa, it was A. B. Cummins. Thirdly, and most importantly, came the activists: those who fought for new laws in a national campaign directed toward state legislatures. The main force in the active phase was the American Federation of Labor, led by Samuel Gompers. The success of workmen's compensation in state legislatures dates from Gompers' crucial decision to switch his support from employer's liability laws to workmen's compensation laws in 1908.⁵ Without the organization and forcefulness of the Federation, workmen's compensation would have been very slow in coming.

What of Iowa? The background was much the same. The Iowa courts had imported the same basically British legal barriers as had other states. The accident problem was

¹Eastman, op. cit.  ²Downey, op. cit.  
³Chicago Daily News, op. cit.  
⁴Dubuque Labor Leader, op. cit.  
⁵Supra, p. 27.
serious, and there was insufficient provision for either
accident prevention or indemnification of injured workers.
The Iowa State Federation of Labor of the A. F. of L. was
the prime mover in the fight which led to the enactment of
workmen's compensation legislation in Iowa. At first,
(1893-1909), the Federation's legislative campaign was
directed toward modifying traditional common-law doctrines
through legislative enactments. Laws of this type were
called "employer's liability laws," since they were primarily
designed to increase the employer's liability for injuries
to his employees, thus making it easier for them to recover
damages in court. In this phase of the campaign, the Fed-
eration received the help of the strong progressive governor,
A. B. Cummins, who called for improved employer's liability
laws in January of 1907. Shortly thereafter, the 1907
legislature passed the Assumption of Risk Act. After Gov-
ernor Cummins' departure to the United States Senate, the
Iowa Federation was left to carry on the employer's liabil-
ity fight with little or no help from the executive branch.
In 1909, the high water mark of the employer's liability
movement was reached, as the Federation was successful in its
campaign for another more favorable assumption of risk act.

The Iowa Federation switched its legislative campaign
from employer's liability to workmen's compensation in 1910.
A. L. Urick, President, and the legislative committee of the Federation began an intensive educational campaign within their organization and throughout the gate on behalf of a new law. In 1911, the dynamic Senator John T. Clarkson of Albia entered the fight by introducing his workmen's compensation bill to the Iowa Senate. Other key groups in Iowa at the time seem to have been only mildly interested in the idea of workmen's compensation. The Iowa Bar Association and the Iowa Manufacturer's Association trailed the I. F. of L. and Clarkson in formulating proposed legislation. They thus lost so much tactical advantage that their actions, in retrospect, appear mainly as a series of reactions to the progressive efforts of labor. This impression is supported further by the fluctuating position of the Manufacturer's Association: support in 1911, to obstructionism in 1912, to opposition in 1913, then qualified support.

The legislature, unprepared in 1911 for such "ill-digested" legislation as the Clarkson measure, authorized a commission to investigate. Clarkson was appointed to head the commission. The Employer's Liability and Workmen's Compensation Commission, as it was named, held extensive hearings and investigations during 1911 and 1912. It found that existing Iowa laws were quite inadequate for the compensation of injured workers, and for the enforcement of safety statutes. The commission recommended a very
progressive and forward-looking bill to the legislature in 1913.

In the Senate, the weighty opposition of the Iowa Manufacturer's Association was arrayed against Clarkson, but the Senator managed to get a large share of the commission's bill enacted, after agreeing to a key compromise which removed the commission's provision for a state insurance fund in favor of stock or mutual insurance. With the removal of this section, the Manufacturer's Association removed its opposition.

In summary, the background of the Iowa law may be traced to the social justice pioneers of the progressive movement. The most active promoter of workmen's compensation on the national level was the American Federation of Labor. The main credit for the law's enactment in Iowa must go to the leadership of the Iowa State Federation of Labor, under the skillful direction of A. L. Urick, and to the Federation's legislative advocate, John T. Clarkson. The campaign was successful in Iowa because of organization: the American Federation of Labor's organization at the national level, and that of the Iowa State Federation of Labor at the state level. It was a "revolution from the top." While supported by individual laborers, it was not a grass-roots movement. If it had not been for A. L. Urick
and Senator Clarkson, it is quite doubtful that Iowa would have had a workmen's compensation law until 1915 or later. The law was an important addition to the legislation of the Iowa progressive era.
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APPENDIXES
APPENDIX A

COUNTRIES AND PROVINCES WHICH HAD ENACTED

LEGISLATION SIMILAR TO WORKMEN'S

COMPENSATION BY 1911

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Country</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Alberta</td>
<td>1908</td>
<td>14. Luxemburg</td>
<td>1902</td>
</tr>
<tr>
<td>2. Austria</td>
<td>1887</td>
<td>15. Netherlands</td>
<td>1901</td>
</tr>
<tr>
<td>4. British Columbia</td>
<td>1902</td>
<td>17. New Zealand</td>
<td>1900</td>
</tr>
<tr>
<td>5. Cape of Good Hope</td>
<td>1905</td>
<td>18. Norway</td>
<td>1894</td>
</tr>
<tr>
<td>6. Denmark</td>
<td>1898</td>
<td>19. Quebec</td>
<td>1909</td>
</tr>
<tr>
<td>7. Finland</td>
<td>1875</td>
<td>20. Queensland</td>
<td>1900</td>
</tr>
<tr>
<td>8. France</td>
<td>1898</td>
<td>21. Russia</td>
<td>1903</td>
</tr>
<tr>
<td>9. Germany (1838)</td>
<td>1884-1900</td>
<td>22. Spain</td>
<td>1900</td>
</tr>
<tr>
<td>13. Italy</td>
<td>1898-1904</td>
<td>26. Western Australia</td>
<td>1902b</td>
</tr>
</tbody>
</table>

*aSomers, op. cit., p. 29
bDowney, op. cit., p. 303.*
# APPENDIX B

**STATE WORKMEN'S COMPENSATION LAWS ENACTED BEFORE THE IOWA LAW**

<table>
<thead>
<tr>
<th>State</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana</td>
<td>March 4, 1909</td>
</tr>
<tr>
<td>Kansas</td>
<td>March 14, 1911</td>
</tr>
<tr>
<td>Washington</td>
<td>March 14, 1911</td>
</tr>
<tr>
<td>Nevada</td>
<td>March 25, 1911</td>
</tr>
<tr>
<td>New Jersey</td>
<td>April 4, 1911</td>
</tr>
<tr>
<td>California</td>
<td>April 8, 1911</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>April 15, 1911</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>May 3, 1911</td>
</tr>
<tr>
<td>Illinois</td>
<td>June 5, 1911</td>
</tr>
<tr>
<td>Ohio</td>
<td>June 15, 1911</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>July 28, 1911</td>
</tr>
<tr>
<td>Michigan</td>
<td>March 20, 1912</td>
</tr>
<tr>
<td>Maryland</td>
<td>April 15, 1912</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>April 29, 1912</td>
</tr>
<tr>
<td>New York</td>
<td>May 24, 1912</td>
</tr>
<tr>
<td>Arizona</td>
<td>June 8, 1912</td>
</tr>
</tbody>
</table>

\(^1\)Downey, op. cit., p. 280.
APPENDIX C

ARTICLES OF INCORPORATION AND EARLY HISTORICAL FACTS, EMPLOYER'S MUTUAL CASUALTY ASSOCIATION

This is to be a series of notes taken after reading the original minutes.

The first meeting was of the provisional board of directors held at the office of Miller and Wallingford on April 24, 1911, at 2 P.M. J. A. Miller presided. O. H. Miller was elected president, and John A. Eddy was elected secretary. He was instructed to proceed to complete the organization by securing applications for membership and "to do such other things as may be necessary."

The minutes do not show who was on the provisional board of directors but they do mention the following names in the minutes:

J. A. Miller
O. H. Miller
J. A. Eddy
J. D. Wallingford
George A. Wrightman

In the minutes of the July 14 meeting C. Christopherson and J. D. Wallingford resigned from the provisional board.

At that July 14, 1911, meeting John A. Gunn was elected a member of the board, as was B. J. Ricker. O. H. Miller resigned as "president of the board" and John A. Gunn was elected president. B. J. Ricker was elected vice-president. Mr. Gunn and Mr. Ricker were nominated by G. A. Wrightman and seconded by J. A. Miller. George A. Wrightman was elected treasurer.

On July 10, 1912, the first annual meeting of the members of the association was held at the office of the association, Crocker Building, Des Moines, Iowa. Members present and represented by proxies totaled 121. A report of the completion of the organization was made by the secretary. The permanent board of directors was voted upon and was made up of the following:
J. A. Miller presented the bylaws, which were voted upon and declared adopted.

On July 10, 1912, the first meeting of the board of directors was held. J. A. Gunn was elected president, B. J. Ricker vice-president, Geo. A. Wrightman treasurer, and J. A. Eddy secretary. J. A. Gunn, Geo. A. Wrightman and J. A. Miller were elected members of the executive committee.

At the January 15, 1913, annual meeting A. E. Manhard and C. Harrison were newly elected directors.