law covering United States civil employees, which made no provision for court appeals, and there is none in the Nevada law. However, in a few instances the Nevada Industrial Commission has been sued in the courts. As to occupational disease cases, the Ohio law has no provision for court appeals. The exceptions are mentioned because it has often been said that in the United States there must be court appeals in workmen's compensation cases.

Now let us see what happened in the states. As a rule, the state laws contained a provision for simple procedure. The Bible speaks of a lamb and a lion lying down together. The passage does not say "side by side," so there is the possibility that one of them may have been inside the other. In the states, the "simple procedure" provision was devoured by the coexisting provision for court appeals. The two things are a contradiction in terms—you can have one or the other, but you cannot have both at the same time. As the Biblical lamb was left at the mercy of the lion, so the state compensation administrations were left at the mercy of the courts. Soon court decisions requiring "competent evidence" and "due process of law" put some of the state administrations in a strait jacket. The finishing touch was applied in a 1946 California decision which held:

> Even if [the Industrial Accident Commission is] regarded as a purely administrative agency, however, in exercising adjudicatory functions the Commission is bound by the due process clause of the Fourteenth Amendment to the United States Constitution to give the parties before it a fair and open hearing. "The right to such a hearing is one of the rudiments of fair play assured to every litigant by the Fourteenth Amendment as a minimal requirement." (Massachusetts Bonding and Insurance Company vs. Industrial Accident Commission, 74 Cal. App. 2nd, 911, 913; 11 CCC 145, 146.)

This sounds well, but note the key word "litigant." The injured worker with a claim is a "litigant." This means that the old forensic method must be used in compensation cases. The instrument is cross examination, not a stethoscope.

The application of such a decision, together with the effect of other decisions requiring "competent" evidence, virtually calls for the equivalent of a court trial of cases before the compensation authorities. The commissioner may sit in his shirt sleeves, but he is none the less a judge.

The end of the story is told by a compensation officer. Mr. R. E. Haggard, superintendent of the California Permanent Disability Rating Board, summed up the result in a statement dated June 16, 1950, made by him to the California Senate Interim Committee on Workmen's Compensation Benefits. After tracing the history of the Commission's attitude from the beginning, Mr. Haggard said:

> The Commission initially wanted to be more of an administrative body than a court. The Appellate Courts have held to the contrary. Since the courts took this attitude it is only natural that litigating parties [note the term, "litigating parties"] appearing before the Commission, and members of the hearings department of the Commission, should also take the same attitude. Contrary to the original intention of the Commission to limit litigation to the minimum, the trend throughout the years has been to increase litigation, especially since the emphasis a few years ago on the issue of "due process."

In short, the early compensation laws, by a provision for simple procedure, threw court technicalities out the front door, but the courts, by requiring "competent" evidence and "due process of law," shoved the technicalities in again at the back door. It has been a waste of breath to try to tell the judges that the compensation laws contain safeguards for claimants, such as "continuing jurisdiction," unknown