Occupational Disease

THURSDAY MORNING SESSION

October 13, 1938

The session for the discussion of outstanding problems in the field of occupational disease was called to order by the Hon. P. J. Augsten, Chairman, the Illinois Industrial Commission, Chicago, who presided. The Chairman emphasized the importance of the selected subjects to be presented by eminent speakers, and promptly introduced the first scheduled speaker.

The Trend of Occupational Disease Legislation

By HENRY D. SAYER

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Let us consider the differences between the accidental injury and the occupational disease. For these distinctions are important and must constantly be borne in mind when we consider either legislation on the subject of disease, or engineering methods of prevention or control.

Generally speaking, accidents occur at a specific moment in point of time, and, from the standpoint of fixing liability under any policy of insurance, it is in the future; that is to say, at the moment of the acceptance of liability under any insurance contract the accident for which liability may be assumed has not yet happened. That frequently is not so with the occupational disease. Insurance by its very nature can only assume liabilities that have yet to arise—not those that have already accrued.

Again, speaking generally, the industrial accident is something that can be seen—even though unforeseen. It may be visualized and described in words, setting forth specifically the time, place and manner of happening. It can then be determined, after the happening of the event, whether it was preventable or inevitable; blame, if any, can be assessed; the worker involved, or his foreman or superintendent, can be shown the fault, and effective measures can be taken to guard against a like future happening.

But some will say, truly, not all accidents happen in the manner described; that not always are they held to occur only at a specific moment or under circumstances where they can be visualized and described. By administrative and court decisions, it is true in some jurisdictions that the definition of "accident" has been greatly broadened. We find the entrance of disease germs into the human system without visible trauma, with resulting sickness or death, and even the specific time and place not definitely known, except that it is shown to have probably occurred in the employment, being held to be an accident.

(Hoers vs. Hall, 178 App. Div. 350, 164 N.Y. 767, an anthrax case; Vennen vs. New Deal Lumber Co., 161 Wis. 370, a typhoid case, and others.)

Poisoning of the body through the effects of a deleterious or toxic substance used in the employment, the dangers of which were unknown to the worker, the employer having been negligent in safeguarding properly the use of such substance, has been held to be the result of an industrial accident.

(Victory Sparkler & Specialty Co. vs. Franeks, 147 Maryland, 368; and the very recent case of Black vs. Creston Auto Co., Iowa Supreme Court, August 5, 1938, 281, N.W. 189.)

And where negligence of the employer has been shown, an injury to health, even though not occurring through a happening at a given time and place, but by repeated