

Legal Developments

- 11 The Lawyer and the Doctor. T.C. Waters.
Compens. Med. 2, 35-38 (June, 1949)

The two questions involved in any compensation case are (1) whether the claimant has been disabled as the result of accident or occupational disease; and (2) the nature and extent of the disability. Both are medical questions, and can be decided only by physicians. In 22 states specific provision is made for appointment of medical examiners to examine the claimant or decide on conflicting testimony. In other states lawyers must decide on conflicting testimony by medical men, often with indefinite conclusions regarding the injury or disease. The author pleads for extension and fuller use of impartial boards and examiners; also on uniformity in methods of evaluation of disability. He cites as an example of satisfactory procedure the Longshoremen's Act in federal jurisdictions.

- 12 Asthma--Evidence of Exposure Due to Sweeping in Steel Plant.

Claimant, employed to sweep a floor in a steel plant of waste, dust and papers, received an award for occupational disease on the basis of seizures during work and medical testimony that the asthma was due to exposure at work. There was sufficient basis for the award, and a pre-existing allergy is not the exclusive test to be applied as a matter of law. Matter of Horvath v. Wickwire Spencer Steel Co. New York Supreme Court, Appellate Division, Third Department. September 28, 1949. --CCH

- 13 Silicosis---Competent Evidence to Support Finding.

The court is not authorized to set aside the board's findings, supported by competent evidence, that the employee died of silicosis contracted during and in the course of his employment. American Radiator & Standard Sanitary Corp. v. Brentlinger. Kentucky Court of Appeals. November 22, 1949 --CCH

- 14 Inhalation of Tetraethyl Lead Fumes--Insufficient Evidence to Sustain Claim.

A claim for total and permanent disability can not be allowed when there is insufficient evidence to prove that the employee is disabled as a result of inhaling tetraethyl lead fumes. Origsby v. Ethyl Corporation Louisiana Court of Appeal, First Circuit. November 25, 1949. --- CCH

- 15 Arising Out of Employment--Tetrachlorethylene Poisoning--Finding of Commission.

A finding of the commission that the death of an employee did not arise out of the employment will be upheld where a toxicologist testified that it resulted from tetrachlorethylene poisoning and only trichlorethylene was used