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BAUXITE FUMES
COMPENSATION

Leroy U. Gardner Memorial Volume

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SIXTH SARANAC SYMPOSIUM

1950

K. Brown

Discussion

VANDIVER BROWN*

I fear that anything I may have to say regarding the management viewpoint on compensation for pulmonary and other occupational diseases will be somewhat redundant coming as it does after Mr. Fletcher's remarks on this subject. However, I can at least underscore a few of his thoughts.

In the first place, there is not the slightest doubt that the overwhelming weight of opinion in American industry is in favor of compensation for diseases which are *truly* occupational in character. Quite properly management measures the problem with the same yardstick it applies to workmen's compensation for industrial accidents. As a result it finds that in the long run all the interests involved—the employer, the employee, and the community—are benefited if occupational diseases are compensated in the same manner as traumatic injuries, irrespective of fault on the part of the employer or of contributory negligence on the part of the employee. As Mr. Fletcher points out, management can justify this view on a purely dollars-and-cents basis without taking into account the imponderable values. Although the employer must pay something in all cases, he has a top limit placed on his liability and is spared the hazard of committing the corporate surplus to the tender mercies of a jury with advanced ideas concerning the redistribution of wealth. On the other hand, the employee, although he foregoes the gamble of an occasional windfall—generously shared with his lawyer—nevertheless has the assurance of receiving something approximately adequate even though he may have technically "assumed the risk" of employment or been injured by a "fellow servant" or negligently contributed to his injury. It follows axiomatically that the community benefits by having fewer incapacitated persons on the charity rolls or on relief.

I can think of no better way of illustrating management's view of compensation for industrial accidents and occupational diseases than to tell you what great concern was felt by my own company—Johns-Manville Corporation—when, after having decided to erect a new insulating board

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plant in southwest Mississippi, we learned that this was the one state in the Union which had no workmen's compensation law. Of course we went ahead with our plans but we are hoping that early corrective measures will be taken by the state legislature. Mississippi, by the way, has been making rapid progress industrially during the past few years under the guidance of an able and enlightened group of citizens and we feel confident that they soon will be able to remedy the existing situation. It remains our firm conviction that the worst Workmen's Compensation Commission is preferable to the best jury when the issue of compensation for an industrial injury is drawn between a laborer and his corporate employer.

As Mr. Fletcher pointed out, compensation for pulmonary diseases of occupational character presents great difficulties, first, in ascertaining whether the disease derives from employment and, second, in ascertaining the degree of disability. These factors have induced some employers to oppose compensation for pulmonary occupational diseases and have provided sound basis for the argument that, when they are compensated, the law should provide for a well-qualified medical board to determine the existence of the disease and the degree of disability.

While recognizing an obligation for those afflictions which stem from employment, management is firmly opposed to shouldering the burden on behalf of its employees of "all the ills that flesh is heir to." This opposition extends also to tuberculosis as an occupational disease and to general health insurance.

As has been said, management generally favors compensation for *true* occupational diseases, whether pulmonary or other, although it is realized that those of pulmonary character present many special and difficult problems. These problems relate not only to the causal connection between the disease and employment and to the degree of disability that results, but also to the determination of permissible concentrations of dust, fumes, gases, and vapors in those cases where these are responsible for the diseases. What is the so-called "threshold limit," on one side of which the concentration can be considered harmless and on the other side dangerous? We realize this is a difficult question to answer but it is one which industry has a right to demand be answered with accuracy and fairness if industry is to be held responsible for eliminating unsafe conditions and for compensating for those diseases that result from operations under unsafe conditions.

Management is not equipped to answer this question but must rely upon the experts in the medical, scientific, and engineering professions. State industrial codes are being promulgated right and left which dogmatically—and, I hope, accurately—fix certain mandatory requirements for industries whose processes use, or create, harmful vapors, dusts, etc. A tentative draft of one for the state of New Jersey has recently come into my hands, through the courtesy of Mr. George Kruger, Deputy Commissioner of Labor. Maximum limits are prescribed for a great variety of materials with which I have no familiarity, but it is my earnest hope that these limits have been arrived at on the basis of a better factual and scientific background than exists in the case of asbestos. The allowable limit for industries using this material is a "mandatory" requirement of not more than five million particles per cubic foot, *10 microns or less in longest dimension.*

So far as I have ever been able to ascertain, no one can state with certainty what is the maximum allowable limit for asbestos dust. I am certain no study has been made specifically directed toward ascertaining this figure and I question whether there exists sufficient data correlating the disease to the degree of exposure to warrant any determination that will even approximate accuracy. It is my guess that the figure was allocated to asbestos either because it had already been prescribed for silicosis or because someone believed, like the poet, that "not failure but low aim is crime." My own efforts to obtain any satisfactory answer from the experts have been greeted with what is sometimes known as a "lawyer-like" comment—that is, an answer that says "Yes and No—or Maybe."

Johns-Manville Corporation and other members of the relatively small asbestos industry have solicited the assistance of experts and have received their wholehearted cooperation, but even the best they could give us has not been enough. Experimental work by Dr. Gardner here at Saranac demonstrated fairly conclusively that the finer particles would not produce a fibrosis either when inhaled by, or injected into, experimental animals. Unlike the situation that exists in silicosis, where the finer particles are the worst offenders, it appears that the large fiberlike particles of asbestos (20 to 50 microns in length and 1 to 3 in thickness) do the damage. Unfortunately, Dr. Gardner was unable to make a report on his experiments. It is our hope that one will be forthcoming before the end of this year based upon his preliminary findings, notes, and conclusions. Meantime, the drafters of industrial codes will presumably con-

tinue to provide us with standards which have no roots in experience but which take their sustenance, like orchids, from the air and, in the case of asbestos, will relate their standards to the innocuous sizes of dust and leave unmentioned those of the character that presumably can have some ill effects.

I mentioned before that most representatives of management are still opposed—and firmly opposed—to general health insurance. "Cradle-to-grave" and other paternalistic programs we believe weaken two of the principal supports of our capitalist system, namely, individual incentive —the assurance that for a greater expenditure of effort one will receive a greater reward; and habits of thrift—whereby a person eating beans today may put aside the wherewithal to dine upon sirloins tomorrow or at worst still be able to procure beans for the pot without recourse to charity—either private or governmental. Furthermore, by "saving for a rainy day" (on which one will in all likelihood contract pneumonia) the thrifty soul is also able to afford doses of whatever new wonder drug may be in vogue at the time.

Our strength lies in our productivity. Incentive is the spark-plug of production. If we wrap the individual in the cotton-wool of complete security, he will lack incentive and produce nothing. The issue involved in health insurance represents in miniature the world-wide ideological conflict of the present day. The opponents of our system have distilled the essence of their philosophy into an alluring epigram: "*From* each according to his ability; *to* each according to his need." At first glance this may seem like the finest flowering of the Christian ethic but this is an illusion. The Christian ideal also includes such ancient wisdom as "God helps them that help themselves" and my own Presbyterian dogma includes the doctrine of "original sin." The Marxian dogma, on the other hand, overlooks the Adam that is in all of us. Production was unnecessary in the Garden of Eden and Adam produced nothing. Most men in a similar situation today would produce nothing. There will be lacking the urgent necessity—the incentive. The more talented, industrious, and productive under a perfect socialist state will produce far less than their superior abilities would permit because of their knowledge that they will not enjoy the fruits of their labors. The less energetic or intelligent will produce as little as they can get by with because they have been assured that the state will provide for their needs. In this economic

climate production will inevitably—in my opinion—fall far below the level of the requirements of more than a fraction of the population. At that point, the all-powerful state will be compelled to apply the other means of getting production out of mankind, namely, the lash—forced labor and concentration camps—such as already exist in the Communist states. And what of those states that have advanced only part of the way toward the Marxian Utopia? The answer lies in the current situation in Britain. That ancient home of the Mother of Parliaments, of Magna Charta, and of the Petition of Rights, after two years of applied Marxism, is now about to engage in the peacetime conscription of labor, a step different only in degree—not in kind—from the barbaric measures long since adopted by the Marxian Fatherland. Such steps are inevitable if the paternalistic State is to support its population at even share-the-misery level.

You all know the parable of the donkey. There are two ways to get him to pull the cart. One is to dangle a bunch of carrots a short distance in front of his nose, and the other is to use a black-snake whip or to build a fire under his belly—the last mentioned expedient sometimes resulting in his moving forward just far enough to burn the cart. Our own system by and large still adheres to the carrot philosophy and I for one believe that ours is the path of productivity and of power and, as Wendell Willkie said, that "only the productive can be strong and only the strong can be free."

The statistics submitted by Mr. Fletcher very clearly exemplify the point I have tried to make. They show that if an employer provides compensation for a given number of days of sickness, he will find that the employees will be nonproductive on almost exactly the identical number of days.

A less general objection to health insurance laws, as enacted in Rhode Island and California and as proposed in a number of States, is the disadvantage suffered by an industry in one State which is burdened with these added costs when it attempts to sell its product in competition with that of another industry in a neighboring State which has no such law. We do not believe in laws of this type but if the philosophy of security from "womb to tomb" is to be our doom, let these laws be fitted into a national social security system so that they will be applicable to

everyone equally and at the same time, and let the burden—through taxation—rest on the community as a whole.

Further Discussion

MR. WATERS: Thank you, Mr. Brown. That was very well done. Mr. Fletcher's paper and Mr. Brown's paper will now be open for discussion. I believe we have in the audience Mr. McMahon, the Managing Director of the Industrial Hygiene Foundation of America. Mr. McMahon, would you be kind enough to say a word?

MR. MCMAHON: In the experience of the Industrial Hygiene Foundation, the problems of occupational disease control are shrinking. Mr. Nelson referred to the fact that in Wisconsin they had largely eliminated silicosis and that lead poisoning was going in the same direction. In varying degrees, I think, that is true throughout the country. The current interest of much of industry is in what you might call positive industrial health.

That is illustrated by a study which we are now undertaking and which will attempt to devise ways and means of protecting men in hot industries from exposure to high temperatures.

Occupational disease prevention is usually a matter of improving working conditions. We are currently engaged in working with a large chemical company in the design of a series of new chemical processes with a view to building maximum health protection into the processes themselves. The program even includes the instruction of the plant managers in the operation of those plants.

Studies are also being made for a number of industrial associations, checking the different plants within the same industry, and reviewing the good and the bad practices. The exchange of pertinent information which results helps to improve working conditions on an industry-wide front.

So, the emphasis is on positive industrial health. The Foundation, through the assistance of Dr. C. O. Sappington, has completed a two-year survey of industrial health facilities. Almost three hundred plants were covered in this study, which shows, among other things, that most companies, or most plants, now have some industrial health service.

About thirty-three per cent of them had some industrial hygiene service in varying degrees. The reaction was quite uniform, as Mr. Fletcher brought out, that healthful working conditions are just good business. Good working conditions attract a good type of employee and that means a good product.

As Charles Kettering has said, "The better the working conditions, the better the attitude of the individual and the better the work." It's pretty clearly demonstrated that this pays off on the economic side, and it is important to bring this out in order to get action.

To emphasize the positive approach further, we found in this study that, in more than half of the plants visited, the preplacement physical examination is no longer regarded simply as a measure to determine whether the man has an occupational disease disposition, a rather negative approach, but is used to help in the successful job placement of the individual.

We think this adds up to this basic concept: there is no longer a question of whether or not industry will sponsor industrial health, but rather, can a company afford not to engage in industrial health activities.

But aside from the tangible economic benefit to management, the immeasurable intangibles are perhaps even greater; for just one thing, health promotes harmony, and harmony is one of those things that we can all use a lot more of these days.