employee need not be completely helpless nor unable to earn a single dollar at a job His limitations need only prevent him from competing in a practical way in the open job market and are such that no stable job market exists for him

The exclusive remedy doctrine and third party liability

Before workmen's compensation laws were enacted in the states, an employee, in order to recover damages for a work-connected injury, always was required to show some degree of fault on the part of his employer Under what is now known as the "quid pro quo of workmen's compensation law," employers accepted, or were required to accept, responsibility for injuries arising out of and in the course of employment without regard to fault In exchange, employees gave up the right to sue employers for unlimited damages These agreements are usually referred to in the state acts as "exclusive remedy" provisions, a term that is quite misleading In no state are workmen's compensation benefits necessarily the only remedy available to an injured worker Depending upon the working of the applicable statute, the worker may bring a negligence action against a fellow worker, another contractor on the same job, or some other entity or individual who caused the compensable injury From the employer's viewpoint, it is best to refer to the doctrine as the "exclusive liability rule" As the employee sees the rule, it remains an "exclusive remedy" for obtaining compensation from the employer But neither liability nor remedy are perfectly exclusive

Private Insurer Programs

Private insurers dominate the coverage The ten leading groups wrote almost half the business, the top twenty about 68 percent, up from 62 percent in 1950, although the share of the top ten has changed little The ten leaders wrote as much as 88 percent of the coverage in Hawaii to as little as 51 percent in Kansas and Nebraska In four states, one insurer wrote one-fourth of the business

Only 36 of the 383 insurers earned workmen's compensation premiums of $20 million or more, but these 36 cornered more than 78 percent of the total Companies with nationwide operations accounted for 83 percent Insurers licensed in only one state, more than 20 percent of all insurance companies, wrote less than 4 percent of the premiums.

Workmen's compensation is the second largest property-liability insurance line, it is topped only by automobile insurance Workmen's compensation premiums are about 11 percent of the total premium income Among the ten leading private insurance groups, four derive at least one-third of their business from workmen's compensation

Classifications of insurers

Private insurers can be classified according to their legal form of organization, their marketing methods, and their pricing policies

Legally, insurers may be classified as proprietary or cooperative insurers Proprietary insurers have owners who bear the risks of the insurer and whose representatives manage the operations The leading example by far is the stock insurer owned by stockholders who elect the board of directors In 1970 of the 383 private groups in workmen's compensation insurance, about 68 percent were stock companies, with about 70 percent of the total premium volume

Cooperative insurers have no owners other than their policyholders The leading example is the advance premium mutual whose board of directors is elected by those policyholders who exercise their right to vote

Unlike stock insurers, these insurers have no capital stock Instead retained earnings serve as a cushion against adverse experience In 1970, mutual insurers, about 32 percent of the private workmen's compensation insurers, wrote 30 percent of the premiums earned

Almost all of the 1970 workmen's compensation insurance premiums not written by stock or mutual insurers were written by reciprocal exchanges which, in their modern form, closely resemble advance premium mutuals

The relative importance of stocks, mutuals, and reciprocal exchanges varies among states In several states, stock insurers write over 75 percent of the business In a few states, mutual insurers dominate the private insurance field

Since 1951, when their share was 59 per-