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BY MISS DOHLON:

Thank you, Mr. Sabourin, and especially for that

moving tribute with which you concluded your remarks, to the men of science who, working notably here at Saranac Lake and in the Trudeau Laboratory, have advanced the frontiers of knowledge so as to make it more easily possible for us to enkindle the hope of coping with the problems that have been raised in the administration of workmen's compensation, and for the answers to which we must indeed look to the men of science.

Now, we have about a half an hour for discussion, and while you are getting to the questions which you want to ask about the morning's papers and presentations, I would like to recognize, like my self, an administrator of workmen's compensation, three of my colleagues from other states who are here and to ask them if they would like to contribute a few words to what has been said. I think I'm going to ask all of you who rise to discuss, to be generous with colleagues of yours, and therefore, to confine yourself to say three minutes each, or something of that kind, without trying to limit you, so some may need a little more or some a little less.

I'd like, first, to start out by recognizing Commissioner V. J. Knight from Illinois. Mr. Chairman Knight, will you tell us what you have been thinking about this morning's discussion or anything else you want to say to us.

BY MR. KNIGHT:

Madam Chairman, from all that I have heard here and from my experience in forty-two years in the Compensation Act and as Chairman of the Board of Illinois, I am heartily in favor of an advisory medical board to be chosen by the medical colleges contained within the State of Illinois, among them being the University of Illinois, Bethel College, Northwestern, Chicago and I believe that we who have no mandatory occupational disease act are practically helpless at times in the proper administration of that act. If the medical men can't be of assistance to us, I know of no one that can. Thank you.

BY MISS DONLON:

Thank you very much, and now from Maryland, we have Doctor N. D. Herman. Doctor Herman, glad to recognize you.

BY DOCTOR HERMAN:

Madam Chairman, Mr. Waters, it would have been very interesting to have heard some comment on the other side of the fence as to the disadvantages.

BY MISS DONLON:

Want to speak a little louder, Doctor Herman?

BY DOCTOR HERMAN:

I say it would have been interesting and possibly useful to have heard something from the other side of the

fence, that is as to the disadvantages of such medically trained boards, technically trained boards, in some idea of arriving at substantial justice. Everybody seems in accord that these boards are useful. Being a physician and sitting on a board that is constituted somewhat differently from the other states, of course, I'm heartily in accord.

There is one thing I would like to ask and possibly Miss Donlon can answer it. I'm frankly at a loss to know whether or not New York recognizes partial disability in the - in silicosis and if so, what are the useful means of arriving at such, such determination. I think that Doctor Braun's remarks were particularly pertinent inasmuch as physicians appear before us and are singularly ill prepared in their - in the testimony that they give. It's all too frequently poorly prepared, the records aren't adequate and in fact, they may be incriminated on about every count. I think as Doctor Braun has pointed out, if this were more - had more general currency amongst the physicians, a lot of medical administration would be simplified.

BY MISS DONLON:

Thank you, Doctor Herman. Well, I think I can clear up any misunderstanding there is with regard to the scope of coverage of the New York law. Alone in the dust inhalation diseases, New York denys Workmen's Compensation for partial disabilities. There are a number of reasons,

some of which I think I pointed out in my paper, why that historically, is the fact, and therefore, we are not able to give you any help with - from practical experience with regard to bases of evaluating the partial disabilities.

There are states, and some of them are here, and are represented here, who do evaluate the partial disabilities and perhaps, after I have recognized our other colleague here, we might get some discussion of that if you would like it.

I know you're going to hear him this afternoon, because he is a member of the panel, Commissioner Hill of Michigan, but I don't want to pass him by now, and Jim, is there anything or something you want to say to us that you - that nobody will let you say this afternoon?

BY MR. HILL:

No, Miss Chairman, I'm sure there isn't, so I'm going to waive your kind opportunity.

BY MISS DONLON:

Fine, thank you very much. Are there any other states represented by members of their commissions that I haven't recognized? I think it would be very pleasant to have you all identify yourselves if there are others here.

All right, is someone waiting with a question, because I promised you there would be opportunity for it. Now, for the stenographer, even though I know you, identify

yourself; give your name and your affiliation.

BY MR. MANGANO:

Mangano of Laverick & Haines. I haven't a question to ask nor do I think you can say ....

BY MISS DONLON:

Can you hear in the back of the room or whall we have him come to the front of the room? Come on up here.

BY MR. MANGANO:

Thank you, Miss Donlon. I do not have a question which I want to ask nor do I think that I can see Doctor Herman's desire to hear from the other side, in relation to the medical board, but I do want to express just one thought that occurred to me when this discussion about medical boards occurred.

I, for one, steeped in legal traditions, would very much dislike to see any board which would have final say in fact-finding, especially a medical board. I do not think that anything can replace the give and take of examination and cross-examination of expert witnesses. However, there are occasions, of course, when there are abuses, as have been pointed out by a number of speakers here.

I would much rather place my reliance upon an absolutely impartial tribunal with adequate review by courts than to rely upon any board, however competent and however expert. I think that we must bear in mind where a board is

concerned, the admonition of our comrade when he said, Brethren, by the bowels of Christ, ye think ye may be mistaken, and I think the case that was cited by Mr. Tiernan here, where the Board of New York State disagreed with the medical experts on both sides, is a typical expert's - or an example. I don't know who erred in that case, but obviously someone did and when we see the amount of disagreement which there is, even among the most learned experts, I think that, as I said before, the give and take of cross-examination, competent cross-examination with proper preparation as Mr. Barnako and the other speakers on the panel this morning indicated, is the proper solution to fact-finding and ascertaining the truth.

BY MISS DONLON:

Thank you. I do want to clear up the matter, if I may, since this gentleman alluded to this rather historic case that Harry Tiernan got us into, into the discussion of. I do not thing it is a matter of error. I do not think that any doctor involved in that situation can be said to have erred in what he said. I think the doctor for the company and the doctor for the union, alike, gave an honest diagnosis, and opinion, based on their experience and understanding of a difficult and a narrow state of facts, and I am confident that the Board of Chest Consultants, likewise, gave an honest opinion based on their knowledge

and experience in the same situation, and the only amusing circumstance, that the so-called impartial tribunal -- and this is why it was mentioned, I'm sure, that the only instance where it was mentioned, came out on the opposite side, finding that under our law there was no right to compensation, because the disability was only partial, although the two eminent physicians, one for the carrier, the employer and the other for the employee, had found exactly the opposite, that there was a total disability and, therefore, protestable under our narrow law.

Now, what does this prove? It proves how helpless is workmen's compensation administration in the face of medical opinion that would keep a well qualified person in the position where these things can come out so diametrically opposite. When - the handicap is that of a law which places great restrictions on the right of the claimant. Had we a law in this state which permitted disability for the partial disability, perhaps we would not find good doctors straining quite as hard as they do to find total disability.

I only want to try to clear that up for you, but I don't think anybody was in error, I think it was just a difference of opinion.

BY MR. MANGANO:

I hope nothing I said gave the impression that I imputed any improper motives to any of the witness that - the

witnesses that testified.

BY MISS DONLON:

No, I don't think it was error, that was the only word I quarreled with.

BY MR. TIERNAN:

Miss Donlon, I only want to point out that that is why all cases are now controverted, that difference of opinion which exists, not that I thought there was anything unusual about it.

BY MISS DONLON:

All right, are there some other questions or points for discussion? I'm sure after you've all gone back home, you will think of something you wanted to ask.

BY DOCTOR FRIEDMAN:

I guess most of you know I'm Louis Friedman from Birmingham, Alabama. I want to say this, about the administration of justice in cases involving occupational diseases of the chest. I don't believe, like so many have inferred, that many of our doctors or many of our laws are dishonest. I believe that 99 and 44/100 percent of our doctors and lawyers are basically honest people. The difficulty which we encounter is doctors and lawyers, in attempting to solve intelligently and equitably, claims for compensation, is the fact that we are forced to render opinions on the basis of our current knowledge in the face

of statutes which have been enacted five, ten or fifteen years previously. We make a lot of progress in medicine every year, and I think a lot of the difficulty could be resolved if the individual states would have compensation acts or clauses of a vague enough nature to permit the application of new medical knowledge as the situation arises from year to year.

Now, for example yesterday, Doctor Waters - Mr. Waters made reference to the West Virginia Compensation Act which he thought was a very wonderful act, but there in West Virginia, the occupational diseases of the chest are limited to the discovery of nodules in a man's Roentgenogram. Well, we know today that we can have very significant and disabling pulmonary disease, dust disease, without any evidence of nodulation in the Roentgenogram. Well, I can see how a doctor for the claimant or a doctor for the defense, in West Virginia, would have a great deal of difficulty in solving their problem when it comes to a particular case of an individual who is disabled from pulmonary dust disease and proved to be disabled but has no nodulation in his chest. So, I believe that if the laws and statutes of the various states would be thus limiting upon the physician, I believe we would have a more equitable application of justice in each case without so much dissention and without so much name-calling.

BY MISS DONLON:

Thank you, Doctor Friedman. Who is next with a question or a comment? Doctor Hussey, have you got something you'd like to say to us, or have you, Doctor Greenburg? (No response). Is there somebody else that I should call on and that I'm passing over? (No response).

Well, I want to say to all the members of this morning's program and those who have joined in the discussion, how fortunate I am as Chairman of this morning's program, the great effort that went into the papers was evident to all of you, I'm sure, by their scope and content, and to most of you who came and sat on these very hard chairs listening to us discuss an important problem. Sometimes, those of us who have to deal with the cases, day after day, with a conflict of views prevailing around us and uncertainties on the part of even the most experienced and well-qualified of physicians, sometimes we feel very much alone in the center of the vortex and we don't know quite how we're to get out of it.

Such opportunities as the Saranac Symposium affords, Doctor Vorwald, make us feel that we aren't struggling alone with this problem and I speak, I'm sure, for my colleagues, other administrators who are here, in expressing our appreciation to you and to Mr. Waters for this very constructive program.

I understand that Mr. Waters has some announcements he wants to make to you, and he now may have the floor for that purpose.

BY MR. WATERS:

I have three very brief announcements to make. The first is that at the conclusion of this session, there will be a group photograph taken, and I hope that all of you will remain for that purpose.

The second is that I'd like to call to your attention the afternoon session which I believe will be one of the highlights of the Symposium. When we get together men like Ben Keuchle and Bill Connolly and Roy Hamlin and Commissioner Wisely and Jim Hill, you're going to see a slugging match, and it's going to be an exceedingly interesting session, with enlivened debate and, I am sure that all points of view that may be concerned with the administration of compensation laws will be properly presented.

The third announcement is not an announcement. It is a remark. I believe that the prognosis that I made this morning has been fulfilled. Mary, you have done your usual beautiful and effective job as chairman of the meeting and I know that I speak for Doctor Vorwald, for the members of the Saranac Laboratory, for the audience in attendance, for the speakers, in thanking you for the very gracious and effective job that you have done. May we give

her a rising vote of thanks? (Applause).

BY DOCTOR VORWALD:

We beg you to stay for the photograph. I know that many of you have had your photograph before, but really this is an effort to show that the members of the medical profession and members of the legal profession might, at least stick together for a photograph, so if you will come forward so we might photograph you, please come forward and remain for the photograph. It will only take ten minutes.

(Session adjourned at 1:00 P. M.)