

WORKMEN'S COMPENSATION

United States Bulletin Surveys Spread of Legislation—
Liability System Disappearing

The rapidity with which compensation laws are superseding employers' liability laws as a method of dealing with the results of industrial accidents is clearly indicated in bulletin 126 of the Washington bureau of labor statistics entitled "Workmen's Compensation laws of the United States and foreign countries." This bulletin recounts the activities of the 28 commissions appointed in the United States to consider the subject, insofar as reports were made, and reproduces the text of the laws of the 23 States which have enacted such legislation, besides the Federal statute, the executive order relative to the canal zone, and the railway employees' bill that was before the Sixty-second Congress. Accounts of the operations of the laws and of their construction by the courts are also given.

The laws of their respective States have been declared constitutional by the courts of last resort in Massachusetts, New Jersey, Ohio, Washington, and Wisconsin, though in Montana and New York the opposite result was reached; in Montana because of the presence of an unessential feature of the law that permitted double liability, while in New York the principle of the law was held to be in conflict with the constitution of the State. The constitution was amended last year and a law enacted in conformity with this expression of the will of the people on this subject.

Law in Different States.

Charts and analyses offer facilities for a comparative study of the laws of the different States, while similar analyses of the laws of 41 foreign countries permit this comparison to be extended to an international scope.

Tables are given showing the duration of compensation payments for specified injuries and the corresponding percentage of disability, as provided by the State laws, and a comparison with foreign countries is here also possible, as the ratings of a number of European authorities are reproduced in this connection.

A number of States provide for insurance in State funds or funds under state control, and an interesting presentation is made of the premium rates provided under certain State systems and the company rates in States in which the State makes no such provision.

Foreign legislation is much more briefly considered, but interesting data are given with reference to the more important features of the laws, besides the analyses already mentioned. This matter, like that relating to the United States, is believed to be complete up to the end of the year 1913.

No Return to Liability System.

In the present state of interest in the subject of workmen's compensation, this bulletin offers material of great value, containing as it does a complete presentation of the subject from all points of view, including that of the investigator, the courts, administrative officials, and the actual results to beneficiaries under the federal and several State laws. A number of legislatures and commissions are considering the subject at present, and Congress has before it bills relating to railroads and to the civilian employees of the United States, the latter as an amendment to the present very inadequate law. Ontario has also introduced a bill.

It is worthy of note that no country has ever returned to the liability system after having enacted a compensation law; and while some desire is expressed in certain quarters to delay action until a uniform measure can be agreed upon, it is apparent to the most casual observer that the rapid movement of the past five years is likely to continue its progress until the rule of proved negligence of the employer and the assumption by the employee of all risks not arising therefrom is superseded by the more humane and equitable doctrine of making the industry provide for the human no less than the mechanical breakage and wear and tear.

On February 28 the reinsurance agreement between the Home Life Association and the Sun Life Assurance Company of Canada was formally ratified by the treasury board at Ottawa.

IMPORTANT UNITED STATES RULING

It Affects Trade Materially—Ingenuity Which Makes
Short Work of Favored Nation Treaties

An important ruling by the United States board of general appraisers was made in New York on March 6th, which affects trade between the United States and foreign countries.

The United States Tariff Act of 1913 went into effect on October 4th of that year. Subsection 7, paragraph J, of section 4 of that Act reads as follows:—

"That a discount of 5 per centum on all duties imposed by this Act shall be allowed on such goods, wares, and merchandise as shall be imported in vessels admitted to registration under the laws of the United States: Provided, That nothing in this subsection shall be so construed as to abrogate or in any manner impair or affect the provisions of any treaty concluded between the United States and any foreign nation."

Upon demand being made by importers of goods in American vessels for the above contemplated reduction, the collectors of various United States ports declined to make the reduction, and this refusal was prompted by an order of the Secretary of the Treasury based upon an opinion of the Attorney-General, which was as follows:—

"The 5 per cent. discount to American vessels only, which was the primary object of the subsection, cannot be given without impairing the stipulations of existing treaties between the United States and various other powers, and that consequently the subsection, by the express terms of the proviso, is inoperative."

Protests Against Decision.

Protests were taken from this decision representing vessels belonging to Austria-Hungary, Belgium, Germany, Great Britain, Italy, Netherlands, Norway, Spain, and the United States. The Board of General Appraisers reverses this instruction and concludes that the section in question should be enforced according to its letter, declaring (a) That dutiable goods imported in vessels admitted to registration under the laws of the United States should be conceded a 5 per cent. discount from the duties provided for in the other parts of the statute; (b) That the most favored nation clause in treaties with foreign countries are not applicable to the questions at issue here, as subsection 7 does not extend any special favor to any particular country, but is an offer or promise by the United States to importers, wherever residing, for the benefit of American shipping, with incidental benefits to the importer; that is not gratuitously given in any sense of the word, but is in consideration of the necessary trouble and expense incumbent upon the shippers who select American vessels, and the enforcement of the law does not abrogate or in any manner impair or affect the provisions of any treaty; (c) That the more specific commercial treaties here in question are not self-executing; they are executory; and the question of their application is a political one and not within the jurisdiction of the courts, for the reason that they are opposed to the spirit and letter of the constitution. The clauses in question in these treaties are merely contracts which address themselves to legislative power.

Application Becomes World-wide.

It will be seen that if this decision of the general appraisers stands the application of the section in question becomes world-wide, and, in fact, sweeps away what are supposed to be the vital clauses in most favored nation treatment; designed to prevent discrimination by one country against another in respect to the subject-matter of the treaties.

There is an appeal from the decision of the general appraisers to the court of customs appeals, and it is quite likely that so important a matter will not be allowed to rest without appeal being taken. In the meantime one cannot help admiring the ingenuity of the reasoning by which the board of general appraisers makes short work of the guards and guarantees of the most favored nation treaties.

The Merchants Casualty Company received a Dominion license on March 2 for the transaction throughout Canada of the business of accident insurance (excluding that branch thereof known as employers' liability insurance) and sickness insurance. The chief agent is Mr. L. M. Fingardis at Winnipeg.