

Thus, the most uncertain active force in nature is probably the lightning. Nobody within the area of the storm is exempt. Yet even in the face of a force so indiscriminate in its action the Courts of England have already announced distinctions which they seem to have ignored in the *Warner* case.

Thus, in *Kelly v. Kerry County Council*, 42 Ir. L.T. 23, the Irish Court of Appeals held that a man, working on the roads, who was struck by lightning was not injured by reason of an accident arising "out of" his employment. On the other hand, the English Court of Appeals, in *Andrew v. Failsworth Industrial Society*, 2 K.B. 32 (1904), held that a bricklayer, working on a high scaffold, is subjected to greater danger from lightning, by reason of his position, than one on the road and was, therefore, entitled to compensation for injury resulting from being struck by lightning.

The law in these cases, as all other cases, follows in the wake of science and where science discovers that dangers from the operation of natural forces are increased by certain occupations, or by reason of a person being in certain positions, the law will, and should, give effect to such distinctions. Thus, woodmen, workers on electrical lines, or steeplejacks, may very well be regarded as being exposed to greater dangers from lightning, by reason of their employment, than other persons, even if such increased hazard is impossible to estimate.

If such distinctions can be drawn as to a natural force so indiscriminate in its action as lightning, they are surely warranted in cases where the accident is occasioned by natural forces, whose operation is better understood and danger from which is more easily avoided.

Thus, heat and cold are common and complementary forces of nature, whose laws are well understood. Thus, a man who is compelled by his employment to paint the side of a ship on a hot day in the tropics is not to be denied compensation simply because other men in other occupations were similarly exposed. It was so held in *Morgan v. The "Zenaida"*, 25 Law T. Rep. 446 (1909). So, also, it would seem to follow if one is compelled by his occupation to work out-of-doors when the weather is severely cold is not to be denied compensation simply because certain others may be exposed to the same hazard.