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Cyril L. McDermott*

Professor McDermott has compiled in this article a comprehensive reference guide to the materials of workmen's compensation law. In addition to general works, current specialized sources are arranged by jurisdiction for easy reference.

The modern system of social insurance in the form of workmen's compensation and employers' liability had its beginning shortly after the turn of the nineteenth century. Such legislation started in Great Britain with the enactment of the Factories Act of 1802,1 followed in 1833,2 1844,3 18784 by similar laws, the primary object of which was the elimination of conditions hazardous to the general safety of the working man. This legislation resulted in much dissatisfaction, which in turn spurred spasmodic efforts by the legislatures and judiciary to cope with the inequities resulting under the old common and civil law whereby the employer was liable only for probative fault or negligence.

In 1871, a major step in the development of our present-day doctrine of liability without fault was taken by the German Empire when it enacted a basic employers' liability law. Thus this concept of social insurance was embodied in the legal life of Europe long before its

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The author wishes to acknowledge his indebtedness to his wife, Beatrice S. McDermott, Law Librarian at Dewey, Ballantine, Bushby, Palmer & Wood, and member of the New York bar, who devoted many evenings and weekends to filling out research and typing assignments for the manuscript. Gratitude is also expressed for the assistance of the members of the staff of St. John's University School of Law Library, especially to Dr. Jan Morelowski for bibliographical assistance, and to Mrs. A. L. Petrello for typing. The author also wishes to thank the following who sent helpful responses to his inquiries: Professor Arthur Larson, Director, World Rule of Law Center, Duke University Law School; Dr. Donald L. Ream, Bureau of Labor Standards, U.S. Department of Labor; Ernest H. Breuer, Esq., State Law Librarian, New York State Library. The author has been informed by Mr. Breuer that he has completed the manuscript of a new book on Moreland Act investigations which include legislative inquiries into the administration of the New York workmen's compensation laws.

1. 42 Geo. 3, c. 73 (1802).
2. 3 & 4 Will. 4, c. 103 (1833).
3. 7 & 8 Vict., c. 15 (1844).
4. 41 Vict., c. 18 (1878).
embryonic acceptance in the United States, where various jurisdictions attempted to follow the English pattern of protective legislation by bolstering their existing laws of employers' liability. In 1909, however, after much education of public opinion, agitation by labor groups, and publication of many studies and symposia by scholars interested in labor and sociology, this new trend in legislation was commenced in the United States with the establishment of a compensation fund for coal miners in Montana.

By 1910, the federal government and several states had appointed special commissions to study and report on the feasibility and constitutionality of this new approach to the problem of providing adequate workmen's compensation. The courts found the new remedy of imposing liability without fault of an employer strong medicine to swallow. The classic example of this attitude is the 1911 ruling of the Court of Appeals of New York that the New York Workmen's Compensation Law of 1910 was unconstitutional because it imposed a liability unknown to the common law and constituted "a deprivation of liberty and property under the Federal and State Constitutions . . . ."

Similarly, the consideration of the constitutionality of a newly enacted Arizona statute by several tribunals culminated in the holding of a divided United States Supreme Court that the statute was constitutional. Indicative of the difficulty of the judiciary in bridging the gap between common and statutory liability is the dissenting opinion by Mr. Justice McKenna in this case. Based on strongly persuasive and logical reasoning, it arrives at what appears to be a valid conclusion, even when read today.

More than this brief outline would go beyond the compass and objectives of the introduction to this bibliography; any random reader interested in a more detailed historical sketch of the subject will readily find one in the standard legal encyclopedias.

In addition to laying the foundation for a relatively current and helpful booklist on workmen's compensation and employers' liability, these opening remarks are designed to impress the uninitiated with the fact that in the United States such legislation is relatively modern. Nevertheless, "during the forty years of active compensation systems

9. Id. at 434. Nevertheless, the man who in 1881 declared to what must have been an amazed audience of proper Bostonians at Lowell Institute, "The life of the law has not been logic; it has been experience . . . ." during the course of exposing the roots of early forms of liability in the first of his famous lectures on the common law, carried the majority view across with ease in 1919 through his concurring opinion. Id. at 431.
in the United States the field has grown into one of the most important branches of the administration of justice. A voluminous literature on the subject has accumulated and the annual output of cases has reached staggering proportions." Since this observation of 1950, the number of decisions and the amount of literature has increased proportionately with the growth of the working population and of industry in America. On the other hand, adequate bibliographies and checklists of such materials are very much lacking in all areas. From this compiler's experience, a reasonable hypothesis for this bibliographical paucity is the multiplicity of systems in operation in various jurisdictions of the United States, each with varying formats and dates of publication, with much material published in ephemeral or quasi-ephemeral condition.

The last effort to collate and list commission and appeals board decisions and reports that the compiler could locate was done by John S. Gummere, then Superintendent of the Yale Law Library Reading Room, in volume 28 of the Law Library Journal for 1935. "The list contains publications of workmen's compensation commissions and analogous industrial and accident and labor boards issued in the United States and in Canada. Administrative reports and reports of decisions of the commissions, and of the state courts are included." The immediate aim of this bibliography is to serve as a reference adjunct to the Symposium published in this volume. All current general and jurisdictional works considered to be important and useful are presented; works considered of special import with comprehensive treatment are annotated. The chronological scope of publication extends roughly from 1950 to 1963, though a few titles predating 1950 have been included as scholarly and historical landmarks.

There are more than fifty systems of compensation in operation in the United States, including three in the federal government, one in each state and the District of Columbia, as well as in the territorial jurisdictions. To make all materials readily accessible the list is divided into three categories. Each category has been subdivided alphabetically either by author or jurisdiction, so that he who scans may quickly find. The arrangement is as follows:

I. General materials: Arranged alphabetically by the name of the author. This group includes treatises, texts, legal periodical articles (by author and citation), and general pamphlets, etc., not confined to one jurisdiction.

10. Riesenfeld & Maxwell, Modern Social Legislation 136 (1950). It is largely from this well-documented work that the author has drawn for his thumbnail sketch of the history of workmen's compensation.

II. A group of several specialized current periodicals: Arranged alphabetically by title. Both legal and non-legal publications largely devoted to articles on workmen's compensation and related matters.

III. Materials by jurisdiction: Arranged alphabetically by jurisdiction; federal government publications are grouped under *United States*.

Wherever possible, publishers' names and dates of publication are given; prices, being too variable, are not. Federal and state statutes in the various official and unofficial editions are so well-known and readily found through short titles and popular names—"Workmen's Compensation," "Employers' Liability," and "Occupational Diseases"—that their listing has been omitted in the interest of space. Furthermore, each federal and state statute is cited and set forth in the *Workmen's Compensation Service* of Commerce Clearing House, noted below, and is cited and digested in Volume IV of *Martindale-Hubbell*. Neither was it deemed necessary to note such familiar sources as the various federal, state, and American Law Reports digests for the legion of decisions and annotations listed therein, or the legal and insurance encyclopedias.

At this point, let the compiler hasten to interpose the time-honored saving clause of the bibliographer that the list should be viewed as selective and is not intended to be exhaustive, even for the dozen or so years of coverage it purports to include. It is devoutly to be desired that it will prove helpful to: all interested in this Symposium; students of social science legislation; legal reference and law librarians in general; the legal profession—from the neophyte handling his first claim on either side, to the seasoned veteran appealing to the full board or another appellate tribunal; referees and hearing officers; the members of the various boards and commissions, and their learned counsel; all of whom labor so hard in this litigious and tangled vineyard.
I. General Materials

American Bar Association, Section of Insurance Law. *Insurance Policy Annota-
men's compensation and employers' liability insurance policy, compiled and
annotated by the Committee on Workmen's Compensation and Employers'
Liability Insurance Law, with the assistance of the insurance bar.

American Management Association. *Keeping Up to Date on Social Security and
Workmen's Compensation*. No. 106 of the American Management Associa-

and Prod.*, June 1951.

Association of Casualty and Surety Companies. *Digest of Workman's Compensa-
16th ed. 1956. The following appears in the preface to this work: "This
Digest covers the workman's compensation laws and related laws of all states
of the United States, Hawaii and Puerto Rico, and the Federal law applica-
tible to longshoremen and harbor workers and to the District of Columbia.
The laws of each jurisdiction are digested separately under uniform topical
headings . . . . Court decisions are included in most jurisdictions."

Adequate Awards to February, 1952*. San Francisco, Law Offices of Belli,
Ashe & Pinney, 1952. Pp. 76. This is a sequel to Belli, "The More Adequate
Award," 39 *Calif. L. Rev.* 1 (1951). The collection is to be kept current in
the NACCA L.J.

Belli, Melvin M., Sr. "Demonstrative Evidence and the Adequate Award," 22


Practice; With Forms and Directions*. New York, M. Bender, rev. 6th ed.
1940. Pocket supplements. This is a landmark treatise on American
admiralty law, including much helpful reference material in the complicated
areas of injuries to seamen, longshoremen, and harbor workers. It is currently
in the process of replacement by the 7th edition, with volumes 5 and 6
published to date.

Bickley, John S. *Impact of a State Disability Act on Insurance Companies*. Ohio

Black, S. Bruce. *Free Institutions and the Quest for Security: The Development

Blumrosen, A. W. "The Right To Seek Workmen's Compensation," 15 *Rutgers L.

Brodie, Abner. "The Adequacy of Workmen's Compensation as Social Insurance:

Brooke, Milton. *Attorneys' Fees in Workmen's Compensation: A Report of the
Map, table.

*Business Management Record*. New York, National Industrial Conference Board,
monthly. From 1938. Formerly printed under the name *Management Record*.

Chamber of Commerce of the United States. *Analysis of Workmen's Compensation Laws.* Washington, D.C., 1962. Pp. 56. Charts. The foreword describes this work as follows: "Presented in fifteen charts, the statutory provisions of the workmen's compensation laws are reduced to their basic elements for the convenience of employers, employees, insurance companies, agents, brokers and all others concerned with the subject. Ready reference is the primary advantage of this work and it is not intended to supplant material that can be found in the statutory texts and law digests. It presents in understandable fashion the essential information needed by the average business office from day to day."


Chiet, Earl F. *Injury and Recovery in the Course of Employment.* New York, Wiley, 1961. Pp. 377. A scholarly treatment of the subject and its problems, documented with tables, recorded statistics, and many references. Questions of financing, right to sue, legislative rights, and safety are treated in a companion volume, *Occupational Disability and Public Policy* (a symposium). The following passage from the principal volume indicates its scope: "The originally narrow interpretation of that famous phrase 'accidental injury arising out of and in the course of employment' has broadened to include the victim of occupational disease and the worker whose preexisting disability is aggravated by his job. It has even brought benefits to a Denver University football player injured in scrimmage; to a New York office boy hurt when the paper clip he was shooting with a rubber band backfired; and to the widow of the California executive whose suicide was traced to a work-caused manic-depressive state. Only in the publicity they attract, however, do the exceptional and liberal applications of workmen's compensation overshadow the more common results: inadequate benefit protection and obstructed rehabilitation of seriously injured workers. Nor have the results at these two extremes merged into some satisfactory average. . . . The scope of the available evidence and the amount of space necessary to explain the methods and assumptions . . . employed in its analysis require that the book deal primarily with how well workmen's compensation succeeds in: 1. restoring economic losses due to occupational disability and death, 2. providing medical care, and 3. returning injured workers to their jobs."


Chiet, Earl F. "Radiation Disability: Will It Be Adequately Compensated?" in *University of California Institute of Industrial Relations Reprint No. 133*, 73. Berkeley, Univ. of California, 1959.


Commerce Clearing House, Inc. *Workmen's Compensation Law Reporter.* Chicago, from 1937. Looseleaf. One of the CCH series of Topical Law Reports. Probably one of the most useful ready reference publications in the field for workmen's compensation practitioners, referees, and judges of appellate tribunals, this service includes a digest of all decisional law bearing
on federal and state statutes as well as common-law liability. It seems to leave no subject in this area unreported. The service also contains summaries of state compensation laws, District of Columbia compensation statutes, the Federal Employers' Liability Act, the Longshoremen's and Harbor Workers' Compensation Act, and the Federal Employees' Compensation Act.


Horovitz, Samuel Bertram. Injury and Death Under Workmen’s Compensation Laws, Boston, Wright and Potter Printing Co., 1944. Pp. 486. The fundamental principles as interpreted by the courts and compensation experts in all compensation states, and in other jurisdictions including the American territories and England. “Lawyers will not find the book very useful as a working tool. It was probably not intended as such. For one who has not been active in the field and wants to briefly survey the subject, it will repay a few evenings’ reading. . . . For a smaller group of specialized readers such as teachers, social workers, and labor leaders who wish to broaden and deepen their grasp of workmen’s compensation, the book can be heartily recommended.” Horlacher, Book Review, 94 U. Pa. L. Rev. 122, 123 (1945).
Institute of Industrial Relations. Employment and Heart Disease. Berkeley, Univ. of California, 1955.
Larson, Arthur. The Law of Workmen’s Compensation. Albany, M. Bender, 1952. Looseleaf. Two volumes. “Larson’s two volumes are well written, meticulously documented, comprehensive, and well-indexed. There can be no doubt that they fill the practitioner’s need and expectations.” Parker, Book Review, 5 J. Legal Ed. 552, 553 (1953). “Except for its size, the
book is destined to be the Prosser of workmen's compensation.” Id. at 555.

“These volumes represent a 'labor of love' growing out of many years of teaching and practice in the field of workmen's compensation. This is one of the best works on the subject; it is well written and excellently annotated and indexed.” Horovitz, Book Review, Cornell L.Q. 281, 282 (1953).


McNiece, Harold Francis. Heart Disease and the Law; the Legal Basis for Awards in Cardiac Cases. Englewood Cliffs, N.J., Prentice-Hall, 1961. Pp. 631. Report of a study directed by Harold F. McNiece in association with Patrick J. Rowan and John V. Thornton. A monumental survey of the ramifications of compensation statutory and decisional law as applied to rights and liabilities deriving from cardiac injuries and illness. Sponsored by the National Heart Institute of the United States Public Health Service which awarded a grant to St. John's University School of Law with the author, who initiated the application therefor, as director, for the purpose of conducting an exhaustive research study on “The Legal Basis for Awards in Cardiac Cases.”


Negligence and Compensation Cases Annotated. Chicago, Callaghan, 3d series, from 1953. Compilation of current decisions of courts of last resort relating to the law of automobiles, negligence generally, workmen's compensation and insurance, with complete annotations and forms of pleading and approved instructions. First series commenced publication in 1912.


Norris, Martin J. The Law of Maritime Personal Injuries Affecting Harbor
Selected List of Materials


Schneider, William Richard. Schneider’s Workmen’s Compensation. St. Louis, Thomas Law Book Co., 3d perm. ed. 1941. Thirteen volumes. Cumulative supplements and monthly looseleaf reporting, with general and comparative index. The following appears in the preface to this work: “[F]orce . . . is to provide a convenient, ready reference to the complete text of all the American workmen’s compensation laws, state, federal, and territorial . . . amendments . . . interpretations . . . by the decisions of the courts of last resort . . .”


II. SPECIALIZED PERIODICAL SOURCES—LEGAL AND NON-LEGAL


Insurance Law Journal. Chicago, Commerce Clearing House, Inc. From 1939. Monthly. Actually commenced publication in 1871, and continued with varying numbers and series until 1938, when absorbed and published by CCH.

SELECTED LIST OF MATERIALS


III. MATERIALS BY JURISDICTION

ALABAMA


ALASKA


ARIZONA

AUSTRALIA


CALIFORNIA


**Canada**


**Colorado**


**Cyprus**


**Florida**


**Georgia**


**Great Britain**


ILLINOIS


INDIA

INDIANA

INTERNATIONAL LABOR OFFICE

IOWA

KANSAS

LOUISIANA

MAINE

MALAYA

MARYLAND


MASSACHUSETTS

MICHIGAN
Morgan, James N. Snider, Marvin. Sobol, Marion G. *Lump Sum Redemption Settlements and Rehabilitation: A Study of Workmen's Compensation in

MINNESOTA

MISSISSIPPI

NEVADA

NEW JERSEY

NEW YORK


New Zealand


North Carolina

OHIO

OKLAHOMA

OREGON

PAKISTAN-EAST BENGAL

PENNSYLVANIA

PHILIPPINE ISLANDS
The Workmen’s Compensation Act No. 3428, as Amended by Act No. 3812, by Commonwealth Act No. 210, and by Republic Acts Nos. 772 and 889, Prescribing the Compensation To Be Received by Employees for Personal
Injuries, Death or Illness Contracted in the Performance of Their Duties.

Rhode Island
Report of the Governor’s Committee To Study the Workmen’s Compensation Law.

South Africa

Tennessee
Cate, John M. “Workmen’s Compensation,” 6 Vand. L. Rev. 1012 (1953). A survey of the Tennessee cases for the year preceding the article.


Texas

**Utah**


**Virginia**


**West Virginia**


**Wisconsin**


**United States**


U.S. Congress, House Committee on Education and Labor. "Amendments to


U.S. Congress, House of Representatives. Compilation of Laws Relating to Media-
SELECTED LIST OF MATERIALS


U.S. Department of Labor, Bureau of Labor Standards. Annual Digests of State


