

The History of California Labor Legislation, 1910 - 1930.

Chapter VII

Administration of Workmen's Compensation.

Supervision by the Commission. The Employers' Liability and Workmen's Compensation act of 1911 became effective September 1, 1911. Governor Johnson appointed A. J. Pillsburg, Will J. French, and Willis I. Morrison to serve on the administration Commission known as the Industrial Accident Board. Its activity extended over a period of two years and three months.

The compensation part of the law was elective and inasmuch as the insurance companies greatly raised their rates, few employers insured with them. Some of the larger and more progressive corporations, however, became self-insurers under the act, in order to avoid expensive law suits, since the common law defences had been largely removed. By the end of 1913, after two and one-third years of operation, there were about 1,200 employers under the act, whose employees numbered approximately 100,000 workers.*

*Cross, Ira B., "Workmen's Compensation in California", American Economic Review, Vol. 4., p.455. (June 1914).

The experience under the Roseberry act of 1911 demonstrated the practicability of workmen's compensation and as has already been stated a great deal of the time of the Industrial Accident Board was spent in drafting the Boynton measure which was enacted in 1913.*

*See Chapter VI.

A new board designated as the Industrial Accident Commission, was appointed to administer the Workmen's Compensation, Insurance and Safety (Boynton) act. Mr. French and Mr. Pillsbury were retained on the new commission and Harris Weinstock was appointed to take the place of Mr. Morrison. Offices were opened in San Francisco with branch offices in Los Angeles. Every effort was made to acquaint the public with the new law and to get the cooperation of the employers and insurance companies.

The commission, in order to facilitate administration, created the following departments: Medical, Permanent Disability Rating, Insurance, and Safety. Others have since been added, the most important of which are the Compensation, Accounting and Legal departments.

Problems have been encountered by the commission because of adverse decisions rendered by the courts, yet as a whole the California judges have been very liberal and progressive in their attitude toward the compensation law and its administration.*

*See Chapter VIII.

The new law met with almost immediate popularity. The employers, employees, general public and even the insurance companies soon realized its success. In 1917 Governor Johnson stated in his message to the legislature, "Six months after it (the Boynton act) had been operating, we had the satisfaction of listening to the leaders of labor and the representatives of the largest employers in the state of California unite in a public gathering in universal praise of the act. Today, employer and employee alike join in commendation....No man in public life would have the temerity to

suggest the repeal of the workmen's compensation law, and this law has been the vindication and the justification of California's social program."*

*pp. 13-15

On January 2, 1918, the Los Angeles Times, one of the opponents of the compensation bill in 1913, stated in an editorial: "The Industrial Accident Commission .. will probably become a fixture in the government of California. It has succeeded in giving the public something definite and desirable in return for the money expended." On May 19, 1920, the San Francisco Chronicle editorially said, "We have long since discovered that we were wrong. The compensation act is a good law admirably administered."*

*Quoted from French, Will J., "Compensation in California", Labor Clarion, October 14, 1921, p.13.

To remove doubt as to its constitutionality most of the provisions of the compensation measure* were reenacted in 1917 and

*Only the sections on the organization of the Industrial Accident Commission and on the state compensation insurance fund were not reenacted. (Cal. Stats. 1917 Ch. 368).

brought within sections of the Constitution permitting the legislature to confer full power upon any commission to "provide for the comfort, health, safety and general welfare of any and all employees!"*

*This part of the constitution had been added by amendment in 1914, see page .

Every time the legislature has convened since 1913 numerous amendments have been made to the compensation act. This is not surprising, however, since the law is very complex, and as conditions change and experience is acquired, it becomes advisable to modify the statute accordingly. These amendments will be indicated later in the chapter. They are classified according to the various departments which have been established by the Industrial Accident Commission.

The success of workmen's compensation in California has been largely due to the sterling quality of the men who have acted upon the Industrial Accident Commission. At present (1930) this commission is composed of the following men: Chairman, Will J. French; members, F. W. Fellows and Edward O. Allen. Other leading men who have served upon the commission include A. J. Pillsbury, M. Lissner, A. H. Naftzger, and D. Trowbridge.

A large portion of the activity of the commission is directed toward safety work and accident prevention. Mr. French is editor of the California Safety News, a periodical about which more will be said later.*

*See page .

Advantages of the commission form of administration and enforcement over the old form of court procedure have proved to be many indeed. In the attempt to formulate a speedy and inexpensive procedure suitable to the needs of the class of litigants before it, sweeping changes were made by the Industrial Accident Commission. We may summarize these changes together with the resulting advantages in the following way:*

(1) Fees and court costs have been entirely eliminated except in cases of appeal.

(2) The importance of pleadings has been greatly minimized, their function being merely to give notice of contested issues before trial.

(3) The procedure at trial has been made informal.

(4) A gain has been made by disregarding rules of evidence at the hearings, in as far as questions of admissibility are concerned, and thus the time consumed in trying cases has been materially shortened.

(5) The services of attorneys have been largely made unnecessary.

(6) Limited and speedier appellate methods have been put into practice.

(7) There has been coordination of trial controversies with accident prevention and other regulatory functions.

(8) Responsibility has been placed in a single body for both the formulation of policies and administration of the law.

*Pillsbury, W.H., "An Experiment in Simplified Procedure", California Law Review, March 1915, pp. 181-194; also by the same author, "Applicability of Methods of Trial and Administration used in Workmen's Compensation Proceedings to certain Civil Actions", California Law Review, March 1930, pp. 223-240.

We shall now turn our attention to several of the important departments which assist in administering the workmen's compensation law.

The Compensation Department.

The compensation department was created by the commission in order to facilitate the work of deciding compensation cases.

Through this department a referee system was adopted by which only final decisions need to be made by the commission itself.

California allows direct settlement between employer or insurance carrier and employee so that the compensation department is normally needed only when a dispute arises. If the department is called upon to decide whether the injured person is entitled to compensation, a hearing is held at which evidence is presented and the physician's report is reviewed. In 1919 the power of subpoena of witnesses was given to the investigators.* Nearly all cases are

*Cal. Stats. 1919 Ch. 471.

settled without formal hearings. If, however, a formal hearing is required two of the three commissioners or a referee may make a decision. Provision is made for rehearings and court appeals.

In 1915 the compensation act was extended so as to include industrial diseases within the definition of the term "injury".*

*Cal. Stats. 1915 Ch. 607.

This was an important gain as approximately two per cent of all cases coming before the commission are the result of diseases contracted directly in consequence of employment. Writing in 1929, Commissioner French praised this provision of the law in the following language: "Our law provides unlimited medical, surgical and hospital treatment and full compensation for all industrial injuries, and this automatically includes diseases of industry. The word 'accident' does not appear. A dead man is just as dead whether he succumbed from

a disease of his occupation as from an accident. Likewise a disability affecting the nervous system, the lungs or the brain, incapacitates just the same as does a fall from a scaffold. Industry should aid either way!*

*Report of the Department of Industrial Relations to the Governor's Council, February 1930.

Other provisions of the 1915 amendment were as follows: (1) The commission was given full jurisdiction over medical bills and attorney fees, (2) claims should not be settled without the approval of the commission, (3) the cost of premiums should not be collected from employees, and (4) in hearings by the commission, the admission of hearsay evidence was not to be regarded as reversible error.

Several changes were also made in the reenacted law of 1917.*

*Cal. Stats. 1917 Ch. 586.

The new statute reduced the waiting period from fourteen to ten days. Minors, even if unlawfully employed, officers of public and quasi-public corporations, and working members of partnerships were included. The state was presumed to elect the act as to all its employees in occupations not other-wise excluded. "Casual" was defined as work completed in not more than ten days and costing less than one hundred dollars. Injuries intentionally self-inflicted were excluded. Only "serious and wilful misconduct", however, was to be considered and that no longer barred compensation, but only reduced it to one-half and not at all when the injury resulted in permanent disability or death. The burden of proving an employee's intoxication, wilful misconduct, etc. was placed on the employer.

When an injury occurred by reason of the serious and wilful misconduct of the employer the amount of compensation was increased one-half provided, however, that the increase should not exceed \$2500.

Still further changes affecting the compensation department were made in 1919.* The waiting period was reduced to seven days;*

*Cal. Stats. 1919 Ch. 471.

*Although organized labor had consented to the fourteen days provision of the original act, it had never been satisfied and had kept up a continual agitation until the desired change was consummated in 1919.

the term "employer" was extended to include irrigation districts and all other districts established by law and all public agencies; the term injury was extended to include injury to artificial members; the charge of serious and wilful misconduct was made inapplicable to employees under the age of sixteen; and finally, a claim for compensation was given preference over all other unsecured debts.

We need not concern ourselves with amendments enacted in 1921, 1923, and 1925.* An important change, however, was made in 1927.

*A few minor changes were made in the act to facilitate enforcement and administration.

The amendment was that all agricultural employers and employees were to be presumed to have accepted the provisions of the act unless, prior to injury either the employer or employee should have given notice of rejection.* By a separate amendment, passed the

*Cal. Stats. 1927 Ch. 834.

For a good discussion of the far-reaching effects of this provision see "Farmers Covered by Compensation Law", Monthly Labor Review, Vol. 25., p. 85; also, Creede, Frank J., "Changes in Workmen's Compensation", State Bar Journal of California, July 1927, pp. 14-18.

same year, convicts employed upon state roads were specifically excluded from accident compensation.*

*Cal. Stats. 1927 Ch. 653.

Prior to this amendment the commission had been undecided as to just what was the status of convicts under the act.

With the mention of one more amendment we shall have a complete picture of the most important changes made in the statute since 1913 in so far as the compensation department is concerned. The 1929 Legislature raised the weekly maximum benefits from \$20.83 to \$25.*

*Cal. Stats. 1929 Ch. 255.

Although the number of cases handled by the compensation department is not great in comparison to the total number of compensable injuries occurring within the state, the number is increasing. The following table shows the monthly average number of cases filed by the compensation department for each year since 1914:

Table VI

For Fiscal Year ending June 30,	Monthly Average Number of Cases Filed
1914	56
1915	96
1916	117
1917	138
1918	125
1919	140
1920	150
1921	185
1922	182
1923	207
1924	257
1925	263
1926	322
1927	364
1928	406
1929	430
1930	493

Source: Reports of the Industrial Accident Commission, 1914 to 1930.

The increase in the number of disputed claims is explained (1) by the population growth in the state, (2) by an increase in the total number of accidents, and (3) by the fact that people are becoming better acquainted with the provisions of the act.

Benefits allowable under the compensation law may be summarized as follows:

Percentage of wages -----	65%
Minimum weekly compensation -----	\$4.17
Maximum weekly compensation -----	\$25.00

Maximum period -----	death - 240 weeks
	total permanent disability - life
	temporary disability - 240 weeks

if dependents ---- 3 times annual earnings
Min. \$1,000, Max. \$5,000

Death -----

if no dependents - reasonable burial expense
maximum \$150.

Permanent ---- 65% for 240 weeks
10% to 40% for life

Total Disability -----

Temporary ---- 65% during disability,
not over 240 weeks

Partial Disability -----

Permanent ---- 65% for fixed period
proportional to disability

Temporary ---- 65% during disability,
not over 240 weeks

The compensation law in California, although one of the best in the United States, does not allow enough compensation for industrial injuries.* The statute, however, is being continually improved and

*Interview with Will J. French, May 1931.

broadened by increasing the benefits to be given to injured workmen. The most important improvements in the act since 1914 are

the following: (1) The fourteen day waiting period has been reduced to one week, (2) provision has been made for unlimited medical, surgical and hospital treatment, (3) the maximum weekly benefit has been increased from \$20.83 to \$25.00, (4) a life pension provision has been added, (5) occupational diseases have been made compensable, and (6) the act has been broadened to include farmers within its provisions.

Workmen's compensation should not be looked upon as charity. "There is no compensation that can pay for a life or limb, or begin to repay the suffering and mutilation that frequently follow accidents",* and the least society should do is to rehabilitate the

*French, Will J., "The Injured Worker and his Needs", Monthly Labor Review, Vol. 16, p. 205. (June 1923)

injured worker if possible, and in addition, take care of his dependents during the inevitable process of readjustment.

The Medical Department.

The medical department was organized in 1914 and has continued to function since that time. Its duties have been principally the following:

1. It has been medical adviser to the Industrial Accident Commission, co-operating especially with the permanent disability rating department at examinations and hearings.

2. It has often appointed referees to settle disputes between private compensation carriers and injured employees, thus avoiding formal hearings before the commission.

One of the first things done by the department was to arrange a schedule of fees. In April 1914 this schedule was adopted by the Medical Society of California, although it meant lower rates

than the regular private fees which had previously been charged.

The medical care given to industrially injured men and women is one of the most important benefits bestowed under the workmen's compensation act. It includes "such medical, surgical and hospital treatment, including nursing, medicine, and surgical supplies, crutches and apparatus, including artificial members as may reasonably be required to cure and relieve from the effect of the injury". At first a ninety day limitation was placed upon this free medical service but in the reenacted statute of 1917 all limitation as to time was removed.*

*Cal. Stats. 1917 Ch. 586.

The Industrial Rehabilitation Department.

In 1919 an industrial rehabilitation measure was enacted by the legislature. It provided that in fatal industrial accident cases when there were no surviving beneficiaries, employers were required to pay \$350 into an industrial rehabilitation fund which was to be used by the commission to promote vocational re-education and rehabilitation of persons disabled in industry.*

*Cal. Stats. 1919 Ch. 183.

The commission established a separate department to administer the provisions of the act, but in 1921 and 1922 constitutional difficulties were encountered* and inasmuch as the California State

*The Supreme Court declared the act unconstitutional in, Yosemite Lumber Co. vs. Industrial Accident Commission, 187 Cal. 774, 204 Pac. 226, (1922).

Board of Education had begun by then a rehabilitation plan of its own in conjunction with the Federal Government, the rehabilitation department under the Industrial Accident Commission was discontinued.*

*Report of the Industrial Accident Commission, 1923, pp.14-15.

Close co-operation, however, between the Industrial Accident Commission and the Department of Education makes possible the careful selection for training those men and women who without vocational retraining service might become objects of charity.* In January 1930

*Industrial Accident Commission, Report to the Governor's Council, September 1930, p.4.

there were 566 permanently injured persons in training and as many more were receiving helpful advice concerning their rehabilitation. Approximately 60 per cent of these crippled men and women were injured in industry. It is interesting to note that the average rehabilitated person earns \$1.54 per week in excess of his best prior salary.*

*Ibid., January 1930, pp. 6-7.

The Permanent Disability Rating Department.

Permanent disability is one of the most serious results of industrial injuries. In addition to the permanent impairment of the normal functions of the human mechanism there is the reduction of earning capacity, the competitive handicap in an open labor market, and the difficulty of successful rehabilitation.

A new principle was adopted in California in 1914 in regard to

compensation for permanent disabilities. The Roseberry law had made no distinction between partial and total permanent disability. The Board, under the Roseberry act, however, soon found out that if it were to rate every permanent injury upon the facts submitted in each separate case its time would largely be occupied with permanent injuries alone.

The compensation act of 1913 defined permanent disability and provided that in cases of permanent partial disability, the percentage of such disability to total disability should be determined by taking into account the nature of the physical injury or disfigurement, the occupation of the injured employee, and his age at the time of injury. After taking the above things into consideration the benefits were to be computed upon the following schedule:

Table VII

Disability	Pay 65% of wages for	Then pay during life
Per cent	Weeks*	Per cent of Wages
10	40	
20	80	
30	120	
40	160	
50	200	
60	240	
70	240	10
80	240	20
90	240	30
100	240	40

*Weekly maximum \$25.

A separate department was established by the Industrial Accident Commission for the purpose of putting into practical application the above provisions of the statute. The plan of the newly created permanent disability rating department involved the creation of a series of tables from which the amount of compensation in any kind of injury might be determined at a glance.*

*Report of the Industrial Accident Commission, 1914, page 13.

Special investigators were selected and, as explained by Professor Cross, "after holding conferences with thousands of employers, with a score or more of employers' associations, and with more than two hundred trade unions, and after carefully studying 1,400 different occupations and the general characteristics of various industries of the state, a detailed and comprehensive rating schedule was prepared and placed in the hands of the employers."* Professor Cross in the

*Cross, Ira B., "Workmen's Compensation in California", American Economic Review, Vol. 4, pp. 458-459. (June 1914).

same article stated that this was the greatest contribution up to that time which had been made by the state of California pertaining to the subject of workmen's compensation.

The unique feature of the California disability rating schedule was the way in which the age factor had been applied. The commission had held that the older a man was the harder it was for him to adapt himself to changed conditions if required to do so by an injury to a part of his body. The age variation of the schedule was based upon the assumption that a ten per cent disability at age fifteen

was equivalent to a seventeen and one-half per cent disability at age seventy-five, and that the percentages for intermediate ages lay on a straight line between ten per cent and seventeen and on-half per cent.*

*This assumption was based upon the judgments of about twenty-five recognized experts and authorities throughout the United States. Report of the Industrial Accident Commission, 1915, p.21.

The department soon found that the new schedule was easy to apply and that it solved the problem of making settlements without the formality of hearings for the adjustment of claims. Today, when a permanent injury is sustained, it is possible to obtain a rating by consulting the schedule after determining three things; e.g., (1) the exact nature of the physical injury or disfigurement, (2) the occupation and (3) the age of the worker at the time of the injury. The schedule seems to be equitable and, although it has been criticized by some, it has met with general appreciation and approval.

Mr. French, Chairman of the Commission, speaking before the International Association of Industrial Accident Boards and Commissions, in October 1929, stated that he believed, after years of experience in administering the workmen's compensation law, that the schedule used for rating disabilities in California was practicable, fair and efficient.*

*French, Will J., "The Age Factor in the Computation of Compensation for Permanent Disability", U. S. Bureau of Labor Statistics, Bulletin No. 511, April 1930, p.294.

In September 1914 the permanent disability rating department was reorganized as an advisory department of the commission, its duties being the practical application of the schedule to the rating of actual injuries. The department has acted in this capacity since that time.

The State Compensation Insurance Fund.

The state compensation insurance fund was created for several purposes the most important of which were the following: First, the law makers desired to create an instrumentality whereby an employer could protect himself against the liability imposed by the Boynton act. There was no assurance that private capital would successfully take care of this insurance. Second, they wished to create an insurance carrier which would set the standard for fair dealing in the adjustment of claims and thereby force its competitors to follow the high standard which they hoped the fund would set. Finally, the legislature wished to give the employers a medium through which they could obtain their insurance at cost since the law provided that the Fund should return to the employers insured with it, by way of dividends, its excess earnings.*

*Creede, Frank J., present Manager of the California State Compensation Insurance Fund, "Problems of Competitive State Fund States", U. S. Bureau of Labor Statistics, Bulletin No. 511, 1930, p.235.

Numerous objections were brought forward by the private insurance companies who did not want the state fund established but they were of no avail.*

*See Chapter VI.

An appropriation of \$100,000 was made by the legislature in order that the Fund might safely be able to establish itself.*

*Interest was paid on this money and in 1921 the original \$100,000 was returned to the state treasury as by that time the fund was entirely self-supporting. (Report of the Industrial Accident Commission, 1921, pp.54-55.)

Its management was placed entirely under the jurisdiction of the Industrial Accident Commission and, accordingly, the commission organized a distinct department to take care of the fund and to handle the state insurance business.

The compensation insurance fund was so organized as to be conducted in a manner similar to that of a private insurance company. Since the beginning it has continually been in competition with numerous private companies and the chief points of difference have been that it has maintained no staff of soliciting agents and the fund has not been conducted for profit.*

*Hanna, Hugh S., "Labor Laws and their Administration in the Pacific States", U.S. Bureau of Labor Statistics, Bulletin No. 211, 1917, p. 129.

It was necessary in the beginning to devise premium rates to be charged to employers under the act and inasmuch as the cost of insuring could not be known in advance, the rates were tentatively based upon those charged by the liability insurance companies as drafted by the New York Compensation Service Bureau.*

*These rates were approximately 25% less than those which had been charged by private companies doing business in California under the Roseberry act. (Report of the Industrial Accident Commission, 1914, p.22.)

During 1914 some insurance carriers recklessly began to cut the rates which had been adopted by the state fund. The threatened insolvency of these carriers endangered many beneficiaries insured under the compensation law and, consequently, an act was passed by the legislature in 1915 providing that no underwriting could be done in California at rates less than those approved by the State Insurance Commissioner.* An additional safeguard was provided by law the same

*Cal. Stats. 1915 Ch. 607.

year. An amendment was passed providing that all compensation insurance carriers should deposit surety bonds with the State Treasurer to an amount not less than the loss reserve.*

*Cal. Stats. 1915 Ch. 607.

During the session of the legislature of 1917 an attempt was made by corporate insurance carriers to obtain by law an increase in their rates. The state fund retaliated by seeking permission to make independent rates based upon its lower operating costs, its expenses being less than one-half that of private companies. Both proposed measures were defeated and the Fund continued to charge the same rates as the companies and to return the excess to its policy holders through dividends.*

*Miller, R.M., Workmen's Compensation in California, a Study in Commission Administration, (U.C., Thesis 1920) p.68.

The state fund has been successful from the very beginning. During the first year of operation, premiums received amounted in

the aggregate to \$547,161. The overhead cost of doing business was 12.65 per cent so that 35 per cent on the paid-in premiums were given back to the policy holders in the form of dividends.*

*Pillsbury, A.J., "An Adventure in State Insurance", American Economic Review, Vol. 9, pp. 688-689. (Dec. 1919).

Correspondingly successful years followed and by 1928 the premiums written by the state were in excess of \$7,000,000, while the total premiums written in California were slightly less than \$22,000,000. Thus the Fund was doing approximately 32 per cent of the business in the entire state although its competitors numbered fifty-eight separate companies.*

*Creede, Frank J., "Problems of Competitive State Fund States", U.S. Bureau of Labor Statistics, Bulletin No. 511, April 1930, p. 235-236.

The operating cost of the state fund has averaged less than 15 per cent which compares very favorably with the average cost of the private carriers, the latter being in the neighborhood of 40 per cent. One of the biggest savings made by the state fund is the manner in which business is obtained. There are no salaried solicitors on the pay roll, which statement would not be true of any private company. The fund has been especially successful in keeping free from political manipulation.*

*Attempts were made in 1919 and again in 1923 to separate the fund from the jurisdiction of the Industrial Accident Commission. Had the attempts succeeded, the fund would have been subject to constant political influences. (See Labor Clarion, April 4, 1919, p.7.)

The accompanying table shows the growth of the fund since its inception in 1914.

Table VIII

Calendar year	Premiums written	Compensation and medical benefits paid	Dividends declared
1914 -----	\$ 547,161	\$ 89,207	-----
1915 -----	655,677	180,640	\$ 74,476
1916 -----	928,286	321,167	89,146
1917 -----	1,373,793	580,790	146,734
1918 -----	2,459,086	941,956	340,878
1919 -----	3,251,974	1,351,070	489,691
1920 -----	4,417,761	1,990,216	919,367
1921 -----	5,004,881	2,479,578	1,278,950
1922 -----	4,635,014	2,528,654	1,683,626
1923 -----	5,470,100	3,156,613	1,784,237
1924 -----	5,807,777	3,274,986	1,649,260
1925 -----	5,811,317	3,329,601	1,664,214
1926 -----	6,012,443	3,661,519	1,694,173
1927 -----	6,471,635	4,045,125	1,821,279
1928 -----	7,003,820	4,196,567	1,764,272
1929 -----	7,654,803	4,536,632	1,794,126
1930 -----	7,743,746	4,652,679	1,592,647

Source: Reports of the Industrial Accident Commission 1927-1930.

Organized labor has agitated for years to obtain an amendment by which the state would be given a monopoly of the compensation insurance business,* and in 1926 the Industrial Accident Commission

*See Transactions of the Conventions of the California State Federation of Labor, 1915 to date; also, "Exclusive State Funds", Labor Clarion, September 3, 1920, p.31.

urged very strongly that the fund should be made exclusive, but there have been too many obstacles in the way and every attempt has met with failure.

*Report of the Industrial Accident Commission, 1926, pp.18-20; American Labor Legislation Review, Vol. 17, pp.29-30. (Mar. 1927).

One of the strongest arguments brought forward by the opponents of the proposed change is that the competition of the private carriers injects a desirable influence in the insurance business as it keeps the state fund continually "on its toes".

One of the difficult tasks of the commission has been the enforcement of the law regarding insurance, e.g., compelling all employers to insure.* The law requires that employers must be in-

*French, Will J., Letter written to the International Association of Industrial Accident Boards and Commissions, U.S. Bureau of Labor Statistics, Bulletin No. 511, Apr. 1930, p.233.

insured with either the state fund or with an approved private carrier, or else that they be self-insured. An injured man has the right to file a suit for damages, with the common-law defenses removed, if insurance is not carried, and, in addition, he can claim compensation. Also, in 1925, failure to insure was made a misdemeanor punishable by a maximum fine of \$500 or six months imprisonment, or both fine and imprisonment.*

*Cal. Stats. 1925 Ch. 300.

California has allowed a certain amount of self-insurance under the compensation act. Several amendments to the original law pertaining to the subject of self-insurance have been enacted by the legislature. In 1930 an employer carrying his own insurance could do so only after satisfying the Industrial Accident Commission regarding his financial condition and after depositing at least \$30,000 with the State Treasurer as a reserve in case of emergency.

Most of the large employers in the state, however, find it profitable to be self-insurers.

The state compensation insurance fund has grown to be one of the largest departments under the jurisdiction of the Industrial Accident Commission. In February 1930 there were 400 employees working in the department. Main offices are located in San Francisco and Los Angeles and it has become necessary to open branches in San Diego, Long Beach, Santa Barbara, San Jose, Sacramento, Oakland, Fresno and Stockton.*

*California Department of Industrial Relations, Report to Governor's Council, February 1930, p.2.

The Safety Department and Accident Prevention in California.

Before the passage of the workmen's compensation act of 1913 there had been practically no California laws requiring places of employment to be made safe. Only two safety laws had been enacted prior to 1909. One of these had to do with inspection of boilers and was really for the protection of the general public rather than of employees,* and the other was a miners' safety act providing

*Penal Code of 1872, Sec. 349 (amended in 1874, Acts Amendatory of the Codes of Cal. 1873-4, p.431, also Penal Code, Sec. 368.)

for two methods of egress* and for a uniform system of bell signals in mines.#

*Cal. Stats. 1873-4, p. 727.

#Cal. Stats. 1893, pp. 82-84.

See Eaves, Lucile, History of California Labor Legislation, pp. 318-320.

In 1909 an act was passed providing for temporary floors in buildings more than three stories high in the course of construction. The purpose was to protect the lives and limbs of workmen employed in such buildings by preventing them falling through joists or girders, and by shielding them from falling bricks, rivets, etc.*

*Cal. Stats. 1909, p. 107, amended, Stats. 1911, p. 1113, 1921, p.453.

A number of safety laws were enacted by the Legislature two years later in 1911. One of the measures regulated the erection and use of electric poles, wires, cables and appliances;*

*Cal. Stats. 1911, p.1037, amended, Stats. 1915, p. 1058.

a second regulated the construction and maintenance of subways, manholes and underground passages used to contain or conduct electric wires or appliances;* and a third law promoted the safety of

*Cal. Stats. 1911, p.1042, amended, Stats. 1917, p.801.

employees and travelers upon railroads by compelling common carriers by rail to maintain full crews on passenger and freight trains.*

*Cal Stats.1911,p.65, amended, Stats. 1913,p.249,1915,p.832.

Aside from a faulty enforcement of these few measures the state did practically nothing in the way of accident prevention until after the enactment of the Boynton law of 1913. The discussion of accident compensation during the life of the Roseberry law aroused interest in the associated idea of accident prevention and the compensation act as recast in 1913 provided for comprehensive safety activities on the part of the Industrial Accident Commission. The law was very liberal in equipping the commission with authority to carry on effective safety work. It was allowed a free hand in the selection and appointment of safety experts and inspectors and in arranging for its methods of work. The Commission was given power to make and enforce safety orders and to provide safety devices, to fix safety standards and to order the reporting of accidents. Public hearings were to be held before the orders could become binding, but then they were to have substantially the same effect as statutory law. Failure to comply with orders, rules or regulations issued by the commission was held to be a misdemeanor and in the case of continued violation each day's violation was to constitute a separate offense.*

*Cal. Stats. 1913 Ch. 176, Sections 51 to 72.

Early in 1914 the commission organized a safety department and placed all safety activities under its immediate charge. John R. Brownell* was appointed Superintendent of Safety and four safety

*Mr. Brownell had previously been the safety expert for the Pennsylvania Steel Company at Steelton, Pa.

engineers were selected to assist him.*

*Report of the Industrial Accident Commission, 1914, p.27.
The number of engineers and inspectors has been increased from time to time as conditions demanded and as funds have permitted.

Since its inception the work of the safety department has been principally along two lines; e.g. (1) educational and propaganda work, and (2) the framing of safety rules and standards. We shall discuss the educational work first.

It was believed that only through the co-operation of employers and employees could the best results be accomplished and so every effort was made to secure this support. Most of the year 1914 was spent by the safety engineers in getting acquainted with conditions and in arousing interest in safety work and accident prevention.* An extensive safety-first campaign was carried on by means of literature, newspaper publicity, and visits to industrial plants; conferences were held in the larger cities of the state, at which addresses were made by employers, workers, members of the commission, and other qualified persons.**

*Brownell, John R., "California's Accident Prevention Campaign", Bulletin of the U. S. Bureau of Labor Statistics, No. 264, October 1919, p. 25.

**Hanna, Hugh S., "Labor Laws and their Administration in the Pacific States", U.S. Bureau of Labor Statistics, Bulletin NO. 211, 1917, p79.

Safety bulletins were printed in English, Italian, Russian, Croatian Spanish, Portugese and Greek, and posted in places of employment throughout the state. A safety museum was opened in San Francisco

and placed in charge of a man who had the ability to install and explain mechanical safeguards. Later a similar museum was opened in Los Angeles. These museums created much interest but they were discontinued in 1922 during the "economy" administration of Governor Richardson. Exhibits were shown at the Panama Pacific International Exposition and also in the public schools of the state.*

*Report of the Industrial Accident Commission, 1915, pp.31-34; Mr. Will J. French has an interesting article on the early history of safety work in California in the Labor Clarion, August 31, 1917, pp. 24-26.

It was recommended in 1914 that special plant safety committees be organized for the purpose of preventing industrial injuries. Reports of the commission indicate that these committees have accomplished much toward rendering employment conditions safe for the workers. Their aims have been to see that employers install safety devices and to teach employees how to use machinery safely.

The mine safety work was organized separately in the department. In 1914 a co-operative arrangement was made with the United States Bureau of Mines by which the latter designated one of its engineers for service in California. H. M. Wolflin, a Californian, was assigned to the work. Mine rescue and first-aid training were given to the men and in 1916 a successful club was organized to be known as the Miners' Safety Bear Club. Because of the lack of funds, in 1919 the Bureau of Mines discontinued the co-operation with the Industrial Accident Commission. Mine safety work was continued, however, and one of the deputies was promptly promoted to the position of Mine Inspector to take the place of Mr. Wolflin.

One of the most successful and effective educational undertakings of the Industrial Accident Commission has been the publication of a monthly California Safety News. Since 1924 the pamphlet has been issued quarterly and has contained a great deal of worthwhile information. Its pages are filled with interestingly and graphically written articles by the safety engineers as well as other qualified writers. The periodical's popularity is manifest by its circulation, there being 15,000 subscribers in 1930.*

*California Safety News, December 1930.

Mr. French stated in 1928 that in the contest against accidents every means possible should be utilized. He urged that advancement in safety work could be made through the press, the radio, scientific research, the universities, colleges and schools, lectures, slogans and pictures.* Several valuable advisory pamphlets have

*French, Will J., "The upward Accident Trend", California Safety News, March 1928, p.3.

recently been issued by the safety department.*

*Since the beginning of the department's activity pamphlets have been issued on the following subjects: First-Aid Instruction for Employees in Industry, hazards in the Dry Cleaning Industry, Hazards ordinarily found in Garages and Automobile Service Shops, and organization of Safety Committees in Industry.

The preparation of safety orders together with their enforcement is the other line of work engaged in by the safety department. As safety work was undertaken in each industry, a careful survey of

the special hazards of the industry was first made, after which a committee representing employers and employees was asked to meet representatives of the safety department to draft safety rules or orders to cover the industry in question. When these rules or orders were completed by the committee, they were published in tentative form and after an appropriate interval, a public hearing was held to discuss them. After the orders received a final revision they were adopted by the Industrial Accident Commission and became as binding as statutory law.*

*Wolflin, H.M., "The Safety Movement in California", U.S. Bureau of Labor Statistics, 1920, p.2. (Special leaflet)

The following safety rules and orders have been drafted and put into effect by the commission:

<u>Rule or Order</u>	<u>Date Effective</u>
Mine -----	January 1, 1916
General -----	" "
Laundry -----	August 1, 1916
Woodwork -----	" "
Engine -----	" "
Elevator -----	October 1, 1916
Boiler -----	January 1, 1917
Electric Utilization -----	" "
Air-pressure Tank -----	" "
Window Cleaning -----	" "
Trench Construction -----	" "
Logging and Saw-Mill -----	March 15, 1917
Quarry -----	January 1, 1918
General Construction -----	" 15, 1918
Electrical Station -----	December 1, 1918
Gold Dredging -----	January 1, 1919
Tunnel -----	December 1, 1919
General Lighting -----	" "
Steam-Shovel and Locomotive Crane -----	June 1, 1920
Shipbuilding -----	January 1, 1922
Mine fire Control -----	March 1, 1923
General Petroleum Industry -----	March 1, 1924
Spray Coating -----	(not yet decided)

A number of these orders have been revised as industrial conditions have changed and as the safety engineers have gained experience.

In addition to the orders and rules issued by the commission, the legislature has enacted a number of safety laws which have been placed under the jurisdiction of the Industrial Accident Commission for enforcement. The most important of these statutes are the following:

(1) Act to regulate Scaffolding for the Protection of Workmen. (Cal. Stats. 1913, p.49; under Industrial Accident Commission, Cal. Stats. 1921, p.452.)

(2) Act to provide for temporary Floors in Buildings in the Course of Construction. (Cal. Stats. 1909, p.107; under Commission, Cal. Stats. 1921, p.453.)

(3) Act to regulate the Construction and Operation of Elevators in buildings during the course of Construction. (Cal. Stats. 1913, p.507; under Commission, Cal. Stats. 1921, p.450.)

(4) Act to provide for the periodical inspection of Elevators operated in places of Employment. (Cal. Stats. 1917, p.84.)

(5) Act to provide for the periodical inspection of Air-pressure Tanks. (Cal. Stats. 1929, Ch. 180.)

(6) Act to provide for the periodical inspection of Steam Boilers. (Cal. Stats. 1929, Ch.181.)

The cement workers in the state have tried for years to get protection against cement dust through legislative enactment. They have urged that cement be packed in dustproof bags, but each year their bills have consistently met defeat.

Inspections throughout the regulated industries of the state require considerable time of the department of safety. The inspection work has been divided into six divisions as follows: Mining, Construction, Elevator, Boiler, Mechanical-Electrical, and Lumber and Shipbuilding. During the fiscal year (1926-1927) 19,869 inspections were made by nineteen engineers and inspectors.*

*Report of the Industrial Accident Commission, 1927, pp.120-121.

Several amendments have been made to the compensation act which have strengthened the department of safety and facilitated accident prevention. The accident prevention fund was materially enlarged by an amendment in 1917 authorizing the payment into the fund of two per cent of the annual gross premiums of the state compensation fund.* This rate was increased to two and six-tenths per

*Cal. Stats. 1917, Ch. 586.

cent in 1927.* A number of improvements were made in 1919. First,

*Cal. Stats. 1927, Ch. 761.

the definition of "safety device" was given a broad interpretation so as to include "any practicable method of mitigating or preventing a specific danger.*" Second, a section 46 $\frac{1}{2}$ was added to the

*Cal. Stats. 1919 p. 923.

statute which bestowed power upon the courts to issue restraining

injunctions upon application of the commission against the use of unsafe machines and dangerous places of employment.* Finally, employers were compelled to report to the commission by telephone

*Cal. Stats. 1919 p.924.

or telegraph all injuries resulting in death.*

*Cal. Stats. 1919 p. 924.

Since the object of all safety work is the prevention of accidents, the only true measure of success is the degree in which accidents have been reduced by the activity. This is almost impossible to determine, however, as there are so many variable factors involved. Since the inception of safety work in California there has been a heavy addition to the population and an increasing industrialization of the state. Then, too, according to the best authorities (no accurate data are available) there has been an upward trend in the number of industrial injuries throughout the United States as a whole during the last fifteen years. This upward trend has probably been due primarily to the speeding up of the workers with increased production per man-hour.*

*At the annual meeting of the American Association for Labor Legislation in 1925 a large portion of the time was spent in a discussion of this subject but there was no unanimity of opinion. The discussion was printed in the American Labor Legislation Review, Vol. 16, pp.161-190 (June 1926).

Also see "Are Accidents Increasing?" American Labor Legislation Review, Vol. 18, p. 239 (June 1928)

The following table shows the number of temporary, permanent and fatal industrial injuries in California each year from 1914 to 1930:

Table IX

Calendar Years	Industrial Injuries		
	Temporary	Permanent	Fatal
1914	60,241	1,292	691
1915	65,741	1,264	533
1916	92,513	1,709	657
1917	55,750	1,942	626
1918	52,014	2,100	706
1919	56,277	1,714	586
1920	67,884	1,929	592
1921	60,080	1,643	550
1922	68,451	1,577	708
1923	76,822	1,514	716
1924	87,982	1,319	645
1925	90,986	1,216	677
1926	90,798	1,235	710
1927	91,326	1,192	763
1928	92,054	1,047	636
1929	95,095	1,034	721
1930	80,535	854	637

Source: Reports of the Industrial Accident Commission, 1927-1930 .

The table indicates that the number of temporary industrial injuries has materially increased since 1914. This increase may be partly explained by the fact that a larger percentage of minor injuries are reported to the Commission today than ever before. The number of permanent and fatal industrial injuries in California has not appreciably changed from year to year except during the war period. During those years many inexperienced workers were forced into industry which probably accounts for the rise in the accident rate at that time.

The utility of the safety department has been very great in the past and it still is just as useful. Most of the glaring industrial dangers have been eliminated and the serious mechanical hazards have been largely overcome, but the work of the department is not completed. It takes constant vigilance and repeated inspections in order to keep the people of the state in line with the law.

Additional administrative problems of workmen's compensation will be discussed in connection with the following chapter on court interpretations.