10-15-1982

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Recommended Citation

Irvin Stander, *Current Trends in Workers' Compensation*, 2 J. Nat'l Ass'n Admin. L. Judges. (1982)
available at <https://digitalcommons.pepperdine.edu/naalj/vol2/iss2/6>

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CURRENT TRENDS IN
WORKERS' COMPENSATION

By Irvin Stander, J.D.

The Report of the National Commission on State Workers' Compensation Laws heralded a new era for workers' compensation in the United States.¹ Appointed by the President in 1970, the Commission issued its report in 1972, and pointed out the gross inadequacies of all the state systems. To compel the states to modernize their compensation laws, the Commission established 19 essential recommendations, and placed time limitations on the adoption of these standards by the states, with the threat that if these recommendations were not met by July 1975, the Commission would recommend to Congress that the non-complying state systems be taken over by the federal government and operated under the generally more liberal provisions of the Longshoremen's and Harbor Workers' Compensation Act.²

Spurred by the threat of federalization, the states enacted hundreds of laws between 1972 and 1980 in response to the recommendations of the Commission. These laws sought to broaden the coverage of employees and to include additional work related injuries and diseases; to provide more adequate protection against the interruption of income; to provide for sufficient medical care and rehabilitation services; to encourage safety through economic incentives in setting premium rates; and to provide a more effective system for delivery of benefits and services.

By 1980, state compliance with the Commission's 19 essential recommendations reached 63.3 percent of the possible total, with an average of 12 recommendations adopted; 47 states enacted compulsory coverage and 88 percent of the national work force became covered by workers' compensation.³

Considering the wide diversity of the state jurisdictions, it would appear that substantial progressive strides were made in the workers'

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¹ Report Of The National Commission On State Workmen's Compensation Laws (Washington, D.C.) (July 1972).

² Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Sec. 901 et seq. (1976).

³ Div. Of State Workers' Compensation Standards, U.S. Department Of Labor, State Workers' Compensation Laws In Effect On October 1, 1980 Compared With The 19 Essential Recommendations Of The National Commission On State Workers' Compensation Laws (Washington, D.C.) (December 1980).

compensation systems in the states. More recently, however, this general progressive movement has become less obvious. Increasingly, both conservative legislatures and liberal courts have attempted to implement reforms which each deems necessary to remedy the inadequacies of the current systems. This article will discuss the reforms suggested by recent studies, will examine recent legislation aimed at curtailing benefits, and will review recent court decisions which have generally expanded the relief available to claimants.

Recent Recommendations of Research Groups

After the Commission completed its report in the early 1970s, its work was continued by the Interdepartmental Workers' Compensation Task Force, which consisted of representatives from five concerned federal departments. Following several years of research and investigation, the Policy Group of the Task Force issued its report, appropriately entitled Is There a Better Way?⁴ The key conclusion of this group was that:

A sharp reordering of priorities and a new mode of operation will be necessary if workers' compensation is to achieve its traditional goals. Without such changes in emphasis, workers' compensation is in danger of becoming more expensive, less equitable, and less effective.

Some of the principles of reform espoused by the Task Force can be summarized as:

- *Compensation for wage loss should be paid only as wage loss actually occurs.
- *Such wage loss replacement will create incentives for rehabilitation and re-employment.
- *State systems should discourage "compromise and release" settlements and lump sum payments, and make them subject to strict approval by the state agencies, because there is a high percentage of error in trying to predict probable periods of future disability or medical needs.
- *The systems should stress the objectives of prevention, rehabilitation, and re-employment, rather than litigation.
- *Provision should be made for security funds for insolvent carriers and self-insurers, as well as for uninsured employers.
- *The present limitations on coverage of occupational diseases should be reduced. The need for this reform is indicated by national surveys that show that only five percent of all occupational disease victims now receive compensation benefits.

⁴ Policy Group For The Interdepartmental Workers' Compensation Task Force, Is There a Better Way? (Washington, D.C.) (January 17, 1977) (report to the President and Congress).

*Benefits should be adjusted annually to cover increased costs of living..

*Second injury funds should be expanded, and not limited to loss-of-limb impairments.

*Workers' compensation systems should strive to integrate benefits to prevent overlapping, such as the transfer of claimants at age 65 to Social Security and other retirement benefits systems.

Thus, the Task Force recommended broader coverage and increased benefits, but also placed considerable emphasis on curing inequities and inefficiencies by cost-saving reforms.

Another group which has recently completed a survey of workers' compensation is the Rand Corporation's Institute for Civil Justice. Its most recent report, entitled The Law and Economics of Workers' Compensation,⁵ identified three major issues. First, the Institute noted that the original concept of no-fault employer liability in return for tort immunity has shown signs of erosion. Second, workers' compensation systems have been burdened by the increased number of covered workers and by evolving medical techniques which link injury and illness to the job more readily. Finally, the report pointed out the problems associated with the sharp increase in claims resulting from progressive occupational diseases, cumulative trauma, and psychic injury claims, and with the movement toward cost-of-living increases of past benefits; these have made employers uncertain about the extent of their liability, while insurers have found it difficult to predict costs. The Institute has recommended, and itself plans to conduct, in-depth studies to throw light on these unresolved issues it found in the present system.

Another important group which has conducted an ongoing study of workers' compensation systems is the International Association of Industrial Accident Boards and Commissions (IAIABC). The 22 present and proposed standards of IAIABC include these significant changes:

*Coordination of Benefits. Compensation for total disability or death should be coordinated with Social Security and other employer-funded disability benefits programs, so as to effectuate the objectives of wage replacement and rehabilitation.

*Subsequent Injury Protection. Employment of physically handicapped workers should be encouraged by limiting employers' liability for subsequent injuries or diseases which, combined with prior injuries, diseases, or infirmities, result in further disability or death. A special fund should be created for the purpose of paying the excess benefits beyond the employer's limited liability.

*Exclusive Remedy. Workers' compensation should be the exclusive remedy of the employee, his spouse, dependents, and personal representatives against the employer, its carrier, co-employees, and the union.⁶

⁵ L. Darling-Hammond, T.J. Kniesner, The Laws And Economics Of Workers' Compensation (Rand Corporation Institute for Civil Justice, Santa Monica, Ca.) (1980).

⁶ Proposed International Standards of the IAIABC for Workers' Compensation Laws and Administration, IAIABC Journal, pp. 3-5 (July 1980).

Although these studies have focused on a wide variety of problems in workers' compensation systems, some similarities begin to emerge. The studies have highlighted the changes in the concepts of exclusive remedy and wage loss replacement, the difficulty of devising a system for "second injury" funding, and the problems associated with slowly progressive occupational diseases. The second half of this article will review the ways that legislatures and courts have reacted to, and in some cases created, these pressures in today's workers' compensation system.

Review of Enacted and Proposed Legislation

Many states have begun to move toward halting and even reversing the flood of benefit improvements and liberalization that occurred in the 1970s as a result of the National Commission's Report and its virtual mandate for reform. State agencies are faced with the astronomical increase in the cost of the system from 8 billion dollars in 1975, to 17 billion in 1979; administrative costs have escalated to the point where they now exceed 30 percent of that total.⁷ Consequently, some states believe that the extensions of benefits have gone too far, too fast. Many states believe that courts have interpreted the law too liberally and have extended coverage and allowed benefits for injuries or illnesses previously considered not to be compensable.

One of the first states to adopt such legislative retrenchment reforms was Florida; its Wage Loss Benefit System,⁸ adopted in 1979, radically changed that state's compensation law. This system has abolished permanent physical impairment benefits except for amputation, loss of sight, or serious facial disfigurement. Benefits based on loss of wage-earning capacity were also ended.

The amount of benefits provided is now based on a calculation of actual wage loss equal to 95 percent of the difference between 85 percent of the claimant's pre-injury average monthly wages and the salary the employee is able to earn after reaching maximum medical improvement; additionally, these benefits are not to exceed two-thirds of the employee's pre-injury wages. There are also serious restrictions on compromise settlements and severe limitations on attorneys' fees, and even on attorneys' participation. The system also requires a "good faith" job search by the claimant.

Proponents of Florida's Wage Loss System argue that it simply returns to the original purpose behind workers' compensation statutes, that is, to provide only a portion of lost wages for any week in which there is an actual loss of wages. They also argue that this system reduces costs and improves fairness in the delivery of benefits. Although the Florida system is only in its infancy, similar legislation is now being considered in Maine, Delaware, Rhode Island, Oregon, Louisiana, and California. Despite this widespread interest in Florida's system, it has been the focus of much controversy. For

⁷ Estimates Of Workers' Compensation Payments By State and Type Of Insurance —1979 and 1978 (Social Security Administration, Washington, D.C.) (1980).

⁸ Fla. Stat. Ann., Sec. 440.01 et seq. (1979).

example, Workers' Compensation Monthly, a claimant-oriented publication, has issued a scathing, documented indictment of the system.⁹

Oregon's proposed Workers' Recovery Law¹⁰ is typical of attempted legislative retrenchments from liberalized benefits. During 1979 and 1980, the Oregon legislature considered, but did not adopt, an innovative statute which would have provided a "wage differential system" of benefits and unified rehabilitation and re-employment for the injured worker. Wage differential was defined as a benefit equal to 80 percent of the difference between 95 percent of "spendable earnings" at the time of injury less "spendable earnings" after the injury. The relatively new concept of "spendable earnings" recognizes the change which income tax and Social Security laws have made in a worker's take-home pay. This proposed legislation also provides the worker with a right to job reinstatement if he can perform the primary duties of his original job. The proposed legislation was highly praised by experts because of the emphasis on rehabilitation and re-employment. Yet, its proposed return to the strict wage loss replacement theory represents a conservative movement, typical of legislation in this area.

Also typical of the scope and nature of the proposed retrenchment "reforms" pending before state legislative bodies, are several bills which have been recently introduced in the Pennsylvania General Assembly.¹¹ One bill reduced the state compensation benefits by the amount of Social Security old-age retirement benefits, by other retirement pay, or by similar periodic payments which are based on the previous work of the employee under a plan maintained or contributed to by his employer, except to the extent of the employee's contribution. Another proposal would control attorneys' fees by allowing them remuneration only on a quantum meruit or value of service basis. Also under consideration is a provision for medical panels to hear and decide all contested occupational disease claims, instead of using the regular compensation hearing officers for that purpose. A change in the evidentiary standard in claims caused by cardiovascular conditions or a degenerative disease process has been suggested as well. The current standard of "sufficient competent evidence" would be made more rigorous and would require proof "by a preponderance of the competent and credible evidence, and within a reasonable medical certainty that the predominant cause of injury or death was produced by a work effort or strain involving a substantial condition or event in excess of the claimant's normal work duties and daily living experience."

The Pennsylvania legislature has also been asked to reduce the amount of benefits paid to recipients. Minimum weekly benefits would be reduced from 50 percent of the statewide average weekly wage to 25 dollars per

⁹ Crisis: Florida's Workers' Compensation Act, Workers' Compensation Monthly 2(4):1 (October 1981).

¹⁰ House Bill 3125 (known as the Chrest Bill) (Oregon 1979).

¹¹ Senate Bills 1123 and 1193, Session of 1981; House Bills 1294 and 1295, Session of 1981 (General Assembly of Pennsylvania).

week, and maximum benefits would be frozen at the 1981 level of 262 dollars per week instead of allowing an annual determination of maximum benefits at 100 percent of the statewide average weekly wage. There is also a proposal to reduce scheduled loss benefits to 50 percent of the amount now payable, upon death of a claimant from non-job related causes, for purposes of payment to surviving dependents.

In federal workers' compensation schemes, similar ferment and proposed legislative action have been noted. The Longshoremen's and Harbor Workers' Compensation Act faces many changes through proposed legislation in Congress, including the return of coverage to the original waterfront concept; the removal of certain broad presumptions of coverage; the prevention of double recoveries by redefining wage earning capacity; the limitation of cost-of-living increases; the limitation of death payments; and the restriction of compensation to 80 percent of net spendable earnings, and the coordination of this compensation with other available benefits.¹² The Federal Employees' Compensation Act¹³ faces legislative proposals which would slightly increase compensation rates but subject them to federal income tax liability, and which would shift compensation beneficiaries at age 65 to the Civil Service annuity rolls, regardless of continued wage loss.¹⁴

In examining the current trend in legislative actions, it is important to note several ongoing problems in workers' compensation which may require corrective legislative action in the future. One such problem is the practical impact on workers' compensation systems of the permanent partial disability (PPD) concept. The PPD system that exists in many states has been attacked by many experts for several reasons. First, PPD benefits are expensive. Although numerically they account for less than 30 percent of workers' compensation claims paying cash benefits, the benefits in these cases amount to more than 60 percent of such payments. Second, awards of PPD benefits have become very complex and controversial. They can lead to protracted and expensive litigation because they require subjective evaluations of the extent of the disability and of its permanency. Third, these benefits can deter rehabilitation because of the strong incentives to the worker to maximize the extent of his permanent partial disability. Although PPD has many adherents, most of the acknowledged authorities in workers' compensation strongly favor its abolition, Arthur Larson, an eminent authority, has voiced this criticism of PPD:

Now the lawyers are spending most of their time fussing about permanent partial disability in percentage ratings. This isn't really a legal question....PPD is a sort of pseudo-medical

¹² S.1182, 97th Cong., 1st Sess. (1981).

¹³ Federal Employees' Compensation Act (FECA), 5 U.S.C. Sec. 8101 et seq. (1976).

¹⁴ Doyle, H.A., Changes in FECA Proposed, Workers' Compensation Monthly 1(11): 11 (May 1981).

concept that ties up the courts, administrators, lawyers and everyone else. It amounts to 57 percent of the litigation in Oregon and 90 percent in Florida, before they changed the Act. All of that would be dispensed with under a wage loss approach and nothing would be lost as a result!¹⁵

The successive injuries problem is especially acute in today's workers' compensation systems. The "full responsibility rule," which exists in many states, is based on the principle that the employer takes the worker as it finds him, and is thus responsible for the cumulative effects of both the employee's work-injury and his prior physical impairment. In practice, this rule can place a heavy burden on the employer that has hired a handicapped worker, since the employer may become liable for the cumulative effects of the employee's work-related injury which becomes totally disabling because of the worker's prior condition. Thus, the "full responsibility rule" is inequitable and is a disincentive to hire handicapped workers.

Several alternatives to the "full responsibility rule" have been proposed. Some consideration has been given to the use of an "apportionment" system among the employers where the worker has sustained injuries or disease during his various employments. Yet, this system has many practical and legal difficulties because it places on the adjudicator the difficult burdens of identifying the employers that are jointly liable and of determining the extent of their liability. Subsidiary considerations regarding statutes of limitations, jurisdiction, and the financial ability of the former employers to satisfy their obligations further undermine the proposal's effectiveness.

Subsequent or second injury funding is considered to be the best solution to this vexing problem. It starts with the premise that it is desirable to encourage the employment of the physically handicapped. It accomplishes this goal by protecting the present employer from excess liability and medical expense through limiting its liability to the effects of the work injury at the worker's current workplace. The residue of the claim would then be assessed against a subsequent or second injury fund, which is maintained by the state. The fund could be financed by one or more available methods, such as a tax on premiums; an assessment on carriers for the windfall of no-dependency death benefit cases where no payments are required; percentages of total compensation paid; pro-rata assessments against carriers; percentages of certain types of awards, e.g., specific losses; or windfalls for payments due but not made in certain non-resident alien claims.¹⁶

¹⁵ Authority Says Original Purpose of Workers' Compensation Lost, Compensation News (September/October 1979).

¹⁶ Analysis Of Workers' Compensation Laws (Chamber of Commerce, Washington, D.C.) (1981).

Significant Court Decisions

A review of recent court decisions reveals that they are generally based upon liberal interpretations of the benefit provisions in the state and federal compensation acts, and that employees are increasingly attempting to bring tort actions against employers, to supplement their workers' compensation claims.

Typical of the "liberal" court decisions are the five following opinions of the Pennsylvania Supreme Court which has recently made "new" compensation law. In the first case, the court reversed the Commonwealth Court and the Appeal Board and reinstated the Referee's award for death benefits to the widow of a fatal heart attack victim who was engaged in his employer's work at his home but who was not doing this home work with the express or implied consent of his employer.¹⁷

In the consolidated cases of Reed v. Stork Diaper Service and Dumas v. Latrobe Forge & Spring,¹⁸ the Pennsylvania Supreme Court reversed the Commonwealth Court and allowed the widows of deceased workers who were on statutory total disability, for the loss of both legs in Reed, and for both eyes in Dumas, to elect to receive the balance of specific loss benefits in both cases instead of getting no compensation at their husbands' deaths. The theory in the cases was that since the claimants could have made such an election during their lifetimes, their dependents should be able to do so after their deaths in order to maximize benefits.

In Jarvis v. Jarvis,¹⁹ the court rules that an insurer who failed to give notice of its intent to discontinue an employer's workers' compensation policy was estopped, by reason of its automatically renewing the policy for seven previous years, from denying liability for an industrial death that occurred shortly after the policy lapsed.

The Pennsylvania court continued the extension of workers' benefits in Bigley v. Unity Auto Parts, Inc.²⁰ Here, the court held that the gratuitous, unilateral withdrawal of a pending claim petition does not preclude the claimant from reinstating his petition, even where the statute of limitation has expired, and the claimant had made a settlement in his trespass action against his employer.

¹⁷ Krawchuk v. Philadelphia Electric Co., 439 A.2d 627 (Pa. 1981).

¹⁸ Reed v. W.C.A.B. & Stork Diaper Service and Dumas v. Latrobe Forge & Spring, ___ A.2d ___ (Pa. 1981).

¹⁹ Jarvis v. Jarvis, ___ A.2d ___ (Pa. 1981).

²⁰ Bigley v. Unity Auto Parts, Inc., 436 A.2d 1172 (Pa. 1981).

Finally, the court has decided a case extending progressive occupational disease benefits. The Pennsylvania Supreme Court held that where a special provision of the Occupational Disease Act provides limited benefits to victims of black lung disease whose claims have been barred by the time limitations in the Act, the statute creating these benefits must be construed to remove all time limitations, including its effective date.²¹

Recent decisions of the United States Supreme Court in workers' compensation cases indicate the same concerns about workers' compensation problems. One recent decision reflects the effort toward the integration of benefits to prevent overlapping. The Court decided in the Allessi and Buczynski cases²² that a state cannot prohibit offset of workers' compensation benefits against pension plan payments. It thus upheld the provisions of the Federal Employee Retirement Income Security Act,²³ which sanctions the integration of pension funds with other public income maintenance moneys for the purpose of calculating benefits.

The Supreme Court also held that widowers and widows must receive equal treatment in the payment of workers' compensation benefits.²⁴ As a result, many states are moving to abolish the distinction between widowers and widows as to the presumption of total dependency when the death of the spouse occurs.

In Sun Ship v. Pennsylvania,²⁵ the Court held that where there was a concurrence of jurisdiction for a land-based injury between the federal longshoremen's act and the Pennsylvania Workmen's Compensation Act, the injured worker could proceed under the law most beneficial to him. In this case, the Pennsylvania act provided greater benefits for facial disfigurement than did the federal statute.

Judicial Problems

One of the basic objectives of workers' compensation has been the substitution of its remedies for negligence suits against the employer. However, that principle has steadily eroded in recent years, and there has been a sharp increase in tort actions by workers against employers along

²¹ Commonwealth v. College, 439 A.2d 107 (Pa. 1981).

²² Alessi v. Raybestos-Manhattan, Inc., and Buczynski v. General Motors, 101 S. Ct. 1895 (1981).

²³ Federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C., Sec. 1001 et seq. (1974).

²⁴ Wengler v. Druggists Mutual Insurance Co., 446 U.S. 142 (1980).

²⁵ Sun Ship, Inc. v. Pennsylvania, 447 U.S. 715 (1980), rehearing denied, 448 U.S. 916 (1980).

several lines. Thus, the exclusive remedy doctrine, a basic part of all workers' compensation schemes, has been challenged in many jurisdictions. Here are the results of that challenge in some recent cases.

Where there is a remedy lacking under the workers' compensation statute, such as for loss of sense of taste or smell, or for a personal assault by a fellow employee, Louisiana and New Mexico have denied such tort claims by the injured employee against the employer because of the exclusive remedy defense.²⁶ Yet, Pennsylvania has permitted tort recovery for a personal assault on the grounds that the employer had a duty to maintain a safe workplace, especially since the assailant had been involved in previous altercations.²⁷

California has allowed a tort claim against the employer on the theory of fraudulent concealment of an unsafe workplace, where the worker contracted asbestosis and the employer deliberately failed to notify the state, the worker, or his doctor of the disease and its connection with his employment.²⁸

Separate tort claims by relatives of the worker have been considered in Massachusetts. The Supreme Judicial Court allowed the wife and minor children of an injured worker to recover damages, in addition to workers' compensation, for loss of consortium or familial relationship and mental distress, against the negligent employer.²⁹ A Texas court has allowed a similar claim for loss of consortium.³⁰

Other subjects on which tort actions have been commenced, with varying results, in addition to workers' compensation claims, include suits for failure to perform required safety inspections;³¹ suits against co-employees;³²

²⁶ Nugent v. Executive Officers of Harter Oil Co., 396 So.2d 537 (La. App. 1980); Gallegos v. Chastain, 624 P.2d 60 (N.M. Ct. App. 1981).

²⁷ Mike v. Borough of Aliquippa, 421 A.2d 251 (Pa. 1981).

²⁸ Johns-Manville Products Corp. v. Contra Costa Superior Court, 612 P.2d 948 (Cal. 1980).

²⁹ Ferriter v. Daniel O'Connell's Sons, Inc. 413 N.E.2d 690 (Mass. 1980).

³⁰ Reed Tool Co. v. Copelin, 610 S.W.2d 736 (Tex. 1981).

³¹ Johnson v. American Mutual Liability Insurance Co., 394 So.2d 1 (Ala. 1981); Sewell v. Bathey Manufacturing Co., 303 N.W.2d 876 (Mich. App. 1981).

³² Grantham v. Denke, 359 So.2d 785 (Ala. 1978); Barnette v. Doyle, 622 P.2d 1349 (Wyo. 1981).

claims for malicious prosecution, defamation, and violation of civil rights;³³ wrongful death claims;³⁴ suits for retaliatory discharge for filing workers' compensation claims;³⁵ and claims against carriers for action in bad faith.³⁶

The proliferation of these tort claims shows the steadily growing movement away from the strict limitations of the exclusive remedy doctrine, and poses a real threat to the quid-pro-quo objectives of the no-fault workers' compensation system.

Another significant area where tort actions against employers have been initiated in addition to workers' compensation claims, has been in situations involving an employer who is also a manufacturer of a product or a producer of a service that has resulted in, or aggravated, the work injury. In such cases, in addition to pursuing a claim for workers' compensation, the worker asserts a tort claim for negligence against the employer as the manufacturer or service supplier, arguing that the employer occupies a dual capacity. For example, the Supreme Court of Ohio has allowed a worker's claim against the hospital-employer for malpractice, alleging that the hospital negligently failed to diagnose her condition, thereby aggravating her injury.³⁷ California has allowed tort liability in a similar case,³⁸ as has Indiana in a company infirmary claim for an improper injection by the company nurse.³⁹

A review of the dual capacity cases indicates that many states have rejected this theory because it nullifies the exclusive remedy doctrine. Although California, Ohio, and Pennsylvania have favored dual capacity recovery,⁴⁰ courts in Massachusetts, New York, Illinois, Tennessee, and Idaho have specifically rejected dual capacity claims.⁴¹

33 Foley v. Polaroid Corp., 409 N.E.2d 1300 (Mass. 1980).

34 Ary v. Missouri Portland Cement Co., 612 S.W.2d 840 (Mo. App. 1981).

35 Broun v. Transcon Lines, 588 P.2d 1087 (Ore. 1978); Sventko v. Kroger Co., 245 N.W.2d 151 (Mich. App. 1976)

36 Coleman v. American Universal Insurance Co., 273 N.W.2d 220 (Wisc. 1979).

37 Guy v. Arthur H. Thomas Co., 378 N.E.2d 488 (Ohio 1978).

38 D'Angonia v. Country of Los Angeles, 613 P.2d 238 (Cal. 1980).

39 McDaniel v. Sage, 419 N.E.2d 1322 (Ind. App. 1981).

40 Douglas v. E. & J. Gallo Winery, 137 Cal. Rptr. 797 (Cal. App. 1977); Mercer v. Uniroyal, Inc. 361 N.E.2d 492 (Ohio App. 1976); Tatrai v. Presbyterian Univ. Hosp., 439 A.2d 1162 (Pa. 1981).

41 Longever v. Revere Copper & Brass Inc., 408 N.E.2d 857 (Mass. 1980); Billy v. Consolidated Machine Tool, 412 N.E.2d 934 (N.Y. 1980); Winkler v. Hyster Co., 369 N.E.2d 606 (Ill. 1977); McAlister v. Methodist Hosp. of Memphis, 550 S.W.2d 240 (Tenn. 1977); Provo v. Bunker Hill Co., 393 F. Supp. 778 (D. Idaho 1978).

Conclusion

It is interesting to note that the cross currents which are manifesting themselves nationally in regard to proposed legislation to offset court decisions liberalizing the laws in such areas as school desegregation, civil rights, abortion, and many social programs parallel recent developments in legislative and judicial activities in the workers' compensation field. As in these other fields, strong pressures are being exerted by the opposing forces to enact liberalizing "reforms" on the one hand, and retrenchment "reforms" on the other. We are truly in a period of ferment and conservative pressure, and it is obviously difficult to assess the outcome of this struggle. Needless to say, these are interesting though parlous times.

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