THE ACTIVITIES OF
THE AMERICAN ASSOCIATION FOR LABOR LEGISLATION
IN BEHALF OF SOCIAL SECURITY AND
PROTECTIVE LABOR LEGISLATION

A thesis submitted to the Graduate School of the University of Wisconsin in partial fulfillmemt of the requirements for the degree of Doctor of Philosophy.

by

Lloyd F. Pierce

Date May 25, 1953

To Professors: Witte

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This thesis having been approved in respect to form and mechanical execution is referred to you for judgment upon its substantial merit.

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Approved as satisfying in substance the doctoral thesis requirement of the University of Wisconsin.

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Date May 28, 1953

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"The Fundamental Purpose of Labor Legislation is the Conservation of the Human Resources of the Nation."

--American Association for Labor Legislation

PREFACE

One of the most striking facts of the twentieth century has been the modification of the traditionally conservative economic philosophy of the strategic socio-economic groups in America. This occurred to such an extent that organized political groups found it expedient to give favorable consideration to the passage of such legislation as that for the protection of the nation's wage earners. In the course of the writer's graduate study at the University of Wisconsin, the question arose again and again as to the nature of the active forces responsible for this great change.

The American Association for Labor Legislation was frequently mentioned by Professor Edwin E. Witte in his seminar on "Protective Labor Legislation," at the University of Wisconsin, as one of the organizations which contributed substantially to the movement for social legislation. The importance of this organization was further underscored at a Symposium on Labor Legislation in honor of the late John B. Andrews and the American Association for Labor Legislation, which the writer was fortunately able to attend while at the University of Wisconsin.

An examination of the literature revealed that little had been done to draw together the scattered

records of the activities of the Association in behalf of social security and protective labor legislation. The only major attempt to review the work of the Association was presented in a brief paper by Dr. John A. Fitch at the John B. Andrews Memorial Symposium.[1] The present study was initiated to provide a more comprehensive account of the contributions of the Association.

Most of the basic information used in the preparation of this study was obtained from the papers and office files of the Association and the thirty-two published volumes of its quarterly journal, the American Labor Legislation Review. The former collection, the Andrews Collection[2] is located at Cornell University and is in the process of being classified in order to increase its usefulness. The writer is deeply indebted to Dean Martin P. Catherwood and J. Gormly Miller, Librarian, of the New York State School of Industrial and Labor Relations, Cornell University, for making this collection available for intensive study during the summer of 1951. Thanks are also due Richard M. Lyon for making the writer's brief sojourn at Cornell University a more pleasant and productive one. In the spring of 1952, Lyon made a

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1 John A. Fitch, "The American Association for Labor Legislation," Proceedings of the John B. Andrews Memorial Symposium on Labor Legislation and Social Security, 1949, pp. 81-97.

2 Hereafter referred to as the Andrews Collection.

valuable contribution to the literature in this field by summarizing the work of the Association in behalf of workmen's compensation legislation.[3]

The writer wishes to gratefully acknowledge the generous assistance and helpful criticism of Professor Edwin E. Witte, under whose direction this study has been prepared.

Special acknowledgement is due Mrs. John B. Andrews, Assistant Secretary of the Association throughout most of its existence, for reading most of the manuscript and making valuable suggestions to the end that it might more accurately record and interpret the work of the Association. Moreover, through the courtesy of Mrs. Andrews and the University of Wisconsin, financial assistance was made available so that the writer might make a study of the Andrews Collection.

A special note of thanks to M. Joyce Pierce, who provided valuable editorial suggestions and typed the manuscript. In a very real sense this study is the product of her encouragement and sympathetic understanding of the problems which arose in preparing it.

Lloyd F. Pierce

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3 Richard M. Lyon, "The American Association for Labor Legislation and the Fight for Workmen's Compensation Laws 1906-1942," (unpublished Master's thesis, Cornell University, 1952).

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CHAPTER I

INTRODUCTION
THE AMERICAN ASSOCIATION FOR LABOR LEGISLATION

European Background

Prior to 1900 a number of attempts had been made to secure concerted action among European countries to counteract those influences which prevented the enactment of uniform legislation to protect the lives and health of their workmen. Especially significant among the early attempts to avoid "cutthroat competition" in labor legislation were those taken by Germany and the Swiss Republic. In 1881, the National Council of Switzerland approved a plan whereby other nations were to be invited to participate in conferences for the purpose of establishing uniform conditions of labor in all industrial countries. The project was dropped, however, when other nations indicated no interest in it. A similar undertaking was initiated by Germany in 1890. Delegates from various European countries met in Berlin and discussed proposals to regulate conditions of work, but no binding agreements were made.

In 1897, the Swiss Workingmen's Association invited some of the leading citizens of the industrial nations of the world to meet in Zurich to discuss the

problem. As a result of this and other efforts in the same direction, representatives from many countries including the United States, attended a Congress on Labor Legislation in connection with the Paris Exposition of 1900.[1] The International Association for Labor Legislation was founded at this Congress, for the purpose of serving, "as a bond of union to those who, in the different industrial countries, believe in the necessity of protective labor legislation," and to facilitate the study of labor legislation; promote international uniformity of labor laws and the gathering of international labor statistics; and to hold international congresses on labor legislation.[2]

The following year, the Association opened the International Labor Office at Basel, Switzerland under the direction of Dr. Stephen Bauer. This office served as the administrative headquarters and research center of the Association throughout the remainder of its existence. It received financial support from its various national affiliates and subventions from a number of governments, including a small one from the United States. Beginning

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1 Adna F. Weber, "Labor Legislation, National and International," Proceedings of the American Social Science Association, 1907, pp. 40-41.

2 American Labor Legislation Review, December, 1914, p. 511.

in 1902 it issued, in the French and German languages, a quarterly journal, Bulletin of the International Labor Office, which contained special reports, a summary of the labor legislation which had been passed and a bibliography of the important literature which had been published in the various countries.

By 1906, national sections had been organized in Austria, Belgium, Denmark, England, France, Germany, Holland, Hungary, Italy, Spain and Switzerland. Three international congresses had been held by the close of 1906 and two treaties, one prohibiting the use of poisonous phosphorus in the production of matches and the other prohibiting industrial work by women at night, had been signed by most of the European nations.

Formation of the American Association for Labor Legislation

In 1902, Dr. Bauer contacted a number of individuals in the United States to explain the purpose and work of the International Association and as a result it gained a few direct members and correspondents. By 1905, interest had been aroused to such an extent that serious consideration was given to the formation of an American section of the International Association. Early in October, Dr. Adna F. Weber, Chief Statistician of the

New York Department of Labor, sent letters to the American correspondents and other individuals known to be interested in protective labor legislation, proposing that immediate steps be taken to form such an organization. The response was very encouraging. The only question raised in connection with the proposal concerned the desirability of forming a new organization or of working through an existing one. This point was raised by Professor Frank Taussig, President of the American Economic Association. In reply to Weber's inquiry, Taussig indicated his "sympathy with the project," but expressed his opinion that, "We have so many associations that it would be a pity to start another with formal organization." As a possible alternative he suggested that steps be taken to explore the possibility of affiliating the proposed organization with the American Economic Association.[3] On the other hand, Dr. Weber was encouraged to continue his efforts to form an independent organization by other leading economists such as Professor John R. Commons, of the University of Wisconsin and Professor Henry W. Farnam of Yale University.

Dr. Weber decided to call the various parties together and let them make the final decision. Accordingly,

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3 Letter from Frank W. Taussig to Adna F. Weber, October 12, 1905, Andrews Collection.

he sent invitations signed by four other correspondents of the International Association[4] to the members of the Council of the American Economic Association and others to join in a discussion of the matter at Baltimore, late in December.

According to Dr. Weber, "some twenty or thirty persons" met at the close of the morning session of the American Economic Association on December 27, 1905, for the purpose of deciding whether or not to organize a separate Association to function as the American branch of the International Association for Labor Legislation. The meeting was called to order by Professor Farnam, and in response to his motion, Professor Taussig was made Chairman of the meeting. After some discussion, it was decided that "steps /should/ be taken to from a branch of the International Association for Labor Legislation." The Chairman was instructed to appoint a committee of five, with Dr. Weber as chairman, to make the necessary preliminary arrangements for such an organization. Others appointed to the committee were, Clinton R. Woodruff and Professors Henry Farnam of Yale; Henry R. Seager of Columbia; and, Richard T. Ely of the University

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4 Henry W. Farnam, Yale University; J. W. Jenks, Cornell University; John DeWitt Warner, New York City; and Clinton Roger Woodruff, Philadelphia.

of Wisconsin.[5]

The committee drew up a constitution and by-laws and called a meeting in New York on February 15, 1906. The following twenty-one charter members were among those present to officially launch the American Association for Labor Legislation:[6]

Kate Bond
Alfred Boulton
John F. Busche
Edward T. Devine
Richard T. Ely
Henry W. Farnam
Robert Hunter
Alvin S. Johnson
Harriette A. Keyser
John Brooks Leavitt
Owen R. Lovejoy
Helen Marot
Francis J. C. Moran
Bertha A. Rosenfeld
Harriet Seager
Mary K. Simkhovitch
Charles Sprague Smith
Mary Van Kleeck
Adna F. Weber
H. B. Woolston
Samuel McCune Lindsay

The constitution adopted by the newly formed Association declared its purposes to be that of:

1. Serving as the American branch of the International Association for Labor Legislation.

2. Promoting the uniformity of labor legislation in the United States.

3. Encouraging the study of labor legislation.[7]

It should be noted that nothing in this statement of purpose committed the Association in any way to the

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5 Dr. Adna F. Weber, "Minutes of the Baltimore Meeting," December 27, 1905, Andrews Collection.

6 American Labor Legislation Review, December, 1914, p. 512.

7 American Association for Labor Legislation, Proceedings of the First Annual Meeting, 1907, p. 36.

promotion of labor legislation. This was in harmony with the point of view indicated a number of times in the correspondence concerning the function of the proposed organization.[8]

The constitution provided that the policy making and administrative functions of the Association were to be split between three groups: the General Administrative Council; the Executive Committee; and the General Officers.

The General Administrative Council was to be composed of the officers of the Association and not less than twenty-five or more than one hundred members. It was authorized to fill vacancies in its own ranks and in the list of officers; to appoint the Executive Committee from its own members; to frame by-laws not inconsistent with the constitution; to choose delegates to the International Association; and to conduct the business and direct the expenditures of the Association.[9]

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8 A statement by Henry W. Farnam in a letter to Dr. Adna F. Weber, October 30, 1905 was typical: "My understanding is that the chief function of the various branches of the International Association is to supply funds to support the publications, not necessarily to agitate in order to bring about practical results." Andrews Collection.

9 Many well known people served on this Council. Among them were: Louis Brandeis, Florence Kelly, Woodrow Wilson, Samuel Gompers, Owen Lovejoy, John Mitchell, Felix Frankfurter, Alexander Lambert, Jane Addams, Bernard Baruch, Edwin Witte, Paul Douglas, Gerard Swope, John G. Winant, Edward A. Filene, Royal Meeker and Alice Hamilton.

The Executive Committee was empowered to administer the affairs of the Association, arrange programs, institute and direct investigations and promote publicity of the policies and recommendations of the Association through its publications and meetings. Its membership consisted of the officers of the Association and three or more other members selected by the General Administrative Council.

The General Officers directly responsible for conducting the day-to-day affairs of the Association were the president, vice-presidents, secretary and treasurer. As a practical matter by far the most important single officer of the Association turned out to be the secretary. Within a short time after it was formed, it employed a full-time secretary who assumed the prodigious job of operating the central headquarters and directing the far-flung operations of the Association.

Brief History of the Organization

The Association played an active role in the struggle for protective labor legislation in America from 1906 to 1943. It did not officially disband until 1945, but it was inactive during the last two years of its existence.

During its thirty-seven years of active life the

Association had twelve different presidents, three secretaries and seven treasurers. Three of the twelve presidents were leading businessmen; seven were economists and the remaining two were law school professors.

Academicians served the Association in the capacity of president during two-thirds of its life; businessmen held the office during the remaining time. The nine presidents from academic life came from four institutions; Columbia, Yale, Princeton and the University of Wisconsin. Columbia University most commonly supplied the president of the Association. Five of the nine presidents came from Columbia, serving for a total of eighteen years; two came from Yale, serving a total of four years; one came from Wisconsin, serving two years; and one came from Princeton, serving for one year. Listed below are the presidents and the years which they served the Association:

Richard T. Ely (1906-1907)
Henry W. Farnam (1908-1910)
Henry R. Seager (1911-1912)
William F. Willoughby (1913)
Henry R. Seager (1914-1915)
Irving Fisher (1916-1917)
Samuel Lindsay (1917-1919)
Thomas Chadbourne (1920-1926)
Sam Lewisohn (1927-1928)
Thomas Parkinson (1929)
Joseph Chamberlain (1930)
Ernest Draper (1931-1933)
Leo Wolman (1934)
Joseph Chamberlain (1935-1945)

The first two of the three secretaries of the Association served only four years and performed the

duties of the office without remuneration. The third was employed on a full-time basis and held the office for thirty-three years. To the University of Wisconsin belongs the credit for furnishing the Association with its secretaries who played a decisive role in shaping and executing its decisions. The secretaries and the years in which they held office were:

Adna F. Weber (1906-1907)[10]
John R. Commons (1908-1909)
John B. Andrews (1910-1942)

The office of treasurer was awarded to well-to-do members who could provide useful financial advice and also assist in raising the funds necessary to meet the expenses of the Association. The following men served as treasurer in the years indicated:

Isaac N. Seligman (1906-1907)
L. S. Hanks (1908-1909)
V. Everit Macy (1910-1913)
Adolph Lewisohn (1914-1926)
Otto Mallery (1927-1933)
Eustice Seligman (1934-1939)
Leonard Hatch (1940-1945)

Professor Richard T. Ely, of the University of Wisconsin, was elected President and Dr. Adna F. Weber was made Secretary at the organizational meeting of the

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10 Dr. Weber resigned shortly before his second year as secretary was completed. Dr. R. C. McCrea served as temporary secretary until the first annual meeting of the Association, in Madison, Wisconsin during the last week in December, 1907.

Association in 1906. Temporary headquarters were set up in Albany, New York, where Dr. Weber was employed. By the end of the first year, the membership had climbed from twenty-one to one hundred sixty-five members. One year later, at the first annual meeting in Madison, Wisconsin, the Secretary was able to report to the Association that the total membership had increased by only thirty-six members. The leaders of the Association were apparently so concerned about the problem of getting the organization established that it was otherwise "comparatively inactive" during these two years.[11]

At the Madison meeting, the constitution was amended to permit the organization of state sections to meet the special needs of the states. This action seemed to suggest that a fundamental change was taking place concerning the function of the Association. While the state sections were not authorized to initiate and campaign for legislation, they were not specifically forbidden to engage in such activities. The subsequent history of these sections reveals that they were considerably more inclined to extend the scope of their work to the promotion of labor legislation than the parent organization.

A new slate of officers was elected at the first

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11 American Labor Legislation Review, December, 1914, p. 512.

annual meeting. Professor Henry Farnam, of Yale, replaced Professor Ely. Professor John R. Commons of the University of Wisconsin replaced Dr. R. C. McCrea who had accepted the job of Secretary on a temporary basis, following the resignation of Dr. Weber on October 26, 1907 to accept a position with the Public Service Commission in New York City.

During the Farnam-Commons administration (1907-1909) the Association made rapid progress. It experienced the most phenomenal rate of growth of its entire history. Its total membership increased from 201 to 903 members. Early in 1908 it began to make more adequate provision for arousing wider interest in labor legislation by arranging for the publication of a monthly summary of the leading developments in the field in Charities and Commons.[12] It also began to take the first steps toward laying a broad foundation for future action by collecting and classifying all labor legislation and judicial decisions which were in force at that time. Finally, and perhaps of greater significance, Professor Commons selected and trained the two individuals who were destined to lead the Association during the next thirty-three years. Early in 1908 he arranged to have one of

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12 Later The Survey.

his students, Irene Osgood, devote her full time to the job of Assistant Secretary of the Association. Approximately a year later, he began to transfer the duties of his office to John B. Andrews, who had just been awarded his Ph.D. degree by the University of Wisconsin and whom Commons regarded as one of his most promising students.[13] Andrews was given the title of Executive Secretary and worked under the direction of Professor Commons until the end of the year. In December, 1909, he was made Secretary of the Association; a job which he held with distinction until his death early in 1943. Miss Osgood, who shortly became Mrs. John B. Andrews, served equally well as Assistant and then Associate Secretary to the Association until it dissolved in 1945.

The first state sections were organized during the Farnam-Commons administration. The Illinois section was formed in 1908 and the Minnesota and New York sections

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13 Professor Commons wanted to resign and turn the job over to Dr. Andrews immediately, but this idea was vetoed by President Farnam in a letter dated, February 18, 1909, (Andrews Collection): "Your idea of resigning and letting Mr. Andrews take your place does not strike me at all favorably. It would, I think, only create confusion in the public mind to have you disappear from the secretary-ship, and we need your name very much. I am quite willing to give him the title executive secretary and think it would be much better to let him try what he can do under you for the rest of the year and then if you insist on withdrawing, let him take your place." (This letter was called to the attention of the writer by Richard M. Lyon, Cornell University.)

were established in 1909. These sections within a short time began agitating for state legislation in those areas where the need seemed greatest.

At the close of his two years of service, Professor Commons advised President Farnam of two major conclusions he had reached with respect to the future course which the Association should follow. In the first place he indicated his belief that, "the work of the organization had proceeded to the point where the Association is prepared to devote itself more intensively to the work of investigation and information." In the second place he urged the discontinuance of the state branches:

> I think a mistake was made when two years ago the constitution was amended so as to provide for state branches. I believe these branches will necessarily hold the attention of the secretary to the work of organization and administration, if they are to be made effective, and this will be less useful than if his attention were mainly given to furnishing the scientific information needed by other organizations.
>
> I can only say that my two years' experience strongly urges me to advise that the organization of state branches be discontinued, and that the Association resolve itself into a scientific bureau to aid other associations in promoting labor legislation.[14]

The Association continued its phenomenal growth in 1910 under the Farnam-Andrews administration. Its member-

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14 Letter from John R. Commons to Henry W. Farnam, December 25, 1909, Andrews Collection. Emphasis added.

ship rose to 1,788 members, which was almost double that of the previous year. Early in the year, its headquarters were moved from Madison, where it had been located since March, 1908 to New York City, where its influence could be more easily extended.

In 1910, the work of the Association was, to a large extent, devoted to the task of conducting and publishing the results of investigations of labor conditions and labor legislation. The volume of publications distributed by the Association was so great that Dr. Andrews apparently felt the necessity of explaining to one of the Massachusetts members:

> . . . we realize that we are likely to be subjected to some criticism because of the number of publications we have printed during the last ten months. /but/ The founders of this Association and those who are giving their whole time to the problem of laying a scientific foundation for future legislation in this country, believe it necessary to do this work, and we are supported in this opinion by such men as Dr. Charles McCarthy the founder of legislative reference bureaus.[15]

Quantitatively, the volume of literature which it distributed was impressive. It was estimated that approximately 164,000 copies of circulars, pamphlets and articles were distributed in the course of the year.[16] Among its more

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15 Letter from John B. Andrews to Laura A. Hughes, October 21, 1910, Andrews Collection.

16 John B. Andrews, "Report of Work for 1910," American Labor Legislation Review, January, 1911, p. 101.

important pamphlet publications were: "Labor and the Courts," "Child Labor Laws," "Proceedings of the First National Conference on Industrial Diseases," "Memorial on Industrial Diseases," "Annual Review of Labor Legislation," and a cooperative report on "Industrial Education."

A study of the correspondence indicates that the most important problem to receive consideration during the year, dealt with the question of whether or not the Association should "promote" as well as "study" labor legislation. At first, there seems to have been general agreement among the leaders that the Association should be very cautious in extending the scope of its activities. President Farnam, for example, pointed out: "The one safe attitude to take, and the most profitable in the long run, is that of progressive scientific study, and it is on that line, I believe, that we must concentrate our efforts."[17]

By the end of the year, however, President Farnam and the other members of the "high command" had shifted their position on the question. In his presidential address at the fourth annual meeting in December, 1910,

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17 Letter from Henry Farnam to John B. Andrews, March 19, 1910, Andrews Collection.

President Farnam presented the case for his view that the Association must, to an increasing extent, develop the "art of legislative mid-wifery." It was his opinion that the need for action rested chiefly on the fact that state legislation which easily amounted "to 16,000 enactments, is mainly the product of unskilled labor." He then pointed out that merely developing legislation without attempting to secure its enactment would be rather futile since "laws which are still-born are no laws at all." He concluded his case by declaring that the members of the Association "may need to be reminded, and reminded emphatically, that since the art [lobbying] has been developed in the service of private interests, those who aim at the public interest are under a peculiar obligation to study and apply its legitimate features."[18]

This basic shift in policy was incorporated in the constitution through an amendment which added to the original statement of purpose which read: "To encourage the study of labor conditions in the United States," the statement, "with a view to promoting desirable labor legislation."[19] To meet the increased expenditures

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18 Henry W. Farnam, "Practical Methods in Labor Legislation," American Labor Legislation Review, January, 1911, p. 14.

19 "Constitution of the American Association for Labor Legislation," American Labor Legislation Review, January, 1911, p. 121.

arising from an expanded program of action, the Association increased the membership dues from one dollar to three dollars per year.

Later in the same meeting, Professor Henry R. Seager, of Columbia University, was elected President of the Association. This choice proved to be an especially fortunate one. The Association was in a crucial stage of its development and it was imperative that it continue to secure competent direction if its objectives were to be realized. Professor Seager was admirably fitted to assume this task. His deep interest, long experience and sound judgement had established him as one of the most respected pioneers in the field of social legislation. At the first annual meeting he had established himself as one of the leading thinkers of the group by presenting the outline of a program of protective legislation which perhaps unconsciously became the "life-pattern" of the Association.[20]

Professor Seager held the Presidency for four terms, extending from 1911 to 1915. His terms in office were interrupted in 1913, at which time Professor Willoughby, of Princeton University was elected and served for one year.

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20 Richard M. Lyon, "The American Association for Labor Legislation and the Fight for Workmen's Compensation Laws 1906-1942," (unpublished Master's thesis, Cornell University, 1952) p. 44.

This five year period was one of the most important in the history of the organization. The broad outline of its legislative objectives was fixed; its organization was stabilized; and it was one of the most fruitful periods in terms of legislative results which the Association ever realized.

During this period, the membership of the Association was doubled and reached its lifetime peak of 5,348 members in 1913. Thereafter it dropped to approximately 5,000 members, around which it fluctuated slightly until 1932. Its annual expenditures, reflecting the scale of its activity, increased from approximately $16,000 in 1910 to $52,000 in 1932. Its expenditures remained at about this level until 1919.

Throughout this period, the Association arrived at a clearer conception of the problems it intended to tackle and the major remedial legislation which it intended to promote. It also began a practice, which it continued throughout the remainder of its existence, of selecting a limited number of problems and legislative proposals on which to concentrate in any one year. During the first two years, its work for industrial disease and industrial accident legislation was given special emphasis. In 1913 it continued to stress workmen's compensation, but gave considerable prominence to the more advanced developments

in labor law administration. During 1914 and 1915 it concentrated its work on the problem of unemployment and began to lay the foundation for health insurance legislation.

At the outset of the period, the Association began to place its educational work on a somewhat more systematic basis. In January, 1911, it started publishing a quarterly bulletin entitled, American Labor Legislation Review.[21] This bulletin was prepared and distributed until 1942 and furnishes perhaps the best single source of information concerning the development of protective labor legislation in America. In addition to the Review, numerous pamphlets and circulars were given wide circulation. In 1911 a special auxiliary committee was set up to deal with the problem of unemployment. This organization was formally designated as the American Section of the International Association on Unemployment. It was especially active in helping to facilitate the early activities of the Association in the field of unemployment. In 1913 a Committee on Social Insurance was created to determine the policies and direct the activities of the Association with respect to all social insurance legislation. This Committee played a major role in

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21 Hereafter referred to as the Review.

the health insurance and workmen's compensation campaign that followed.

Professor Irving Fisher of Yale University served as President of the Association in 1916 and 1917 and Professor Samuel McCune Lindsay of Columbia University held the office during the remaining two years of the next four year period. During most of the period, the Association concentrated its efforts on the task of initiating and directing the first health insurance movement in the United States. In the latter part of the period, some attention was given to legislation authorizing the creation of public employment offices and vocational rehabilitation, but it was of secondary importance.

During the twenties, the Association selected businessmen who had accumulated considerable wealth to serve as its officers. Thomas Chadbourne, a Wall Street financier held the office of President from 1920 to 1927. Adolph Lewisohn, a wealthy copper mine owner, was Treasurer during this time. In 1927 his son, Sam A. Lewisohn was elected President and Otto Mallery a retired business man was made Treasurer. Sam Lewisohn served as President for two years, while Mallery continued in office until 1934.

The annual expenditures of the Association were around forty thousand dollars from 1920 to 1927. In 1928 the receipts and expenditures rose to a new high of $48,567.

To a large extent the activities of the Association during the twenties were limited to the campaign to secure enactment of legislation to prevent or minimize the effect of industrial accidents and unemployment. Its efforts to secure unemployment legislation were stimulated by the sharp rise in unemployment in 1920-1921. The return of prosperity occurred so quickly, however, that the various legislative proposals which it had prepared to cope with the problem failed to receive serious consideration. On the other hand, the Association's efforts to secure improved industrial accident legislation was more prolonged and intense and consequently more productive. It conducted vigorous campaigns to extend workmen's compensation to federal employees; longshoremen and other harbor employees; and to the southern states which had lagged behind the rest of the states in enacting this legislation. It worked briefly, but effectively to secure federal-state legislation to provide rehabilitation for industrial cripples. It also served as the instrument whereby a retired mining engineer focused national attention on coal mine explosions and it took the leadership in campaigning for both public and private action to secure rock dusting of the mines to prevent such explosions.

In the six year interval 1929-1934, the Association had four different presidents. In 1929, Thomas Parkinson,

of Columbia University Law School and later an insurance executive, served as President. The following year, Joseph Chamberlain, of the Columbia University Law School and one of the most influential members of the Association throughout most of its existence, held the office. The President for the next three years was Ernest Draper, one of the nation's leading businessmen; Dr. Leo Wolman, Professor of Economics at Columbia University held the office in 1934.

During this six year period, the Association spent the major portion of its resources to secure unemployment legislation. It worked for advanced planning of public works, a federal-state system of public employment offices and most importantly unemployment insurance.

The membership of the Association increased slightly and the expenditures rose to an all-time high during the first two years of the depression. In 1932, however, both membership and income began to reflect the adverse influence of the depression. Membership declined from 3,206 members in 1931 to 2,654 in 1932. Expenditures dropped from the 1931 peak of $52,221 to $41,007. As the depression wore on, both membership and income dropped so sharply that the Association was forced to reduce its staff and cut its educational and legislative activities to the barest minimum.

Joseph Chamberlain was President during the last eight years in which the Association was active. During this time no further projects of major importance were undertaken. This lack of aggressiveness was due in large part to the shortage of funds, but also to the fact that the "major objectives of the Association had all been accomplished except health insurance."[22] Even the task of improving and extending the scope and coverage of the legislation which had been enacted was, for the most part, left to governmental agencies, labor unions and to various private groups. The Association limited its work to protecting the gains which it had helped secure and to calling attention to those problems in the greatest need of legislative action.

In 1943 the Association ceased its activities in behalf of legislation, but it did not officially disband until 1945.[23] The decision to dissolve the organization was primarily due to the death of Secretary Andrews. For thirty-three years he had furnished the leadership and the momentum which had enabled it to play such a positive role in securing the enactment of social legislation in

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22 Letter to the writer from Mrs. John B. Andrews, April 22, 1953.

23 Loc. cit.

America. The contribution which he made to the Association was so vital that his death dealt a fatal blow to the organization itself.

Methods
Investigation, Education, Legislation

The founders of the Association believed that a full knowledge of the facts was a necessary foundation on which to develop scientific labor legislation. Accordingly, it spent much of its resources throughout its existence on the task of accumulating and interpreting the facts relevant to its legislative proposals. The work of the Association during its first five years was almost exclusively devoted to the preparation of studies in many fields, with a view to laying a broad foundation for future legislation. Thereafter, its work was limited, for the most part, to specific studies for specific legislation.

Investigation

Its first studies were intended to find out what legislation had been enacted for the protection of industrial workers by both state and national governments.[24]

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24 Typical of such summaries was that prepared by Maud Swett, statistical clerk in the Wisconsin Bureau of Labor and Industrial Statistics, and Miss Ruth White of the University of Wisconsin Graduate School under the direction of Professor Commons. This study was entitled, "Comfort, Health and Safety in Factories," and was published in the American Labor Legislation Review, June, 1909, pp. 6-101.

Through such summaries, it hoped to avoid the passage of unnecessary legislation and to discover those areas in which the workers had no adequate legal remedy. It also prepared and published careful studies of foreign legislation so that other experience might be made readily available to those responsible for the formulation and enactment of legislation.

Upon the completion of these studies, the Association turned to an investigation of the economic, industrial and medical facts relevant to those conditions of employment which appeared to require legislative action.

These investigations and others which invariably preceded its legislative proposals served a twofold purpose. In the first place, they permitted the Association to make more intelligent recommendations. In the second place, they provided an indispensable source of information for use in the educational campaigns which the Association conducted for the purpose of developing sufficient support to secure enactment of its legislative proposals.

Education

Perhaps the best statement of the importance which the Association attached to its educational work was formulated in 1915:

> The educational work of the Association is one of its most important and far-reaching functions. The Association feels strongly that legislation is effective

> only when backed by a public opinion that will demand enforcement. For this reason advantage has never been taken of opporutnities to "slip bills over," and action has never been desired except in the full light of day. This policy naturally makes our educational work of the highest importance.[25]

A variety of means were used to enlighten public opinion and arouse a demand for legislative action.

Press Service. The Association made extensive use of the newspapers of the country to promote its objectives. Its staff regularly prepared and sent out articles, background information for editorials and announcements to more than a thousand newspapers, magazines and labor papers throughout the country. This outlet proved especially effective when the Association was engaged in an intensive campaign for specific legislation. An examination of its newspaper clippings reveals that the Association received an enormous amount of publicity for its program through this medium.

Public Addresses. Dr. Andrews was a very effective speaker and, therefore, was in great demand for lectures and speeches on various aspects of the work of the Association. Other members of the staff and prominent members of the Association were also called upon to speak in behalf of protective labor legislation to groups with

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25 John B. Andrews, "Outline of Work for 1914," American Labor Legislation Review, March, 1915, p. 155. Emphasis added.

widely different points of view. Equally significant, were the appearances of Dr. Andrews and other members of the staff and members of the Association, on numerous occasions, before legislative committees and public commissions in behalf of specific legislative proposals which it was supporting.

Conferences. The Association used national conferences to stimulate interest in many of the problems which it sought to remedy. They were attended by people from all parts of the country representing such diverse groups as employers, unions, government officials, doctors, engineers and social workers. The conferences were often held in conjunction with the annual meeting of the Association in order that its membership might participate in the proceedings. The program generally consisted of papers read by the leading authorities on the subject under consideration. The proceedings of these conferences were, as a rule, reproduced and widely distributed to those unable to attend.

Information Service. As knowledge of the work of the Association spread, it received more and more inquiries and requests for information from members as well as non-members concerning a multitude of questions regarding labor conditions and labor legislation. In order to satisfy these demands the Association maintained a reference

library which contained one of the best collections of bills, books, pamphlets and newspaper clippings which had been assembled on the subject.

Publications and Communications. The principal medium through which the Association made available the work of its staff and others on various aspects of social legislation was through its quarterly Review. This valuable publication was first published in 1911 and continued each year through 1942. Upon the occasion of the twenty-fifth anniversary of the Review, the Association received many messages indicating the high esteem in which the publication was held. For example, Charles Beard, Professor of Political Science and History at Yale, said "I have found it indispensable in trying to keep up with the developments of social legislation in the United States."[26] Spencer Miller, Director of Workers Education Bureau of America, wrote, "the American Labor Legislation Review has provided a medium for articulating public thought and policy and constructive public action."[27] Belle Sherwin, former President of the National League of Women's Voters, said "the American Labor Legislation Review has been a

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26 American Labor Legislation Review, December, 1935, p. 149.

27 Ibid., p. 150.

guide, a philosopher and friend at my elbow and has proven indispensable to the undertakings in social legislation in which I have shared."[28] Leonard Hatch, former member of the New York State Industrial Commission, wrote that the Review had "rendered notable and unique service in the stimulation of progressive labor laws and especially in affording sympathetic but scientific aid to both public and private agencies toward the soundest formulation of such laws."[29] John A. Ryan, of the National Catholic Welfare Council, concluded that the record of legislation of the preceding twenty-five years would "have been considerably poorer without the powerful contribution made by the Review."[30]

In addition to the Review, the Association published pamphlets, leaflets and reprints of magazine articles and editorials in large quantities for the use of its members and others interested in liberal social legislation.

Legislation

An examination of the Association's interest in labor legislation reveals that it was motivated by two

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28 Ibid., p. 150.

29 Ibid., p. 152.

30 Ibid., p. 154.

objectives. The nature of these objectives determined, to a considerable extent, the methods which it used to accomplish them. Its first objective as stated in the Constitution was "To promote uniformity of labor legislation in the United States." The first step in such an endeavor involved a determination of the most desirable provisions which should be included in the law under consideration. This was secured through studies by staff members and conferences with experts and with the various parties affected by the proposed law. If it was a major proposal, the Association printed and distributed its recommendations as a basis for discussion. If the proposal withstood this analysis it was then put in the form of a bill and sent to the appropriate legislature for enactment.

The second objective arose out of the first. It was generally recognized quite early that much of the legislation intended to protect the worker failed because it was the product of "unskilled labor."[31] To remedy this defect, the Association employed "skilled labor" to draft its legislative proposals. It utilized the Columbia University Legislative Drafting Research Fund under the direction of Professor Joseph Chamberlain for this

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31 Henry W. Farnam, "Practical Methods in Labor Legislation," American Labor Legislation Review, January, 1911, p. 7.

technical work. As a result, the work of the Association was much more effective because the legislation which it recommended was more likely to achieve its objectives.

After its legislative proposals had been introduced in the appropriate legislature, the Association as a rule waged a vigorous fight for its enactment. A variety of techiques were used in these campaigns. Sometimes it wrote directly to legislators and at other times it wrote to the legislator's constitutents to bring pressure on him to support the proposed legislation. It's staff members frequently made speeches and sent out large quantities of literature to create a demand for legislation. In some of its campaigns, Dr. Andrews or other members of the staff spent considerable time working with the legislators to directly apply pressure at the right points to keep the legislation under consideration moving toward enactment. In these activities the Association acted as a lobbyist, but it was lobbying for what it considered to be the "general welfare."

Major Legislative Accomplishments

A brief summary of the major legislative accomplishments will now be presented to give the reader a preview of the material which will be treated in greater detail in the subsequent chapters of this study.

Industrial Disease Legislation

1. Drafted and was largely responsible for the adoption of industrial disease reporting legislation in the leading industrial states.

2. Drafted and secured adoption of the "phossy jaw" bill, which is the only federal bill which has been enacted to prohibit the use of an industrial substance to protect the health of industrial workers.

3. Prepared model bills to regulate the conditions of work in such a way as to prevent or minimize lead poisoning, and compressed air illness. State legislation based on these bills was enacted in a number of states and, in addition, they were used extensively by the Industrial Commissions in formulating rules to make the conditions of work "safe" in these occupations.

4. Agitated, with partial success, for extension of workmen's compensation legislation to the victims of industrial diseases.

Industrial Accident Legislation

1. Initiated and provided the chief impetus for accident reporting legislation in the United States between 1911-1915. During this period the Association's model law was adopted in whole or in part by states containing more than one-half of the manufacturing population of the nation.

2. Aroused sufficient interest in preventing coal mine explosions to secure legislation requiring rock dusting in some states and voluntary installation by many coal mine owners in others.

3. Played a major role in securing the adoption of workmen's compensation legislation by all of the states except Mississippi.

4. Drafted and was primarily responsible for securing enactment of workmen's compensation for the following workers under Federal jurisdiction: the Federal employees in 1916; the Longshoremen in 1929; and the private employees in the District of Columbia in 1928.

5. Played a key role in the campaign which resulted

in the passage of a bill which provided for the creation of a federal-state system of vocational rehabilitation for eligible industrial cripples.

Health Insurance

Largely responsible for the first health insurance movement in America. Drafted the first American health insurance bill, but failed to secure its passage by national and state legislatures.

Unemployment

1. Helped to secure state legislation designed to regulate the activities of fee-charging employment agencies.

2. Participated in the movement which resulted in the passage of an act by Congress in 1933 which authorized the establishment of a system of federal-state employment offices.

3. Sponsored the campaigns which resulted in the enactment of advance-planning legislation by Congress in 1931.

4. Initiated and maintained interest in unemployment insurance legislation until a bill providing for a federal-state system of compensation was passed by Congress in 1935.

Miscellaneous Legislation

1. Contributed to the educational campaigns which resulted in the passage of legislation promoting maternity care and limiting the hours and establishing minimum wages for working women.

2. Led the movement which resulted in passage of one-day-of-rest-in-seven legislation in a small number of states.

3. Participated in the movement which led to the passage of old age benefit legislation, first by the states and then by the federal government.

4. Contributed significantly to the improvement of labor law administration in America.

Helps and Hindrances

Helpful Influences

The Association's brilliant record of accomplishments may be attributed to an unusual conbination of circumstances; one of which was the fact that it was extremely fortunate in being able to select its leaders from some of the most distinguished social philosophers, reformers and pioneers in social legislation that this nation has produced. Such men as Henry Farnam, John R. Commons, I. M. Rubinow, Samuel McCune Lindsay, Henry Seager, William Willoughby, Irving Fisher, Joseph Chamberlain, Otto Mallery, Edwin E. Witte, Paul Douglas, Alice Hamilton, Alexander Lambert and John B. Andrews have gained stature as their accomplishments in the field of social legislation are viewed in historical perspective. To a great extent, the successes of the Association were due to these men because they determined the objectives, plotted the course and decided upon the methods which it used to accomplish its objectives.

Even more important was the fact that for thirty-three years the Association possessed two of the most dedicated and astute crusaders for the general welfare that have crossed the American scene. John and Irene Andrews were uniquely fitted for the job of securing maximum results for the organization which they served. Dr.

Andrews was ideally suited for the job of securing practical results in a field requiring unusual skill and judgement. To a high degree he combined the qualities of the intellectual and the practical politician, both of which were necessary for the job to be done. His training at the University of Wisconsin prepared him well for his work. From Professor Commons he gained the insight and historical perspective which made it possible for him to understand and deal intelligently with the institutions in the American environment. This training alone, however, was not enough. Much of his success was due to the qualities of his personality which enable him to persuade leaders in all walks of life to support the Association in its fight for liberal labor legislation. There can be no doubt that the Association would have been a far less effective instrument for the promotion of protective labor legislation without the unusually fine leadership provided by John and Irene Andrews.

A further source of strength was the financial support and frequently the enthusiastic participation in the activities of the Association by employers, labor leaders and governmental officials. Large contributions were received by the Association from such philanthropic organizations as the Russell Sage Foundation, Carnegie Foundation and the Milbank Fund; such businessmen as John D.

Rockefeller, Thomas W. Lamont, Julius Rosenwald, R. J. Caldwell and Felix Warburg; and such philanthropists as Mrs. Dorothy Douglas, Mrs. Leonard Elmhirst and John Randolph Haynes. Other businessmen such as Morris Leeds, Ernest Draper, Henry Dennison, Thomas Chadbourne, V. Everit Macy and Sam and Adolph Lewisohn contributed both time and money to advance the work of the Association. While representatives of organized labor played a relatively minor role in determining the policies of the Association, it usually endorsed and fought for the legislative proposals recommended by the Association.

Finally, it should be noted that the work of other social welfare organizations made the educational work of the Association somewhat less difficult. Among the more important of these organizations were: the National Consumers' League; the National Child Labor Committee; the Russell Sage Foundation; the National Conference on Social Work; and the Survey Associates, publisher of the Survey magazine.

Hindrances

In spite of these favorable influences, the Association was forced to overcome what seemed insurmountable odds to achieve many of its victories.

As a general rule its legislative recommendations were received either with outright hostility or positive

indifference. Many people believed them to be out of harmony with some of the fundamental institutions of a capitalistic system. The legislation it advocated was often held to be dangerous, because it was believed that it would undermine individual responsibility and, hence, the entire system of economic individualism. This theme was developed with many variations by those who were most likely to be adversely affected by the enactment of its legislative proposals. The most vigorous and well organized opposition came from employers who objected to paying a part or all of the additional cost arising out of the proposed legislation; from the medical profession, which objected to its health insurance plan; and from the casualty insurance companies and damage suit lawyers, who feared a reduction in business if the Association's workmen's compensation and health insurance proposals were adopted.

The inertia and indifference which the Association faced made its job doubly difficult. These attitudes were largely due to the lack of information and to the traditional conservatism which characterized the economic philosophy of most groups in the American environment. For this reason the wheels of progress ground slowly. It was necessary to conduct long and expensive educational campaigns before legislative enactment of the Association's

recommendations became a possibility.

The structure of the American system of government constituted another serious barrier to legislative progress. The desire to retain existing industries and attract new ones was a powerful deterrent to the passage of new labor legislation by individual states. The fear of losing industry to another state, which did not require labor conditions involving additional expense, seriously handicapped the Association's ability to gain consideration of its proposals. An additional problem arose from the fact that it was necessary to fight the same battle forty-eight times at the state level and perhaps one or more times in Congress, in order to extend the same protection to all workers. The sheer magnitude of this job was such that it discouraged an organization with limited resources, such as the Association, from entertaining hope of realizing its objectives completely.

Finally, one of the most serious problems which the Association faced arose from within the organization itself. In the early years when the purpose of the Association was necessarily stated in rather broad terms it attracted a cosmopolitan group of members. As the details of its objectives were worked out, some of the members found themselves in conflict with the policies of the Association. When this happened it sometimes lost some

of its most influential members. These disturbances were simply the outward manifestations of a fundamental conflict of interests between the diverse groups represented in its membership. At times this conflict limited complete freedom of action because there was always the danger that positive action would offend an important segment of its membership and thus, seriously weaken the Association's total effort.

Scope and Purpose of the Study

Many influences contributed to the movement which secured acceptance of social responsibility for the welfare of the workers in America during the first half of the twentieth century. One of the most important was the American Association for Labor Legislation. This study is intended to provide the first major account of the activities of this organization in behalf of the passage of social security and protective labor legislation. It should be noted that the Association also played an important role in the administration and enforcement of labor legislation, but no attempt has been made to give a detailed account of these activities in this study. Some attention has been given to other forces which also contributed to the movement for legislation to protect the welfare of the workers, but for the most part

the spotlight is kept focused on the work of the Association.

Chapter II is devoted to the work of the Association in the interest of Industrial Disease legislation.

Chapters III and IV describe the activities of the Association in behalf of Industrial Accident legislation. These activities were intended to secure passage of four types of legislation: (1) Reporting; (2) Safety Regulations; (3) Workmen's Compensation; and (4) Vocational Rehabilitation.

In Chapter V the highlights of the Association's most interesting, but unsuccessful health insurance campaign are described.

Chapter VI is intended to provide a summary of the work of the Association in behalf of Unemployment legislation.

A wide range of other legislative activities are described in Chapter VII. These include: (1) Women's Work; (2) Old Age Pensions; (3) One Day of Rest in Seven; and (4) Administration.

CHAPTER II

INDUSTRIAL DISEASE

From the standpoint of the worker the innovations of the Industrial Revolution proved to be a mixed blessing. On one hand he enjoyed a higher standard of living than in the past, but on the other the changed conditions of work frequently impaired his health to such an extent that it became impossible for him to earn a livelihood. Some of the most frequent causes or conditions of work which were followed by more or less extended incapacity have been classified as follows: (1) dangerous gases, acids and dusts (poisonous and non-poisonous); (2) harmful bacteria and microorganism; (3) compressed or rarefied atmospheres; (4) improper lighting; (5) extremes of temperature and humidity; and (6) excessive strain.[1] According to Commons and Andrews these conditions have taken "a toll of life and human suffering comparable with the world's great battles."[2]

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1 John R. Commons and John B. Andrews, Principles of Labor Legislation, 1936, pp. 165-166.

2 John R. Commons and John B. Andrews, Principles of Labor Legislation, 1920, p. 330.

Early Interest in Legislation

England, France and Germany were the first countries to become aware of the seriousness of this problem and to enact legislation to minimize it. In the latter half of the nineteenth century, an enlightened and progressive medical profession cooperated with humanitarian legislators or benevolent autocrats to bring about extensive national legislation in these countries to protect the workers from the diseases arising from the new industrial processes. Other European countries quickly realized the desirability of this legislation and took similar action.

As the nineteenth century drew to a close the International Association for Labor Legislation and its various national sections were established to unify and direct the national movements for more adequate protective labor legislation in Western Europe. Because of its great importance, this Association gave special attention to the problem of industrial diseases. At its first meeting in 1901, for example, this International Association focused world attention on phosphorus poisoning, one of the most deadly of all industrial diseases. As a result of its early investigations, this Association drafted an international agreement to prohibit the use of white phosphorus in the manufacture

of matches. By 1906 this agreement had been signed by the leading countries of Europe.

During the late nineteenth century the American like the European industrial system underwent great expansion, but in contrast to European countries there was in America a general unwillingness to accept social responsibility for the protection of the health of industrial workers. At the turn of the century a prominent European observer when asked about the measures in force in the United States to protect the workers from industrial diseases, replied, "But it is well known that there is no industrial hygiene in the United States. Ca n'existe pas."[3] The accuracy of this observation was substantiated in 1910 by an American observer who said, "The whole subject of occupational disease is rather new in this country, and broadly speaking no very serious effects of industry have generally been observed, except in the case of a comparatively small number of particular trades."[4] Another commented, "For many years it has been our shame that in this

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3 Alice Hamilton in: Ludwig Teleky, History of Factory and Mine Hygiene, 1948, p. vii.

4 Frederick L. Hoffman, "Problem and Extent of Industrial Diseases," Publication No. 10, American Association for Labor Legislation, 1910, p. 35.

field [industrial diseases] we have lagged far behind some of the countries of Europe. Our scandalous disregard for the safety and health of workers is widely known."[5]

One of the chief reasons for the failure of the United States to keep pace with the European countries was the lack of interest in the problem of industrial diseases within the medical profession. In the nineteen twenties Dr. Alice Hamilton looked back on this early period and wrote, "It is impossible to believe . . . American physicians could have been so ignorant about the whole subject of occupational diseases as we actually were. We knew little and cared less. Indeed the whole subject was not quite respectable in the eyes of the profession; it was felt to carry a flavor of sentimentality, if not of socialism . . ."[6] In view of this attitude it is not surprising that one prominent writer commented in 1912 that, "It is unfortunate for research in the field of American industrial hygiene that most of the textbooks descriptive of industrial or manufacturing processes should be by foreign author-

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5 John B. Andrews, "Legal Protection for Workmen in Unhealthful Trades," American Labor Legislation Review, May, 1912, p. 362.

6 Alice Hamilton, "Nineteen Years in the Poisonous Trades," Harpers Magazine, October, 1929, p. 580.

ities, just as is the case with regard to textbooks on occupational diseases."[7]

It is significant that the first attempt to prevent occupational diseases in America did not come from the medical profession, but from that group of humanitarians who in 1906 organized the American section of the International Association for Labor Legislation. Following the lead of their European counterparts these pioneers gave top priority to the campaign for legislation to prevent industrial diseases. Their plan of action followed much the same pattern which had produced the desired results in Europe. The campaign was set in motion with an investigation of the nature, cause and extent of industrial diseases, followed by wide dissemination of the facts and climaxed by the drafting of specific bills for remedial action and bringing pressure to bear on legislatures for their enactment.

The Campaign for an Awakening (1909-1912)

The indifference which marked America's attitude toward the protection of workers from industrial diseases prior to 1908 was due to the interaction of many forces. First, as already suggested, the members of the medical

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7 Frederick L. Hoffman, "Intensive Investigation in Industrial Hygiene," American Labor Legislation Review, May, 1912, p. 256.

profession were apathetic to the need for the prevention of industrial diseases. Second, lack of knowledge and the pressure for profits combined to divert the attention of employers from the problems of protecting the health of the workers to the problems of lowering the costs of production. Third, the spirit of laissez faire which permeated the economic climate of the times was hostile to all attempts to extend governmental action over any new sphere of economic activity. Finally, the lethargy of the general public to the menace of industrial diseases was due in large part to the lack of information concerning either the nature or extent of industrial diseases. Thus, the Association's campaign for protective legislation was launched in an environment that was either indifferent or positively hostile.

The campaign to awaken society to its responsibility for the health of industrial workers was predicated on two fundamental propositions. First, in contrast to the spirit of the times, the Association adopted the approach that the "prevention of occupational diseases is properly a function of the government."[8] Secondly, it was held that enlightened governmental action

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8 John B. Andrews in: G. M. Kober and E. R. Hayhurst, Industrial Health, 1924, p. 1002.

must be based on scientific investigation. According to Professor Henry W. Farnam, second President of the Association, this meant, ". . . applying to legislation the same study of causes, of processes, and of effects, that lie at the basis of our modern science."[9]

In view of these considerations, the first phase of the Association's work was devoted, for the most part, to the investigation of the nature, cause and extent of industrial diseases.

The second stage in the campaign was designed to educate and arouse public support for legislation. The fundamental importance of this work was recognized from the outset. An enlightened public opinion was believed to be necessary before legislation is enacted so that the best possible laws would be adopted by the legislatures. It was also believed that enlightened public opinion was also a necessary prerequisite to good labor law enforcement.[10]

In the following sections the more important activities of the Association in the fields of technical re-

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9 Henry W. Farnam, "Practical Methods in Labor Legislation," American Labor Legislation Review, January, 1911, p. 15.

10 John B. Andrews, "Report of Work 1914" American Labor Legislation Review, January, 1915, p. 155.

search, reporting and education will be surveyed in somewhat greater detail, because these were the essential elements in its campaign to awaken society to its responsibility for the protection of the health of its workers.

Technical Research

The urgent need for technical research in the field of industrial diseases was emphasized in a speech by Henry Seager, third president of the Association, before a joint session of the American Medical Association and the American Association for Labor Legislation in which he said, "the greatest present need in this field . . . /industrial disease/ . . . in the United States is undoubtedly fuller knowledge." He went on to point out that, "we need to know more accurately what are the occupational diseases to which American wage earners are exposed. We need to know the conditions which give rise to these diseases in the occupations in which they are found."[11]

In order to fill this important gap in scientific information the Association, in 1909, invited all medical bodies and colleges, all bureaus of labor boards of

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11 Henry R. Seager, "Cooperation in Promoting Industrial Hygiene," The American Labor Legislation Review, June, 1912, p. 235.

health, all philanthropic and charitable agencies and endowments to join in conducting scientific investigation of industrial hygiene.

Even though the financial resources of the Association were limited, it supported various research studies by its members and staff. It encouraged study by other groups and individuals by inviting them to present the results of their research before national conferences sponsored by the Association, or before sessions of its Annual Meetings devoted to industrial diseases. It encouraged further research by publishing and distributing the proceedings of these meetings as well as the results of special studies on the nature and cause of various industrial diseases.

Its first major study dealt with the loathsome "phossy jaw" disease which workers contracted from the use of phosphorus in the manufacture of matches. This study was started in April, 1909, by Dr. Andrews and upon completion in May, 1910, was published by the United States Department of Labor and Commerce.[12]

In June, 1910, the Association through its Commission on Industrial Hygiene called the first National

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12 John B. Andrews, "Phosphorus Poisoning in the Match Industry," United States Bureau of Labor, Bulletin No. 86, January, 1910.

Conference on Industrial Diseases. Technical papers were read by experts in many fields. These papers along with others on phosphorus poisoning and lead poisoning were later published and widely distributed.[13]

In December of the same year the Association devoted an entire session of its Annual meeting to the study of industrial diseases. Included among the papers read were those dealing with: "Lead Poisoning in Illinois," "Neurasthenia Among the Garment Workers" and "Mercurial Poisoning in New York." These papers were printed and received wide distribution in the quarterly publication of the Association.[14]

In 1911 the Association was instrumental in developing and publishing pamphlets on the "phossy jaw" disease and lead poisoning in New York. The latter report was published in a government document and widely distributed by the United States Department of Labor and Commerce.[15]

In 1912 the Association climaxed its work in this

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13 See Memorial on Industrial Diseases, Publication No. 10, American Association for Labor Legislation.

14 See American Labor Legislation Review, January, 1911.

15 John B. Andrews, "Deaths from Lead Poisoning (actually reported) in New York State in 1909 and 1910," United States Bureau of Labor, Bulletin No. 95, July, 1911.

field by calling the Second National Conference on Industrial Diseases. Interested parties along with experts from all parts of the nation met in Atlantic City to study the effect of industry on the health of the workers. Among the more important papers presented were those concerned with: "Classification of Occupational Diseases," "Compressed Air Illness," "Occupational Skin Diseases," "Occupational Eye Diseases," "Occupational Nervous and Mental Diseases" and "Lead Poisoning in New York."[16]

In 1912 the four year campaign to broaden the scope of technical knowledge of industrial diseases drew to a close. An intensive campaign by the Association for research in occupational diseases no longer seemed necessary inasmuch as other organizations such as the American Medical Association, the United States Bureau of Labor and other organizations had begun to carry forward the research program which had been set in motion by the Association. Since the resources of the Association were limited, it withdrew, except for an occasional study, from the field of technical research and turned its attention to remedial legislative action.

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16 See American Labor Legislation Review, June, 1912.

Reporting

When the Association began its campaign for compulsory reporting of industrial diseases in 1910, they were known to exist in various forms and in scattered places, but the general frequency of such diseases remained an enigma. According to one investigator, "The actual and relative extent of industrial diseases cannot be stated with even approximate accuracy at the present time."[17]

By 1911 the Association had drafted and introduced in the legislatures of eight of the leading states a bill providing for compulsory reporting of industrial diseases by the attending physician. California was the first state to enact the bill. Other states, including Connecticut, Illinois, New York, Michigan and Wisconsin passed similar bills in the same year. Within a period of less than five years, sixteen states required physicians to report industrial diseases. Nine of the sixteen states adopted the Association's standard bill and the laws passed in the remaining six states were strikingly similar to that recommended by the Association.

The coverage of the various laws was limited for

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17 Frederick L. Hoffman, "Industrial Diseases in America," American Labor Legislation Review, January, 1911, p. 35.

the most part to some of the most clearly defined and easily recognizable industrial diseases. These included anthrax, compressed air illness and poisoning from lead, phosphorus, arsenic and mercury or their compounds. The Association planned to recommend that the coverage of the laws be broadened when physicians had become more familiar with their operation and purpose.

Education

A third aspect of the Association's campaign for an awakening on the problem presented by industrial diseases was its educational program. It is not possible to compartmentalize this phase of the Association's work into any well defined period. Indeed, the education of public opinion was an important by-product of all of its work. For example, a broader understanding and appreciation of the industrial disease problem, and the need for remedial action was realized by all those individuals and groups that were encouraged to undertake research or by physicians required to report such diseases and by individuals who either conducted or attended legislative Committee hearings at which representatives of the Association testified for pending legislation. Virtually all of the Association's activities in the field of industrial hygiene served to educate some group of society as to individual and social responsibility for the health of

industrial workers. From this standpoint the ramifications of the educational work of the Association were almost without limit.

This discussion, however, will be limited to those activities in which the initial objective was educational. This included the publication and wide distribution of both technical and non-technical reports, the preparation of exhibits and the sponsorship of conferences to study the problems of industrial disease.

Conferences. The first step in the Association's industrial disease educational campaign was taken shortly after it was organized in 1908 with the creation of a special commission to give definite direction and added impetus to the movement to prevent industrial diseases. This National Commission on Industrial Hygiene, began its work by calling the first national conference in America to deal exclusively with the problems of industrial disease. This Conference was held in Chicago, June 10, 1910, and was attended by individuals from all sections of the nation. The program of the Conference included discussion of such topics as "The Importance of Industrial Diseases" and "The Problem and Extent of Industrial Diseases," as well as others of a more technical nature.[18]

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18 Publication No. 10, American Association for Labor Legislation, June, 1910.

At the close of the Conference a resolution was passed requesting the President of the American Association for Labor Legislation to appoint a committee to make a study of industrial diseases and present it to the President of the United States.[19] According to the resolution this investigation was to include:

> ". . . a memorial of facts and conclusions, emphasizing the urgent necessity and practical expediency of a national expert inquiry into the whole subject of occupational or industrial diseases, their relative degree of frequency in various trades and occupations, the causes responsible for their occurrence, and the methods desirable and practical for their prevention or diminution . . . ."[20]

Less than four months after its appointment the Committee presented its Memorial Report to the President of the United States. According to its findings approximately 285,000,000 man-days were lost in the United States each year due to illness. This represented an estimated economic loss of $773,000,000 to the nation. Assuming that one-fourth of the illness was preventable, it estimated that almost $200,000,000 could be saved to the nation annually. The Report concluded with the re-

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19 In accordance with the recommendation of the Conference, President Henry Farnam appointed the following to serve on the Committee: Dr. Henry B. Faville, Dr. David Edsall, Frederick L. Hoffman, Frederick N. Judson and Professor Charles R. Henderson.

20 Publication No. 10, American Association for Labor Legislation, June, 1910, p. 1.

commendation that a commission of experts representing preventative medicine, medical practice, sanitary engineering, industrial chemistry and applied statistics be appointed to study the problem of industrial disease with the view to making specific proposals for remedial action. This Report served to focus national attention on the menace of industrial disease, for it was published and widely circulated by the Association.[21]

To sustain the interest in industrial health which had been aroused by the Memorial Report the Association devoted a session of its Annual meeting to the problem in 1910, 1911 and 1912. The papers presented at these meetings were published in the quarterly Review, which was widely read by both members and non-members.

In 1912 the Second National Conference on Industrial Disease was held in Atlantic City under the sponsorship of the Association. This Conference was attended by practicing physicians, federal and state public health officials, medical inspectors of factories, physiologists, investigators, statisticians, manufacturers, efficiency engineers, insurance experts, labor leaders, economists and social workers. One session

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21 American Labor Legislation Review, January, 1911, p. 127.

of the Conference was held jointly with the American Medical Association which was meeting in Atlantic City at the same time. The joint meeting created such an interest in the problems of industrial health among the physicians that the American Medical Association voted to include it on its program for the first time in its sixty years of existence. Moreover, the Medical Association passed a resolution to the effect that a permanent Committee on Industrial Hygiene should be appointed to cooperate with the American Association for Labor Legislation in the prevention of industrial disease.

The appointment of a Committee on Industrial Hygiene by the American Medical Association to work with the National Commission on Industrial Hygiene in the American Association for Labor Legislation marked the beginning of a short period in which the efforts of these two organizations in the field of industrial health were closely coordinated. Dr. Andrews, Secretary of the American Association for Labor Legislation and Dr. Frederick Green, Secretary of the American Medical Association, worked together harmoniously to achieve a common objective. The two organizations collaborated in bringing together representatives of the various organizations to determine the extent of overlapping effort and to investigate the possibility of cooperation between

the participating organizations. This meeting was held April 12, 1913, at the headquarters of the American Association for Labor Legislation. A committee was appointed to investigate the possibility of a permanent organization to coordinate the efforts of its members for the protection of workers from industrial disease, but the movement died in its infancy.

Publications. Throughout its entire life the Association utilized newspapers and magazines extensively to enlighten public opinion. The most important medium which it used to get its work before a select public, however, was the American Labor Legislation Review. The Association began to publish the Review on a quarterly basis in 1911 and it soon became one of the most authentic and valuable sources of labor information in America. Aside from distribution to the regular members, who numbered approximately 3,000, the Review was in great demand by all persons interested in the problems of labor.

During the years 1911 to 1912 the Review contained many reports on the various aspects of industrial disease including the papers delivered at the Annual Meetings and the two national conferences which it sponsored.

In addition to the articles in the quarterly

Review, the Association published and distributed special leaflets and pamphlets on industrial disease at frequent intervals. The following list of pamphlets is representative of those distributed from 1909 to 1912:

March 1909-----Leaflet on industrial hygiene
May 1910-------Pamphlet on industrial diseases and occupational standards
November 1910--Appeal for clinic and hospital for industrial diseases
January 1911---Leaflet urging compulsory reporting of occupational diseases
February 1911--Leaflet on phosphorus poisoning
April 1911-----Pamphlet on industrial hygiene and physicians
November 1911--Pamphlet on protection against occupational diseases
December 1911--Leaflet on occupational disease reporting
December 1911--Leaflet on phosphorus poisoning
December 1911--Pamphlet on standard schedules for occupational disease reporting
February 1912--Leaflet on phosphorus poisoning [22]

Exhibits. In connection with the Second National Conference on Industrial Hygiene in 1912, the Association prepared the first industrial hygiene exhibit in America. This exhibit graphically demonstrated the industrial processes dangerous to health and the effect of these work hazards upon those subjected to them. Such industrial diseases as, "phossy jaw," lead poisoning, compressed air illness and numerous occupational skin and eye diseases were among those represented.

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22 American Labor Legislation Review, February, 1912, p. 165.

This exhibit was used with great effect in the Association's industrial disease legislative campaigns in Ohio, Maryland and New York in 1913. Photographs on special topics from this collection were used continuously by individuals, societies, magazines and newspapers.

Summary

By the end of 1912 the Association's campaign for an awakening to the danger of industrial diseases had been so successful that Secretary Andrews said, "There is scarcely a public meeting of importance for the discussion of any phase of the labor problem that does not include at least some mention of occupational diseases."[23]

As society awakened to its responsibility for the health of its industrial workers the Association turned to the task of opening a channel through which the sentiment for remedial action might find expression. Bills were drawn and introduced in both state and national legislatures. Finally, the Association attempted to rally the support of both members and non-members to bring sufficient pressure on the legislatures to get the bills protecting workers from industrial diseases enacted into law.

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23 John B. Andrews, "Introductory Note," American Labor Legislation Review, June, 1912, p. 180.

Legislation

An analysis of the industrial disease legislation which the Association developed indicates the flexibility of its approach to the problems requiring remedial action. In cases where the industrial process was so dangerous as to be intolerable, the Association urged that it be prohibited. Where the process was found to be harmful, but generally considered so necessary to our industrial life that prohibition was impractical, it proposed toleration within the limits of regulation. Finally, in the event the worker became a victim of an industrial disease it proposed that he be conpensated for his injuries on the same basis as those who received compensation for industrial accidents.

Prohibition

The most notable example, indeed the only instance, in which an industrial process has been prohibited on a national scale in the United States occurred in the match industry. This action was taken by the Congress in 1912 largely as a result of an intensive campaign for action begun by the Association in 1909.[24] The successful completion

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24 "It (the Esch Bill) is a direct result of the study of the industry made by the American Association for Labor Legislation through its Secretary, John B. Andrews." Editorial, The Survey, June 11, 1910, p. 427.

of this campaign was so important in establishing the leadership of the Association in the movement for protective labor legislation that it appears desirable to give a detailed account of its activities in connection with this legislation.

The early method of making matches in America involved the process of dipping the end of a wooden splint into a paste containing poisonous phosphorus. Those who worked in this process often contracted a disease known as phosphorus necrosis or "phossy jaw". This disease resulted from the fact that the fumes and particles of phosphorus entered the teeth and bones of the workers and caused the teeth to drop out and the jaw to decay. The disease often caused death from blood poisoning or left disfiguring scars in those cases in which an operation had to be performed.

This form of poisoning had caused such public protest in Europe that by 1908 the major industrial nations of Europe had agreed not to permit the manufacture or importation of matches made of white phosphorus, but to use instead a non-poisonous substance known as sesquisulphide. According to Dr. Alice Hamilton, one of the pioneers in the field of industrial diseases, America did not follow the lead of the European countries because, "we were serenely convinced that our match factories were

much better than any foreign ones and nobody knew of any cases of phossy jaw over there."[25]

The first cases of phosphorus necrosis in America were accidentally discovered by agents of the Bureau of Labor in the course of a general investigation into the conditions of work in the match industry late in 1908 and early in 1909. Sixteen definite cases of phosphorus poisoning were found in some of the factories where the best conditions were found, and according to Charles P. Neill, Commissioner of Labor, "it was clearly evident that in all factories there was among both the workers and the employers an imperfect realization of the dangers of working with phosphorus."[26]

Prior to the completion of the investigation conducted by the Bureau of Labor, Dr. Andrews, Secretary of the American Association for Labor Legislation launched a study to discover the extent of phosphorus necrosis in the match industry. In order to avoid duplication of effort an arrangement was made in which the work started by Dr. Andrews would be completed under the auspices of the United States Bureau of Labor.

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25 Alice Hamilton, "Nineteen Years in the Poisonous Trades," Harpers Magazine, October, 1929, p.580.

26 Quoted by John B. Andrews, "Phosphorus Poisoning in the Match Industry in the United States," United States Bureau of Labor, Bulletin 86, January, 1910.

In a short time Dr. Andrews discovered more than a hundred cases of phosphorus poisoning. This revelation produced an immediate demand by the Association that "the manufacture, importation, and sale of matches made with poisonous phosphorus be absolutely prohibited within the United States."[27] Later a second resolution was passed committing the Association to:

> . . . definitely take upon itself the responsibility and duty of urging this question upon the attention of the President of the United States, the Secretary of the Department of Commerce and Labor, and upon members of Congress, until such time as the workers in the American match industry receive the same protection from the dangers of industrial poisoning that is accorded to those who work in similar establishments in the leading countries of Europe.[28]

The campaign for action opened early in 1910 with the publication of the "Andrews Report," showing the nature and extent of the "phossy jaw" disease in the match industry. This report was published as a public document and widely distributed by both the United States Bureau of Labor and the American Association for Labor Legislation. This document played a vital role in the early stages of the campaign, because it effectively disposed of doubts as to whether or not the workers in the

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27 John B. Andrews, "Report of Work 1910", American Labor Legislation Review, January, 1911, p. 98.

28 Loc. cit.

American match industry were exposed to phosphorus poisoning; and thus lifted the whole discussion to the question of what action should be taken to eliminate the menace.

At the outset of the campaign for Congressional action, Professor Henry W. Farnam, President of the Association, sought to persuade President Taft to actively support the Association's proposed remedy of the problem. President Taft had great confidence in the judgment of Professor Farnam, and shortly became convinced that legislative action was imperative. In his message to Congress in December, 1910, he requested legislative action along the lines proposed by the Association:

> I invite attention to the very serious injury caused to all those who are engaged in the manufacture of phosphorus matches. The diseases incident to this are frightful, and as matches can be made from other materials entirely innocuous, I believe that the injurious manufacture could be discouraged, by the imposition of a heavy Federal tax. I recommend the adoption of this method of stamping out a very serious abuse.[29]

In the meantime the Association prepared a bill for consideration by Congress which provided for the elimination of the use of phosphorus in the manufacture of matches through the use of the federal taxing power. This bill prohibited the exportation and importation of white phorphorus matches and imposed a sliding scale of

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29 Loc. cit. Quoting President Taft.

tax on the manufacture, wholesale and retailing of such matches. An arrangement was made with Congressman John J. Esch, Republican Representative from Wisconsin, to introduce and lead the Congressional fight for the bill. The Association agreed to mobilize popular support for the bill and to bring this outside pressure to bear on Congress to such an extent that it would quickly enact the legislation.

Congressman Esch introduced the Association's bill June 3, 1910. Hearings were scheduled for June 22, before the House Ways and Means Committee, but at the request of the match companies they were postponed until December.

Shortly after the opening of the new session in December, the House Ways and Means Committee met to consider the Esch bill. Dr. Andrews, Professor Farnam and Mr. Miles Dawson appeared for the Association in behalf of the bill. Dr. Andrews summarized the results of his investigation of the match industry and stressed the need for prohibiting the use of phosphorus in the manufacture of matches so that the health of the workers might be protected. Professor Farnam and Mr. Dawson emphasized the importance of federal rather than state action on the ground that the latter would result in a diversity of legislation which would undermine effective regulation.[30]

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30 Hearings before the Committee on Ways and Means of the House of Representatives, December 16, 1910, pp. 279-93.

Mr. George Battle, attorney for the Diamond Match Company, was the principal witness for the match industry. He testified that the cost of matches made of sesquisulphide was "considerably greater than the expense of the white or yellow poisonous phosphorus, and the match for practical purposes of ignition and everyday use is not quite so good."[31] Nevertheless, he indicated that a majority of the match companies were anxious to cooperate in a national movement to prevent "phossy jaw" and that most of the companies were aware of the "terrible character" of phosphorus poisoning and believing some governmental action to be impending, preferred national to state regulation because the latter would "disrupt the whole business of match manufacturing."[32] Mr. Battle then indicated that the match companies, impelled by both humanitarian and self preservation motives, had attempted to solve the problem without government intervention. The Diamond Match Company made the first move by offering other manufacturers the right to participate in the use of its patented sesquisulphide process on condition that they pay their proportionate share of the initial cost of the patent. As of the date of the hear-

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31 Ibid., p. 292.

32 Ibid., p. 293.

ing, he noted that manufacturers producing roughly 95 per cent of the total match output in the United States had agreed to this plan, but the failure of the remaining 5 per cent to cooperate had caused this plan to collapse. In closing, Mr. Battle warned that if the match industry shifted over to production of the new safety matches it would be necessary to protect it from foreign producers whose cost of production was lower.[33]

Despite the readiness of the major portion of the match industry to support the Esch bill, the House Ways and Means Committee refused to report it out of committee and, consequently, it could not be considered by the House in either the first or second sessions of the Sixty-first Congress.

With the break-down of the campaign for Congressional action the Association sought to work out an arrangement between the various match companies in which "phossy jaw" would be prevented without governmental intervention. Conferences were held with representatives of the Diamond Match Company to persuade them to relinquish their patent to the non-poisonous substitute for making matches. By January 10, 1911, Dr. Andrews was able to

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33 Ibid., p. 294.

report to President Taft that the Diamond Match Company had agreed to assign its patent to a panel of three trustees, composed of Professor Seligman of Columbia University, Charles P. Neill, United States Commissioner of Labor, and Attorney Jackson Ralston of Washington, D. C., with "full power to deal with all persons in the future who may wish to use that particular process."[34]

In spite of this display of good faith, the majority of the members of the House Ways and Means Committee felt that both the proposed trustee agreement and the bill under consideration would enable the Diamond Match Company to tighten its control over the match industry. President Taft seemed to be persuaded to this point of view when after a conference with several members of the House Ways and Means Committee he wired Professor Farnam,

> . . . there seems to be substantial evidence before the Committee tending to show that should this bill pass it would necessarily become an instrument for the promotion of monopoly . . . This is a serious matter and in face of it I must defer to the judgment of the Committee.[35]

To dispel the patent monopoly argument and establish the good faith of the Diamond Match Company, Dr. Andrews sent each member of the House Ways and Means

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34 Contained in a letter from Dr. Andrews, January 10, 1911, Andrews Collection.

35 Telegram dated January 12, 1911, Andrews Collection.

Committee a collection of documents including, a copy of the original document by which the competitors of the Diamond Match Company were permitted to use the non-poisonous sesquisulphide by sharing in the cost of the patent and a copy of the trustee agreement by which the Diamond Match Company divested itself of its legal title to the patented substitute.

The climax of the 1911 legislative campaign came shortly after the opening of the third session of the sixty-first Congress. The House Ways and Means Committee met January 20, and had as its principal witness Mr. John T. Huner, owner of a small match company in Evergreen, New York. Mr. Huner's principal contention was that the passage of the Esch bill would result in the elimination of the small manufacturer and thus strengthen the match trust. The hearings were dominated by the opponents of the bill and were clearly designed to arouse opposition to the bill by playing on the traditional American fear of monopoly. The effect of Huner's testimony was partially offset by a written petition from virtually the entire match industry requesting the Committee to act favorably on the Esch bill, "to free us from continual annoyance and serious financial loss resulting from other forms of regulation by Congress or

by the several states."[36]

When the Committee failed to act immediately, the Diamond Match Company took the final step on January 28, and cancelled its patent so that the monopoly argument might be completely dissipated. This action alone, however, was not sufficient to produce the desired remedy. Some companies could not be induced to voluntarily adopt the new process because the old style match was somewhat cheaper to manufacture and a little easier to strike. In view of the reluctance of some companies to adopt the new process, federal legislation still seemed necessary to bring the entire industry up to a national standard comparable to that of the advanced European countries.

For this reason the Association continued the campaign for the Esch bill during the third session of the 61st Congress. In spite of widespread support for Congressional action it remained buried in the House Ways and Means Committee throughout the month of February. Early in April the proponents of the bill concluded that there was little chance of getting the bill out of Committee before adjournment so they decided to attempt to

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36 Hearings before the Committee on Ways and Means of the House of Representatives, January 20, 1911, p. 310.

circumvent it. To this end a Joint Congressional Resolution was prepared and submitted to both Houses of Congress. Shortly before adjournment both Houses passed in somewhat different language a resolution requesting the President of the United States to (1) investigate and report the extent of phosphorus poisoning in the United States; (2) determine whether or not the Esch bill would redound to the special advantage of the so-called match trust (the Diamond Match Company); and (3) to evaluate the argument that the Esch bill would result in an undue increase in the price of matches. Unfortunately the language of the resolutions passed by the House and Senate differed in several respects and Congress adjourned before it was possible to harmonize the language and get the resolution passed through Congress to make it law.

Early in March, 1911, Congressman Esch wrote Dr. Andrews that he would reintroduce the bill in the first session of the 62nd Congress, which was scheduled to meet in April.[37] After the session had gotten under way, however, he reported that the House Ways and Means Committee was busily working on the tariff bill and, therefore,

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37 Letter from Congressman Esch to Dr. Andrews, March 4, 1911, Andrews Collection.

"There can be no possibility of getting a hearing on our match bill, and action thereon will have to be deferred until the next regular session which convenes in December."[38]

These disappointments served only to strengthen the Association's determination to pursue the matter to a successful conclusion in 1912. In April it began by sending out more than twelve thousand letters enclosin pictures of "phossy jaw" victims with a few concise statements concerning the horrors of the disease. Other letters were sent to members of Congress throughout the summer and fall of 1911. As a result there was great popular interest in the passage of the bill, and with a few exceptions even the match companies endorsed the bill. Early in January, 1912, Congressman Esch testified as to the effectiveness of the campaign in Congress, in the following words:

> Your publicity campaign has aroused much interest in the bill and a great many members have asked for copies and have consulted me about it. . . . There is widespread interest on the part of the members of the House, in the bill, and most all those who have spoken to me, express favorable opinion.[39]

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38 Letter from Congressman Esch to Dr. Andrews, May 24, 1911, Andrews Collection.

39 Letter from Congressman Esch to Dr. Andrews, January 4, 1912, Andrews Collection.

The campaign, however, fell somewhat short of complete effectiveness, as was demonstrated in the hearings on the bill before the House Ways and Means Committee, January 10. One account of the hearings follows:

> It was largely as a joke that several of the members of the most important committee of the House of Representatives took the hearings on the Esch bill. . .
>
> A dozen gentlemen lolling back in their chairs, striking matches, chaffing witnesses and each other--this is how it looked on January 10. When the all-day hearings closed at six o'clock, friends of the bill were unable to guess whether or not it would be favorably reported to the house.
>
> The hearings were of curious interest to social workers who have followed the subject; for it showed the members of the Committee ignorant of the menace of the disease, suspicious of the bill's friends, willing only after extended hearings to believe it a matter of much consequence anyway.
>
> Yet the testimony was all favorable to the bill including that of the manufacturers with the single exception of one man who swore that he had never seen a case ("phossy jaw") although he had been making matches for years. With this as his cue, the chief poser asked each witness whether he had ever seen a case. The final answer came unexpectedly when John B. Andrews, Secretary of the American Association led forward an Italian from an obscure corner and let him tell his stroy. The foreigner stood before the jocose Congressmen, with shattered jaw scarred and toothless, hopelessly handicapped in the battle of life at thirty. It took courage, for your "phossy jaw" victim avoids publicity like a wounded animal, but Mr. Andrews had made friends with the man, showed him his chance to have a hand in saving others. With almost religious zeal the man had promised to go anywhere and show himself, if it would help pass a law to abolish the poison.[40]

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40 Constance D. Leupp, "Playing With Matches," The Survey, January 27, 1912, p. 1643.

Following public hearings the Ways and Means Committee took an unprecedented step and committed the bill to a secret sub-committee for further study. In a short time Congressman Esch was able to discover the identity of the membership of the secret sub-committee and attempted to persuade each member to support a favorable report. In the meantime, Dr. Andrews continued the agitation to bring outside pressure to bear on the members of Congress to use their influence to get the bill out of committee. A new "phossy jaw" circular was sent to more than fourteen thousand people. Letters were sent to each Congressman and to members of the Association, advising them to write their Congressman requesting immediate action on the bill.

By the end of February the tide of circulars, letters, and petitions convinced the Democratic majority that it was time to act. It was decided, however, that, "in view of the popular pressure back of the legislation, if there was any politics to be gained in fathering it, the Democrats ought to get the glory and that hence a Democrat should introduce the bill."[41] This was, of course, a great disappointment to Congressman Esch, a

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41 Letter from Congressman Esch to Dr. Andrews, February 28, 1912, Andrews Collection.

Republican, who had worked long and persistently for the measure, but he gracefully stepped aside with the statement that he was "so desirous of getting action and of eradicating 'phossy jaw' that I am willing to cooperate with the Democrats in their effort to get this legislation."[42]

Congressman Hughes of New Jersey was chosen by the Democratic majority to introduce the new bill, which, with minor exceptions, was identical with the Esch bill.

The House Ways and Means Committee met March 4 to decide the fate of the phosphorus bills before it. The Esch bill was considered first and rejected on a strictly party line vote. The Hughes bill was then passed by the Democrats with the support of all the Republicans except one.

The bill was virtually assured of passage by the House despite some objection that it constituted an invasion of states rights. Largely as the result of the joint efforts of Congressman Esch and the American Association for Labor Legislation, the members of Congress had been made aware of the nature and cause of phosphorus poisoning and the need for its prevention. One Congressman wrote a prominent member of the Association, "I have

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42 Loc. cit.

never known of a bill that had been agitated so effectively."[43] Another indicated that he had received more than a ton of mail concerning the measure.[44] Still another told Dr. Andrews that he had promised more than a thousand people that he would vote for the measure in the event that it should come before the House.[45]

As the legislative campaign drew to a climax, Dr. Andrews spent most of his time in Washington, helping to push the bill through Congress. His first contribution was that of drafting the Committee Report, which was submitted to the House on March 11. While the bill was pending on the House docket, Dr. Andrews spent the major portion of his time canvassing Congressmen in its behalf.

The bill came to a vote in the House on March 28, 1912, and was passed overwhelmingly by a vote of 163-31. Six days later the bill passed the Senate by a practically unanimous viva voce vote. President Taft signed it on April 9, 1912.[46]

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43 Statement contained in a letter from Dr. Ernst Freund to Dr. Andrews, in which he reproduced a letter which he had written to Professor Seager, March 11, 1912, Andrews Collection.

44 Contained in a letter from Congressman Esch to John B. Andrews, February 29, 1912, Andrews Collection.

45 Letter from John B. Andrews to Henry Seager, March, 15, 1912, Andrews Collection.

46 Public Law 118, 62nd Congress, 2nd session.

The successful culmination of the Association's campaign for protection from phosphorous poisoning was highly significant because it was the first major legislative victory to be realized by this organization. This achievement catapulted the Association into a position of leadership in the movement for protective labor legislation and social insurance. Finally, Dr. Andrews suggested that the victory was of great importance because, aside from the protection rendered the match workers, "no other one thing has done more than the vigorous campaign against "phossy jaw" to call attention to the industrial disease problem in this country."[47]

Regulation

Administrative and legislative regulations were far more widely used to prevent industrial diseases than prohibitive legislation, because it was believed that the latter would have eliminated many of the industrial processes necessary to the productive system.

Regulations originated in two ways. First, detailed regulations were enacted by many state legislatures. These laws were designed to minimize the danger in such harmful conditions of employment as those due to the presence of dusts, gases, vapors; to extremes of temper-

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47 John B. Andrews, "Report of Work 1912," American Labor Legislation Review, February, 1913, p. 127.

ature, humidity or density of atmosphere; and to improper lighting and overstrain. Second, in more than twenty states detailed laws were abolished and commissions were established and given mandatory powers by the legislature to make conditions of employment "safe." As a general rule state commissions enlisted the support of interested parties in formulating their regulations. This approach was found to greatly increase the effectiveness of the regulations, because it utilized superior technical knowledge in their formulation and minimized the problem of enforcement by enlisting the support of the interested parties from their inception.

Perhaps the Association's most important contribution in the field of direct regulation was the preparation of legislation which was enacted by legislatures in several states to protect workers from the hazards in the lead and compressed air industries. The indirect influence of the Association's model bills may have been even greater than its direct effect, because they were used in many states where regulations were drafted by commissions rather than by legislatures.

Lead poisoning. The first investigation of lead poisoning in America was undertaken by the Illinois Commission on Occupational Diseases in 1910, as a part of a general inquiry into the problem of industrial dis-

eases in Illinois. Dr. Alice Hamilton, a prominent member of the American Association for Labor Legislation, conducted the study and found the lead menace to exist in more than twenty-eight trades.

In its more acute form, Dr. Hamilton found lead poisoning to result in partial paralysis of the wrist, shoulders or ankles. The blood vessels were often found to harden and injure the heart, liver or kidneys, and death or insanity frequently resulted from the most acute cases. The most effective means of preventing this dread disease was found to be adequate ventilation and cleanliness of both employees and plant facilities.

The report of the Illinois Commission was published in January, 1911,[48] and was followed by an extremely important bulletin by the United States Bureau of Labor.[49] This bulletin contained articles by Sir Thomas Oliver on "Industrial Lead Poisoning," by Dr. Alice Hamilton on the "White Lead Industry in the United States," and by Dr. John B. Andrews on "Deaths from Industrial Lead Poisoning (actually reported) in New York State in 1909 and 1910." These reports plus numerous other investigations establish-

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48 Report of the Illinois Commission on Occupational Diseases, January, 1911.

49 United States Bureau of Labor, Bulletin No. 95, July, 1911.

ed the widespread existence of poisoning in the lead industry, and stimulated the Association to launch a campaign to protect the health of the workers.

In 1912, Miss Lillian Erskine was employed to broaden the scope of the Association's investigations and to take whatever steps were necessary to draft effective legislation. After several months of intensive study a series of conferences were held at the national headquarters to formulate the provisions of a bill. These conferences were attended by such men as E. J. Cornish, Vice President of the National Lead Company; F. V. Hammar, President, Hammar Brothers White Lead Company; Dr. Francis Patterson, Medical Inspector, Harrison Brothers White Lead Company; Frederick L. Hoffman, Prudential Insurance Company; and Professor Henry R. Seager of Columbia University. The detailed recommendations of these conferences were discussed and modified after consultation with safety engineers, factory inspectors and the workers in the lead industry. Finally, these joint proposals were drafted into a standard bill for uniform state legislation by the Columbia University Legislative Draftsmen.

The provisions of the bill were based on the experience in England and the Continental countries which had greatly lessened plumbism in the lead industry, by reducing

dust and fumes and enforcing habits of personal cleanliness among the lead workers. These included periodic medical examinations; sanitary construction of factories; provision of adequate dressing, washing, bath and eating facilities; and installation of respirators for each worker and an efficient dust collecting system.[50] The Association's confidence in this approach may be gathered from a statement by Miss Erskine: "The enforcement of personal and factory cleanliness go so far toward reducing the danger of lead poisoning that we may regard it as almost as effective as the prohibitive measures of the Esch-Hughes match act."[51]

Early in 1913, bills based on the model bill were introduced in Massachusetts, Missouri, New Jersey, Ohio, Pennsylvania, Wisconsin and other leading states as a part of the Association's nation-wide campaign for uniform legislation against lead poisoning. Its efforts in Missouri, Ohio and Pennsylvania were successful. In New Jersey the Association conducted a special campaign to secure enactment of the bill. Dr. Andrews, Miss Erskine and other members of the Association spent a

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50 "Prevention of Occupational Diseases with Special Reference to Lead Poisoning," American Labor Legislation Review, December, 1914, pp. 537-549.

51 Lillian Erskine, "Proposed Measures for the Protection of Lead Workers," American Labor Legislation Review, February, 1913, pp. 64-65.

considerable amount of time investigating the extent of lead poisoning in New Jersey, and in bringing pressure to bear on the legislature to get favorable action. With practically solid support from organized labor the Association was able to get the bill passed by the Assembly and favorably reported by the Senate Committee on Public Health. According to Dr. Andrews, however, final action was withheld largely as a result of an attempt by Senator Leavitt, spokesman of the manufacturers of pottery, tiles, etc. in Trenton, to discredit the Association. Senator Leavitt charged that, "the American Association for Labor Legislation is merely a New York organization and the lead bill is purely a New York bill in which New Jersey people have no interest."[52] In spite of this opposition the proponents of the bill were successful in getting it enacted in 1914.

The Association's model bill was an extremely important contribution to the movement for the protection of the health of the workers in the lead industry. It provided the basis for legislative action, and also served as a criteria for many state commissions which formulated "rules" for the protection of workers having the force of law.

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52 Contained in a letter from Dr. Andrews to Professor W. F. Willoughby, April 2, 1914, Andrews Collection.

A rare tribute to the Association's special campaign for the protection of the workers in the lead industry was paid by an official of National Lead Company, one of the nation's largest lead companies and one of the companies which was most affected by the provisions of the model bill:

> Our examinations, I believe, are more strict and through now than formerly. All of the new plants constructed during the last five years, have had attention given to sanitary equipment to an extent not known before in the world.
>
> I personally am glad to accredit this improvement largely to the investigation of Dr. Alice Hamilton and the activity of the American Association for Labor Legislation whose policy has always been constructive rather than destructive, practical rather than sensational.[53]

This company was so impressed with the Association's work that it became an enthusiastic supporter, and for many years made liberal contributions to enable it to carry on its activities.

Compressed air illness. Investigations of the nature and incidence of compressed air illness began in Europe in the latter quarter of the nineteenth century. In the first decade of the twentieth century the International Association for Labor Legislation was instrumental in getting several European countries to adopt

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53 Letter from E. J. Cornish, Vice President, National Lead Company to Dr. Andrews, November 12, 1914, Andrews Collection.

definite standards for the regulation of labor conditions in those industries using compressed air.

Compressed air illness was found to occur when men were forced to dig into river beds to lay supports for bridges or to dig tunnels. In these operations, men were enclosed in iron cylinders or caissons at the bottom of the river. Compressed air was forced into the caissons to prevent water from running in at the bottom, as dirt and gravel were shoveled up and carried out at the top. The atmospheric pressure in the caisson was frequently increased to sixty pounds per square inch, which is four times that which prevails under ordinary circumstances. As men passed from the caisson into the open air they often fell unconscious and blood rushed from their eyes, ears and nose. The victim felt severe pains in their muscles and joints which were called "bends." Sometimes the lower limbs were paralyzed and the victim frequently died.

Experiments had shown that by installing intermediary chambers or "air locks"; and by regulating ventilation, atmospheric pressure, length of shift and rate of release from compression it was possible to prevent much of the suffering.

One of the first studies of compressed air illness in America was made by Frederick L. Keays, medical director

of the Pennsylvania East River Tunnel project.[54] Approximately 1,000 men a day were employed for a period of 557 days on this project. About 10,000 different workers were hired during this period of time. In the course of the completion of the tunnel, 3,692 cases of compressed-air illness and twenty deaths were reported to the medical department. Approximately 37 per cent of the men who worked on the project were reported ill and 0.2 per cent died from compressed-air illness.[55]

New York, in 1909, made the first American attempt to regulate the conditions of work is such a way as to minimize compressed-air illness. Early in 1914 the Association began the second attempt to secure action. Conferences were called to consider the essential points to be included in a standard bill to regulate working conditions in those industries utilizing compressed-air. These meetings were attended by officers of the International Compressed Air and Foundation Workers' Union and the International Tunnel and Subway Constructors' Union, representative employers,

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54 Frederick L. Keays, Compressed-Air Illness, With a Report of 3,692 Cases, Publications of the Cornell University Medical College, 1909, pp. 1-55.

55 Frederick L. Keays, "Compressed-Air Illness," American Labor Legislation Review, June, 1912, pp. 192-205.

experienced medical examiners, inspectors from the New York State Department of Labor and others interested in remedial legislation. As a result of these conferences a bill was drafted.[56] This bill was introduced without change in the New Jersey legislature where it was passed and went into effect July 1, 1914. Three years later, Pennsylvania enacted the bill into law. In other states, the objectives of the bill were realized through administrative orders.[57]

Conclusion. The movement to provide industrial workers with adequate protection from industrial diseases by formulating comprehensive legislation based on scientific investigation was led, for a short time, by the American Association for Labor Legislation. The "standard bills" which it prepared, were intended to show what might be done to remedy the deficiencies of earlier legislation.[58] The Association's pioneer work in the lead and compressed-air industries represented a marked advance in protective labor legislation. It soon

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56 A copy of the bill was reproduced in the American Labor Legislation Review, December, 1914, pp. 550-554.

57 John R. Commons and John B. Andrews, Principles of Labor Legislation, 1920, p. 371.

58 Ibid., p. 380.

discovered, however, that a new approach would have to be utilized, because the discovery of new industrial processes quickly made the laws obsolete. In view of this fact, the Association shifted its support to a new and more flexible method of regulating industrial conditions to protect the health of the workers through administrative orders issued by a permanent commission set up for this purpose. Although the "standard bills" were superseded by administrative commissions, they served as useful criteria for administrative orders and were of great value in educating both the employer and the public as to the health hazards in the compressed-air and lead producing and processing industries.

Compensation

During the period in which industrial conditions were being altered in the interest of the health of the workers, a revolutionary change took place in the method of dealing with industrial accidents. Within a half-dozen years nearly two-thirds of the states adopted workmen's compensation laws. Aside from the compensation paid the worker in case of an accident in an industrial establishment, these laws were of primary importance in promoting an industrial safety-first movement.

The success of the workmen's compensation laws, both as ameliorative and as preventative measures, led to the demand that the scope of the laws be broadened

to include compensation for industrial diseases. The advocates of this change maintained that it was highly unjust to compensate an employee incapacitated as a result of an industrial accident and to neglect a workman unable to work because of a disease which was contracted on the job. Opposition to widening the coverage was based on the argument that it was too difficult to distinguish, for purposes of compensation, between illness arising from the job and illness due to other harmful conditions. The facts and causes of an industrial accident were relatively easy to identify, but it was held that the cause of a disease was virtually impossible to ascertain since by its very nature it does not generally result from a single act or exposure but from an accumulation of experiences.

The first state to experiment with the compensation of occupational diseases was Massachusetts. From the time of its passage in 1911, the Massachusetts law did not qualify its elgibility clause, "personal injuries" with the word "accidental," hence compensation was paid to victims of occupational diseases on the same basis as those who sustained accidental injury in the course of their employment.

In 1912, the Association set in motion a campaign to replace the Federal Employees' Compensation law of

1908 with a more adequate law. One of the provisions of the new law proposed by the Association provided compensation for occupational diseases as well as "injuries." In 1913 the bill was put in final form and in 1914 was introduced in Congress as the Kern-McGillicuddy bill. This bill was passed and became law in 1916.[59]

As early as 1913 the Association was agitating in the various states for inclusion of occupational diseases in state workmen's compensation laws. In 1914 it published and distributed its "Standards for Workmen's Compensation Laws." Among the features considered essential to a satisfactory state workmen's compensation law was the provision that it should cover all occupational diseases attributable to the conditions of work.[60] By 1919 five states and Hawaii had adopted workmen's compensation laws providing compensation for all victims of industrial diseases as well as accidents.[61]

In spite of the broad coverage of these laws it was soon discovered that they failed to reach a substantial portion of the illness due either partly or wholly

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59 Public Law 267, 64th Congress, 1st session.

60 See American Labor Legislation Review, December, 1914, pp. 585-594.

61 Massachusetts, California, Connecticut, North Dakota and Wisconsin.

to the conditions of work. In Massachusetts, for example, only 1.5 per cent of the personal injuries reported during the year 1915-16 were occupational diseases.[62] Dr. Andrews explained that the "difficulty in the vast number of cases, is to prove that the disability is due to the nature of the employment and not to something else, particularly when the commercial insurance interests come forward with their own medical testimony."[63]

In view of this experience, the Association concluded that the only effective way to solve the problem was to compensate all sickness experienced by industrial workers and to divide the cost between the employer and the employee. Shortly before the entry of the United States into the first World War the Association conducted a very intensive campaign to secure state enactment of workmen's health insurance. As this campaign gained momentum the opponents of the bill realized that they could not merely oppose health insurance but must have a positive proposal that would place them in favor of the general purpose of protecting the health of wage earners.[64]

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62 John B. Andrews, "Limitations of Occupational Disease Compensation," American Labor Legislation Review, December, 1918, p. 313.

63 Ibid., p. 314.

64 John B. Andrews, Unpublished Manuscript, Andrews Collection, n. d.

In their search for a proposal to accomplish this purpose the opponents of health insurance finally decided to support occupational disease compensation, but in a form that would greatly limit its benefits.

Unlike the Association's earlier bill which provided compensation for all occupational diseases the new legislative proposal stipulated that a limited list of occupational diseases be compensable under workmen's compensation acts.

By 1920 the health insurance movement had been stopped short of its objective. The Association then shifted its energies to the task of amending state workmen's compensation acts in such a way as to include compensation for all occupational diseases. Thus, the battle of the 1920's was drawn between the victors of the health insurance struggle who sought to limit the coverage of workmen's compensation acts to a "specified list" of industrial diseases and the defeated proponents of health insurance who attempted to salvage a more adequate partial solution to the problem by getting all industrial diseases compensated.

The first test of strength came in New York, where the Association and other advocates had suffered a decisive defeat in their campaign for health insurance. Once again the opponents of the Association were victorious. In 1920 the New York legislature extended its workmen's

compensation act to include twenty-three industrial diseases, many of which were of rare occurrence in New York industries.[65] The New York plan of compensating industrial diseases was quickly adopted by Illinois, Ohio, Minnesota and New Jersey. These defeats stirred the Association to redouble its efforts to influence state legislatures to adopt "all-inclusive" amendments to their workmen's compensation acts and to increase the number of diseases for which compensation would be paid in those states which had adopted "limited-list" amendments.

Despite the wave of reaction in the twenties the campaign for comprehensive disease compensation was partially successful. Two federal compensation laws were drafted by the Association and enacted by Congress. Both the act providing compensation for longshoremen under federal jurisdiction, which was passed in 1927,[66] and the law extending workmen's compensation coverage to employees in the District of Columbia,[67] which was passed

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65 John B. Andrews, "Occupational Disease Compensation," American Labor Legislation Review, September, 1929, pp. 238-239.

66 Public Law 803, 69th Congress, 2nd session.

67 Public Law 400, 70th Congress, 1st session.

the following year, contained the stipulation that all victims of industrial diseases must be compensated on the same basis as victims of industrial accidents.

By the end of the thirties roughly two-thirds of the states provided for some type of occupational disease compensation. Slightly less than one-third of the state laws contained the unlimited or general coverage provision. The remaining states listed the diseases for which compensation would be paid. The number of diseases which could be compensated in these laws ranged from one to thirty-six diseases. In these states the Association attempted to increase the number of industrial diseases for which compensation should be paid. Perhaps, the most important industrial disease for which the Association sought compensation was that which was contracted by workers in those industries in which silica dust was a hazard, commonly known as silicosis.

Silicosis. One of the most serious and most widespread of industrial diseases was that in which the worker inhaled tiny particles of silica dust which gradually blocked the blood supply and finally, the air passageways in the lungs. It was estimated that about three-fourths of the victims of this condition died of tuberculosis and another fifteen per cent died of pneumonia.[68] Dr. Andrews

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68 John B. Andrews, "The Tragedy of Silicosis", American Labor Legislation Review, March, 1936, p. 4.

estimated that more than a million workers were exposed to this health hazard daily in such industrial operations as sand blasting; metal grinding and polishing; rock drilling; iron and steel foundries; and in glass, pottery and asbestos plants.[69]

Medical research had demonstrated that much of the danger of silica dust could be prevented by instituting dust removal machinery, adequate ventilation facilities and by providing for wet instead of dry drilling. Since these measures required additional financial outlays, few companies could voluntarily be induced to adopt them. To stimulate the utilization of these safeguards the Association launched a campaign to secure compensation for the victims of silicosis by making the disease compensable under workmen's compensation acts. It was greatly handicapped, however, by the quiet opposition of the workers who were very fearful of the physical examination requirement. According to Mrs. John B. Andrews, "They really preferred to take their chances on getting silicosis than to face the possibility of being laid off with an uncertain future!"[70]

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69 Andrews, loc. cit.

70 Contained in a letter to the writer, January 27, 1952.

In those states where the workmen's compensation act contained the "all-inclusive" occupational disease provision, no action was necessary since silicotics were compensated on the same basis as other victims of industrial accidents and diseases. In other states where the "limited list" laws had been passed, silicosis had been uniformily excluded and, thus, it became necessary for the Association to attempt to influence state legislatures either to include this disease on the "list" or to compensate all industrial diseases including silicosis.

Following its practice of concentrating its effort in key states the Association focused most of its campaign in New York where a "limited list" of diseases was compensated. The first opportunity to dramatize the plight of the silicotic in New York came in 1929 when it was found that in drilling a twenty mile tunnel from Yonkers to Brooklyn, fifty-seven per cent of the workers contracted this disease.[71] In order to facilitate remedial action, Dr. Andrews arranged for a group of silicosis experts to testify before the New York State Industrial Board in an informal hearing. An official committee was appointed, but its recommendations were never adopted.[72]

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71 Andrews, loc. cit.

72 Loc. cit.

The Association was unable to make headway in its campaign until 1934 when several hundred suits were filed in the New York State Courts asking damages for more than one million dollars. Faced with the threat of court awards amounting to thousands of dollars to employeey suffering from silicosis, employers and insurance companies got behind the move to make it a compensable disease.[73]

Sensing a change in public sentiment, the Association joined by the New York State Federation of Labor and the League of Women Voters quickly pushed a bill through the New York legislature which extended the coverage of the workmen's compensation act to include all occupational diseases.

This victory, however, was short lived insofar as the victims of silicosis were concerned. In 1936, State Senator Jacob J. Schwartzwald and Assemblyman Robert J. Crews introduced a bill which limited silicosis compensation to three thousand dollars, drastically reduced medical benefits and excluded any liability whatsoever for partial disability due to silicosis. In a letter to the New York World Telegram, Senator Schwartzwald stated

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73 "New Bill Asks Compensation for Silicosis," Syracuse (New York) Herald, March 30, 1934.

that the bill was "the result of five months of conferences between employers and workers in the dust hazard industries" and that it "has the approval of the State Federation of Labor as well as individual unions." He also attacked the Association as a "theorist organization," opposing the legislation "without knowing all the details thereof."[74]

On the other hand, the Association pointed out that this so-called "agreed on measure" was being supported by employers and unions because the casualty insurance companies had charged unreasonably high insurance rates which forced the businesses to close and caused the workers to be unemployed.[75]

In spite of the vigorous opposition of the New York Times, Post and World Telegram,[76] the American Association for Labor Legislation, Secretary of Labor Frances Perkins, the City Club of New York and other civic organizations, this discriminatory bill was passed by the New York legislature in 1936.

By the end of the first year under the new law

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74 New York World Telegram, March 20, 1936.

75 "Silicosis Compensation in New York an Appalling Record," American Labor Legislation Review, December, 1937, pp. 149-51.

76 See editorials, New York Times, April 3, 1936; New York World Telegram, April 3, 1936; and New York Post, April 4, 1936.

the Association concluded that its worst fears had been realized. Only $4,535 in benefits had been paid out in six awards to the victims of silicosis. This compared with $429,593 which was paid to an all-time high of one-hundred and thirty-three cases in Wisconsin, which did not discriminate against the victims of silicosis.[77]

In view of this "shameful condition" the Association made repeated attempts to persuade the New York legislature to give silicotics full and equal protection under its workmen's compensation act. Not until 1940 were steps taken to liberalize the silicosis amendment. The maximum limits on both cash compensation and medical care for totally disabled silicotics was substantially increased. Despite these revisions the New York compensation law remained inadequate and the victims of silicosis were denied treatment equivalent to that accorded those who contracted other occupational diseases.

In the country at large, the publicity calling attention to the Gauley Bridge scandal in 1936 did more perhaps than anything else to make the country "silicosis conscious." This project required that a tunnel five miles long be dug through a mountain of silica rock in

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77 "Silicosis Compensation in New York An Appalling Record," American Labor Legislation Review, December, 1937, p. 150.

West Virginia. After four years of work the job was completed in the early part of 1935 at which time it was found that more than one thousand employees were suffering from silicosis. These workers were completely without protection since West Virginia did not compensate industrial disease and the lawsuits instituted by the workers, without exception, met with failure.

Early in 1936, Frank L. Palmer, Editor and Publisher of the People's Press, and Dr. Andrews undertook to air the facts of the case to, "obtain a Congressional investigation of the disaster; to raise funds for the dying and for the families of those who have already died; to investigate the possibility of legal action on behalf of these families; and to study possible federal silicosis legislation."[78] Dr. Andrews was made Chairman of The Gauley Bridge Committee composed of a group of distinguished citizens to mobilize and direct public opinion into constructive channels.

Public response to the nation-wide crusade was so great that Congress immediately began an investigation. Following a brief investigation, legislation was introduced but action was delayed until after a National Conference on Silicosis which had been called by the

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78 Circular letter distributed by Frank L. Palmer, January 9, 1936, Andrews Collection.

Department of Labor, had submitted its recommendations. According to Dr. Andrews, this delay "effectively sidetracked the pending legislation"[79] since by the time the Conference had completed its report public interest had died down and no action was taken.

Thus, as the Association's work drew to a close it could boast of only limited success in protecting "the most pitiful victims of industry's failure to safeguard the health of its workers."[80] No federal action had been taken and only a few states gave the silicotic the same protection accorded the victims of other occupational diseases. In New York, where the Association concentrated most of its effort, a restrictive silicosis amendment was liberalized but even this partial success left the victim of silicosis inadequately protected.

Conclusion

Any impartial evaluation must credit the American Association for Labor Legislation with playing a major role in securing enactment of occupational disease legislation in America. The Association not only helped

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79 "The Scandal of Silicosis," American Labor Legislation Review, June, 1941, p. 57.

80 "Silicosis Compensation Blunder Disgraces New York," American Labor Legislation Review, December, 1939, p. 168.

to create a favorable "mental climate" to facilitate the passage of such legislation, but also drafted bills and campaigned for their adoption in both state and national legislatures.

The Association was primarily responsible for the first and only federal law prohibiting an industrial process to protect the health of the workers. Representatives of the Association drafted the bill prohibiting the use of poisonous phosphorus in the match industry; and conducted the two year campaign which resulted in its enactment in 1912.

For a short time the Association led a movement to protect the health of workers by regulating the conditions of work to minimize the health hazards. To this end "standard bills" were prepared and submitted to legislatures for enactment. Many states adopted these bills and others used them as the basis for administrative regulations. When it was discovered that technological changes quickly made the provisions of the "standard bills" obsolete the Association helped to promote a much more effective solution to the problem. State legislatures were urged to delegate the power to formulate and enforce regulations to make the conditions of employment "safe" to a permanent Industrial Commission. By bringing the interested parties together to

formulate the regulations, this Commission minimized the problem of enforcement and kept them abreast with technical progress.

Finally, the Association was among the first organizations to advocate the broadening of workmen's compensation acts to include compensation for all industrial diseases. In spite of the Association's efforts less than one-half of the states have adopted this plan. Virtually all of the remaining states restrict compensation to a limited list of industrial diseases. It should be noted, however, that an increasingly large number of states are adopting the all-inclusive amendment to the workmen's compensation act advocated by the Association more than thirty-five years ago.

CHAPTER III

INDUSTRIAL ACCIDENTS: REPORTING AND SAFETY REGULATIONS

The changes in the setting and means of production ushered in by the Industrial Revolution greatly increased the productivity of man's efforts, but it also increased the risks of his labor. The tremendous toll of industrial fatalities and dismemberments resulting in the expense of recovery and loss of earning capacity for short periods of time or perhaps even for life, led one writer to conclude, "in creating the machine /man/ has perhaps unexpectedly unchained at the same time an even greater genius of destruction."[1]

As society began to realize the human cost of its economic progress, efforts were made through legislation, to prevent industrial accidents. During the last two decades of the nineteenth and the first of the twentieth century the states enacted detailed statutes which prescribed the conditions which should prevail at the work place to make it safe.

By 1911, however, some of the more progressive states began to abandon this approach and transfer the authority to specify the minimum conditions of work,

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1 I. M. Rubinow, The Quest for Security, 1934, p. 54.

from legislators, who were generally uniformed concerning the best method of creating and maintaining safe conditions, to administrative commissions composed of experts, or having access to expert advice.

When it became evident that accidents would occur under the most favorable circumstances, sentiment developed in favor of compensating the victim. The first step to be taken in this direction was that of making the employer financially responsible for damages in those accidents in which the injured workman could conclusively show him to be personally responsible. The obvious injustices of this system led ultimately to the modern approach, in which a definite predetermined schedule of benefits was paid to injured workmen regardless of fault. Closely correlated with this system was the still more recent legislation which provided that if the injured worker suffered irreparable injury, steps would be taken to finance his rehabilitation.

The Association played differing roles in the campaigns for prevention, compensation and rehabilitation. At the outset of its work in all fields it sought factual information as to the nature and extent of industrial accidents, so that its policy recommendations might be more realistic and effective.

The activities of the Association to secure adequate reporting and regulatory legislation will be surveyed in

this chapter. Chapter IV will deal with the efforts of the Association to secure workmen's compensation and vocational rehabilitation legislation.

REPORTING

In spite of the fact that the importance of accident reporting was recognized by the Massachusetts legislature as early as 1886, and by thirteen other states by 1910, the results were not satisfactory. According to Commons and Andrews the failure to secure adequate reports under these laws was due to the fact that, "Employers appeared reluctant to give their establishments an unenviable reputation for danger. Official enforcement, too, was lax. Prosecutions for failure to report were rare and the imposition of the stated penalties still rarer."[2]

The fourteen laws in force in 1919 varied greatly with respect to the type of accident to be reported, the time of reporting and the details to be included in the report. Little consideration had been given to the general question of the basic essentials which should be included in the reports in all states and as a consequence no criteria existed whereby each state could critically

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2 John R. Commons and John B. Andrews, Principles of Labor Legislation, 1936, p. 161.

evaluate its law and remedy its defects. Moreover, the absence of a generally acceptable standard precluded the possibility of uniform accident statistics beyond the border of a single state.

To remedy this situation, the Association first focused attention on the problem by publishing a tabular summary of the laws in force in 1911, which indicated clearly their lack of uniformity.[3] This was followed by an extensive discussion of the problem at the Third National Conference on Workmen's Compensation at Chicago, which was sponsored by the Association in September, 1911. This Conference was attended by approximately two hundred persons, many of whom were state and federal officials. Among the papers delivered at one of the sessions was an excellent review by Don Lescohier of the experience of the Minnesota Bureau of Labor in the collection and use of accident statistics under the Minnesota law, which was generally regarded as the best which had been passed by any state.[4] Other papers included a statement of the advantages of a nationwide

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3 American Association for Labor Legislation, "Accidents to be Reported," American Labor Legislation Review, June, 1911, pp. 60-71.

4 Don D. Lescohier, "Accident Records in Minnesota," American Labor Legislation Review, December, 1911, pp. 114-121.

system of reporting accidents[5] by Edson S. Lott, President of the United States Casualty Company and a tentative plan for arriving at interstate uniformity in accident statistics by Dr. Leonard Hatch, Chief Statistician of the New York Department of Labor.[6]

At the close of the Conference a Committee was appointed to prepare a suitable schedule for uniform reporting of industrial accidents in the different states. Dr. Leonard Hatch was made chairman and its other members included, Lucian W. Chaney, Special Agent, United States Bureau of Labor; John R. Commons, Member, Wisconsin State Industrial Commission; Don D. Lescohier, Minnesota State Bureau of Labor; and John B. Andrews, Secretary, American Association for Labor Legislation.

Immediately after its appointment this Committee met and in conference with a number of experts developed a tentative draft of a schedule for reporting industrial accidents. Further meetings were held in New York, Chicago and Washington with those interested in accident reporting. The tentative schedule was then printed and

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5 Edson S. Lott, "The Advantages of Standard Accident Schedules," American Labor Legislation Review, December, 1911, pp. 122-127.

6 Leonard Hatch, "A Plan for Arriving at Uniform Accident Reports," American Labor Legislation Review, December, 1911, pp. 128-136.

copies were mailed to public officials, labor unions and employers throughout the country for suggested improvements. By December, the Committee was able to present its report to a joint session of the Association and the American Statistical Association at the Annual Meeting in Washington. After much discussion and a round-table conference of experts, during which several changes were made, the Committee report and uniform schedule were adopted by the Association and recommended for use. Copies were mailed to the proper official in each state early in 1912 with the recommendation that it be used. Several officials reported their intention to use the schedule, but a majority indicated that they did not have the proper legal authority to require such reports.[7] To overcome this obstacle the Committee undertook the job of drafting a standard accident reporting bill, which could be introduced in state legislatures. Upon the completion of this task the bill was then sent to the various state Commissions with the recommendation that it be incorporated in the compensation legislation which they were preparing.

Throughout 1913 an educational and legislative

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7 American Labor Legislation Review, December, 1914, p. 558.

campaign was conducted to secure passage of the bill. Thousands of people were encouraged to indicate the desirability of this bill to their state representatives. During this year it was endorsed for universal adoption by the American Statistical Association, the United States Bureau of Labor Statisitcs, the Workmen's Compensation Service Bureau, and the National Council for Industrial Safety.[8]

As a result it was put into practical use by 1915 in states representing more than one-half of the manufacturing population.[9] It was adopted, with minor modification, in California, Iowa, Massachusetts, Nevada, Minnesota, New Hampshire, New York, Pennsylvania and Washington. Six additional states strengthened their laws by incorporating one or more of the main provisions of the standard bill.[10]

In 1920 the matter was taken up again by the Association in conjunction with the Association of Industrial Accident Boards and Commissions. Representatives of these two associations made a few minor changes

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8 Leonard Hatch, "A Standard Schedule As an Aid to Uniformity in Accident Reporting," American Labor Legislation Review, December, 1920, p. 252.

9 Loc. cit.

10 John B. Andrews, "Report of Work 1914," American Labor Legislation Review, March, 1915, p. 153.

in the schedule to facilitate the work of reporting and urged its adoption in the remaining states. By 1924, roughly two-thirds of the manufacturing workers were employed in states which required the employer to report accidents on this form.[11]

Within a span of ten years the Association had initiated and provided the impetus to the movement for uniform accident reports. With the aid of the best experts in the field, as well as the parties directly concerned, it developed the only criteria which the states could use in improving existing legislation or in enacting new laws to be assured of obtaining adequate accident statistics. Not all states adopted the schedule and many states which did adopt it limited its coverage, but the Association had at the end of the ten year period accomplished its main objective. Much work needed to be done in securing broader coverage and better administration, but this task was left for the most part to federal agencies and to other organizations such as the Association of Industrial Accident Boards and Commissions, the National Safety Council and the American Public Health Association, which had gotten interested in the problem.

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11 "Legislative Notes," American Labor Legislation Review, March, 1924, p. 5.

SAFETY REGULATIONS

Prior to 1910 all safety regulations in America originated in state legislatures and took the form of detailed statutes. By this date a wide range of state legislation had been enacted to prevent industrial accidents. The Association contributed nothing to the passage of this legislation.

By 1910 the inadequacy of these laws was clear. They had failed to stem the rising tide of industrial accidents. In the meantime, a possible alternative approach to the problem appeared to have been developed in Belgium and other European countries, where laws were passed to the effect that work places were required to be made safe and administrative officials were authorized to work out the details as to what this involved. Drawing on this experience, Professor John R. Commons of the University of Wisconsin and Dr. Charles McCarthy, chief of the Legislative Reference Library of Wisconsin prepared legislation for the state of Wisconsin, requiring employers to furnish a "safe place of employment" and empowering the newly created Industrial Commission "to fix reasonable standards and to prescribe, modify, and enforce safety orders."[12] The success which Wisconsin realized in

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12 Gordon M. Haferbecker,"Wisconsin Labor Legislation," (unpublished Doctor's Dissertation, The University of Wisconsin, 1952) pp. 49-50.

the use of this new approach stimulated the Association to recommend similar action by other states. As other states adopted this approach to the formulation of safety regulations, the necessity for outside assistance such as that provided by the Association became less urgent. The new Commissions, as a rule, invited the parties directly concerned to formulate their own regulations.

Many states, however, continued to rely on state legislatures to enact industrial safety regulations. The Association's most important contribution in this field was its extensive campaign to secure enactment of regulations to reduce the exceptionally high rate of accidents in the coal mines.

Coal Mining

The unusually high incidence of accidents in the nation's coal mines attracted the interest of the Association as early as 1911. At its fifth annual meeting in December, 1911, in Washington, it held a joint session with the American Economic Association to consider the problem of safety and health in the mining industry. The papers presented at this meeting indicated the seriousness of the problem and the inadequate steps which had been taken to alleviate it.

Walter L. Fisher, Secretary of Interior, served as chairman of the session and set the stage for the subsequent discussions by pointing out that, "For each one thousand men employed in the coal mines . . . the rate of loss of life in the United States is much greater than it is in Great Britain and Germany,"[13] the other major coal producing nations of the world.

J. A. Holmes, Director of the newly created United States Bureau of Mines, then explained the lack of authority which his agency had in preventing accidents in the coal mines, "the bureau has no authority to do anything except conduct inquiries and investigations, publish reports and give advice." He added that the power to supervise and inspect the mines remained with the states as part of their police power.[14]

These papers were but the prelude to the main address of the meeting which was delivered by Dr. John Randolph Haynes, Special Commissioner of Mining Accidents for the State of California. Dr. Haynes had made a careful study of the safety programs of the European countries

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13 Walter L. Fisher, "Data Concerning the Mining Industry in the United States," American Labor Legislation Review, February, 1912, p. 123.

14 J. A. Holmes, "The Work of the United States Bureau of Mines," American Labor Legislation Review, February, 1912, pp. 125-130.

and concluded, "It is doubtful if there is a mine in the United States which could pass the inspection which is required of all mines in Europe." He attributed the "frightful" condition of American mines to the fact that, "State inspection has never been efficient, is not now, and there is no reason to believe that it will become efficient in the future." His pessimism was based on his belief that: (1) each state fears to impose regulations upon its own coal operators more burdensome than those to which their competitors in other states competing in common markets are subjected; (2) each state cannot make the scientific investigations or maintain the body of experts easily attainable by the national government; (3) state inspectors owing to political influences are notoriously less efficient than federal inspectors. To remedy this serious problem, he advocated that the federal government "must not only be able to make recommendations, but it must be able to compel the mine owners to carry them out." To this end he recommended that a federal commission be created with power to appoint federal mining inspectors and to prescribe the conditions under which coal entering interstate commerce shall be mined.[15]

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15 John Randolph Haynes, "A Federal Mining Commission," American Labor Legislation Review, February, 1916, pp. 140-152.

During the ensuing years, Dr. Haynes sought to persuade Congress to enact legislation authorizing the creation of such a commission, but without success. Meanwhile, the Association became deeply involved in its "phossy jaw" and social insurance campaigns and did not take an active part in the movement to secure special legislation to protect coal miners from accidents until the early twenties.

Dr. Haynes was apparently greatly impressed with the results which the Association had realized through its work. Early in 1916 he offered to contribute five hundred dollars to the Association, if it would put national legislation for the safety of coal miners along the lines indicated above, at the top of its legislative program for the year.[16] The matter was discussed at length in the Association and it was decided that before any action was taken that Secretary Andrews should ascertain the problems that would arise in a campaign for such a proposal. He discussed it with a number of organizations and found that it was generally felt that such legislation would probably be declared unconstitutional. There was also the feeling that the Bureau of Mines would have to make known its recommendations on the problem before an

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16 Letter from John Randolph Haynes to John B. Andrews, January 29, 1916, Andrews Collection.

effective campaign for action could be set in motion. In view of these considerations the Association decided to concentrate its efforts on other legislation where the prospects of success appeared more hopeful.

In 1922, two considerations persuaded the Association to undertake an aggressive campaign to secure legislation for the prevention of accidents in the coal mines. In the first place, Dr. Haynes gave assurances that he would supply the necessary funds to prosecute a vigorous campaign for such legislation. In the second place, it had become clear to the leaders of the Association that they were in a period of reaction in which most labor legislation stood little chance of passage. Under the circumstances it was clearly desirable to concentrate the work of the Association on those conditions, such as the "phossy jaw" problem, which could be dramatized so as to win the sympathy of the nation and thus, insure passage of appropriate legislation. The tragedy associated with coal mine explosions was of such a nature as to encourage the Association to the view that it might be used to arouse interest in legislation to protect the coal miner, but more broadly as an instrument to keep alive interest in protective legislation generally.

Rock Dusting

The Association began its campaign for safety in

the coal mines by surveying the available literature, interviewing public officials and preparing articles and circulars to create a broader understanding of the problem. A number of articles were published in the Review during the year and late in December it featured a discussion of the problem at its annual meeting in Chicago by George S. Rice, Chief Mining Engineer and William W. Adams, Statistician of the United States Bureau of Mines.[17]

In 1923 the tempo of the educational campaign was stepped up. Early in March, ten thousand copies of a special folder on mine accidents were distributed throughout the country. Background information and press releases on the problem were sent to hundreds of newspapers in the mining states. Articles were published, speeches were made and conferences were held in New York, Washington and in most of the major coal producing states to arouse interest in accident prevention.

Perhaps the most significant work of the year, however, was the formulation of a tentative program of action. A series of conferences were held with mine owners, engineers, representatives of the workers and state and national government officials to determine the most effective

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17 George S. Rice and William W. Adams, "Accidents in Mines," American Labor Legislation Review, March, 1923, pp. 33-37.

approach to the problem. By September, the thinking in the Association began to crystallize and it was able to publish a "Program for Prevention" in which it urged, as a beginning, that protective legislation be strengthened by:

> 1 Safeguarding mine inspectors against partisan interference--whether political or industrial--and placing them upon the basis of training and experience;
>
> 2 Offering--through workmen's compensation laws--inducements to careful employers who reduce hazards by proper safeguards;
>
> 3 Requiring that rock dust be sprinkled to prevent the tragedies due to coal dust explosions.[18]

In a letter to Dr. Haynes, a month later, Dr. Andrews added that it had also been decided that the Association would draft and submit to Congress, "a federal Constitutional Amendment authorizing the establishment of a national minimum standard of safety and health for employees in the mining industry."[19] By the end of the year two additional points had been added to the official "Program for Prevention":

> 4 Adoption of uniform legal minimum standards of safety;

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18 "Two More Mine Tragedies," American Labor Legislation Review, September, 1923, p. 177.

19 Letter from John B. Andrews to John Randolph Haynes, October 31, 1923, Andrews Collection.

5 Greater public authority, federal and state, to procure and disseminate information, and to establish and maintain on a uniform basis reasonable minimum standards of safety.[20]

The climax of the year's work came during the last week in December at the annual meeting in Washington, where a special session was devoted to various aspects of the accident problem in the coal mines. Papers were presented by some of the nation's leading authorities on the subject. Two of them were especially significant. J. E. Jones, safety engineer for the Old Ben Coal Corporation, presented extensive evidence showing the effectiveness of rock dusting in preventing coal mine explosions,[21] and Frederic P. Lee, of the United States Legislative Drafting Service, advised the Association that he was doubtful whether Congress possessed sufficient power to establish minimum standards of safety in the mines. He suggested that until Congress was given this power that uniformity might be achieved through such devices as grant-in-aid, state compacts and uniform state laws.[22] Other papers were presented by Dr. John B.

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20 "Again Two Mine Disasters," American Labor Legislation Review, December, 1923, pp. 236-237.

21 J. E. Jones, "Coal Dust Explosions," American Labor Legislation Review, March, 1924, pp. 35-50.

22 Frederic P. Lee, "Possibilities of Establishing a National Minimum of Safety in the Coal Industry," American Labor Legislation Review, March, 1924, pp. 70-80.

Andrews; H. Foster Bain, Director of the United States Bureau of Mines; Dr. E. A. Holbrook, Dean, School of Mines, Pennsylvania State College; Van A. Bittner, International Representative, United Mine Workers; Thomas Kennedy, President, District 7, United Mine Workers; and Royal Meeker, Secretary, Pennsylvania Department of Labor and Industry.[23]

In 1924 the Association continued to wage an intensive educational campaign and it also began to press for legislative enactment of its proposals. Early in March Dr. Andrews notified Dr. Haynes, who at this time was supporting the campaign to the extent of five thousand dollars a year, that fifteen thousand copies of a new pamphlet on coal mine accidents had been prepared and distributed. This pamphlet, according to Dr. Andrews, had been critically reviewed by the Bureau of Mines, by Dean Holbrook of the Pennsylvania State College School of Mines, by the secretary of the American Institute of Mining and Metallurgical Engineers, by the national officers of the United Mine Workers and by special mine investigators.[24]

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23 See American Labor Legislation Review, March, 1924, pp. 20-80.

24 Letter from John B. Andrews to John Randolph Haynes, March 10, 1924, Andrews Collection.

In March, the Association participated in a campaign in Utah which resulted in the adoption of the most comprehensive set of mine safety regulations in the United States at that time. Interest in new regulations was touched off by a coal dust explosion at Castle Gate, on March 8, which killed 172 coal miners. Immediately following the explosion, the Association, through its press service, mailed out material bearing on the tragedy to approximately one thousand editors throughout the country with special attention given to those located in Utah. Letters were written to government officials and other influential citizens throughout the state, urging that they support adoption of preventive legislation along the lines recommended by the Association. Some of the state officials responded promptly and requested all of the information which the Association possessed on the subject of rock dusting to prevent coal dust explosions. A large amount of information was sent to the industrial commission which also called in safety experts and coal operators to further advise it in writing a new safety code for coal mines. The regulations were quickly passed and put into effect within three months. They met all of the principal recommendations set forth in the Association's "Program for Prevention." In evaluating the work of the Association in this campaign,

Dr. Andrews reported, "It is of course impossible to measure the various forces leading up to this system of accident prevention regulation in Utah, but I think it is not an unwarranted assumption to say that our campaign has favorably influenced the result."[25]

The Association conducted a similar campaign in West Virginia, in which 111 miners lost their lives. Great interest was aroused in the possibility of rock dusting to prevent similar disasters in other mines. Governor Morgan promised to give serious consideration to the Association's "Program for Prevention."[26] The Director of the West Virginia Mine Department joined the Association and obtained copies of all its reports on mine safety. In spite of this progress, no action was taken.

On May 7, Dr. Andrews was one of a half-dozen speakers to testify before the House Committee on Mines and Mining concerning various proposals to increase the facilities of the United States Bureau of Mines.

Later in the month, the Bureau of Mines published an important report which encouraged the Association to

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25 Letter from John B. Andrews to John Randolph Haynes, April 23, 1924, Andrews Collection.

26 Letter from Governor Morgan to John B. Andrews, May 5, 1924, Andrews Collection.

continue its heavy emphasis on rock dusting as the most important single measure which could be taken to prevent coal mine explosions. This report contained the findings of George S. Rice, Chief Mining Engineer of the Bureau, who went abroad to study rock dusting as it was successfully practiced in England and France. His most significant conclusion was that no explosion had occurred in any mine which had been thoroughly rock dusted.[27]

A week later, Dr. Andrews represented the Association at the annual convention of the Mine Inspectors Institute which met at Cincinnati, at which about one-half of the caol mining states were represented. At this meeting a program of prevention was adopted, which according to Dr. Andrews contained "much more advanced recommendations than these officials have ever before proposed."[28] Dean Holbrook, of Pennsylvania State College, also attended the convention and later wrote Dr. Andrews, "Personally, I consider it most important that the Mine Inspectors were willing to go on record for . . . . the various things that you have been hammering

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27 United States Department of Interior, Bureau of Mines, Stone Dusting or Rock Dusting to Prevent Coal Dust Explosions in Great Britain and France, Bulletin No. 225, 1924.

28 Letter from John B. Andrews to John Randolph Haynes, June 19, 1924, Andrews Collection.

at."[29] Largely through the influence of Dean Holbrook, the Association was placed in a position to extend its influence to a much more powerful group which had begun to work on the problem of safety in the coal mines. Early in November, Dr. Andrews accepted an invitation from Dean Holbrook to go to Pittsburgh and join the Mining Standardization Correlating Committee of which he was chairman and which was advisory to the American Engineering Standards Committee.[30]

As the year ended, Dr. Andrews was able to report to Dr. Haynes, the principal financial supporter of the campaign, that several state mine officials had volunteered the information that:

> . . . there is much greater responsiveness in their states to safety proposals--particularly to rock dusting. They say that this is largely on account of the publicity we have been giving the subject throughout the year.

He added, however:

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29 Letter from Dean E. A. Holbrook to John B. Andrews, July 9, 1924, Andrews Collection.

30 The organizations represented on this advisory committee included: the American Association for Labor Legislation, the American Institute of Mining and Metallurgical Engineers, the American Mining Congress, the Associated Companies, the Coal Mining Institute of America, the Manufacturers of Safety Equipment, the Mine Inspector's Institute of America, National Coal Association, National Safety Council, United States Bureau of Mines and the United States Department of Labor.

> The thing that now gives me the greatest concern is the obstructive tactics of some officials (both federal and state) and some engineers who appear to lie awake nights to think up excuses for further delay. It is a wearing down process to overcome some of this inertia, but a momentum is being developed which I am confident will soon carry the work forward beyond the control of these procrastinators.[31]

To accelerate this "momentum" the Association began to publish a "Roll of Honor of Coal Companies Using Rock Dust to Prevent Coal Dust Explosions." In 1922 it was able to secure from official sources the names of only three companies which were voluntarily using rock dust to prevent explosions. By the end of 1924 it was able to list over fifty companies on its "Roll of Honor."

The first major accomplishment of the Association in 1925 was that of securing the approval of the House Committee on Printing to publish the report of the United States Coal Commission which had been completed in September, 1923, at a cost to the government of $600,000 and to the industry of approximately $1,000,000. In mid-January Dr. Andrews talked with various members of the Committee and found that there was no interest in printing this document. After further discussions with

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31 Letter from John B. Andrews to John Randolph Haynes, December 13, 1924, Andrews Collection. Emphasis added.

the members, he persuaded the Committee to hold a public hearing on the matter. Dr. Andrews then arranged with George Otis Smith, member of the United States Coal Commission and Congressman Newton, who had fathered the original legislation to join in presenting testimony in favor of the proposal at the hearings. Following the hearings, the Chairman of the Committee was authorized to recommend that the document be printed.[32] The resolution was passed by both Houses in February. It was finally published nine months later in five volumes totaling 6,807 pages.[33] Thus, the Association was largely instrumental in making available the results of the most extensive study on coal mining which had been conducted in America. The report was well edited and held possibilities of providing the necessary information to shape intelligent public opinion and frame needed legislation.

Meanwhile, the Association pressed its campaign to stimulate further interest in safety legislation. Special kits of material, including the Association's, "Program for Prevention of Needless Coal Mine Accidents," were sent to approximately five hundred state legislators

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32 Based on an account contained in a letter from John B. Andrews to John Randolph Haynes, January 26, 1925, Andrews Collection.

33 Senate Document 195, 68th Congress, 2nd session.

who were serving on legislative mine committees. More than twenty-five thousand copies of a pamphlet, which, according to Thomas Kennedy, Secretary-Treasurer of the United Mine Workers, "makes a very striking and effective argument in favor of the use of rock dust,"[34] were mailed into the coal producing states in February.

When the supply of the latter pamphlet had been exhausted, the Association received a further request for four thousand more copies from Indiana, where a serious mine explosion at Sullivan had taken the lives of fifty-one miners on February 24. This request was fulfilled and other material was sent into the state to develop support for bills to prevent mine accidents, which were being considered by the legislature then in session. Especially effective was the accumulation of data showing that the community cost of the Sullivan disaster was approximately three hundred thousand dollars while the actual property loss was only about three thousand dollars.[35]

In mid-February, Dr. Andrews represented the Association at a convention of the American Institute

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34 Letter from Thomas Kennedy to John B. Andrews, February 23, 1925, Andrews Collection.

35 "Community Cost of the Sullivan Coal Mine Disaster," American Labor Legislation Review, June, 1925, pp. 94-95.

of Mining and Metallurgical Engineers in New York. There was great interest at this meeting in the possibilities of rock dusting as a means of preventing coal mine explosions. A half-day session was devoted to the subject. In the course of the Convention, the special committee of the American Engineering Standards Committee met and discussed the final draft of "Recommended Standard Practices for Rock Dusting Coal Mines to Prevent Coal Dust Explosions," which was to be used by state legislatures and commissions in formulating adequate safety regulations.[36]

By the end of February, the Association had completed the draft of a bill requiring rock dusting of coal mines and sent it to all of the coal mining states urging the governors to have it introduced in the legislature. This bill was based on the Utah regulations, the recommendations of the Mine Inspector's Institute, and the recommendations of the American Engineering Standards Committee.[37]

Within two months, three states, Pennsylvania, Wyoming and West Virginia enacted rock dust legislation,

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36 Letter from John B. Andrews to John Randolph Haynes, February 21, 1925, Andrews Collection.

37 Letter from John B. Andrews to Charles E. Ozanne, February 27, 1925, Andrews Collection.

but it was permissive rather than mandatory. Each act provided that coal operators could substitute rock dusting for water sprinkling, but they were not compelled to use the former method of preventing explosions.

In August, two significant developments occurred in the movement to secure rock dusting legislation. Early in the month, the American Engineering Standards Committee took the long awaited final step and officially adopted the "Recommended Standard Practices for Rock Dusting," which had earlier been approved by its subcommittee.[38] Later in the month the United States Bureau of Mines was transferred from the Department of Interior to the Department of Commerce. Dr. Andrews appeared to be encouraged by this development. He expressed his hope, in a letter to Dr. Haynes, that the rearrangement would offer more promising opportunity for cooperation than had previously been the case.[39]

At the end of the year, Dr. Andrews noted, with satisfaction, "There is a general impression that we have accomplished much more in the past two years than has ever been done before in 'putting the fear of God' into

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38 The "Recommended Standards" may be found in the American Labor Legislation Review, September, 1925, pp. 199-202.

39 Letter dated August 28, 1925, Andrews Collection.

mine operators and state mine officials."[40] The "Honor Roll" of companies voluntarily adopting rock dusting reflected a quickened interest in dealing with the problem. During the years from 1923 to 1925 only slightly more than fifty companies were found to rock dust their mines. During 1925 a total of fifty-six additional companies indicated that they had started using rock dust to prevent coal mine explosions.

Early in 1926 the Association decided to intensify its efforts to get the federal government to play a more positive role in the campaign for safety in the coal mines by shifting its role from that of rescue to one of prevention.

In mid-January, Dr. Andrews conferred at length with Secretary of Commerce, Herbert Hoover, to explore the possibilities of such a shift in policy. To implement such a change in approach he proposed that a cooperative federal-state plan be created in which federal money be turned over to the states on condition that they adopt standards of safety and inspection which were approved by the federal government. Secretary Hoover was enthusiastic about the proposal and at the close of the conference

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40 Letter from John B. Andrews to John Randolph Haynes, December 12, 1925, Andrews Collection.

said, "I wish you would work on the idea of a federal-state program."41

Three weeks later Secretary Andrews met again with Secretary Hoover and outlined a federal-state legislative plan for mine safety. Dr. Andrews recorded the following account of this conference:

> He /Secretary Hoover/ listened with nods of approval while drawing a five pointed star on his blotter with a constantly busy pencil, and then said: "I approve all that, except the setting up of a new Board goes against my administrative sense."
>
> I replied: "I understand, but a Board has been found useful in similar plans when a state has to be told to come up to standard or lose her share of federal money."
>
> He laughed--showing the lack of several front teeth on the lower jaw, and replied: "Yes, for an umbrella to keep off the rain! I do it myself about once a week." Then he asked: "Have you thought of preparing a bill?" I replied that "I had parts of it ready and could have a completed bill next week," whereupon he said: "I think that's a good thing to do. I went over the matter of recent mine explosions the other day and asked what the facts are about these conditions in each case. The men in the Bureau tell me that if we offend one, the others will take his part and the Bureau's engineers will be unable to get into any of the mines. They are banded together. I think I will recite a letter to the industry pointing out the disgrace of these needless explosions and asking what they intend to do about it. I think I will say I have no intention of making a crusade, but if they don't wake up soon they shouldn't be surprised if someone did and give them

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41 John B. Andrews, Office Memorandum, January 18, 1926, Andrews Collection.

something to remember for a long time to come."[42]

Early in March, Dr. Andrews conferred again with Secretary Hoover and Scott Turner, Director of the United States Bureau of Mines and found that both approved the draft of a bill which he had submitted to them earlier. The only remaining question concerned the manner in which the bill could be most effectively introduced in Congress. Secretary Hoover felt that the Association should get the bill introduced and the discussion started before the position of the Department be made public, since a number of coal operators were not friendly to him and would oppose federal aid if it were known that he favored it. On the other hand, Dr. Andrews indicated that he felt that the bill would meet "at least one hundred times as much opposition if he did not openly and as quickly as possible favor it."[43] They agreed that during the next few days they would consider the best members of Congress to introduce the bill and then try to jointly work out the most effective strategy to secure its early passage by Congress.

The bill was sent to a number of the leading

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42 John B. Andrews, Office Memorandum, February 5, 1926, Andrews Collection.

43 Contained in a letter from John B. Andrews to John Randolph Haynes, March 3, 1926, Andrews Collection.

individuals and organizations which had been important in the movement for adequate legislation. The response was generally very favorable. Dean Holbrook, for example, congratulated the Association on its vision and foresight in developing the proposed legislation and then correctly appraised the greatest "practical difficulty" to securing the plan as "the very evident reaction in the country at large to further federal subsidy."[44] An attitude of indifference towards the bill, however, seemed to prevail among the top officials of the United Mine Workers. It was discussed by the Executive Board of the Union and decided that whatever was done should be worked out under the auspices of the Department of Commerce.[45] The uncertainity of the attitude of organized labor caused some delay in getting the bill introduced in Congress.

In April, the campaign to secure rock dusting received an unexpected push from the Associated Companies of Hartford, Connecticut. At this time the Associated Companies wrote a large volume of coal mine compensation throughout the entire nation. This organization announced

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44 Letter from E. A. Holbrook to John B. Andrews, March 6, 1926, Andrews Collection.

45 Letter from Thomas Kennedy to John B. Andrews, March 30, 1926, Andrews Collection.

that after October 1, 1926, it would not insure for compensation in any mine unless it had been rock dusted.[46]

Throughout the remainder of the year, the Association pressed its campaign to secure support for legislation which was scheduled to be introduced in both federal and state legislatures early in 1927. Conferences were held with representatives of labor, engineering and employer organizations in Detroit, Philadelphia and Washington. Background material and press releases were sent to newspapers and circular letters and pamphlets were widely distributed to acquaint the public with the seriousness of mine accidents and the need for legislation.

By the end of the year Dr. Andrews was able to tell the Association that the campaign for rock dusting of coal mines had aroused a "most impressive and encouraging response."[47] More than seventy companies had voluntarily installed rock dusting[48] and there was an increasing demand for copies of the "Standard Bill."

Less encouraging was the fact that 349 miners lost their lives in mine explosions during the year.

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46 The Associated Companies, Safety Circular No. 48, 1926.

47 John B. Andrews, "Report of Work for 1926," American Labor Legislation Review, March, 1927, p. 96.

48 Loc. cit.

This number represented approximately a 33 per cent increase in deaths due to mine explosions over the preceding year.

In addition, the first systematic attempt to discredit the rock dusting remedy for mine explosions was published during the year.[49] Until the publication of this book the coal operators had not been too outspoken in their opposition to rock dusting, but the adverse testimony of the author of this book, a Pennsylvania mine inspector, was exploited to the fullest.

In spite of this opposition, the campaign for rock dusting legislation achieved limited success in the state legislatures in 1927. Indiana enacted the standard rock dusting bill prepared by the Association and Ohio passed a law providing that rock dusting could be substituted for sprinkling if either was judged necessary by the district mine inspector. Pennsylvania strengthened its law by requiring rock dusting under certain limited conditions and Wyoming strengthened its law, but it fell short of the Association's recommendations. The Association's bill passed both houses of the Tennessee legislature, but while it was in the hands of Governor Austin Peay the coal operators got busy with the result

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49 Harry Phythyon, The Rock Dusting Remedy, 1926.

that it was recalled and tabled by the lower house.[50] The Association was somewhat less successful in Congress. Congressman Perlman of New York introduced its bill which provided federal funds to those states which required certain minimum standard of safety in the mines, but no action was taken.

During the summer of 1927 the Association continued its educational work, but encountered increasing resistance to its proposal. In May, Dr. Andrews and Dean Holbrook attended a special national meeting arranged by the American Mining Congress to consider the advisability of developing a coal mine safety code, including a provision for rock dusting. Dean Holbrook presented the case for including a requirement for rock dusting in such a code, but according to Dr. Andrews, "one coal operator after another proceeded to knock the idea." This conference adjourned without taking any constructive action.[51]

During the summer its educational campaign included the distribution of a two-color pictorial broadside indicating the menace of mine explosions and the nature of the rock dust remedy. The positive results

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50 "Progress in Rock Dusting Legislation," American Labor Legislation Review, June, 1927, pp. 121-122.

51 Letter from John B. Andrews to John Randolph Haynes, July 6, 1927, Andrews Collection.

of rock dusting were also stressed at this point. The fact was publicized, for example, that in 1927, 148 miners lost their lives in mine explosions while 730 were saved in three mines where the rock dust safeguard checked the spread of explosions.[52] It added over sixty new companies to its "Roll of Honor," making a total of 247 companies that had installed the safeguard since the Association initiated its campaign in 1922.[53] The Bureau of Mines estimated that these companies produced approximately one-fourth of the total output of bituminous coal in the nation.[54]

In August, 1927, the Association received news which dealt a mortal blow to its rock dust campaign. Dr. John Randolph Haynes notified the Association that he was forced to discontinue his monthly contribution of five hundred dollars which had been donated for the purpose of conducting a campaign for coal mine legislation. The Association maintained the momentum of its campaign for the remainder of the year despite the fact that its

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52 "Coal Dust Kills 148--Rock Dust Saves 730 in Eleven Months," American Labor Legislation Review, December, 1927, pp. 302-303.

53 John B. Andrews, "Report of Work for 1927," American Labor Legislation Review, June, 1928, p. 226.

54 "Progress in Rock Dusting," American Labor Legislation Review, June, 1928, p. 226.

income for this purpose had been terminated.

New sources of funds could not be located so the Association was forced to conduct a limited offensive during the next five years. For the most part, it confined its activities to educational work. Through the press and the pages of the Review, it publicized the facts of mine disasters to arouse and keep interest in rock dusting alive. Simultaneously, it urged employers to voluntarily adopt the rock dust safeguard, but this limited offensive yielded limited results. Little state legislation was enacted and only a few more companies were added to the "Honor Roll" during this entire period than were added during the single year of 1927.

By 1933 the disorganization of the industrial system had reached such a point that the Association decided to devote all of its limited resources to the campaign for enactment of social insurance legislation. It continued to support safety legislation for coal mines, but withdrew from the active campaign for such legislation until 1937.

Early in 1936, the leaders in the Association were alarmed over the fact that the number of companies which were rock dusting their mines appeared to be declining. George S. Rice, Chief Mining Engineer of the United States Bureau of Mines, attributed this "apparent

falling off in rock dusting" to the fact that in the forced economies during the depression the mine owners took a chance on reducing rock dusting; that many of the states did not have adequate inspection departments with enough inspectors to do sufficient checking to see that rock dusting was properly done; and, that the chief prod in the past had come from the liability insurance companies, but they had let up in their requirements.[55]

Inspection

These conditions touched off a re-survey of the mine accident problem to discover what the states could do to make mining safer. A series of conferences were held with mine operators, workers, engineers and administrative officials to discover the weaknesses of state legislation and administration. The results of this study were published in four installments in the Review in 1937. In the first, Dr. Andrews pointed out the need for public concern with the problem. He cited the fact that the accident rate in the coal mine was higher than in any other major industry in the United States; that coal mining was more dangerous in the United States than in any other country in the world despite the fact that the mines are shallower and thus,

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55 Letter from George S. Rice to John B. Andrews, March 6, 1936, Andrews Collection.

less hazardous to work; and, that it was estimated that at least 10 per cent of the cost of producing coal was due to the cost of accidents.[56]

In the second installment, Dr. Andrews reported that thirty-four states had adopted mine safety codes, the vast majority of which were in the form of detailed statutes. He pointed out that this method of regulation was "outmoded" and "seriously defective" and concluded that "the most important first step if the United States is to make mining safer" lay in "incorporating in state mining laws the tested legal and administrative devices that have proved most effective in other labor laws."[57]

In the third installment it was concluded that the administrative machinery showed serious deficiencies "in the number, selection, training, tenure and remuneration of mine inspectors.[58]

In the final installment, the following basic standards for mine safety legislation "to strengthen the public's contribution to the movement for mine

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56 John B. Andrews, "Shall We Make Mining Safer?" American Labor Legislation Review, March, 1937, pp. 36-38.

57 John B. Andrews, "What is Wrong With Mine Safety Legislation?" American Labor Legislation Review, June, 1937, p. 79.

58 John B. Andrews, "State Mine Inspection Bureaus Are They Adequate?" American Labor Legislation Review, September, 1937, p. 144.

accident prevention" were recommended:

1. Selection of mine inspectors by means of a carefully safeguarded system of competitive merit tests.

2. Provision for a one-year probationary period of training and experience for newly appointed mine inspectors, with final qualifying examination by the board administering the merit system before permanent appointment.

3. Permanent tenure of office for mine inspectors, subject only to a physical fitness requirement, a compulsory retirement age limit and removal on charges after public hearing before the board administering the merit system.

4. Requirement that before appointment and annually thereafter, each mine inspector shall submit to the board administering the merit system a satisfactory medical certificate showing that he is physically fit to perform his duties.

5. A very considerable increase in the minimum salaries of mine inspectors in practically all states, with provision for graded increases based on merit and term of service.

6. Provision for old age and disability annuities for mine inspectors, and extension of the state workmen's compensation law to protect mine inspectors.

7. Provision of an adequately financed bureau of mines which, in all except leading mining states where independent bureaus are already established, would be made a division of a unified state department which also administers other industrial safety and workmen's compensation laws.

8. Adoption of a general safety law which in broad terms will make it the primary responsibility of the mine operators to provide safe employment and which will empower the administrative department under proper procedure to make detailed mine safety regulations having the force of law; inclusion of effective penalty provisions, making use of the cumulative civil penalty; and encouragement of compliance through accident benefit differentials and adjusted compensation

insurance premiums.[59]

These Standards aroused favorable comment from all groups interested in greater safety in the mining industry. Dean E. A. Holbrook, of the University of Pittsburgh School of Mines urged the "sympathetic attention of all those who believe that safety should come first in the mining industry." Eugene McAuliffe, president of the Union Pacific Coal Company, expressed his "accord with these basic standards"; and, Thomas Kennedy, secretary-treasurer of the United Mine Workers of America, declared that his union would "cooperate" in any movement to secure legislation based upon them. W. H. Cameron, managing director of the National Safety Council, observed that the formulation and publication of the standards constituted a "definite step" in the direction of "adequate safety supervision by the appropriate governmental agencies." They were approved by Richard Maise, president of the Mine Inspectors Institute of America and Dan Harrington, chief of the Health and Safety Branch of the United States Bureau of Mines recommended them as "meritorious and deserving of support."[60]

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59 John B. Andrews, "State Action for Mine Safety--Some Basic Standards," American Labor Legislation Review, December, 1937, pp. 174-180.

60 "Mine Inspection Standards Commended," American Labor Legislation Review, March, 1939, p. 48.

The publication of this report created such sentiment in the Association for stronger mine inspection service that the Executive Committee met April 28, 1939 and went on record for:

> 1. More nearly adequate Federal supervision of safety conditions in mines on Government leased lands;
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> 2. More effective cooperation with the states for the encouragement of adequate standards in state mine inspection;
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> 3. The legal authorization of Federal mine safety experts to enter the mines for the purpose of securing information and to make public their findings.[61]

This official action and the interest in strengthening the mine inspection aroused by the Association gave impetus to the movement which resulted in the introduction of a bill to authorize Federal inspection of mines in May, 1939, by Representative Keller of Illinois and Senator Neely of West Virginia. This bill contained two basic provisions: (1) legal right of entry into coal mines for Federal investigators and (2) authority to make the facts public. Its passage in May, 1941 was largely due to the efforts of the United Mine Workers of America.

The shortage of funds and the outbreak of hostilities in the early forties forced the Association to dis-

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61 "Strengthen Mine Inspection Service," American Labor Legislation Review, June, 1939, p. 62.

continue its work in this field. At the time of its dissolution, the Association could look back on a record of substantial accomplishment in awakening the public as well as the industry and the workers to the need for protective legislation to reduce the excessive toll of accidents in the mines. It had also taken the lead in developing adequate legislation to accomplish this objective, but it realized very limiting success in securing its enactment either by state of national legislatures.

CONCLUSION

By the time the Association was organized and ready to participate in the movement to make work conditions safe, society was vaguely aware of the extent of the problem and some legislation had been enacted to prevent accidents. Unfortunately, accurate information concerning the nature and extent of industrial accidents was still lacking so that most of the legislation was inadequate and ill considered.

The Association began its work in this field by seeking more accurate information concerning industrial accidents. It was believed that such information was necessary before scientific legislation could be developed. It was also felt that factual information would

prove useful in the campaign for enactment of such legislation.

During a period stretching roughly from 1910 to 1920, the Association provided the leadership in the struggle for adequate accident reporting legislation. At the close of this period the legislation which it recommended had been enacted in states containing slightly more than one-half of the manufacturing population of the nation. Much work remained to be done but the main elements of such legislation had been fixed and its desirability was generally recognized. During the twenties the Association bequeathed the task of improving and extending its coverage to the state labor departments, the federal government and to such organizations as the labor unions, the Association of Accident Boards and Commissions, the American Public Health Association and the National Safety Council.

Prior to 1910, state safety regulations were enacted by the legislature. After that year many states continued to follow this procedure but many of the more progressive states transferred this task to a commission with power to make the conditions of work safe. The Association recommended the latter plan as the one most likely to yield satisfactory results. With one major exception, it held itself aloof from legislative attempts

to specify the conditions which should prevail at the place of work in order to avoid accidents.

The excessively high accident rate in the coal mines led the Association to campaign for specific legislative remedies. Throughout the twenties it conducted an intensive campaign for legislation to require coal operators to rock dust their mines to prevent coal mine explosions. During the late thirties, it helped to focus public attention on the inadequacies of mine inspection in America and formulated a positive program to remedy the problem.

The intensive educational campaign waged by the Association helped to stimulate enough interest to secure legislative enactment of all or part of its recommendations by a number of states. In addition, it persuaded a number of coal operators to voluntarily install rock dusting to prevent explosions. Open opposition to its proposal came from many coal operators and the Association encountered great difficulty in overcoming inertia on the part of many government officials and even among mine union officials.

In the late thirties, the spotlight which the Association turned on the inadequate mine inspection system gave impetus to the movement which ultimately resulted in the strengthening of state and federal legis-

lation to the end that representatives of the Federal Bureau of Mines were permitted to inspect mines and publish their findings.

Placed in their proper perspective, it must be said that the activities of the Association in this area were confined to limited objectives and in the case of coal mining achieved limited, but nonetheless important results.

CHAPTER IV

INDUSTRIAL ACCIDENTS: WORKMEN'S COMPENSATION AND VOCATIONAL REHABILITATION

WORKMEN'S COMPENSATION

Fundamentally a workmen's compensation law is an attempt to apply the principle of insurance to industrial hazards. It was intended by its early proponents to achieve two primary objectives. First, it was designed to encourage the prevention of work injuries by providing employers with an incentive to make the conditions of work safe. Secondly, it was intended to serve as an instrument for shifting the monetary cost of work injuries from the immediate victims and their dependents to society at large.[1]

Early Interest in Legislation

Like most other social legislation, workmen's compensation originated in Europe and was generally accepted as the most just and economical method of financing the loss sustained by an employee who had been injured in the course of his employment, long before any sentiment for it developed in this country. In

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1 E. H. Downey, "American Compensation Laws," American Labor Legislation Review, March, 1922, p. 55.

1885 Germany passed the first compensation law and by the turn of the century all of the leading European countries had taken similar action.

Prior to 1900, the only evidence of interest in America in the experience of European countries with accident compensation was limited to the United States Bureau of Labor and the New York State Bureau of Labor. In 1893 the United States Bureau of Labor published a study of the German system of compensation by John Graham Brooks.[2] Five years later it published a general study of the European workmen's compensation laws by Dr. W. F. Willoughby[3] and two years later the New York State Bureau of Labor published a similar study.[4] These studies provoked a great deal of discussion concerning the inadequacy of employer liability laws and the merits of compensation legislation. As a result, employer liability laws were liberalized and bills providing for some form of accident compensation were introduced in a number of states. Serious consideration of the subject developed in Massachusetts, Illinois and Connecticut during the

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2 John G. Brooks, Compulsory Insurance In Germany, 1893.

3 W. F. Willoughby, Workingmen's Insurance, 1898.

4 A. F. Weber, Industrial Accidents, 1899.

first decade of the twentieth century, but no legislation was passed.[5]

During the immediate years that followed, the Association played an important role in creating the conditions necessary for passage of legislation by both state and national legislatures.

Pre-legislative Activities

Before this important legislation could receive serious consideration in state and national legislatures, it was necessary to demonstrate that a change was needed, and further, that the proposed legislation was the best of all possible remedies.

To satisfy the first requirement, the Association undertook to discover the extent of industrial accidents and to impress the gravity of the problem upon the public. To this end it conducted a vigorous campaign to secure uniform accident reporting. This campaign was discussed at length in Chapter III.[6]

The information derived from these reports was coupled with the humanitarian aspect of the problem to

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5 Thomas I. Parkinson, "Problem and Progress of Workmen's Compensation," American Labor Legislation Review, March, 1911, p. 56.

6 Accident Reporting, pp. 107-112.

show the need for legislation to encourage accident prevention, and failing that to provide adequate and certain compensation for the victims of industrial accidents. At every annual meeting of the Association between 1909 and 1912 this idea was urged upon those present. The papers presented at these meetings were usually published and widely distributed to arouse additional support for the proposal. The following list of pamphlets distributed by the Association during this period is indicative of the type of literature which it made available in large quantities:

> "The American Way of Distributing Accident Losses."
> "Employers Liability: A Criticism Based on Facts."
> "Compulsory Compensation for Injured Workmen."
> "The Prevention of Accidents."
> "Scientific Accident Prevention."
> "Voluntary Indemnity for Injured Workmen."[7]

This early educational campaign was initiated to arouse sufficient interest in the states to stimulate the legislature to appoint a commission to study the problem. Simultaneously, the Association encouraged its state branches and prominent members in the various states to work toward the same objective. In this manner the Association played an important role in securing legislative authorization of commissions in Wisconsin, New York and

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7 American Labor Legislation Review, February, 1912, p. 166.

Minnesota in 1909. Professor John R. Commons, former secretary and highly influential in the Association, and other members of the Association in Wisconsin were instrumental in securing the official inquiry in that state. In New York, Governor Hughes showed his appreciation of the work of the New York branch of the Association in behalf of the legislation authorizing the creation of a Commission, by appointing Professor Henry Seager and Miss Crystal Eastman, President and Secretary of the New York branch, to membership on it. Miss Eastman was selected to serve as permanent secretary of the New York Commission. The Minnesota branch of the Association under the leadership of John A. Ryan contributed significantly to the successful campaign for a Commission to study the desirabliity of a workmen's compensation act in Minnesota.

One of the principal arguments used to prevent consideration of workmen's compensation was the contention that any state contemplating such a move would seriously handicap its industrial development by adding to the cost of production of its industries and thus undermine their competitive position. This argument was used effectively to prevent passage of legislation in Massachusetts in 1904 and again in Connecticut in 1909.[8]

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8 Parkinson, op. cit., p. 59.

In view of the effectiveness of this argument the Association, in 1909, decided to promote cooperation among the various Commissions to the end that uniform legislation might ultimately be enacted.

To enlist the enthusiastic cooperation of the Minnesota Commission, it was decided to encourage this Commission to take the initiative in calling the Commissions together to exchange ideas and to study common problems. Both Dr. Andrews and Professor Commons attempted to persuade H. V. Mercer, an attorney in Minneapolis who was an influential member of the Minnesota Commission to take this important step. Mercer was receptive to the idea and as a consequence the Minnesota Commission called the three Commissions together in Atlantic City, in July, 1909. At this meeting, plans were made to hold a second conference in Washington, D. C. in January, 1910. During the winter of 1910, eight additional states created Commissions and in June the Association sponsored the third meeting of the Commissions in Chicago. This Conference was attended by more than two hundred persons including representatives from labor unions, employers, social welfare organizations and state and federal labor departments. Dr. Andrews was made Secretary of the Conference and in this capacity managed the details and edited and distributed the proceedings of the meetings.

Largely as a result of the work of the various state Commissions and the educational activities of the Association and other organizations, the prospects of passage of compensation legislation appeared bright in at least a dozen states at the opening of the legislative sessions in 1911.

State Legislation

1911 proved to be an auspicious year for workmen's compensation legislation in the state legislatures. No less than ten states enacted some type of legislation.[9]

A variety of methods of providing for the victims of industrial accidents were represented in the new laws. Only one state, Washington, provided for compulsory insurance for certain specified industries, while all other laws were elective. Most of the states modelled their laws after the English system of merely establishing a duty to pay compensation while the remainder, like Washington, employed the principle of insurance in making provision for the benefits.[10]

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9 California, Illinois, Kansas, New Hampshire, New Jersey, Massachusetts, Nevada, Ohio, Washington and Wisconsin.

10 See American Labor Legislation Review, October, 1911, p. 104.

Constitutional Difficulties

The legal status of the new laws, however, was uncertain. In March, a New York Court of Appeals held the New York law unconstitutional.[11] This law, which had been passed in 1910, provided that compensation for injuries in certain hazardous industries be made compulsory. On the other hand, the Washington law which also provided that employers in certain industries be compelled to insure their workmen against injury was held constitutional by the state Supreme Court in September.[12]

In December, at its fifth annual meeting, the Association featured a discussion of this important, but uncertain aspect of the compensation movement. John F. Wallace, member of the Industrial Insurance Commission of Washington, explained the unique features of the compulsory insurance system in Washington state which had just passed the constitutional test.[13] Ernst Freund, an eminent professor of law at the University of Chicago discussed the constitutional status of workmen's

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11 Ives v. South Buffalo Ry. Co., 201 N. Y. 271.

12 Smith-Davis Co. v. Clausen, 117 Pac. 1101.

13 John F. Wallace, "Compulsory State Insurance from the Workman's Viewpoint," American Labor Legislation Review, February, 1912, pp. 15-28.

Compensation.[14]

Early in 1912 the Association began a drive to secure an adequate compulsory workmen's compensation act in New York. To accomplish this objective it was first necessary to amend the state constitution to make such legislation permissible. To this end, Professor Chamberlain, a prominent member of the Association, drafted a constitutional amendment which was introduced in the legislature in January, 1912. The Association, as well as other social welfare organizations in New York rallied to the support of this amendment and it was passed in 1913.

In the meantime rival compensation bills were introduced in the New York legislature. Both bills contained compulsory provisions, but one enabled the employer to insure his employees with casualty insurance companies while the other did not. The Association favored the latter because it believed that insurance with private insurance companies would enable some unscrupulous insurance companies to circumvent the intentions of the law. Although the Association conducted an intensive campaign in behalf of the bill which it sponsored, it proved to be no match for the organized casualty companies which

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14 Ernst Freund, "The Constitutional Status of Workmen's Compensation," American Labor Legislation Review, February, 1912, pp. 43-59.

succeeded in getting their bill enacted in December, 1913.[15] Even though this bill was not exactly to the Association's liking, it did on the whole, provide for more liberal benefits than any other state law in operation. Moreover, the success in establishing a compulsory law in New York was thought to constitute a major step in reversing the trend toward elective laws, since many states tended to look to New York for leadership in social legislation.

Standards

At its sixth annual meeting in Boston in December, 1912, the Association created a Social Insurance Committee to extend its work into the whole field of social insurance. While its purpose was to formulate a "comprehensive plan suited to American conditions, including not only compensation for industrial accidents, but also protection against . . . those other ordinary contingencies against which . . . the average wage earner is unable to properly provide,"[16] its most immediate concern was the field of workmen's compensation.

The members of this Committee included: Edward T. Devine, Chairman, Director of the New York School of

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15 New York, Laws 1913, C. 816.

16 American Association for Labor Legislation, "Social Insurance," American Labor Legislation Review, December, 1914, p. 578.

Philanthropy, Professor of Social Economy at Columbia University; Miles Dawson, Consulting Actuary, member of the New York bar; Carroll W. Doten, Secretary of the American Statistical Association, Professor of Economics and Statistics at Massachusetts Institute of Technology, chief investigator for the Massachusetts Commission on Compensation for Industrial Accidents; Henry J. Harris, chief of the Division of Documents of the Library of Congress, expert for the United States Bureau of Labor; Charles R. Henderson, Professor of Sociology at the University of Chicago, Secretary of the Illinois Commission on Occupational Diseases; Frederick L. Hoffman, Statistician for the Prudential Life Insurance Company; I. M. Rubinow, former Consultant, United States Bureau of Labor; Henry R. Seager, Professor of Economics at Columbia University, member of the New York Commission on Employer's Liability and Other Matters; and John B. Andrews, Secretary of the Association.[17]

This Committee officially inaugurated its work by calling the First American Conference on Social Insurance, in Chicago, June 6-7, 1913. Delegates were appointed by the governors of the principal industrial states and the Conference was well attended by employers, labor leaders,

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17 Ibid., p. 577.

economists and government officials.

At the outset of the Conference, Professor Willoughby reviewed the progress which had been made toward compensation legislation and concluded that:

> As regards legislation actually had, it is confessedly tentative. No consistent or measurably complete program has been adopted by any state. Legislatures are merely feeling their way step by step. As regards public opinion, no agreement has been reached in respect to what should be done or how it should be done.

He then went on to indicate the conditions which he believed necessary to facilitate further legislative progress:

> We need a national opinion on the subject. We need the definite statement of primary ends sought by this method of social reform, and of the principles that should govern in seeking to bring them about. We need an organization through which present unrelated efforts can be coordinated; through which each state may have knowledge of the thought, action, and experience of her sister commonwealths.[18]

He proposed that the Committee serve as the medium through which these objectives could be realized and expressed the hope that the Conference then in session would ". . . be the mother of many similar gatherings, until this great problem has been fairly brought under control."[19]

The third session of this Conference was devoted

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18 William F. Willoughby, "The Problem of Social Insurance: An Analysis," American Labor Legislation Review, June, 1913, p. 155.

19 Loc. cit.

to one of the most important problems confronting the proponents of compensation legislation, namely, the question of what type of carrier should be utilized to handle the insurance fund. The advantages of each of three types were presented. Thomas J. Duffy, Chairman of the Ohio State Liability Board Awards, presented a paper on the "Advantages of Compulsory State Insurance." and Miles Dawson outlined the case indicating the "Superiority of Compulsory Mutual Insurance." These papers were followed by an extended discussion of the problem from the floor. The papers of this and the other sessions of the Conference along with a select bibliography on workmen's compensation were published in the June issue of the Review and thus helped to educate an even larger circle of people interested in the form which workmen's compensation should take.[20]

Following a series of meetings the Committee published a pamphlet containing a set of standards or minimum requirements for adequate legislation which could be used to evaluate the twenty-four state laws which had been passed.[21] The standards provided for compulsory medical

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20 American Labor Legislation Review, June, 1913, pp. 247-286.

21 American Association for Labor Legislation, Standards for Workmen's Compensation Laws, August, 1914.

attendance for a reasonable time; compensation on a basis of two-thirds of the wages during the entire period of total disability; compensation on a basis of two-thirds of the difference between the wage before the injury and the wage after the injury in case of partial disability; in case of death the widow should receive compensation amounting to thirty-five per cent of wages until her death or remarriage; inclusion of children until they reach the age of eighteen; a waiting period of not less than three nor more than seven days at the beginning of the disability; insurance to be provided through an insurance fund, mutual association, state insurance fund or private stock company; creation of an accident board to administer the act; and inclusion of occupational disease as ground for compensation.

These standards were first incorporated in the New York law which the officers of the Association helped to draft and pass in 1913. Professor Seager then observed that this law, "sets a new standard in the field of state compensation legislation."[22]

The eighth annual meeting of the Association held at Philadelphia, in December, was used as an educational forum for the discussion of the legislative and adminis-

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22 Henry R. Seager, quoted by John B. Andrews, "Outline of Work for 1913," American Labor Legislation Review, March, 1914, p. 156.

trative problems connected with workmen's compensation, because it was felt that it was "perhaps the most urgent labor question now before our lawmaking bodies." Governor-elect Martin G. Brumbaugh, of Pennsylvania, welcomed the Association to Philadelphia and indicated his intention to work for an advanced compensation act.[23] Francis Feehan, member of the Pennsylvania Industrial Accident Commission, reviewed the progress and problems being encountered in drafting a satisfactory compensation act in Pennsylvania. Joseph A. Parks, member of the Massachusetts Industrial Accident Board, discussed the question of what scale of compensation should be adopted, and Wallace D. Yaple, Chairman of the Industrial Commission of Ohio, reviewed the advantages of Commission rather than court administration of workmen's compensation acts.[24]

Of special significance, however, was the presentation of a preliminary draft of the first critical study of the operation of a workmen's compensation act ever attempted in America. This report was the result of a study of the New Jersey law which was begun early in

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23 "Introductory Note," American Labor Legislation Review, March, 1915, p. 5.

24 These papers were published in the American Labor Legislation Review, March, 1915, pp. 105-128.

1914 by S. Bruce Black[25] and Solon DeLeon with several clerical assistants under the general direction of Dr. Andrews and the Social Insurance Committee.[26] The New Jersey law was selected because it was the first state law to be put into operation on a permanent basis and some of its supporters were claiming that it was a model law because it was "the one compensation law in America which is satisfactory to all concerned."[27]

The New Jersey Evaluation

The New Jersey investigation revealed three major weaknesses which it was recommended should be avoided by other states. First, the scale of compensation was found to be inadequate. In spite of several amendments the scale of compensation provided by the New Jersey law was found to be the lowest in the country at the time the study was made. Second, the court procedure plan of administration was found to be so slow and expensive that in the majority of cases the injured workman, in fact, had no recourse. Third, the practice of making insurance optional rather than compulsory was found

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25 Now President of the Liberty Mutual, the largest carrier of workmen's compensation in the country.

26 "Three years Under the New Jersey Workmen's Compensation Law," American Labor Legislation Review, March, 1915, pp. 31-104.

27 Ibid., p. 34

to defeat the purpose of workmen's compensation when the employer was financially irresponsible or insolvent.[28]

Following publication of this report, it was noted in the Review with gratification that, "legislative opinion has been profoundly modified thereby, especially in Pennsylvania where the earlier proposal of the administration was supplanted by the governor's commission plan and in New Jersey itself, where state officials now recommend fundamental changes."[29] One governor wrote that after he had read the report that he killed a bill similar to the New Jersey law by veto which had been presented to him for his signature.[30]

The Campaign for Enactment of New and Liberalization of Old Legislation, 1915-1920.

By the end of the legislative sessions in 1915, only five years after the beginning of the modern compensation movement, thirty-three of the fifty states and territories had enacted workmen's compensation laws. The list of states still without such legislation included: Alabama, Arkansas, Delaware, Florida, Georgia, Idaho,

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28 Ibid., pp. 33-102.

29 "Introductory Note," American Labor Legislation Review, March, 1915, p. 6.

30 Quoted by John B. Andrews, "Report of Work for 1915," American Labor Legislation Review, March, 1916, p. 105.

Kentucky, Mississippi, Missouri, New Mexico, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Utah and Virginia. Virtually all of these were southern states and only one, Missouri, contained a large center of population.[31] The activities of the Association during the years that followed were designed to extend the advantages of workmen's compensation to these states and to liberalize the provisions of existing state laws in the direction of its recommended Standards.

In 1916 the Manufacturer's Association in New Jersey vigorously opposed the Association's efforts to liberalize the compensation law of that state. The Association and other groups, however, were able to secure an amendment which modified the court administration provision of the law by placing limited authority for administration in the hands of the Department of Labor. This was regarded as the first step in a vigorous campaign to further liberalize the New Jersey law in 1917.[32]

In New York the compensation law was extensively amended in 1916. One of the principal amendments was passed in response to the efforts of the Association to

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31 American Labor Legislation Review, December, 1915, p. 725.

32 Letter from Dr. Andrews to Professor Commons, March 16, 1916, Andrews Collection.

broaden the coverage of the law. A number of new industries and employments were specifically added to the list of hazardous employments to which the act applied.

The Association assisted in securing passage of a reasonably satisfactory workmen's compensation act in Kentucky. After an earlier law was declared unconstitutional, a joint committee of the State Federation of Labor and the Employers' Association with the assistance of the Association drafted a new measure to meet the constitutional difficulty. When the measure got to the Senate, the provision which deprived the employer of his common law defenses if he did not elect to come under the act was stricken out. To prevent this emasculation, the Association sent strong letters to the members of the legislature and to the members and friends of the Association in Kentucky urging restoration of this vital section of the proposed law. This appeal caused the press to be stirred up and letters and personal pressure to be brought to bear on the legislature. Largely as a result of this activity, the House passed the bill in its original form and the Senate concurred by a vote of eighteen to seventeen, following a struggle which one member of the Association called "one of the hardest fought legislative battles

he has ever witnessed."[33]

In 1917 five new states, Delaware, Idaho, New Mexico, South Dakota and Utah enacted workmen's compensation laws, making a total of thiry-seven states and three territories which had passed such legislation. In addition, no less than twenty-six states including New York and New Jersey brought their laws into closer conformity with the Association's Standards.

The chief development in 1918 was the passage of a compensation law in Virginia. The Association helped to conduct the educational campaign for the bill and Dr. Andrews testified at the legislative hearings on it. After the law was passed the Association was consulted for advice by the Commission created to administer it, concerning the best methods of getting its work underway.

Equally significant were the activities of the Association in securing more adequate provisions in existing legislation. In New Jersey its original recommendation that the court administration system be replaced with a workmen's compensation bureau having exclusive original authority over claims and agreements for the payment of compensation was enacted into law. In New York

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33 Based on an account of the Kentucky victory in the Andrews Collection, March 16, 1916.

the Association cooperated with the New York Industrial Commission in drafting a series of amendments which liberalized the provisions for medical treatment and extended the coverage of the law to all employers with three or more industrial employees. It also attempted to amend the New York law to provide for an exclusive state fund with restricted permission to large employers to carry their own risk. The Association had originally favored a choice of methods of insurance including, self insurance, state funds, mutual and stock insurance companies, but the operation of the state funds had convinced it that this was the cheapest method of insurance and that it tended toward fairer settlement of claims. It assisted in getting a bill introduced in the New York legislature providing for an exclusive state fund. Secretary Andrews spoke in favor of this bill at a hearing in Albany, New York, early in April, 1918, but it failed to pass.

The Association was also active in helping to retain the legislation which had already been passed. Dissatisfaction with some of the provisions of the Texas workmen's compensation law raised the question in the Texas Federation of Labor as to whether or not it should press for repeal of the law. The Association prepared an analysis of the Texas law, pointing out that the real

difficulty with the law lay in its defects and that the welfare of the workers would be best served by improving the law rather than repealing it. The Association was informed that its analysis proved "very useful" and a resolution to abolish the law was not given favorable consideration by the Federation's convention. In Idaho, the Association helped to organize a protest against a decision by the state attorney general to permit employers to place their insurance with private insurance companies, which was apparently contrary to the intent of the law.

Preparation for the legislative sessions scheduled in 1919 included the drafting of a bill for North Dakota at the request of local organizations and fulfilling requests for material in Arkansas, New Mexico, North Carolina, South Carolina and Missouri, none of which had yet passed a compensation law. Conferences were held to draft amendments to the New York law and in response to requests new bills were drafted to replace laws in Maine and Colorado.[34]

The magnitude of the task of improving the existing legislation may be gathered from the fact that although more than three-fourths of the states had passed compensation laws by 1919, only thirteen conformed to the

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34 John B. Andrews, "Report of Work 1918," American Labor Legislation Review, March, 1919, pp. 164-165.

Association's recommendation that they be compulsory; only six, paid compensation based on two-thirds of the wage as suggested by the Association; and sixteen or less than half of the laws provided for state-managed insurance funds, which the Association had found to be the most desirable way of managing the fund from which benefits were to be paid.[35]

In 1919 the Association was active in the legislative campaigns which resulted in the passage of four new laws. The North Dakota bill, which the Association had drafted, was passed and declared constitutional by the State Supreme Court. The Missouri law was enacted largely as a result of a campaign conducted by the "Workmen's Compensation Conference," which received a great deal of assistance and guidance from the Association. The Association also sent material and letters to state leaders in Alabama and Tennessee prior to the passage of workmen's compensation laws in these states.

Amendments were passed in thirty-four states to liberalize or extend the benefits in the direction of the Association's Standards. Most of the amendments had the effect of either reducing the waiting period or increasing

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35 American Labor Legislation Review, September, 1918, p. 258.

the compensation to the injured workman.[36]

At the close of the year, one of the sessions of the thirteenth annual meeting of the Association at Chicago was used to publicize the basis for its support of the exclusive state fund. Miles M. Dawson, consulting actuary, and Carl Hookstadt of the United States Bureau of Labor Statistics, presented the results of official investigations indicating the superiority of exclusive state funds over commercial insurance carriers in handling workmen's compensation insurance.[37] The extent to which opinion had crystalized on this matter in the Association may be gathered from a letter which Dr. Andrews sent to Alroy Phillips in which he said: "I hope you can block attempts to eliminate the 'state fund.' I would rather see workmen's compensation defeated in Missouri than see commercial insurance interests fasten themselves on this new business in your state."[38]

In 1920 attempts were made to add Virginia, New

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36 See American Labor Legislation Review, December, 1919, pp. 465-487.

37 Miles M. Dawson, "State Accident Insurance in America a Demonstrated Success"; Carl Hookstadt, "Relative Merits of Different Compensation Insurance Systems," American Labor Legislation Review, March, 1920, pp. 8-26.

38 Letter from Dr. Andrews to Alroy Phillips, April 24, 1919, Andrews Collection.

Jersey and Massachusetts to the sixteen states which had established exclusive funds, but without success. The Association was also unsuccessful in defeating an amendment to the New York law bringing a limited number of occupational diseases under the workmen's compensation law which had been pushed as a compromise by the opponents of the Association's health insurance bill. Elsewhere, however, some progress was made in a year of few legislative sessions in which the spirit or reaction greatly reduced the output of protective legislation. Louisiana amended its law to make it compulsory and Georgia became the forty-third state to enact compensation legislation. The remaining five states without such legislation were in the non-industrial South. They included Arkansas, Florida, North Carolina, Mississipi and South Carolina.[39]

The Period Of Reaction 1921-1927

In 1921 more than forty legislatures were in session, but the tide of reaction was running so strong that little additional legislation was passed and determined efforts were made to repeal many of the laws which were in force. Some progress was made through the enactment of amendments in approximately one-half of the states to reduce the waiting period, to increase the scale of

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39 John B. Andrews, "Introductory Note," American Labor Legislation Review, September, 1920, p. 169.

compensation or to extend the coverage of the compensation acts.[40] Notable among the attempts to nullify the progress which had already been made was the campaign in Ohio by the commercial insurance companies to remove the exclusive state fund provision from the law. The Association joined both labor and employer organizations in a successful battle to retain this important provision.[41]

In 1922 similar attempts were made to repeal existing legislation. A group of damage suit lawyers were successful in repealing the Missouri law. It was supported in a referendum by both organized employer groups and labor unions, but was defeated by a coalition of damage suit lawyers, commercial insurance companies and farmers. The latter group, incidentally, was not covered by the law.[42] An attempt by the casualty insurance companies to repeal the North Dakota law was defeated, however, by the vigorous efforts of the Association and

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40 "Labor Legislation of 1921," American Labor Legislation Review, December, 1921, pp. 352-364.

41 John B. Andrews, "Introductory Note," American Labor Legislation Review, June, 1921, p. 123.

42 "The Shame of Missouri," American Labor Legislation Review, December, 1922, p. 229.

various state groups interested in the law.[43] The fight for improvements in existing legislation, likewise made little progress in 1922. Nine states amended their compensation laws, but the changes were of relatively minor importance.[44]

Even though little progress was realized in the legislatures in 1922, the Association, through its research and publicity, continued to lay the groundwork for constructive legislation. It worked with a special state commission in New Hampshire on recommended changes in its compensation act.[45] In Pennsylvania, Dr. Andrews and Miles Dawson, of the Association, made a study of accident compensation administration at the request of Governor Pinchot's Citizens Committee. On the basis of this study a number of recommendations were made for executive and legislative action to improve the administration of the law.[46] Educational material was sent into

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43 John B. Andrews, "Report of Work for 1922," American Labor Legislation Review, March, 1923, p. 90.

44 "Labor Legislation of 1922," American Labor Legislation Review, December, 1922, pp. 243-246.

45 Andrews, loc. cit.

46 Frederick MacKenzie, "Accident Compensation Administration in Pennsylvania," American Labor Legislation Review, March, 1923, p. 73.

Alabama to prepare the way for liberalizing amendments and a bill was drafted for introduction in the Florida legislature in 1923.[47]

Tangible results in the form of new legislation during the next five years (1923-1927), however, were disappointing. Only one of the six states without such legislation took action and one other state replaced its law with a more modern measure.

In 1925 the Arizona legislature recommended that its old law be repealed and submitted a more modern one to the people for ratification by popular referendum. Governor Hunt requested the Association to make an analysis of the new law. It was found to contain the main provisions of the Standards, including an exclusive state fund. The Association's favorable report was used effectively in the campaign which ended in ratification of the bill by a large majority.[48]

In the same year the Missouri legislature passed a bill which had the support of the employer associations, labor unions and insurance interests. It was vigorously opposed in the referendum in 1926, however, by the building trades union and damage suit lawyers. The Association

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47 Andrews, loc. cit.

48 "New and Improved Compensation Act up to the Voters in Arizona," American Labor Legislation Review, September, 1925, p. 243.

The Association sent large quantities of material to the State Federation of Labor and other groups which were actively engaged in the struggle. One of the most effective pamphlets in the campaign was the "Workmen's Compensation Map of the United States and Canada" prepared by the Association with the statement: "Take the Black Mark Off Missouri" printed above the map in red ink.[49] Alroy Phillips who led the fight for the Act singled the Association out for special credit for the assistance it had given in helping to push the campaign to a successful conclusion.[50]

The Florida legislature considered a bill drafted by the Association, but it was defeated in the 1927 session in the House by a vote of forty-seven to thirty-four. The North Carolina legislature also considered a bill in its 1927 session, but no action was taken.[51]

Virtually all of the states liberalized their compensation acts between 1923-1927. A majority of the amendments increased the compensation benefits while others

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49 American Association for Labor Legislation, "Workmen's Compensation Ratified by Missouri Voters," American Labor Legislation Review, December, 1926, p. 266.

50 Alroy S. Phillips, "Missouri: The Newest Workmen's Compensation State," American Labor Legislation Review, March, 1927, p. 20.

51 John B. Andrews, "Legislative Progress in 1927," American Labor Legislation Review, June, 1927, p. 107.

reduced the waiting period, increased the coverage or established exclusive state insurance funds in the direction recommended by the Association.

The Association was particularly active in pressing for amendments to reduce the waiting period and to establish an exclusive state fund. In 1923 the Association called attention to the fact that the waiting period of fourteen days in New York made her one of the "worst offenders among the states," since thirty-four state laws contained a more liberal waiting period of seven days or less. In the legislative sessions of 1924 it supported amendments to reduce the non-compensated waiting period in New York, New Jersey and Virginia.[52] In New York, the Association was joined by progressive employers, labor unions and by many social service and civic organizations in support of the amendment and as a result it was passed by the legislature in April.[53] It was estimated that this one amendment extended benefits to more than 25,000 additional injured employees and provided more than $1,500,000 in additional benefits each

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52 John B. Andrews, "Immediate Legislative Issues," American Labor Legislation Review, March, 1924, p. 3.

53 "New York Adopts Seven-Day Waiting Period," American Labor Legislation Review, June, 1924, p. 169.

year.[54] The educational work of the Association in New Jersey also bore fruit in 1925 and in Pennsylvania in 1927 with the reduction of the waiting period from ten to seven days.

Throughout this five year period the Association carried on a running battle with the casualty insurance companies and the damage suit lawyers over the exclusive state fund proposal. Even though the American Federation of Labor and many of the State Federations strongly endorsed the adoption of state funds at the beginning of the period and even though the Association conducted a vigorous educational campaign for it, little progress was made in the legislatures. Its failure was due partly to inertia and the reaction of the times and partly to an extremely well organized and effective insurance lobby under the leadership of F. Robertson Jones.

Although this period was not marked by outstanding legislative accomplishments in the field of workmen's compensation among the states, the spirit of experimentation was kept alive. The Association, for example, iniiated a movement to extend compensation to convicts who were permanently disabled by an accident in the course of

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54 John B. Andrews, "Report of Work for 1924," American Labor Legislation Review, March, 1925, p. 66.

compulsory labor while in prison[55] and it encouraged the movement to discourage the illegal employment of children by imposing the requirement that extra compensation be paid them in the event of an accident.

The Southern Campaign

Late in 1927, the Association began to intensify its campaign to secure enactment of compensation legislation in the "Five Backward Southern States."[56] It redoubled its efforts to develop public support for this legislation through personal visits, letters, circulars, newspaper and magazine publicity and conferences. Late in 1927, Dr. Andrews held a series of personal conferences with those interested in promoting compensation legislation in North and South Carolina. In December the Association used its annual meeting in Washington, D. C. to focus the attention of the leaders in the "New Industrial South" on the need for protective labor legislation. It was pointed out that since the South was being industrialized at a phenomenal rate the need for such

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55 John B. Andrews, "Workmen's Compensation for Convicts," American Labor Legislation Review, June, 1925, pp. 132-134. A bill to implement this proposal was prepared by the Association and introduced in New York in 1925, but it failed to pass. Two years later, however, Maryland and Wisconsin extended their workmen's compensation acts to convicts.

56 Arkansas, Florida, Mississippi, North and South Carolina.

legislation as workmen's compensation was imperative.[57]

Although the educational campaign was aimed at all five of the southern states without such legislation, special emphasis was placed on the work in North Carolina which was the South's most highly industrialized state. Cornelius Cochrane, a member of the Association's staff and Dr. Andrews spent a great deal of time in North Carolina working out the details and mobilizing public support for legislation. Cochrane was instrumental in persuading the State Federation of Labor to adopt a strong endorsement of compensation legislation at its annual meeting in Charlotte, North Carolina in 1928. Together with T. A. Wilson, President of the State Federation of Labor and representatives of local social welfare organizations a bill was drafted for introduction in the state legislature of 1929. Meanwhile the manufacturing interests of the state were engaged in the preparation of a similar bill. These two bills furnished the basis of a compromise bill which was agreed on in Raleigh after numerous conferences of the interested parties. The compromise bill was introduced in the legislature in February and following public hearings, it was unanimously

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57 Robert H. Tucker, "Advantages of Workmen's Compensation to the Employer," American Labor Legislation Review, March, 1929, p. 15.

reported with slight modifications on February 14, but final approval was delayed by the opposition of damage suit lawyers and railway labor representatives until March 6.[58] Among the letters of congratulation which Dr. Andrews received after the North Carolina victory was one from John Fitch, a prominent member of the Association, and one of the best informed students of social legislation in America, which stated:

> This is a real triumph, and is due, I feel confident, to the effective work of yourself and associates. There is nothing I know of, more encouraging, than knowledge of the background of such campaigns and how they come to successful fruition.[59]

In Arkansas, another of the "Five Backward States," a similar compromise bill was developed with the combined support of labor and industry, but it was defeated by a large majority in the state Senate by the damage suit lawyers and the coal mine operators.[60]

In March, 1929, Dr. Andrews was invited to Florida to direct the pre-legislative campaign for a compensation act. He spoke in the major cities including Miami, Tampa,

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58 Based on an account of the North Carolina Campaign by Dr. Andrews in the American Labor Legislation Review, March, 1929, pp. 13-14.

59 Letter from John Fitch to Dr. Andrews, March 20, 1929, Andrews Collection.

60 "North Carolina Adopts Workmen's Compensation," American Labor Legislation Review, March, 1929, p. 14.

and Jacksonville and sent thousands of letters and printed pamphlets throughout the state to stimulate interest in the subject. As a result, the State Conference on Social Work, the Florida State Federation of Labor and other organizations as well as prominent citizens and public officials began to urge prompt adoption of an adequate compensation bill. Using the same technique which had worked so successfully in North Carolina, Dr. Andrews brought the various interested parties together and through a series of conferences got agreement on a compromise bill. This bill was introduced in the legislature early in April and following public hearings it was favorably reported to both houses. It was opposed, however, by the influential lumber interests, the railway employers and the damage suit lawyers. These groups were able to tie so many weakening amendments to the bill that its proponents never brought it to a vote.[61]

In spite of this disappointment, the advocates of accident compensation undertook to maintain the momentum of the educational campaign which they had initiated. Early in January, 1930, the Central Council of Social Agencies of Dade County, Florida, held an "Institute on

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61 See "Florida Fails," American Labor Legislation Review, September, 1929, pp. 245-246.

Social Legislation" at Miami under the direction of Dr. Andrews. The central problem discussed at this conference was the need for accident compensation in Florida. It was attended by several hundred people and was given wide and favorable publicity throughout the state. Similar one-day conferences were held in the other major cities of the state under the leadership of those who had attended the "Institute." Before leaving Florida, Dr. Andrews made speeches on the subject before labor and civic groups in Jacksonville and Miami.

Thereafter, Dr. Andrews proceeded to South Carolina to assist in the campaign for action there, where a workmen's compensation bill had been introduced and was under consideration by the legislature.[62] Prospects for success in South Carolina appeared very bright. The leading newspapers of the state including the Columbia State and the Charleston News-Courier were calling for prompt action. The State Federation of Labor, the Charleston Chamber of Commerce and the cotton manufacturers joined in endorsing the bill. At the request of Senator Jefferies, the sponsor of the bill, Dr. Andrews and Cornelius Cochrane of the Association went to Columbia, late in January, and

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62 Elizabeth A. Cooley, "An Institute on Compensation in Florida," American Labor Legislation Review, March, 1930, p. 41.

participated in the opening hearings on the bill. Cochrane returned a week later and submitted a number of amendments reducing the scale of compensation to the level of the North Carolina law to meet the objection of its opponents that the benefits were excessively high. This action, however, did not satisfy the damage suit lawyers and the lumber interests who were able to prevent a vote on the bill by committing it, shortly before adjournment, to the Committee on Commerce and Manufacturing, instead of the Judiciary Committee, which had conducted the hearings on the bill.[63]

Late in 1930, the Association sponsored the organization of the Florida Association for Social Legislation. Elizabeth A. Cooley, of Miami, a member of the Advisory Council of the Association, was made chairman of its Workmen's Compensation Committee and Mrs. Gertrude B. Fuller, the Association's representative at Tallahassee, was made secretary. This organization conducted a vigorous campaign, with the aid of Dr. Andrews. Early in April, Dr. Andrews spent a week touring the state, during which he wrote, "I have never worked harder for any legis-

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63 Cornelius Cochrane, "South Carolina Balks at Compensation," American Labor Legislation Review, June, 1930, pp. 197-202.

lation than I have for this Florida compensation law."[64] A month later, at the urgent request of Mrs. Fuller and other proponents of the legislation he returned to help push the bill through the legislature. Once again, however, the campaign fell short of its objective. The bill was passed by the Senate but was rejected in the House by nine votes, which had shifted overnight.

In 1932 and 1933 the Association did not make an aggressive campaign in the South due to the lack of funds, but late in 1934 it began encouraging its members and friends throughout Florida to renew their fight for a compensation law. Elizabeth Cooley, who had played a prominent part in the earlier campaigns wrote a large number of Florida organizations enlisting their support and supplied them with material to be used as a basis of discussion. With the support of the State Federation of Labor and social welfare and civic organizations, the crusaders were able to rally sufficient strength to secure enactment of a compensation law. The new law compared favorably with most of the laws when first passed in other states. Its principal weakness lay in the fact that it exempted the lumber industry and certain other industries,

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64 Letter from Dr. Andrews to Mrs. Raymond Robins, May 4, 1931, Andrews Collection.

but it was hoped that a satisfactory extension of coverage would be realized through amendments in subsequent legislatures.

Late in 1934, the Association persuaded R. K. Demarest, a South Carolina politician, to press for legislation in that state. In less than a year, Demarest rallied the forces which had favored compensation legislation in the previous campaign and secured passage of a bill which was similar to the one which the Association had earlier drafted and worked for in South Carolina.

In 1934, Dr. Andrews assisted in the establishment of the Arkansas Conference on Social Work, the primary purpose of which was to secure an adequate workmen's compensation act. As a result of the efforts of this organization, the Arkansas House of Representatives passed a compensation bill on March 8, but the Senate adjourned before giving consideration to the bill. During the following year the Association poured literature into Arkansas to develop support for workmen's compensation legislation. On November 13, 1935, H. M. Thackeray of the Arkansas Federation of Labor informed Dr. Andrews that his organization had instructed its Executive Committee to put on an intensive state-wide campaign in behalf of workmen's

compensation.[65] In spite of the efforts of these two organizations and strong employer support, the legislature failed to pass a compensation law in 1937. In 1938, the matter was submitted to the electorate and an amendment to the constitution was authorized giving the legislature explicit power to enact a workmen's compensation act.[66] With this support behind it, the bill was passed by the Arkansas legislature on March 6, 1939. This action left only one state, Mississippi, without some type of workmen's compensation legislation for its employees.

The Association tried for a number of years to interest local groups in Mississippi in workmen's compensation. It sent thousands of leaflets, pamphlets and letters throughout the state on a number of occasions but each time its efforts met failure. Finally, in utter frustration, a member of the staff in 1940 ridiculed Mississippi as the one state that "stands out as the black spot on the map" and where "backwardness is still preferred."[67] Not until 1948, or six years after the

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65 Letter contained in the Andrews Collection.

66 "Arkansas Votes for Workmen's Compensation," American Labor Legislation Review, December, 1938, p. 160.

67 "Mississippi 'Tunes In' DeSoto: Rejects Compensation Law," American Labor Legislation Review, September, 1940, pp. 104-105.

Association ceased to be active, did Mississippi catch up with the rest of the states and enact a workmen's compensation law.

The failure in Mississippi reduced the Association's score of victories to something less than one hundred per cent of its attempts, but considered from any point of view it played a major role first in securing workmen's compensation legislation in the states and, secondly, in liberalizing the provisions of the laws, to provide more adequate benefits to workers injured in industrial accidents.

Federal Legislation

If the Association deserves a large share of the credit for workmen's compensation legislation in the states, then it can be said that it deserves an even larger share of the credit for the three major compensation laws which have been enacted by the federal government. The limitation of resources made it impossible for the Association to participate in the legislative campaigns in every state. Hence, it was forced to confine its direct participation to certain strategic states which were designed to serve as models for other states. Even in these states it was able to capitalize on the support of other groups and frequently remained in the

background, using the local organizations to accomplish the necessary results.

In the campaigns for federal compensation laws, however, the Association was faced with only one instead of forty-eight legislatures and, hence, it could more easily focus its resources on a given problem at a given time. Besides seeking directly to provide workers under federal jurisdiction with adequate accident compensation, the Association was interested in the passage of the most advanced legislation by the federal government, so that it would serve as a model for the states. For these reasons the Association directed the step-by-step campaign for each of the three federal bills until they became law.

Federal Employees

The first workmen's compensation law in America was enacted in 1908 by Congress. This act was limited to artisans and laborers in "hazardous employment" on the payroll of the United States government.[68] The scale of benefits was said to be:

> . . . the very worst that has ever been established in connection with a compensation law. Even the

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68 Dr. I. M. Rubinow estimated that it covered roughly 100,000 employees or one-fourth of the federal employees at that time. American Labor Legislation Review, February, 1912, p. 34.

> Spanish act, the least satisfactory of all European legislation, is twice as liberal as the act passed by the richest of the republics for its own servants.[69]

It allowed the pitifully small payment of one year's salary in the event of a fatal injury and the extremely liberal payment of full wages in the event of a minor accident. The latter provision was partially offset by a waiting period of two weeks.

By 1912 a number of amendments to the law had been passed which extended its coverage, but they were of relatively slight significance. After four years of experience under this act, the Association declared "it is out of harmony with modern conceptions and possibilities of justice,"[70] and then proceeded to draft a bill for introduction in Congress to replace the 1908 act. The main provisions of this bill included:

1. Extension of coverage to all civilian employees of the United States.

2. Reduction of waiting time to three days.

3. Provision of two-thirds of regular pay for disabled workers during the period of their disability.

4. Provision of approximately one-third of the wage for the widow during the period of dependency, and ten

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69 Ibid., p. 35.

70 American Labor Legislation Review, December, 1912, p. 563.

per cent additional for each child.[71]

This bill was first introduced in the House on February 8, 1913, by Congressman William B. Wilson who was shortly thereafter made Secretary of Labor by President Wilson. Senator Kern introduced the measure in the Senate and Congressman McGillicuddy then assumed its sponsorship in the House. Public hearings on the bill were held early in 1914, after which the House Judiciary Committee reported it favorably, but it failed to come to a vote in the House.

In the course of the next three years the bill was introduced in Congress no less than six times, but failed to receive serious consideration. Nevertheless, the Association persistently called for action on the bill and carried on an extensive educational campaign to develop support for it.

Finally, the Association decided to make an all out bid to secure enactment of the bill in 1916. It was introduced for the eighth time, on December 6, 1915, the opening day of the first session of the 64th Congress. It was immediately referred to the House Judiciary Committee, which had reported it favorably the previous year. In the intervening time, however, sentiment had shifted to such an extent that it appeared improbable that favorable

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71 American Labor Legislation Review, December, 1914, pp. 582-583.

action could be secured again.

Late in January, 1916, Dr. Andrews directed the presentation of the case for the bill at the hearing before the House Judicary Committee. In the course of this hearing he was able to identify the Congressmen who opposed the bill and immediately encouraged their constituents to urge them to support a favorable Committee report. For example, in a circular letter he urged the Minnesota members to write to Honorable Andrew J. Volstead, whom he termed as "one of the obstreperous members," urging him to "do his utmost to secure a favorable report of the Committee . . . at the earliest possible date."[72] In this same letter Dr. Andrews stated:

> I have more than one hundred written pledges from members of Congress who are ready to vote for this measure and I am confident that it will pass the House with a large majority if it can be brought there to a vote.[73]

This pressure did not immediately break the resistance to the bill, however. It was then decided to drop the occupational disease provision of the bill, to which the opponents objected most vigorously. This compromise did not satisfy its opponents for they began to delay action by introducing unacceptable amendments

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72 Letter dated January 29, 1916, contained in the Andrews Collection.

73 Loc. cit.

in committee. Finally, on May 11, the Committee yielded to the great pressure which the Association had brought to bear on it and reported the bill favorably to the House.

There followed an intensive campaign to secure a favorable vote in the House. On May 18, Dr. Andrews reported to Congressman McGillicuddy that "Letters are going out by the thousands."[74] Irene Sylvester, a member of the Association's staff, was sent to Washington to lobby in behalf of the bill.

Late in May, the leaders of the Association decided to attempt to whip the Democratic congressmen into line by reminding them that they had pledged themselves to support workmen's compensation for all employees under the jurisdiction of the federal government, at their National Convention in Baltimore on July 2, 1912. In Washington, Irene Sylvester testified as to the effectiveness of this approach, on May 25, when she wrote:

> . . .few Democrats know that they are pledged to the measure in their platform . . . [and] I have used it with effect several times this morning. This fact suggests that it might be used more widely with effect.[75]

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74 Letter from Dr. Andrews to Representative McGillicuddy, May 18, 1916, Andrews Collection.

75 Letter from Irene Sylvester to Dr. Andrews, May 26, 1916, Andrews Collection.

Early in June, Congressman McGillicuddy persuaded President Wilson to make a public statement in favor of the bill. The President stated to the press that he "would like to have it passed so that it might serve as a model for similar state laws."[76]

During the next three months the Association worked at a feverish pace for the bill. Dr. Andrews made several trips to Washington and Irene Sylvester spent practically her entire time lobbying for it. Over eleven thousand copies of fourteen different circular letters were sent to members of Congress, to editors of daily and labor papers, and to other interested parties. Five thousand copies of a broadside showing the Democratic party platform of 1912 including the pledge for improvement of the federal compensation law and post cards giving the 1912 pledge were sent to Congress and others interested in the problem. Articles were prepared for various papers and favorable editorial comment was reproduced and widely distributed.[77]

This campaign was so effective that the bill was put on the Democratic legislative action program of the House on July 15. Three days later it passed the House,

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76 The Washington Star, June 1, 1916.

77 Taken from an undated office memorandum, Andrews Collection.

with only three dissenting votes. A month later it passed the Senate unanimously. It was approved by the House and Senate in final form on Labor Day and was signed by the President on September 7, 1916.[78]

Looking back across the events of the year, Dr. Andrews referred to this victory as, "The most definite legislative accomplishment of the Association in 1916."[79]

Maritime Workers

According to Andrew Furuseth, late President of the International Seamen's Union, maritime workers may be divided into two groups according to the work they perform. He suggested that one group was composed of seamen who manage a vessel as it voyages from harbor to harbor and country to country. In the other he included the harbor workers who renovate, repair and load or unload the vessel while it is in port.[80]

The legal jurisdiction, involving the right to determine whether the injured seaman could recover damages was never in doubt. The injured harbor worker, on the other hand, was for a considerable time left uncertain as

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78 Public Law 267, 64th Congress, 1st session.

79 John B. Andrews, "Report of Work for 1916," American Labor Legislation Review, March, 1917, p. 188.

80 Andrew Furuseth, "Harbor Workers Are Not Seamen: An Essential Distinction in Compensation Legislation," American Labor Legislation Review, June, 1921, pp. 139-142.

to where he should seek redress. The seaman performed his work on board ship and was governed by the law of the sea, which in this country is enacted by the Congress and enforced by admiralty courts. Harbor workers, particularly longshoremen or "freight handlers," on the other hand performed work on board ship in the harbor as well as on the dock and if they sustained an accident the question arose as to whether they should seek damages under maritime law or the law of the state in which the harbor was located.

The objective of the Association was to secure enactment of adequate compensation legislation for all maritime workers, regardless of the nature of their work or where it was performed. In the pursuit of this objective, it became necessary to promote legislation for each group of workers in the course of which substantially different obstacles were encountered, which will be indicated in the following account.

Seamen. Prior to 1915, an injured seaman was required to present his case in an admiralty court, where his right to recover damages was governed by the same common law requirements which prevailed in this country prior to the enactment of employers' liability laws. The dissatisfaction resulting from the inadequacy and delay in making awards under this system, led the International

Seamen's Union and other organizations interested in the welfare of the seamen to launch a two pronged attack on it. Attempts were first made to liberalize the common law rules in the direction of the employers' liability laws which prevailed in some of the states, and then intermittent efforts were made to secure workmen's compensation legislation for injured seamen.

The movement to extend workmen's compensation coverage to merchant seamen began in 1913, when the International Seamen's Union passed a resolution which stated "the workmen's compensation laws, State and Federal, should be extended to embrace all classes of seamen."[81]

The wheels of progress turned slowly, however, for it was not until 1918 that the union's legislative committee completed the task of drafting a bill and secured its introduction in Congress by Senator Hiram Johnson of California. The bill failed to gain favorable consideration and was not pressed again by the union until the early twenties.

In the meantime efforts were underway to make it easier for injured seamen to secure damages in the admiralty courts. Section 20 of the LaFollette Act of 1915 limited the application of the fellow-servant

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81 International Seamen's Union Proceedings, 17th Convention, May, 1913, p. 47.

rule by excluding seamen "in command" from the definition of the term fellow-servant.[82] In 1918, however, the United States Supreme Court nullified the intended relief by declaring the statute to be "irrelevant."[83] This decision merely stimulated the union to bring pressure on Congress for more far-reaching modification of the maritime laws. In 1920, it was successful in securing passage of the Jones Act, which extended to seamen the rights and remedies of the Federal Employers' Liability Act of 1908. As it was subsequently interpreted by the courts, this Act abolished the fellow-servant and the assumption of risk defenses; substituted the principle of comparative negligence; and made the recovery of damages under this Act a cumulative right in addition to the right of maintenance and cure and wages.[84]

At this point the union evidently concluded that the possibility of further improvement in the legal position of the injured seaman in admiralty court was quite slight and, consequently, began to explore again the possibility of more adequate compensation through a

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82 Public Law 468, 65rd Congress, 3rd session.

83 Chelentis v. Luckenbach SS Co., 38 Sup. Ct. 501

84 United States Department of Labor, Bureau of Labor Statistics, Workmen's Compensation and the Protection of Seamen, 1946, pp. 30-31.

workmen's compensation law. It was joined by the International Association of Industrial Accident Boards and Commissions, which passed a resolution at its seventh annual meeting in San Francisco authorizing the appointment of a committee "to confer with the American Association for Labor Legislation and other bodies or organizations for the fuller presentation of this matter to the Congress of the United States.[85]

At the insistence of these two and other organizations interested in the problem, the Association drafted a bill which contained essentially the same provisions as those in the model law which it had won for federal employees. When the draft had been completed early in 1921, Dr. Andrews took it to Washington where Andrew Furuseth, President of the International Seamen's Union, examined and approved it. They then took it to Senator Hiram Johnson, who introduced it in Congress. Shortly after introduction of the bill, a number of I. W. W. strikes broke out at various ports throughout the country and Furuseth decided that it was not an opportune time to conduct public hearings on the bill. By the time peace had been restored to the ports, Furuseth had been convinced that a workmen's compensation act should not be

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85 Quoted in American Labor Legislation Review, December, 1920, p. 227.

permitted to interfere with the right of the worker to sue the employer for damages.[86] The Association believed that to permit the injured seaman the right to make a choice after the injury, as to whether he would take compensation or sue for damages, was both unfair to the employer and incapable of being incorporated in a reasonable plan.[87]

From this point onward the Association parted company with the seamen except to raise the question from time to time, whether they wished to be included under compensation legislation similar to that which was ultimately secured for the longshoremen. Each time it received a negative reply and in the end shaped the legislation so as to clearly exclude seamen. Thus, in a very real sense the failure to extend workmen's compensation to these workers was not due to opposition from the shipowners, but to the fact that the workers themselves did not wish it.

Longshoremen.[88] The peculiar job requirements of many harbor workers placed them in a "twilight zone"

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86 Letter from John B. Andrews to Joseph Zisman, n.d., 1942, Andrews Collection.

87 Letter from John B. Andrews to Warren Pillsbury, February 10, 1926, Andrews Collection.

88 This campaign is presented in considerable detail to show more precisely how the Association operated as a pressure group organization to secure its "general welfare" objectives. To a large extent this account is based on material loaned to the writer by Mrs. John B. Andrews.

insofar as their ability to recover damages for an injury was concerned. The legal status of the longshoremen, however, was more uncertain than any other of the harbor workers because their work was more evenly split between the ship and the dock. Thus to a greater extent than any other group of workers the longshoremen were caught in the controversy as to whether their legal right to compensation should be determined by admiralty courts or by the state in which the accident occurred.

When state compensation legislation was passed, the question arose in those states with port facilities as to whether longshoremen and harbor workers who worked on ships occasionally should be covered. These state laws were uniformly extended to cover these workers, although it was understood that the states could not make compensation the exclusive remedy for accidents on ships, since they could not deprive a worker who had been injured on board ship of his right to bring suit in an admiralty court, without the consent of Congress. This was not of great practical importance, since the workers preferred as a rule to claim their rights under the state compensation laws, rather than in the admiralty courts. In theory this system constituted a hardship on the shipowner, since he had to carry employers' liability insurance on the worker who might prefer to take his case to an admiralty court

where the employer might be forced to pay damages and also workers compensation insurance for the risk that the worker might enforce the claim he had under the state workmen's compensation act.[89]

This arrangement was upset on May 21, 1917, by the United States Supreme Court.[90] In a five-to-four decision it held that workers who were injured on board vessels were "maritime" workers whose right to damages lay under maritime law in an admiralty court and not under the state compensation acts.

To clear up the resulting confusion and to "avert the possibility of a stike among longshoremen,"[91] the Association prepared an amendment to the federal Judicial Code, which provided that harbor workers injured on board ship had an alternative right to accept workmen's compensation in those states having such legislation.

This amendment was introduced in Congress by Senator Hiram Johnson and Congressman Guard. It was referred to the House Judiciary Committee, where it appeared it would die because the Congressional session was

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89 Joseph Chamberlain, "The Conflict of Jurisdiction in Compensation for Maritime Workers," American Labor Legislation Review, June, 1921, p. 135.

90 Southern Pacific Company v. Jensen, 244 U. S. 205.

91 Royal Meeker, "Lacks in Workmen's Compensation," American Labor Legislation Review, March, 1919, p. 39.

drawing to a close. At the insistence of John Mitchell, Chairman of the New York Insustrial Committee, Dr. Andrews went to Washington to make one last attempt to secure favorable action before Congress adjourned. He took with him a letter from John Mitchell to Secretary Tumulty at the White House, explaining the seriousness of the situation.

Upon arriving in Washington, Dr. Andrews found that Congressman Guard had already gone home believing that no legislative action was possible. He then went to see Congressman Webb, Chairman of the House Judiciary Committee, who told him that the Committee would have no further meetings and, therefore, the bill was dead. The House Majority Leader indicated no interest in getting it out of Committee. Dr. Andrews then decided to appeal to the White House for help.

In a conference with Secretary Tumulty at the White House, he pointed out that protective action was imperative, because the longshoremen:

> . . . at that critical stage in our participation in the world war were in reality our "first line of defense" inasmuch as the effective prosecution of our part in the world conflict depended directly upon our ability to load and ship expeditiously our great contribution of materials and men.[92]

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92 John B. Andrews, Undated Office Memorandum. Loaned to the writer by Mrs. John B. Andrews.

In view of this argument and John Mitchell's letter, he promised to bring the matter to the attention of President Wilson immediately.

Dr. Andrews next visited the United States Shipping Board to secure its active support. He pointed out that since the United States Government through its shipping board had become the largest shipper in America, it should be vitally concerned that adequate protection be extended longshoremen immediately, so that unrest over the existing situation might not interfere with shipping. In an executive session, the Board authorized its counsel to do anything possible to secure passage of the pending bill. On Capitol Hill, the Shipping Board representative met with the same reception which had been accorded Dr. Andrews; so he returned to report that nothing could be done. Whereupon, Dr. Andrews urged the Counsel to take the only remaining step and write a letter to the President, emphasizing the necessity of passing the bill as a war emergency measure. The letter was drafted and sent to the President by special messenger.

At this point, the President intervened and within a matter of hours Congressman Webb rose on the House floor and asked unanimous consent for immediate consideration of the bill as a war emergency measure and it was passed. It was quickly sent to the President and signed

on October 6, 1917, and went into effect immediately.[93]

According to Dr. Andrews this victory provided "one of the most striking illustrations in my experience of the effectiveness of the emergency appeal in legislation."[94]

This amendment permitted the states to extend the same compensation to longshoremen and other harbor workers which had been provided workers in other occupations. They enjoyed the protection afforded by this law until it was declared unconstitutional by another five-to-four decision by the Supreme Court on May 17, 1920, on the grounds that commerce by sea must not be hampered by varying state compensation acts.[95] This decision left the admiralty courts with exclusive jurisdiction over longshoremen and other harbor workers who were injured on board ship.

By December of the same year, the Association, with the aid of President T. V. O'Connor of the International Longshoremen's Association, state compensation commissioners, compensation experts and judges had drafted a second amendment to the federal Judiciary Code to restore the protection of state compensation laws to longshoremen

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93 Public 82, 65th Congress, 1st session.

94 Andrews, loc. cit.

95 Knickerbocker Ice Co. v. Stewart, 253 U. S. 149.

and harbor workers. A clear distinction was drawn between members of the crew and local longshoremen and other harbor workers and it was stipulated that the rights of the latter group should rest exclusively with the state compensation acts.

This amendment was introduced in the Senate by Senator Hiram Johnson and in the House by Representative Ogden Mills. It was passed by the Senate on June 10, 1921, but final passage, without the compelling emergency argument, was delayed until June 10, 1922.[96] Despite the fact that Justice Brandeis characterized this legislation as "statesmanlike," it was also overruled by the Supreme Court on February 25, 1924, on the ground that it constituted an "intolerable restriction" on maritime commerce.[97]

At this point the Association decided to wage an aggressive campaign to secure a comprehensive compensation act for longshoremen and harbor workers as well as for seamen. As pointed out above, a bill of this type had been prepared and launched in 1921, but the seamen withdrew from the campaign after it had been introduced in Congress and it was not pushed further. The Association

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96 Public 239, 67th Congress, 2nd session.

97 Washington v. Dawson, 264 U. S. 219.

began the movement for a new bill by attempting to interest Anthony Chlopek, the new president of the Longshoremen's Union, and the national officers of the seamen's and railways unions in helping to formulate one. A number of conferences were held in New York, Cleveland and Washington to perfect the details of the bill. After the bill had been completed it developed that the Longshoremen alone were prepared to engage in a vigorous campaign to secure its enactment. According to Dr. Andrews, the seamen held out because their leader:

> Andrew Furuseth will not consider any workmen's compensation law for seamen that does not give the injured seaman the right to make choice after the injury as to whether he will take compensation or sue for damages.[98]

The difficulty with the transportation unions was, in Dr. Andrews words:

> Certain lawyers get good fees out of the settlement of railway interstate commerce accident cases under the Federal Liability Act and have the ear of the railway brotherhood officials. In other words their legal advisers stand in the way of their acceptance of the compensation remedy, although these officers, individually, tell me that they favor compensation.[99]

Late in January, 1926, the decision was reached in the Association to secure the introduction of a federal

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98 Letter from Dr. Andrews to George Pillsbury, February 10, 1926, Andrews Collection.

99 Loc. cit.

compensation for harbor workers alone as quickly as possible, while conducting further educational work among the seamen and railroad workers.

To this end, further conferences were held with representatives of the Longshoremen's Association and other harbor unions, whose members were to benefit from the proposed bill, and with representatives of the United States Employees' Compensation Commission, which was to administer the law. Thereafter, an attempt was made to confer with Henry C. Hunter, Counsel of the American Shipbuilders Inc., for the purpose of avoiding differences with the group most likely to oppose the bill, but it met with no success.[100]

The bill was introduced in Congress, early in February, 1926, by Senator Albert Cummins, Chairman of the Senate Judiciary Committee, and by Representative George S. Graham, Chairman of the House Judiciary Committee.

In the legislative campaign which followed during the latter half of February and the first half of March, representatives of the Association worked in Washington in behalf of the bill. Letters and telegrams were sent to Congressmen and to interested parties throughout the

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100 Letter from Dr. Andrews to Henry C. Hunter, in which he reviewed the efforts of the Association to work with the Council of American Shipbuilders, March 10, 1926, Andrews Collection.

country urging them to write their Congressman to support the bill.

Hearings on the bill were held by the Senate Judiciary Committee on March 16. Dr. Andrews and Dr. Joseph P. Chamberlain of the Columbia University Law School, who did the technical work of bill drafting for the Association, along with representatives of the Longshoremen's Association and other harbor worker unions, presented testimony in favor of the bill. The shipping interests remained away from the hearing and demanded another hearing in order that they might present their views. This maneuver resulted in another hearing two weeks later, at which time the shipping interests outlined the basis of their objection to the bill. Cletus Keating, Counsel for the American Steamship Owners' Association summarized the position of the industry when he urged that:

> . . . everybody connected with the industry ought to be covered by compensation, that there ought not to be a particular class of people for any reason whatsoever picked out of the industry and left out of the compensation.[101]

Senator Cummins was sufficiently impressed by the legal difficulties involved in the limited coverage

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101 John B. Andrews, Unpublished summary of the events leading to the passage of the Longshoremen Workmen's Compensation Act.

argument that he sought advice from the Senate Legal Counsel's Office. The Counsel was away from his office due to illness in the family. In his absence, a subordinate unfamiliar with the nature of the problem delayed action for several weeks while trying to rewrite the whole bill.

After this difficulty was overcome another problem arose. Senator Thomas J. Walsh, of Montana decided that a simple paragraph could be written to replace the long and complicated bill which the Association had prepared. In mid-May Senator Cummins wired Dr. Andrews to come to Washington to meet this crisis. Upon arrival, he explained to Senator Walsh that the United States Supreme Court had made this method impossible by two decisions. After reading the court opinions Walsh commented, "Yes, it is just as you said. I didn't know about those decisions."[102]

Finally, opposition developed in the committee to the schedule of benefits contained in the bill. In order to meet this objection the benefits were reduced to the level of the provisions of the United States Employees' Compensation Act of 1916.

With this modification the bill was reported

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102 Loc. cit.

favorably by the Senate Committee on June 2 and passed by the Senate the following day.

In the meantime, the House Judiciary Committee held extensive public hearings on the bill. While the hearings were in progress, the Chairman of the Committee requested Dr. Andrews to bring together the representatives of the shipping employers and the organized wage earners to effect an adjustment of their differences. This conference was held at the Cosmos Club in Washington, D. C., on April 21, 1926, and lasted from 7 o'clock in the evening until 2 o'clock in the morning. Agreement was reached on more than thirty points, but the employers were insistent on certain modifications that were not acceptable to its proponents. These included, inclusion of seamen; administration by the courts rather than by commissions; lower benefits; and payment of the cost of administration by the Government rather than by insurance carriers.[103]

The events that followed illustrate the necessity of vigilance at each step of the lawmaking process.

The following morning, the representative of the ship owners, without prior agreement, handed the Chairman of the Judiciary Committee a printed copy of the bill with

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103 Loc. cit.

marginal references indicating the sections on which agreements had been reached as well as those which were still in disagreement. This was followed by oral explanations of the marked bill. Following the hearing the Chairman of the Committee indicated that the bill would be reprinted using the usual type for the sections which had been agreed on and italics for the sections not agreed on, but which were demanded by the employers. He also requested Dr. Andrews to prepare a brief on several points that were not clear to him.

When Dr. Andrews returned to the Committee room in the afternoon to comply with this request, he found to his astonishment that:

> . . . no less than half a dozen of the most vital points where the disagreement had been most marked in the joint conference the evening before /had been reported on the copy handed to the Committee Chairman/ as though the demands of the employer representatives had been agreed to by the proponents![104]

At the request of the Committee Chairman, Dr. Andrews drafted a letter to the representatives of the shipowners to determine whether or not it was their understanding that the sections in question had been agreed upon. The reply which came two days later was completely satisfactory and the bill which the Committee unanimously passed was,

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104 Loc. cit.

therefore, much closer to the bill which the Senate had passed than it otherwise would have been.

The favorable action of the House Committee, however, did not come until the Congressional session was within a month of adjournment. To secure enactment of the bill within this limited time period, its proponents united in a demand that the House Committee reconsider and report the bill which had already been passed by the Senate. Its opponents delayed consideration of the Senate bill by persuading Chairman Graham that a hearing should be held on this bill before any action be taken. The hearing was held on June 29, at which time the opposition argued, paradoxically, that the proposed legislation would be too great a burden to industry, but that on no account did they want the less burdensome Senate bill to be substituted for the more liberal House measure.[105] This delay effectively blocked consideration of the bill, since Congress adjourned five days later while it was still in the Committee.[106]

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105 Circular letter to the Compensation Commissioners reporting the legislative progress of the bill, July 13, 1926, Andrews Collection.

106 This was a deep disappointment to Dr. Andrews and the other proponents of the legislation who had worked long and hard for it. To temper this disappointment, Otto Mallery wrote, rather quaintly, "The longer we live the nearer we come to success. Fortunately we live forever." July 21, 1926, Andrews Collection.

Dr. Andrews and Anthony Chlopek continued the campaign to secure favorable action by the House Committee in the second session of the 69th Congress, which opened in December, 1926. They altered the Senate bill to include the liberal benefits of the earlier House bill, but the shipping group was able to secure an amendment which promised to cause difficulty in getting it passed. This amendment broadened the coverage to include seamen as well as harbor workers. With these amendments the House Judiciary Committee reported the Senate bill favorably and its Chairman requested the Rules Committee to give it preferential status.

Instead of granting the request, the Rules Committee proceeded to hold hearings on the bill. Opposition came principally from those who were opposed to its all-inclusive coverage. The problem at this point was to save the legislation for the longshoremen and to provide the Judiciary Committee with a "face saving" device. To this end, Dr. Andrews urged Chairman Graham that, in presenting the bill on the floor, he explain the position of his Committee and offer a resolution creating a commission to study the desirability of including seamen under the Act at a later date. He agreed and Dr. Andrews drafted a resolution to this effect. With this understanding, the Rules Committee withdrew its opposition and voted to call it up under a

special rule permitting amendments from the floor.

The bill was scheduled to be brought up for consideration on February 19, 1927. In the meantime the Judiciary Committee inserted still another amendment which fixed a maximum of $7,500 on the benefits which could be paid in any one case. The Association prepared a brief against this amendment and sent it to all Congressmen urging them to reject it. When the time for calling the bill to the floor arrived, Dr. Andrews and his colleagues surveyed the membership present and concluded that the votes were available to pass the bill and defeat the objectionable amendment. To their astonishment, however, the Chairman of the Judiciary Committee made no move to get the bill to the floor and, thus, lost its place in the legislative calendar. He later explained that he withheld the bill, because there appeared to be little possibility of getting the $7,500 maximum benefit amendment passed.[107]

Dr. Andrews and Anthony Chlopek immediately brought pressure on the Committee Chairman to make arrangements to bring the bill before the House at an early date. They went with him to make final arrangements with the party leaders. Finally, on March 2, shortly before adjournment,

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107 John B. Andrews, Unpublished summary of the events leading to the passage of the Longshoremen Workmen's Compensation Act.

the bill was presented and after considerable debate was passed, with some minor changes made on the floor, with only seven dissenting votes.

A heroic task still lay before the proponents of the bill as the House bill was not identical in all respects with that passed by the Senate and it was then near adjournment. The only hope of success lay in getting the Senate to approve the House bill. The prospects for doing this looked very dim, as a filibuster was in progress in the Senate.

The outlook grew less promising as Andrew Furuseth became convinced that the House had amended the act to include seamen and began working feverishly to kill it. This development was so discouraging that Chlopek told Dr. Andrews, "The bill is dead now. We might as well go home."[108]

At the suggestion of Senator Walsh, of Montana, Dr. Andrews made an effort to clear up the obscurity in language so as to leave no question that seamen were excluded from coverage. A copy of the bill was obtained from the House Committee and thoroughly studied. It was found that the stenographer during the House debate had reproduced the amendment correctly as introduced, but that in

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108 Loc. cit.

one or two places where it was inserted in the bill had neglected to insert a comma and had substituted "or" for "nor," thus leaving the coverage somewhat obscure. Chairman Graham summoned the clerk of his Committee to make the necessary adjustments.

The bill was then taken back to Senator Walsh, who was found asleep in his office after twenty-four hours of the filibuster. In the words of Dr. Andrews, "When awakened he opened his eyes and read the definition in the official print, compared it with the statement in the Congressional Record and announced 'I am satisfied.'"[109]

They then rushed to see Senator Norris, Majority Leader and Chairman of the Senate Judiciary Committee since the death of Senator Cummins. Senator Norris explained that he had promised Andrew Furuseth that he would not report the bill, and that he could do nothing unless it were cleared by Furuseth.

The search for Furuseth began at six o'clock on the evening before adjournment. In the course of the evening he was found and taken to Senator Norris where he explained that the bill as it then read was satisfactory.

The following morning President Coolidge went to the Capitol to sign some last minute bills. It was re-

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109 Loc. cit.

ported that the first bill he wished to sign was the longshoremen's bill. He was told that it had not yet passed, and he replied, "I want that bill passed."[110]

Shortly before adjournment, Senator Norris introduced the bill. Senators Reed, of Pennsylvania, and Jones, of Washington, objected but were persuaded to withdraw their objections by Chairman Graham of the House Judiciary Committee, who was now working enthusiastically for the bill. Senators Walsh and Norris explained that it excluded seamen and it was quickly passed as reported.[111]

Dr. Andrews recorded the circumstances surrounding his notification of this great victory:

> I learned of this final action by using an inner-lobby Senate telephone. I then walked out across the Senate lobby to where Tony /Chlopek/ was seated by the wall and said: "The bill is passed." He said "What bill?" and I replied "The longshoremen's bill is passed by the Senate." Tony sprang to his feet exclaiming "Doctor, what in hell do you mean?" Later at luncheon he said, "Doctor, the sweetest words I ever heard even you say were, 'the bill is passed.'"[112]

After the bill had been passed, Chairman Graham of the House Judiciary Committee congratulated Dr. Andrews,

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110 Loc. cit.

111 Public Law 803, 69th Congress, 2nd session.

112 Andrews, loc. cit.

stating, "This law is a result of your persistence."[113] Other congratulatory messages poured in from all over the country. Otto Mallery wrote, "This has been a labor of faith and love on your part. . . . You deserve a free ride for all your baggage on all oceans in the world in perpetuity."[114] Henry R. Seager, past president of the Association, wrote, "Hearty congratulations on your success in getting the Compensation Act for Longshoremen passed. . . . It was a fine bit of strategy and a merited reward for all the time and trouble you have taken in this matter."[115] Joseph Reiner, Dean of Loyola University, congratulated the Andrews for achieving "what appeared to be an impossible victory."[116] Other letters were written in a similar vein.

At the end of the year, Dr. Andrews reported to the Association that he and his staff had cooperated with the United States Employees' Compensation Commission in preparing the groundwork for the administrative machinery necessary for the administration of the longshoremen's compensation law throughout the country. In line with

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113 Loc. cit.

114 Letter dated March 8, 1927, Andrews Collection.

115 Letter dated March 22, 1927, Andrews Collection.

116 Letter dated March 13, 1927, Andrews Collection.

past policy, he promised to keep in close touch with future developments under the law.[117]

As a result of this vigilance, the Association was able to relieve a serious problem which developed during the first ten months of the administration of the act. Section 21 of the Act had been interpreted as permitting any party in interest to initiate a suit in federal court to set aside or suspend a decision of a deputy commissioner, without at the same time specifically authorizing the federal district attorney to appear in defense. This oversight threatened to seriously disrupt the administration of the law.

With the cooperation of the International Longshoremen's Association, representatives of the Association drafted a bill to provide the necessary remedy. The House passed this bill by unanimous consent on April 2. Two weeks later it was enacted by the Senate. It was signed by the President and became law on May 4, 1927.[118]

With only minor revisions to date, this law has provided longshoremen and other harbor workers with a scale of benefits which compares favorably with that of

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117 John B. Andrews, "Report of Work for 1927," American Labor Legislation Review, March, 1928, p. 120.

118 Public Law 349, 70th Congress, 1st session.

any law which has been passed in America.

District of Columbia Employees

By 1920 most of the states had enacted workmen's compensation, but Congress had neglected to extend this legislation to approximately 100,000 workers in the District of Columbia, although a large proportion of them were engaged in admittedly hazardous work. When injured, these workers found themselves practically without a remedy since they were forced to resort to the courts under the rules of common law.

After numerous conferences throughout the first half of 1920, the Association drafted a compensation bill embodying the best provisions of the state and federal compensation laws. This bill was first introduced in Congress by Senator Jones, of the state of Washington, in 1920, but failed to receive serious consideration.

In April of the following year, Dr. Andrews persuaded Congressman Fitzgerald of Ohio to "make it his principal measure as a member of the House District of Columbia Committee."[119] He introduced the bill on April 28, and hearings began early in May. In the course of these and subsequent hearings it became clear that both

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119 Letter from Dr. Andrews to Joseph P. Chamberlain, April 25, 1921, Andrews Collection.

the workers and employers were desirous of getting the bill passed.[120] The chief opposition came from the casualty insurance companies who objected vigorously to the exclusive fund provision of the bill. The basis of the attack was stated rather clearly in the following excerpt from a prominent insurance journal:

> It is high time that the insurance men of America rise up in their might and crush every bit of inimical legislation of this character. A very good start which the insurance agents can and should make will be to strike at this Fitzgerald bill. The measure, if passed will hurt every insurance agent in the nation. Whether he thinks so or not, it will take dollars out of his pocket.[121]

Early in May, Congressman Fitzgerald reported to Dr. Andrews on the publicity campaign which the insurance companies were waging against the bill: "I understand that a number of Congressmen are being flooded with letters from insurance people . . . denouncing the bill and urging them to resist it."[122]

In Washington, several of the large casualty

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120 Irene Sylvester Chubb stated that it was endorsed by the Women's Trade Union League, local charity officials, the United States Employees' Compensation Commission, the Housekeeper's Alliance of the District of Columbia and the American Federation of Labor. "Insurance Agents Attempt to Intimidate Legislators," American Labor Legislation Review, September, 1922, p. 164.

121 United States Review, April 1, 1922.

122 Letter from Congressman Fitzgerald to Dr. Andrews, May 7, 1921, Andrews Collection.

companies organized the "Workmen's Compensation Publicity Bureau" to conduct their lobbying activities in Congress. The manager of this organization was the principal representative of the insurance interests in the committee hearings on the bill.[123]

On Capitol Hill, Congressman Underhill helped to delay action on the Fitzgerald bill by introducing a bill less inimical to the interests of the insurance companies. According to one observer, Congressman Underhill:

> . . . used every possible subterfuge to defeat, and failing that, to delay the Fitzgerald bill. He tried to postpone committee meetings because of his own absence. He made much of alleged minor flaws in the Fitzgerald bill, and attempted to load it with pernicious amendments.[124]

As a result of this opposition, action on the Fitzgerald bill was delayed until January, 1922. At that time, the Association sent Irene Sylvester Chubb to Washington to work with Congressman Fitzgerald in a renewed attempt to secure favorable action. On January 25, Mrs. Chubb reported, "we had the Committee 7 to 5 and Fitzgerald didn't show up until nearly twelve o'clock---said he couldn't get his car started."[125] This setback

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123 Irene Sylvester Chubb, loc. cit.

124 Ibid., p. 165.

125 Letter from Irene Sylvester Chubb to Dr. Andrews, January 25, 1922, Andrews Collection.

was only temporary, however, for the bill was endorsed along with a very strong report by the Committee to the House on February 8.[126]

Immediately thereafter, the Association began a letter campaign to develop support in the House for the bill. Letters were sent to Congressmen and to thousands of people throughout the country to urge their Congressman to vote for the bill. They never got the chance to cast their vote during that session of Congress, however, for the bill was never brought to a vote.

For the next three and one-half months, the Committee Chairman permitted the bill to be passed over on the days set aside for District legislation. Finally, the Committee came together in his absence and instructed him to secure consideration of the bill by the House on the following Monday. In accordance with the Committee's instructions, the bill was brought to the floor, but its supporters were somewhat dismayed to find that:

> . . . the distribution of affirmative time was . . . placed in the hands of a Congressman opposed to this measure! This opponent forthwith used half-an-hour of the affirmative time speaking on extraneous subjects and fifteen minutes more speaking against the bill!

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126 In a letter to Dr. Andrews, Representative Fitzgerald stated, "The Report on the bill, as you know, is almost entirely the work of Mrs. Chubb, who has rendered most able and tactful assistance." February 13, 1922, Andrews Collection.

> Filibustering continued and the debate could not be finished.[127]

The debate was scheduled to be resumed the next District day, but when it arrived the bill was passed over in favor of more urgent business and when the session adjourned it remained "unfinished business."

After much controversy the bill was brought to a vote in January of the following session and was defeated in a highly interesting legislative maneuver by Congressman Underhill. Although the Underhill bill had never been the subject of Committee hearings and had not been approved by the Committee, it was offered as a substitute for the Fitzgerald bill when it was being debated in the House. Even though the members did not have copies of the Underhill bill, since there were only six copies in existence, it was, nevertheless, substituted for the Fitzgerald bill by a vote of 137 to 126, and finally passed by the House.

The advocates of the defeated Fitzgerald bill decided not to press for passage in the Senate, since the chances of doing so before the close of the session were very slim, and assuming that this could be accomplished, it would still have been necessary to overturn the House

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127 Irene Sylvester Chubb, "Insurance Agents Attempt to Intimidate Legislators," American Labor Legislation Review, September, 1922, p. 166.

action before the Fitzgerald bill could become law.

The proponents of the Underhill bill, on the other hand, succeeded in getting the Senate District of Columbia Committee to hold hearings about the middle of February. In the course of the hearings, the workers registered their objections to the bill. The employers, through the secretary of the Merchants and Manufacturers' Association, also voiced opposition to the Underhill bill, as well as to any workmen's compensation at that time. The only witnesses favoring the bill were those representing the casualty insurance interests, which inspired Senator Capper of Kansas to remark: "As nearly as I can make out, the insurance companies are the only people who want this bill."[128]

The chairman of the Committee sought to persuade the workers to withdraw their objections, but they preferred no law rather than one which would enable casualty insurance companies to realize a profit on compensation insurance. As a result Senator Capper, the Committee Chairman, finally said, "If the insurance companies are

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128 This statement as well as the account of the Underhill bill was drawn from an article entitled, "Congress and the Insurance Lobby," contained in The Searchlight and reprinted in the American Labor Legislation Review, September, 1923, pp. 204-206.

the only people that want this bill, then certainly we will not pass any legislation now or at any time in the future, so far as I am concerned."[129] This statement, apparently, reflected the sentiment of the Committee, for the Underhill bill was never reported to the Senate.

Late in 1923 Senator Jones and Congressman Fitzgerald reintroduced their bill, but hearings were delayed until March of the following year. Dr. Andrews testified in behalf of the bill and Mrs. Chubb worked intensively in Washington for it. As a result, the Committee reported it favorably on April 23, 1924, by a vote of 9 to 4. The following day Congressman Fitzgerald wrote Dr. Andrews:

> It is needless to say that every step that has been gained toward the goal of success for this measure in this Congress has been possible only through the great energies, devotion and persistence of Mrs. Irene S. Chubb, who has been indefatigable with the public press, the representatives of labor, the members of Congress and others in awakening and maintaining interest and in securing assistance.[130]

During the next two weeks the Association conducted an intensive campaign to secure passage of the bill by the House. Mrs. Chubb worked in Washington, while the staff at the New York headquarters sought to persuade interested people throughout the country to join the

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129 Ibid., p. 206.

130 Letter from Congressman Fitzgerald to Dr. Andrews, April 24, 1924, Andrews Collection.

Association in appealing to Congress to enact the bill.

On May 15, Mrs. Chubb notified the Association headquarters that their efforts had again failed to secure passage of the bill, in the following words, "It's all over. I don't see any hope for action at this session."[131]

In August, Mrs. Chubb resigned from her job with the Association to live in St. Louis, Missouri. Representative Fitzgerald commented on this loss in the following terms:

> I have thought a great deal about the compensation bill and worried about the obstacles which are continually cropping up. The fight was a desperate one, but with the help of Mrs. Chubb I felt that we could and would win. She was the most diligent and persuasive worker on legislative matters that I have ever experienced. Her loss to the cause by removal to St. Louis seems to me fatal to early success on this measure unless we form a real live and energetic organization to help on the fight.[132]

In January, 1925, the prospects for the bill were dealt a second blow when Representative Fitzgerald was taken off the District Committee and promoted to the Chairmanship of another committee. As a consequence, the compensation legislation for the District of Columbia workers languished in Congress throughout 1925 without

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131 Letter from Irene Sylvester Chubb to Dr. Andrews, May 25, 1924, Andrews Collection.

132 Letter from Representative Fitzgerald to Dr. Andrews, December 24, 1924.

any serious attempt to secure its passage.

Early in 1926, Congressman Fitzgerald reintroduced his bill and it was immediately referred to the District Committee. In Committee, the Underhill bill was brought forward as a substitute, but it only received the support of Representative Underhill and one other committee member. The Fitzgerald bill was then reported favorably by the Committee on April 12, with the recommendation that it be adopted because it was "a just and adequate and reasonable provision especially well adapted to meet the conditions existing in the District of Columbia."[133]

The Association sent letters to members of the House urging them to support the bill, but it was still on the list of unfinished business when Congress adjourned in July.

It failed to receive consideration in the following session and the prospects of passage in 1928 appeared to be dimmer than ever. In the meantime, the workers in the District became increasingly restless over the failure of Congress to provide an adequate and just compensation system. Studies conducted by the Association revealed

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133 Quoted in: "Congressional Committee Again Reports in Favor of Fitzgerald Bill for Accident Compensation," American Labor Legislation Review, June, 1926, p. 155.

that few workers injured in the course of their employment in the District were able to recover damages in the courts.[134]

Early in February, 1928, the pressure for action from the workers was so great that the Legislative Committee of the Central Labor Union requested a meeting with Dr. Andrews to determine the procedure to follow to secure the best compensation law obtainable at the current session of Congress. After an investigation, this Committee concluded that the Fitzgerald bill could not be passed and that further delay was "out of the question."[135] It had also decided that if necessary the demand for an exclusive state fund would be dropped in order to secure action. This was contrary to the official position of the American Federation of Labor. The problem which faced the union was to secure the approval of its proposed deviation from Federation policy.

Dr. Andrews suggested the possibility of extending the Longshoremen's Act, which had just been passed, to the employees in the District of Columbia. After

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134 Margarett A. James, "Tragedy in Homes of Injured Workers While Congress Neglects to Provide Accident Compensation," American Labor Legislation Review, March, 1928, pp. 61-63.

135 Office Memorandum, February 10, 1928, Andrews Collection.

considerable discussion, this proposal was unanimously adopted by the Legislative Committee. Dr. Andrews was requested to draft such a bill and to call upon President William Green of the American Federation of Labor and explain it to him.

Three days later, Dr. Andrews and representatives of the Local Committee met with William Green and members of the Legislative Committee of the American Federation of Labor. After two and one-half hours of wrangling, President Green assured the Local Committee that, if their central body:

> . . . expressed a strong desire for the brief extension of the Longshoremen's Act benefits in preference to the continued uncertainty of getting the Fitzgerald-Capper measure passed, that he would unquestionably see that they had the support of the American Federation of Labor in urging the compromise legislation.[136]

That evening the Central Labor Union voted unanimously for the compromise legislation and requested the further cooperation of Dr. Andrews in the legislative campaign for it.

Cornelius Cochrane and Dr. Andrews immediately prepared the draft of a bill and sent it to Senator Blaine, of Wisconsin, to be introduced in the Senate. Shortly after its introduction a joint hearing of the two District

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136 Office Memorandum on the conference, February 13, 1928, Andrews Collection.

Committees was held, at which Dr. Andrews and the Secretary of the Central Labor Union explained and argued for the bill as a means of securing the desired protection of injured workers in the District of Columbia.

On April 20, 1928, the Senate Committee reported the bill favorably and four days later it passed the Senate. The Senate bill was promptly reported by the House Committee and passed by the House on May 14, after which it was signed by President Coolidge.[137]

This victory ended an eight year struggle for adequate compensation for District of Columbia employees, but it was not a complete victory. The continued plight of the injured employees in the District induced the Association to yield to the casualty insurance companies on the exclusive state fund issue. The new law did not provide for an exclusive state fund but the other provisions were in line with the Association's recommendations.

Interstate Transportation Workers

At the present time, the largest single group of workers in America without the protection of workmen's compensation is employed in interstate transportation. Included in this group of workers are railway employees, express and pipe line employees, bus and truck drivers and

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137 Public Law 419, 70th Congress, 1st session.

aircraft employees. Dr. Andrews estimated, in 1935, that the extension of compensation coverage to these employees would be more important in terms of number of employees affected, "than any of the existing workmen's compensation laws, except possibly those of the two most important industrial states."[138]

Most of the injuries sustained by these employees have been governed by the Federal Liability Act as passed in 1908 and amended in 1910 and 1939. Under this Act it was necessary for the employee to seek damages in the court for injuries sustained in the course of his employment. Relief was limited to those cases in which it was proven that the injury or death was due in whole or part to the carrier's negligence.

In practice, this Act was so unsatisfactory that the great majority of accident cases were settled out of court. The Railroad Retirement Board found that the courts settled only 16 per cent of the permanent-total, 8 per cent of the fatal, 4 per cent of the major permanent-partial claims and less than 1 per cent of minor injuries.[139] Pollack concluded that the Act was "unsound both in

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138 John B. Andrews, "Interstate Compensation for Transportation Workers," American Labor Legislation Review, December, 1935, p. 170.

139 Railroad Retirement Board, Work Injuries in the Railroad Industry, 1938-1940, 1947, p. 43.

principle and in practice" because:

> Most claims are settled by bargaining between the railroad claim agent and the injured employee. Varying claims, offers, counterclaims and counteroffers are made until a settlement is reached. The law itself creates pressures and fosters tactics which degrade this bargaining in a way that was certainly not contemplated by its framers. The results resemble a lottery; settlements vary from exceedingly large to pitifully inadequate amounts.[140]

The weaknesses of this Act were apparent soon after its enactment. To remedy the problem, bills extending workmen's compensation to railway employees were introduced in Congress each year from 1908 until 1918. In 1910, a bill to create a Commission to Investigate Employers' Liability and Workmen's Compensation was passed. This Commission, known as the Sutherland Commission, submitted a unanimous report[141] in favor of a federal workmen's compensation act for railway employees in 1912. The bill which it recommended was endorsed by President Taft and passed both Houses of Congress, but failed final enactment because agreement could not be reached in conference. This marked the high point in the progress of such legislation for railway employees, since it never again was brought to a vote in either

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140 Jerome Pollack, "Workmen's Compensation for Railroad Work Injuries and Diseases," Cornell Law Quarterly, Winter, 1951, p. 237.

141 Senate Document No. 479, 62nd Congress, 2nd session.

House of Congress.

There is no evidence that the Association worked actively in behalf of the early compensation legislation for the railway employees. The first attempt which the Association made to extend modern accident compensation legislation to interstate transportation workers occured in 1925, at which time it was preparing such a bill for seamen and harbor workers. Numerous conferences were held with representatives of the railroad unions, but in the end they decided, on advice of their lawyers, against inclusion under the proposed legislation.

In the 1930's the Association made a second attempt to secure workmen's compensation for these employees. In cooperation with compensation law administrators, it drafted a bill providing for a federal system of workmen's compensation for all workers employed by interstate carriers. This bill was introduced in Congress in 1932 by Senator Wagner of New York. It was revised and introduced by Senator Wagner in February, 1933, and again in April of the same year. Late in 1933, two all-day conferences were held with representatives of the railroad carriers and labor organizations during which time the bill was subjected to an intensive critical evaluation. After further revision the bill was introduced in May, 1934, by Senator Wagner. After further conferences with

representatives of the Federal Department of Labor and the Federal Coordinator of Transportation, it was introduced in 1935 and again in 1939 in essentially the same form by Senator Wagner, but it failed to come to a vote in either House of Congress.[142]

Throughout this period, the Association conducted an extensive publicity campaign in support of the Wagner bill. Numerous articles were published in the Review and reprints of these articles were distributed widely. Representatives of the Association made speeches on the subject and conferences were held with the interested parties, but it was never able to clear the obstacles to such legislation in Congress.

The primary responsibility for the failure to pass the proposed legislation was largely due to a small, but powerful group of railway unions which insisted that the worker be given the right to decide after the injury whether he would take compensation or sue for damages. Damage suit lawyers were also opposed to the measure because it would have meant the loss of a million dollar business to them had it been enacted. In addition to the outspoken opposition of these groups, there was lack of enthusiasm among railroad workers for such workmen's

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142 Andrews, loc. cit.

compensation acts as had been passed by the states because many of the provisions of these acts placed serious limitations on the benefits which could be realized by the injured worker.

This failure was the only blot on an otherwise brilliant record of achievement in providing workmen's compensation for the workers under the jurisdiction of the United States Government.

VOCATIONAL REHABILITATION

In its broadest sense, rehabilitation includes all of those provisions designed to render a disabled person fit to "engage in a remunerative occupation."[143] All the workmen's compensation acts have made provision for some type of medical care to remove the physical disability where that is possible. Such provisions have included surgical and medical treatment and in some cases psychiatric treatment. To the extent that these measures fail to completely restore the worker, it is necessary to provide vocational rehabilitation to make him a "functioning economic unit." This involves:

> . . . a process or series of steps which when completed enables a disabled person to fill a job

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143 Walter F. Dodd, Administration of Workmen's Compensation, 1936, p. 714.

> in which he can compete successfully with able-bodied workers upon his ability rather than upon charity or sympathy, at an equal wage and with equal possibilities for advancement."[144]

The steps toward this goal include matching the physical demands of the job, training for the job and, finally, placement in a remunerative job.

Prior to World War I, interest in vocational rehabilitation centered chiefly in the International Association of Industrial Accident Boards and Commissions. This organization was established in 1914 and had as one of its objectives the re-education and restoration of injured workmen to industry. During World War I, the concern for the rehabilitation of injured soldiers and sailors stimulated further interest in the rehabilitation of the industrial cripples. In an attempt to capitalize on this sentiment, the proponents of rehabilitation for civilians argued that it was equally essential to restore the "battle casualties of peace."

Vocational rehabilitation of industrial cripples began in Minnesota and Wisconsin during World War I, before there was any legislation on the subject. Massachusetts, however, passed the first state act authorizing the establishment of a state rehabilitation system

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144 Clark D. Bridges, Job Placement of the Physically Handicapped, 1946, p. 13.

in 1918. The following year nine additional states, California, Illinois, Minnesota, Nevada, New Jersey, North Dakota, Oregon, Pennsylvania and Rhode Island took similar action. These actions were due in part to the anticipated passage of the Smith-Bankhead bill in Congress, which would have provided federal assistance to states undertaking the rehabilitation of industrial cripples.

The Association played a leading role in the campaign to secure this federal act. Late in 1918, it sent out approximately 15,000 copies of a special four page bulletin devoted to an appeal for this legislation and wrote to thousands of people over the entire country asking them to urge their representatives in Congress to support it. In a letter to Congressman Bankhead, the sponsor of the bill in the House, Dr. Andrews wrote, "we shall endeavor to do our part in focusing sufficient attention upon the matter to create an insistent demand for legislative action."[145]

Early in December, 1918, Dr. Andrews testified in behalf of the bill before a joint session of the House and Senate Labor and Education Committees. Late in December, Congressman Bankhead requested the Association

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145 Letter from Dr. Andrews to Congressman William Bankhead, October 26, 1918, Andrews Collection.

to, "adopt a strong resolution favoring the bill and urging the Senate and House to give support to quick passage."[146] The Association complied with this request two days after it was received, by passing the following resolution at its twelfth annual meeting which was held in Richmond, Virginia:

> Whereas, The people of America owe an incalculable debt to those who have become crippled in war and in industry in support of our nation during the past crisis; and
>
> Whereas, It is wasteful to neglect to make adjustments which will salvage the industrial skill of those crippled in war, in industry, or otherwise; be it therefore
>
> Resolved, That the American Association for Labor Legislation respectfully urge Congress and the several states to remove all legislative obstacles which in any way interfere with the rehabilitation and return to industry of military, industrial, and other civilian cripples; and be it further
>
> Resolved, That the American Association for Labor Legislation recommend the following measures:
>
> 1. The passage of the Smith-Bankhead bill extending vocational reeducation to industrial and other cripples;
>
> 2. That employers be relieved of the excess hazard of the cripple in industry, the excess hazard being carried for military cripples by the federal government and for industrial and other civilian cripples by industry at large;
>
> 3. That workmen's compensation for partial disability be based on physical impairment, taking into

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146 Letter from Congressman Bankhead to Dr. Andrews, December 26, 1918, Andrews Collection.

> account age and occupation at the time of injury, without reduction for subsequent improvement in earning power.[147]

On February 7, 1919, the Smith-Bankhead bill was reported favorably by the House Committee, but it failed to come to a vote in the House before adjournment, because it had not been cleared by the Rules Committee.

The bill was reintroduced in the 66th Congress and passed the Senate June 21, 1919. It was favorably reported by the House Committee, but before it was brought to a vote in the House, Congressman Bankhead sensed growing opposition and wired Dr. Andrews to come to Washington immediately, to help secure its passage. Upon his arrival Dr. Andrews reported:

> It was a very difficult fight. I never saw the House in such a disorganized condition; and several representatives who are always opposed to anything for labor were shouting "economy" and "unconstitutionality."
>
> The votes on proposed amendments were extraordinarily close, it being impossible to predict from hour to hour in the course of the debate which amendments would be adopted and which defeated until all of the different methods of voting known to parliamentary practice had been employed. Finally after several days of debate the bill was passed Friday afternoon, the 17th. One of the things that made it more difficult was the absence of support from the American Federation of Labor.[148]

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147 American Labor Legislation Review, March, 1919, p. 153.

148 Contained in a letter from Dr. Andrews to T. J. Duffey, Chairman of the Ohio Workmen's Compensation Board, October 21, 1919, Andrews Collection.

Since the bill had passed both houses of Congress, Dr. Andrews was so confident that it would become law, that on October 22, five days after it had passed the House, he sent letters to the legislative leaders in the various states informing them of the passage of the bill and urging them to pass the necessary state legislation to qualify for federal aid. This move proved to be premature, however, for the Conference Committee was unable to adjust the differences between the two bills passed by the House and Senate before Congress adjourned in November.

In the next session of the 66th Congress, the sponsorship of the bill was shifted to Senator Kenyon of Iowa and Congressman Fess of Ohio, who were Chairmen of the Committees on Education and Labor in the two houses. Despite this move, interest in the bill lagged. The session was within a month of adjournment before the two Committees reached agreement and were ready to report the bill for a final vote. On May 17, Congressman Fess informed Dr. Andrews that he had secured favorable action from the Rules Committee and that the bill would be brought to a vote within a few days and advised him "to get in communication with such friends among the members as you know. The bill will be terrifically assaulted

as before . . ."[149]

Dr. Andrews immediately joined Mrs. Chubb in Washington to work for final passage of the bill. He found that the:

> Friends of the measure who had taken part in the legislative discussion before the committees had scattered and were otherwise occupied. Even the "fathers" of the legislation in both Houses had given up hope.[150]

Dr. Andrews described the desperate fight to save the bill in the following words:

> Finally, as the session was nearing its end, two members of the House were importuned to make ready for one final effort. Five days and nights of intensive buttonholing Congressmen, with frequent reports of progress, so enheartened them that they were willing to take the matter up on the floor of the House and lead what they had felt was a forlorn hope. When the fight was made on the floor it was a sharp one, and it was by a fairly close vote that the federal government adopted the principle of federal-state cooperation in this field.[151]

The bill was signed by President Wilson on June 2, 1920.[152] It authorized the Federal Board for Vocational Education to allot $750,000 the first year and $1,000,000 for the next two years among the states in proportion

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149 Letter from Congressman Fess to Dr. Andrews, May 17, 1920, Andrews Collection.

150 "Important Next Steps in Vocational Rehabilitation" American Labor Legislation Review, December, 1927, pp. 266-267.

151 Ibid., p. 267.

152 Public Law 236, 66th Congress, 2nd session.

to the population on condition that the state qualify for its allotment. To qualify, the state was required to match the federal grant dollar-for-dollar and had to empower its vocational education board to cooperate with the federal board and its own workmen's compensation commission, and to report to the federal board annually.

To facilitate prompt action, the Association cooperated with the Federal Board of Vocational Education in drafting a bill which conformed to the requirements of the federal law for adoption by the states. This bill was made available to the various state legislatures and recommended for adoption by both organizations.[153] By the end of the first four years, three-fourths of the states had passed such enabling legislation and were participating in the federal program.

In 1924 the Association helped to overcome a problem which threatened to undermine the whole rehabilitation program. By June, 1924, the appropriations which had been authorized under the original bill were exhausted. In the same month an appropriation was authorized for another period of three years, but Congress adjourned without making the funds available. In the interim period, prior to the opening of the next session on December 1,

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153 A complete text of the bill may be found in the American Labor Legislation Review, December, 1920, pp. 248-249.

the Association publicized the plight of the rehabilitation program and made an urgent appeal to both the President and Congress to make the necessary funds available for the uninterrupted continuance of the work. Early in December, Congress responded by passing a deficiency bill which included an appropriation for the rehabilitation program for the next three years.

In 1928, the Association was active in the campaign to extend the federal act to the civilian employees of the District of Columbia. Dr. Andrews appeared before the House Education and Labor Committee to testify in favor of the bill and it was reported favorably on May 8. The Association helped to conduct a vigorous campaign in the Senate which ended in its approval on February 9, 1929.[154]

In 1930, the question arose as to whether the federal aid program should again be extended. Dr. Andrews and John A. Lapp urged that federal aid should not only be extended, but increased in amount, in the hearings before the House Committee. They emphasized the necessity of expanding the program on the basis of the estimate that not more than one-third of the need for rehabilitation work was being met.[155] In the end Congress provided the same appropriation

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154 Public Law 801, 70th Congress, 2nd session.

155 American Labor Legislation Review, March, 1930, p. 63.

which it had made available in the preceding nine years.

Finally, in 1925, the Association took the lead in suggesting and publicizing needed improvements in the law. It proposed that a survey be made of the rehabilitation program similar to the study of the workmen's compensation law which it had conducted in New Jersey, "to determine what still remains to be done to bring rehabilitation up to a uniformly high level of effectiveness."[156] In 1927, it urged the adoption of special funds under workmen's compensation laws to protect employers of rehabilitated persons against any added compensation costs in "second injury" cases.[157]

CONCLUSION

According to one of the best informed members of the Association, "its work for compensation for industrial accidents overtopped all others."[158] The preceding review of the principal activities of the Association in this field tends to substantiate this conclusion.

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156 American Association for Labor Legislation, "Constructive Survey Now Needed of Vocational Rehabilitation," American Labor Legislation Review, December, 1925, p. 294.

157 American Association for Labor Legislation, "Important Next Steps in Vocational Rehabilitation," American Labor Legislation Review, December, 1927, p. 268.

158 John A. Fitch, "The American Association for Labor Legislation," Proceedings of the John B. Andrews Memorial Symposium on Labor Legislation and Social Security, November 4-5, 1949, p. 88.

When the Association began agitating for workmen's compensation legislation the Federal law was totally inadequate and not a single state had passed a valid law. At the close of its work the Association could look back to an outstanding record of achievement. It had been primarily responsible for the enactment of most of the federal and much of the state legislation which had become law in America.

In order to gain favorable consideration of workmen's compensation in this country, it was first necessary to awaken the general public to the gravity of the problem. To ascertain the facts in this respect, the Association initiated and conducted the early campaign to secure uniform accident reports. This investigation was supplemented by research into special problems arising from the various phases of compensation legislation. The results of this research were either presented to the Association at its Annual Meetings or published in its quarterly Review, or both. Many of these reports were later reprinted and distributed throughout the country to arouse interest in alleviating the problem.

In the early period, the Association was instrumental in getting the first state commissions authorized to investigate and study the feasibility of workmen's compensation as a solution to the accident problem in

industry. After the commissions had been appointed, the Association increased their effectiveness by persuading them to hold Conferences on various aspects of the problem. The reports which they submitted to the legislatures provided a powerful stimulus to legislative action, at a time when workmen's compensation legislation was still in the balance.

The Association was not content to merely arouse interest in the accident problem, but it provided legislatures with model laws to help them formulate the most equitable solution to the problem. On the basis of many conferences with the parties directly concerned with the problem and a careful analysis of its many ramifications, the Association formulated a model bill which it believed would accomplish the dual objective of encouraging the prevention and minimizing the effects of industrial accidents. This bill was of immeasurable value to legislators in formulating new compensation laws and in liberalizing old legislation. Although Reede[159] and Dodd[160] have modified this model bill to meet changing economic conditions, it is still regarded as fundamentally sound.

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159 Arthur H. Reede, Adequacy of Workmen's Compensation, 1947.

160 Walter F. Dodd, Administration of Workmen's Compensation, 1936.

Although the Association conducted its educational campaign on a national scale, it limited its intensive legislative campaign at any one time to a selected group of states. At the outset, the Association concentrated its efforts in the more highly industrialized states, for two reasons: in the first place it was thought that these states had a peculiar need for compensation legislation, because they contained more workers. In the second place it was believed that these states would serve as pace-setters and, thus, reduce the need for expensive campaigns in other states. For this reason such states as New York, Ohio, New Jersey and Pennsylvania became the battlefields in the early struggle for adequate legislation. In these states, the Association and its allies came to grips with the casualty insurance companies and its other opponents, on such issues as to whether the legislation should be compulsory or elective; administered by courts or by an administrative commission; and whether the insurance should be carried by a public or private insurance company. As the Association realized victories in the industrialized states, it drafted legislation and campaigned for its enactment in numerous other states, until finally, in the nineteen twenties, only five southern states were left without compensation legislation. Singlehanded it went into these states and developed enough support to enact

legislation in four of these five states before it discontinued its operations in 1942.

The workmen's compensation legislation which was enacted for workers under the jurisdiction of the federal government was almost solely due to the efforts of the Association. It drafted and conducted the campaign which resulted in legislation for the longshoremen, federal employees and for employees in the District of Columbia. It waged a vigorous campaign for the extension of similar legislation to interstate transportation workers in the nineteen thirties, but these efforts met defeat.

The Association's program of protection for workers injured in the course of their employment was not limited to compensation during the period of disability. In those cases where the injured worker could not physically be restored to follow successfully his former employment, it proposed that the government assume the responsibility of rehabilitating him, to the end that he would be made a "functioning economic unit." To realize this objective, the Association played a key role in a brief campaign which resulted in passage of a bill by Congress in 1920, which authorized the granting of federal aid to those states which established a system for vocational rehabilitation training approved by the federal agency. To facilitate action thereafter, the Association helped to draft

a bill for adoption in the various states. In less than four years the vast majority of states were providing vocational rehabilitation for many of their industrial cripples under the terms of this act.

CHAPTER V

HEALTH INSURANCE

It is somewhat paradoxical that the great humanitarian movement to either completely or partially restore the losses of workmen due to sickness originated in Germany under the autocratic rule of Bismark rather than in one of the democratic nations where the welfare of the people is presumably paramount. Following its adoption in Germany in 1883, compulsory state health insurance was successively established in Austria, Hungary, Luxemburg, Norway, Serbia, Great Britain, Russia, Rumania and Holland. Other countries established a subsidized voluntary system, namely, France, Belgium, Switzerland, Denmark, Sweden and Iceland. By the outbreak of World War I, the only European countries without a general system of health insurance were the non-industrial countries of Italy, Spain, Portugal, Greece, Bulgaria, Albania, Montenegro and Turkey.

Early American Developments

Despite its rapid spread in Europe, no interest was manifested in health insurance in the United States until 1912. In December of that year the American Association for Labor Legislation created a Social Insurance

Committee to, "study conditions impartially, to investigate the operation of existing systems of insurance, to prepare carefully for needed legislation, and to stimulate intelligent discussion."[1]

As a result of the efforts of this committee, the first National Conference on Social Insurance was held in Chicago in June, 1913. Although health insurance, or "sickness insurance" as it was then called, was of secondary importance in the proceedings of this conference, nevertheless, sufficient interest was aroused to encourage the committee to begin work preliminary to the drafting of a bill on the subject. Added impetus was given to interest in this problem at the Association's Seventh Annual Meeting in December of the same year, during which an entire session was devoted to the subject.

In June, 1914, Anna Kalet a special investigator, was employed to work for the Social Insurance Committee, collecting information concerning the number and kind of agencies furnishing sickness insurance in the city of New

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1 John B. Andrews, American Labor Legislation Review, June, 1916, p. 121. Members of the Committee included: Edward T. Devine, Director of the New York School of Philanthropy, Chairman; Miles M. Dawson, consulting actuary; Carroll W. Doten, Secretary, American Statistical Society; Henry J. Harris, Chief, Division of Documents, Library of Congress; Charles R. Henderson, Professor, Sociology, University of Chicago; Frederick L. Hoffman, Statistician, Prudential Insurance Company; Henry R. Seager, Professor, Economics, Columbia University; and John B. Andrews, Secretary, American Association for Labor Legislation.

York. "Literally thousands" of small health insurance funds were found to have been set up by fraternal societies, trade unions, mutual societies and stock companies for their members. A closer study of only thirty-six of these plans revealed that no less than 170,000 members were elgible for benefits.[2] The vast majority of these plans were found to be inadequate, either because they discriminated against numerous groups of people or because they ignored the problem of disease prevention or the benefits were small and of short duration and too costly. In short, workmen were found to be greatly interested in health insurance but existing health insurance plans were found to be highly unsatisfactory.

The Social Insurance Committee held frequent meetings throughout the first six months of 1914 to formulate a plan of action to meet the problem. When the preliminary results of the Kalet survey were made available the Committee redoubled its efforts and during the summer it was able to publish a statement of the essential lines which it proposed to follow in drafting a sickness insurance bill. These so-called "Standards" were widely circulated and criticism was freely invited

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2 Anna Kalet, "Voluntary Health Insurance in New York City," American Labor Legislation Review, June, 1916, pp. 142-154.

so that the Committee might more intelligently proceed towards drafting a bill that would be acceptable to the various groups immediately involved in the plan. They provided that:

> 1. Sickness insurance should be compulsory and be financed by joint contributions from employers, employees and the public.
>
> 2. The plan should be limited to all wage earners earning less than a certain income (not specified).
>
> 3. Other wage earners should be permitted to join a voluntary supplementary system.
>
> 4. Invalidity insurance should be coupled with health insurance although the funds should be kept separate.
>
> 5. The insurance should be carried by local funds jointly managed by employers and employees under public supervision.
>
> 6. Benefits should include medical service, supplies, necessary nursing and hospital care and cash benefits during the period of disability.
>
> 7. The introduction of health insurance is intended to lead to a campaign of health conservation.[3]

By the close of 1914 the Social Insurance Committee had come to regard health insurance as "the most urgent of the remaining social insurance problems" and resolved "to make health conservation and shop sanitation . . . of vital importance through the financial pressure of sick-

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3 American Labor Legislation Review, December, 1914, pp. 595-596.

ness insurance,"[4] in the same way that the "safety first" movement had been set in motion by workmen's compensation.

Pre-legislative Activities

Early in 1915 Miss Olga Halsey was employed to help conduct the campaign for health insurance. Miss Halsey proved to be exceptionally well qualified for this task. Throughout the summer and fall she worked closely with the Committee in determining the essential features to be incorporated in the first draft of a bill.

In October the Committee acted favorably upon the suggestion that its membership be increased so that more representatives of the medical profession could be added. The following persons accepted the invitation to join the Committee: Dr. Alexander Lambert, Professor, Clinical Medicine, Cornell University; Dr. S. S. Goldwater, Commissioner, Department of Health, City of New York; and Lillian D. Wald, Head Resident, Henry Street Settlement.

In November, 1915, after three years of careful study, the Association published a tentative draft of an act for compulsory health insurance for the purpose of eliciting general criticism but more specifically to get the observations of employers, workmen and members of the

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4 John B. Andrews, "Outline of Work 1914," American Labor Legislation Review, March, 1915, pp. 153-54.

medical profession. The first edition of a pamphlet containing the act, consisting of 8,000 copies, was exhausted within a month after its publication. Interest was so widespread that a second edition of 5,000 was depleted in a short time after it was made available in December, 1915.

Upon the publication of the proposed act, Dr. Frederick Green, Secretary of the Council on Health and Public Instruction, American Medical Association, suggested to Dr. Andrews that, "the Council on Health and Public Instruction appoint a Committee to represent the Association and to assist in preparing your model bill with special instructions to work out a plan of cooperation between the physicians and the administrators of the law."[5] On behalf of the Association Dr. Andrews quickly indicated approval of the proposed plan and a committee consisting of Dr. Alexander Lambert of New York, Chairman, Dr. Henry B. Favill of Chicago and Dr. Frederic J. Cotton was appointed to represent the American Medical Association to assist in "putting the finishing touches" on the bill. With the cooperation of this Committee the Association was able to put its bill into final form in time for consideration by state

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5 Contained in a letter to Dr. Andrews, November 11, 1914, Andrews Collection.

legislatures which were scheduled to meet in January, 1916.

In its final form the Act provided for:

1. Compulsory insurance for all manual employees earning less than twelve hundred dollars per year.

2. Benefits:

a. Medical and surgical supplies prescribed by authorized physicians, not to exceed fifty dollars in any one year.

b. Hospital treatment may be furnished for the same period as cash benefits.

c. Cash benefits shall be paid to the insured, equal to two-thirds of the weekly wage for a period of not more than twenty-six weeks in any consecutive twelve months.

d. Funeral benefits up to fifty dollars.

e. To be provided by:

(1) A panel of physicians to which all who were legally qualified might belong, or;

(2) Salaried physicians employed by the carriers, or;

(3) District medical officers, or;

(4) A combination of the above methods.

3. To finance the plan, employers were required to pay two-fifths, employees two-fifths and the state one-fifth of the expenses of the plan.

4. The insurance may be carried by:

a. State managed funds, or;

b. Approved societies, or;

c. District mutual associations.

5. A state Social Insurance Commission is to be created with authority to supervise the operation

of the Act and to adjudicate disputes arising under it.[6]

This Act was accompanied by an extensive brief showing the need for its early enactment. The main arguments advanced by the Association were:

1. High sickness and death rates are prevalent among American wage-earners.

2. More extended provision for medical care among wage-earners is necessary.

3. More effective methods are needed for meeting the wage loss, due to illness.

4. Additional efforts to prevent sickness are necessary.

5. Existing agencies cannot meet these needs.

6. Compulsory contributory health insurance providing medical and cash benefits is an appropriate method of securing the results desired.[7]

Legislative Campaign

This bill, with some variations, was introduced in three of the eleven legislatures that convened in 1916. The prospect of legislative action created a widespread interest in the nature and implications of the bill. Various groups intensified their critical

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6 "Health Insurance, Tentative Draft of An Act," American Labor Legislation Review, June, 1916, pp. 239-268.

7 "Brief for Health Insurance," American Labor Legislation Review, June, 1916, pp. 155-236.

examination of the measure with the view to clarifying their position with respect to it. To crystallize opinion in favor of compulsory health insurance the Association accelerated its educational campaign. Numerous speeches were made before medical and health societies, women's clubs, philanthropic organizations, labor unions, manufacturer's associations and other organizations by Dr. Andrews and other members of the staff. In addition to the articles in the quarterly Review, the staff was able to get many of its "stories" dealing with health insurance published in the leading newspapers of the nation.[8]

In spite of the Association's aggressive educational campaign, opposition began to come from some of the various groups affected by its provisions. As early as January 30, 1916, a prominent newspaper pointed out that the underwriters of casualty policies had organized its opposition and that in "spite of the theoretical endorsement which the scheme had received from various medical organizations many practitioners are disturbed" and finally that an official spokesman of the Associated Manufacturers and Merchants of New York State had taken

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8 "Some Activities of the American Association for Labor Legislation for the First Quarter 1916," unpublished manuscript, Andrews Collection.

exception to the proposal of "well meaning but deluded uplifters," which, it contended, would develop, "scientific loafing."[9]

The first meeting of the contending forces before an official legislative committee to consider the merits of health insurance took place on March 1, 1916, in Boston, Massachusetts. The Association was represented in the testimony by its President, Professor Irving Fisher, Miss Halsey, Professor Joseph Chamberlain and Dr. Andrews. Largely as the result of the efforts of the Association, the Massachusetts legislature approved the recommendation of its committee and created a commission to investigate sickness along with other problems such as unemployment, old age and the hours of labor.

On March 14, 1916, the second hearing on the Association's bill took place in Albany, New York, where the Association presented fourteen speakers from some of the leading professional and welfare organizations in New York to speak in behalf of the bill. Included among the speakers were Dr. Alexander Lambert of the American Medical Association; Miss Mary Van Kleek of the Russell Sage Foundation; Mr. Bailey Burritt of the

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9 "National Association for Labor Legislation Has Prepared a Bill to Provide Medical Attendance for Wage Earners of the State Who May Require It," New York Times Magazine, January 30, 1916.

Association for Improving the Condition of the Poor; Miss Mary Schwartz of the New York Consumers' League; and Dr. I. M. Rubinow, Mr. Miles Dawson, Professor Joseph Chamberlain, Miss Olga Halsey and Dr. Andrews from the American Association for Labor Legislation.

The opponents of the bill almost without exception endorsed the principle of health insurance but asked for a legislative commission to study the subject another year. The Economic League of Physicians, representing the medical profession in greater New York objected to certain administrative details of the bill. The New York State Federation of Labor, through Mr. James Holland, emphasized the fact that they were in favor of health insurance legislation, but did not wish to contribute to the fund. The State Manufacturers' and Merchants' Association through Mr. Mark Daly, its Secretary, asked for a commission but admitted that they were not opposed to the principle of health insurance.[10]

The bill passed the New York Senate by a large majority, but was promptly buried in the Assembly Committee on Rules at the instigation of Thaddeus C. Sweet, Speaker of the Assembly, because of a petty intra-party political squabble. Dr. Andrews and other leaders of

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10 Contained in an account of the hearing in a letter from Dr. John B. Andrews to Professor John R. Commons, March 16, 1916, Andrews Collection.

the Association held numerous conferences with the Governor and the principal figures in the controversy, but were unable to break the deadlock and the bill died in committee.[11]

The Association's bill was modified somewhat and introduced in New Jersey, but the Association did not conduct an aggressive campaign for its enactment and the legislature did not give it serious consideration.

Most of the activities for legislation in the first movement for health insurance was confined to the states. In 1916, however, an attempt was made to secure Congressional approval of a resolution to create a federal commission to study and prepare a national health insurance plan. Dr. Andrews, Miles Dawson, Joseph Chamberlain, Royal Meeker and Dr. Rubinow of the Association were among those testifying for the resolution at the hearings in April. Samuel Gompers was the only witness to testify against it. It was reported favorably by the House Labor and Education Committee, but fell short of the necessary two-thirds majority vote in the House early in February, 1917.

Encouraged by the widespread public response to its health insurance campaign, the Association redou-

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11 Letter from Dr. Andrews to Mr. J. D. Beck, Chairman, Industrial Commission of Wisconsin, April 25, 1916, Andrews Collection.

bled its educational work during the summer in preparation for an intensive drive for action in the state legislatures in 1917. The March issue of the Review was devoted to health insurance, and an edition of six thousand copies was quickly exhausted. Approximately forty-five hundred copies of five different circular letters were sent out and articles and editorial suggestions by the Association were used in various medical journals.

Between June and November, Dr. Andrews and other members of the staff made no less than twenty speeches, and many others were made by prominent members of the Association. In June, Dr. Andrews addressed the American Academy of Medicine, the Council meeting of the American Medical Association and the first annual convention of the American Association of Physicians and Surgeons in Detroit. Miss Halsey spoke before the American Hospital Association at its annual meeting in Philadelphia and Dr. Andrews addressed the Institute for Anti-Tuberculosis Workers in New York. In September, Dr. Andrews made a trip through the middle-west in the interest of health insurance. He spoke before groups of businessmen, physicians, and social workers; he visited state and city federations of labor, newspaper editors and health and labor departments in Chicago, Milwaukee, Madison, Minne-

apolis and St. Paul. In October, he made another trip into the west in the interest of health insurance. Among his speeches on this trip were those before the Pennsylvania Conference on Social Welfare and the Minnesota State Conference of Charities, and smaller groups of social workers in St. Paul and Minneapolis.[12]

In the meantime, considerable attention was given to securing the cooperation of labor organizations in the campaign for legislative action. Louis Bloch, a recent graduate of the University of Wisconsin, joined the staff in July and devoted his entire time to this phase of the work. As a result of this activity the Association helped to influence the Massachusetts, Nebraska, Ohio, New Jersey, Mississippi and Wisconsin State Federations of Labor and six international unions, including: the Typographical; Glove Worker; Steam and Operation Engineers; Spinners; Pulp, Sulphite and Paper Mill Workers; and the United Mine Workers to endorse health insurance.

Early in October, the Association focused much of its work in Massachusetts where the Commission appointed by the legislature to report on health insurance began its hearings. On October 3, the Commission held its first

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12 Contained in an office memorandum of the activities of the American Association for Labor Legislation from June 1 to November 1, 1916, Andrews Collection.

session in Boston, at which Mr. Miles Dawson, Professor Carroll W. Doten, Miss Halsey, Miss Irene Sylvester and Dr. Andrews testified for the Association. Two hundred persons attended the hearing, which was twice moved to a larger room to accomodate the audience. The hearings were given wide and favorable attention by the press.[13]

In July, Dr. I. M. Rubinow, a member of the Association's Social Insurance Committee, was employed by the California Commission to help prepare its health insurance report for the legislature in 1917. Thus, the Association worked closely with the first two state investigating committees in America to study the desirability of health insurance legislation.

By the end of the year, the rising tide of popular support for health insurance seemed to be such that the fulfillment of a prophecy made by Dr. Rupert Blue, Surgeon General of the U. S. Public Health Service, that "health insurance will constitute the next great step in social insurance,"[14] appeared to be possible within the immediate future. Most of the social organizations favored the measure. Despite some local opposition the

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13 Loc. cit.

14 Rupert Blue, "Presidential Address," The Journal of the American Medical Association, June, 1916, p. 1901.

American Medical Association continued to cooperate with the Social Insurance Committee in its campaign for action. In fact, the American Medical Association established a Social Insurance Committee of its own in April to study health insurance from a medical point of view. Dr. Alexander Lambert was made chairman of this Committee and Dr. I. M. Rubinow was made its secretary, both of these men were prominent members of the American Association for Labor Legislation. Sentiment was also divided among some groups of manufacturers, nevertheless, the National Association of Manufacturers, in May, adopted a report by its Industrial Betterment Committee endorsing health insurance.[15] Organized labor was likewise divided on the measure. Despite a vicious attack on it by Samuel Gompers, a number of state federations of labor and international unions joined the Association in its campaign for health insurance.

The Association's aggressive health insurance campaign not only precipitated sharp conflict in other interested groups, but also created dissention within itself. Mr. Gompers, a past Vice President of the Association, for example, bitterly denounced it as a "would-be

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15 Cited by: Irving Fisher, "The Need for Health Insurance," American Labor Legislation Review, March, 1917, p. 11.

uplifter" and warned that the labor movement would "not yield any field of activity directly affecting the workers to any agency other than the workers themselves."[16] In December, Frederick Hoffman, Statistician for the Prudential Life Insurance Company, one of the most distinguished and active members of the Association, resigned from the Executive Committee and withdrew from the Association with the statement that, "the extensive propaganda for compulsory health insurance is ill-advised and insincere, in that there has been a total and wilful disregard of the results which are being achieved by voluntary and private effort in the direction of more or less adequate provision for the contingencies of sickness."[17] Thereafter, Hoffman became one of the Association's leading adversaries in the health insurance controversy.

In spite of the antagonism aroused by the oppo-

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16 Samuel Gompers, "Labor vs its Barnacles," American Federationists, April, 1916, pp. 270-272.

17 Contained in a letter of resignation from Frederick Hoffman to Professor Irving Fisher, President, American Association for Labor Legislation, December 11, 1916, Andrews Collection. Hoffman and Lee K. Frankel of the Metropolitan Insurance Company objected violently and finally withdrew when the Social Insurance Committee insisted on including burial insurance in the bill. Letter to the writer from Mrs. John B. Andrews, June 10, 1952.

sition, enthusiasm for health insurance reached a high water mark in the Association at its tenth annual meeting, which opened in Columbus and closed in Cincinnati, Ohio, during the last week in December, 1916. Joint sessions were held with the American Economic Association, the American Sociological Society, the American Statistical Association, the American Political Science Association and the City Club of Cincinnati.

President Irving Fisher set the tone of the meeting by declaring in the opening address, "There is no other measure before the public which equals the power of health insurance toward social regeneration."[18]

The session that followed featured a lengthy paper, sketching a tentative plan for the organization of the medical profession under health insurance, by Dr. Alexander Lambert, Chairman of the Social Insurance Committee of the American Medical Association.[19]

In the next session, a number of papers were presented on the organization of insurance funds under

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18 Irving Fisher, "The Need for Health Insurance," American Labor Legislation Review, March, 1917, p. 23.

19 Alexander Lambert, "Medical Organization Under Health Insurance," American Labor Legislation Review, March, 1917, pp. 36-50.

health insurance.[20]

In the final session, Miles M. Dawson gave the feature address on the subject, "Principles of Health Insurance."[21] The meeting lasted two hours beyond the time set for adjournment and according to one report "there was not a lagging moment."[22]

These papers were published in the Review and made available to the membership of the Association. It was one of the most useful documents on health insurance to be developed during this entire period. Another important study was published during the year by the U. S. Public Health Service. This report contained extensive data showing the extent of the health problem with the conclusion that health insurance offered the best solution.[23]

As the Association opened its 1917 legislative

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20 I. M. Rubinow, "Health Insurance through Local Mutual Funds"; John J. Lentz, "Fraternal Societies under Universal Health Insurance"; Edmund N. Huyck, "Establishment Funds and Universal Health Insurance"; and William Green, "Trade Union Sick Funds and Compulsory Health Insurance," American Labor Legislation Review, March, 1917, pp. 69-95.

21 Miles M. Dawson, "Principles of Health Insurance," American Labor Legislation Review, March, 1917, pp. 111-118.

22 John B. Andrews, American Labor Legislation Review, March, 1917, p. 5.

23 Edgar Sydenstricker and B. S. Warren, Health Insurance: Its Relation to the Public Health, United States Public Health Service, Public Health Bulletin No. 76, 1916.

campaign it was encouraged by the fact that all three of the legislative commissions which had been created to study the desirability of compulsory health insurance, submitted favorable reports. The California Commission was the first to report and for the most part its findings were in complete harmony with those of the Association. As a result of the Commission's recommendations, the California legislature adopted a constitutional amendment authorizing workmen's health insurance to be submitted to the people for approval in 1918. The Massachusetts Commission attempted to cover in one brief investigation, old age and unemployment; as well as sickness insurance and was unable to get unanimous concurrence on all phases of its report. The members of the Commission were, however, unanimous in endorsing the principle of health insurance and were in basic agreement with the Association as to the details of the plan which should be adopted. In 1911 the New Jersey legislature had created a Commission to study the problems of old age and in its report to the Governor in 1916 this Commission announced its intention to prepare a health insurance bill, and to conduct a campaign for popular education on the subject. The report which it submitted in 1917 was essentially similar to those of California and Massachusetts.

Of the forty-four legislatures which met in 1917, twelve considered health insurance bills modeled after the Association's Standard Bill and six new states appointed commissions to study the subject.[24] In view of the rising tide of opposition this represented a substantial victory for the proponents of health insurance, especially since included in the nine states studying the proposal were those that were generally regarded as among the most progressive in the field of social legislation.

Early in 1917, the anti-health insurance campaign of the opponents of health insurance began to pick up momentum. In January, for example, the National Civic Federation leveled a powerful broadside attack on the Association and health insurance at its annual meeting in New York. Among the principal speakers were Samuel Gompers and Hugh Frayne of the American Federation of Labor, A. Parker Nevin, General Counsel of the National Association of Manufacturers and Frederick Hoffman. The addresses of these and other speakers on the program

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24 In addition to California, Massachusetts and New Jersey; Conneticut, Illinois, New Hampshire, Ohio, Pennsylvania and Wisconsin created Commissions to study health insurance. "Comparative Analysis of State Laws Providing for Official Studies of Workmen's Health Insurance," Proceedings of the First National Conference of Health Insurance Commissioners, December 27-28, 1917, pp. 4-5.

were bound in a special pamphlet and widely circulated.[25]

This was followed closely by an equally severe indictment of health insurance by Frederick Hoffman.[26] Early in February, P. Tecumseh Sherman issued a detailed criticism of the Association's "Standard Bill" for health insurance.[27] Another extensive attack on health insurance was contained in a report written by John F. Crowell and published by the Chamber of Commerce of the State of New York.[28]

In this period, the opponents of health insurance began to give their propaganda an emphasis which later played a decisive role in the outcome of the controversy. Isolated references were made to the German origin of health insurance. The implied purpose of these references was to utilize the anti-German sentiment generated by the war to stop the health insurance movement short of its objective. A Massachusetts doctor, for example,

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25 National Civic Federation, Compulsory Health Insurance - Annual Meeting Addresses, January, 1917.

26 Frederick L. Hoffman, Facts and Fallacies of Compulsory Health Insurance, January, 1917.

27 P. Tecumseh Sherman, Criticism of a Tentative Draft of an Act for Health Insurance, February, 1917.

28 John Franklin Crowell, A Report Prepared for the Committee on Insurance of the Chamber of Commerce of the State of New York, February, 1917.

objected to health insurance on the ground that it would "Prussianize the medical profession."[29] Frederick Hoffman emphasized the fact that the proposed measure was "thoroughly Un-American,"[30] and John Crowell wrote that "the avowed object" of the Association's Standard Bill "is to establish under state auspices a system of compulsory sickness insurance akin to that "Made in Germany."[31]

In February, William Gale Curtis, President of the National Casualty Company of Detroit and one of the leading foes of health insurance declared its advocates included "the dreamers, and schemers, socialists, sociologists, many doctors and some politicians." He then listed the following organizations as among the opponents of the scheme:

> . . . the American Federation of Labor, the National Fraternal Congress, the Christian Science Business Organization, the National Association of Manufacturers of Medical Products, all medical practioners except Allopaths, the National Industrial Conference Board, the Associated Employers of Indianapolis, the National League for Political Action, the New York Chamber of Commerce, the Michigan Manufacturers Association, the Employers' Association of Detroit, the Economic World, the Labor World, the New York Board of Trade and

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29 Dr. William W. Harvey, Boston Medical and Surgical Journal, January 4, 1917, p. 39.

30 National Civic Federation, op. cit., p. 20.

31 Ibid., p. 33.

Transportation and the Indiana Manufacturers' Association.[32]

On the other hand a number of state federations and international labor unions came out in favor of health insurance during 1917.[33] Moreover, in June, 1917, the House of Delegates of the American Medical Association passed a resolution instructing its Council on Health and Public Instruction to cooperate in preparing health insurance laws to the end that "the health of the community may be properly safeguarded and the interests of the medical profession protected" and to insist that:

> . . . such legislation shall provide for freedom of choice of physicians by the insured; payment of the physician in proportion to the amount of work done; the separation of the function of the medical official supervision from the function of daily care of the sick; and the adequate representation of the medical profession on the appropriate administrative bodies.[34]

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32 William Gale Curtis, "Social Activities," The Insurance Field, February 8, 1917.

33 The State Federations included the: Alabama Federation of Labor, California Federation of Labor, Connecticut Federation of Labor, Illinois Federation of Labor, and the Minnesota Federation of Labor. The International unions included: the Glass Bottle Blowers' Association of the U. S. and Canada, International Brotherhood of Foundry Employees, International Glove Workers' Union of America and the Brotherhood of Railway Carmen of America. American Association for Labor Legislation, "Prominent Labor Organizations Already on Record for Health Insurance," American Labor Legislation Review, December, 1918, p. 319.

34 "Resolution on Health Insurance," The Journal of the American Medical Association, June, 1917, p. 1755.

While this resolution did not officially commit the American Medical Association to support the Association's Standard Bill, which was consistent with the instructions given the Committee, it nevertheless, suggested that there was considerable sentiment among physicians favoring health insurance. Later in the year, the American Association of Industrial Physicians and Surgeons took a much more forthright position with respect to health insurance by unanimously adopting a resolution which stated "that the principle of health insurance which makes proper provision for the prevention of sickness is a sound one."[35]

On the other hand, in August, 1917, the American Pharmaceutical Association learned from its Committee on Compulsory Health Insurance that health insurance was really a clever German plot to increase our "national cost of production" so that she could capture the American markets.[36] Other druggist groups joined this Association in opposition, fearing that their economic position would be undermined under the proposed plan.

Late in 1917, a second attempt was made to secure Congressional authorization of a federal commission to

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35 Undated Memorandum, Andrews Collection.

36 American Pharmaceutical Association, "Report of Committee on Compulsory Health Insurance," Journal of American Pharmaceutical Association, 1918, p. 900.

study health insurance. This attempt met more opposition than the first and, therefore, ended in failure.

One of the most important projects undertaken by the Association in 1917, was that of sponsoring the First National Conference of Health Insurance Commissioners in conjunction with its eleventh annual meeting at Philadelphia, Pennsylvania in December. Under the Association's guidance, members from the various state legislative investigating commissions held three sessions during this two day period in which experience and information was exchanged, and various problems relating to the most desirable methods of conducting their work were studied. The proceedings of this conference were published and widely distributed in the Review[37] and in a special pamphlet, so that other states might be encouraged to take similar legislative action and profit from the experience of those states which had pioneered in the field.

The first conference was considered so worthwhile that the Ohio Commission invited the various Commissions to send representatives to a Second National Conference which met in Cleveland, May 13-14, 1918. Representatives

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37 American Labor Legislation Review, March, 1918, pp. 85-107.

from seven Commissions[38] and other interested organizations attended the Conference. The proceedings of this Conference, as those of the preceeding one, were published in the Review.[39]

The most important battle in 1918 occurred in California, where an amendment to the state constitution permitting the legislature to pass social legislation was submitted to the people for a referendum vote. The opponents of the bill proved to be both powerful and well organized. The insurance companies were among its most active adversaries. They distributed literally thousands of pamphlets prepared by the Insurance Economic Society of America, Detroit, Michigan, for use in California. Among the most effective of these pamphlets was one which showed a picture of the German Kaiser on its front page and these words, "Made in Germany. Do you want it in California?"[40] The insurance companies were assisted by the Associated Fraternal Societies of California. The latter organization issued literature under the auspices of the California Research Society of Social Economics

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38 Including those from California, Connecticut, Illinois, New Jersey, Ohio, Pennsylvania and Wisconsin.

39 American Labor Legislation Review, June, 1918, pp. 133-205.

40 Insurance Economic Society of America, "Report of the Committee on Health Insurance," California State Journal of Medicine, April, 1918, p. 349.

which was one of the propaganda agencies supporting the insurance companies.[41] These opponents of health insurance were joined by still a third group, the Christian Scientists, who campaigned aggressively against it on the grounds that it conflicted with their religious beliefs. The combined force of this organized opposition was sufficient to defeat the proposed amendment by a vote of more than two to one.

In the meantime, Dr. Andrews testified in favor of health insurance at a committee hearing in New York, but the legislative session adjourned before the bill could be gotten out of committee. A bill for an investigating commission was defeated in Maryland. In Massachusetts, despite a determined fight by the Governor, the legislature failed to act.

Perhaps the most important development favoring health insurance in 1918 was the increased support given it by organized labor. More than twenty-five additional labor organizations endorsed the measure. This was more than the total number of endorsements by these organizations during the two previous years combined.[42]

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41 Report of the Ohio Health and Old Age Insurance Commission, February, 1919, p. 311.

42 John B. Andrews, "Report of Work, 1918," American Labor Legislation Review, March, 1919, p. 162.

In addition, the Women's Joint Legislative Conference in New York, representing the state and city Consumers' Leagues, the Women's Trade Union League, the Y. W. C. A. and the New York State Suffrage Party included health insurance on its program for legislative action in New York in 1919.

Although the advocates of health insurance were unable to obtain legislative action, the following quotation from an insurance journal indicated that their efforts were not in vain:

> It would appear that even if the advocates of state health insurance should not carry their point they may accomplish something far more important. That is, an awakening for sickness prevention; a searching inquiry as to causes of sickness and the placing where it belongs of responsibility for contributory agencies.[43]

In 1919 seven state legislative commissions submitted reports on workmen's health insurance. Of the seven reports, three, Ohio, California and the New York Reconstruction Commission reported in favor of compulsory health insurance. Three commissions, Wisconsin, Connecticut and Illinois submitted unfavorable reports. One state, Pennsylvania, reported on the extent of sickness and requested a new commission to consider health insurance legislation as the most feasible

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43 Eastern Underwriter, September 6, 1918.

solution to the problem.

Sensing that the tide of reaction against progressive legislation was running strongly, the Association decided to confine its efforts to one state and get at least one health insurance bill enacted in 1919. New York was chosen for the battleground, partly because a victory in that state would have highly strategic significance since many other states tended to look to New York for leadership, and partly because an intensive educational campaign for health insurance had already been conducted in that state.

A bill prepared by the Association was introduced by Senator Davenport and Assemblyman Donahue and according to one of the leading New York newspapers had, "the support of every progressive element in the state."[44] Working with the Association and spearheading the drive for enactment of the proposed bill was the Women's Joint Legislative Conference, representing six women's social organizations under the able direction of Miss Mary Drier. These organizations were supported by various other social and civic organizations, many labor unions including the New York State Federation of Labor and all of the large metropolitan newspapers with the exception of the New

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44 Editorial, Evening Mail, New York, New York, January 29, 1919.

York Sun.

These groups executed a vigorous campaign for health insurance legislation throughout January and February. In March the Association accelerated its efforts in anticipation of committee hearings on the bill. Prominent members of the Association wrote letters to key legislators and various representatives of the Association held conferences with groups of employers and spoke to various organizations to gain their support.

Hearings on the bill were held in Albany on March 19. A large delegation including Dr. Andrews, Lillian Wald of the Henry Street Settlement, Dr. Edward T. Devine of the Survey, Miles Dawson of the City Club of New York, Mary Drier of the Women's Joint Legislative Council and several physicians and employers appeared in behalf of the bill. Opposition to the bill came from representatives of the Christian Scientists, small locally organized groups of physicians, the casualty insurance companies and from the Associated Manufacturers and Merchants under the leadership of Mark Daly.

Following a favorable committee report there developed a bitter struggle on the floor of the Senate over passage of the measure. At the climax of the fight a group of Republicans broke ranks and joined the Democrats to pass the bill by a vote of 30 to 20. This

action angered the leaders of the Republican machine to such an extent that under the leadership of the Speaker of the Assembly, Thaddeus Sweet, an up-state manufacturer, the health insurance bill and other bills sponsored by the insurgents were held in the Assembly Rules Committee and thus were prevented from reaching a vote on the floor of the Assembly. A storm of protest followed. The metropolitan press of New York joined the supporters of the bill in denouncing the action of the Republican leaders.

The practical result of the tactics used by the Republican majority was to make health insurance a campaign issue in the November election. At a joint convention in Syracuse on August 28, the Women's Joint Legislative Conference and the New York State Federation of Labor, representing a million voters, unanimously adopted a resolution pledging united action against Speaker Sweet and others responsible for the defeat of health insurance and other "welfare bills."[45] This action was taken following speeches by Governor Alfred Smith, Senator Davenport and Industrial Commissioner James M. Lynch in which they condemned the way in which

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45 Undated Manuscript, Andrews Collection.

the "welfare bills" were defeated and urged united political action to secure their passage in the next session.[46] Numerous meetings were held throughout the state by the various women's organizations represented in the Conference, for the purpose of arousing support for candidates favoring their bills.

In the meantime, however, the opponents of health insurance launched an extensive campaign to discredit health insurance for workers. In August, the Associated Industries was reported to have raised between $100,000 and $200,000 to be spent by a newly created organization, for propaganda purposes, called the New York League for Americanism.[47] C. D. Babcock was brought in from California where he had helped engineer the defeat of health insurance in the referendum in that state, to direct the campaign for the opposition. On the heels of the newly formed League for Americanism, local groups of doctors banded together in so-called "Professional Guilds" and began a vicious attack on health insurance and its pro-

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47 The New York State League of Women Voters, "Report and Protest to the Governor, the Legislature and the People of the State of New York," American Labor Legislation Review, March, 1920, p. 84.

ponents. Among the individuals prominent in the New York campaign were William Gale Curtis, President of the National Casualty Company, of Detroit, Michigan; Frederick L. Hoffman, statistician for the Prudential Insurance Company of America; and Doctor John J. A. O'Reilly of Brooklyn, New York. These individuals and organizations literally flooded the state with propaganda containing such statements as:

> It is a hybrid of Autocracy and Socialism.[48]

> Un-American, Un-Economic, Unfair, Unscientific and Unscrupulous legislation.[49]

> Behind this bill is an organization called the American Association for Labor Legislation, Made In Germany as part of the Infamous Kultur and imported to this country by a Russian disciple of Bolshevism and I WONT WORKISM; its board of officers contain the names of Hysterical men and women and Vicious men and women who have no knowledge of or sympathy with the needs of the working people. . . .these people are Paid Professional Philanthropists, and busy-body Social Workers, protegees of the Foundations; misguided clergymen; editors, and officials and financial backers of such "Parlor Bolshevik" papers as the "Survey" and the "New Republic". . .[50]

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48 New York League for Americanism, Compulsory Health Insurance and Labor, n.d.

49 Contained in a circular letter issued by John J. A. O'Reilly, M. D., Chairman, Public Health Committee, Professional Guild of Kings County, N.Y., n.d., Andrews Collection.

50 Professional Guild Society of Kings County, N.Y., Synopsis of the Davenport-Donahue Compulsory Health Insurance Bill, n.d., p.4.

> Socialism in theory and Compulsory Health Insurance in practice are the same---division, distribution, destruction.[51]

By the end of the year the force of this propaganda began to have such a telling effect that even the proponents of health insurance were forced to admit that the prospect for legislation was not encouraging. For example, Dr. Andrews observed, "We are now experiencing the worst reactionary wave within my recollection and it doesn't look as though it /health insurance/ would be advanced at all this year."[52]

In 1920, few legislatures were in session and once again the battle for state legislation was centered in New York. Governor Alfred E. Smith opened the legislative session with a strong message urging the passage of a health insurance law to assure all workers of proper medical care.[53]

Before the health insurance and other "welfare" bills were introduced, however, Speaker Sweet virtually doomed the bill to defeat by neutralizing five votes in

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51 William Gale Curtis, Compulsory Health Insurance--A Socialistic Fallacy, 1919, p. 6.

52 Letter from John B. Andrews to I. M. Rubinow, December 27, 1919, Andrews Collection.

53 Governor Smith declared, "health insurance for industrial workers should be compulsory," cited by Frederick MacKenzie, "The Legislative Campaign in New York for the 'Welfare Bills,'" American Labor Legislation Review, June, 1920, p. 142.

the Assembly that would have been cast for the proposed legislation. In an unprecedented move he caused the "trial" and suspension of five socialist members of the Assembly. The New York Bar Association denounced the action as "un-American and, if successful, must destroy the rights of minorities and the very foundation of representative government."[54] The Women's City Club of New York characterized it as "subversive of the fundamental rights of the political minorities."[55] The American Association for Labor Legislation expressed the view that, "there can be no hope for scientific labor legislation where blind Bourbonism is to halt the functioning of representative government."[56]

Upon introducing his bill in the Senate on March 12, Senator Frederick M. Davenport declared that efforts were needed to uncover and counteract the "organized and powerful propagandizing and lobbying of certain purely greedy business groups."[57]

On March 23, the New York State League of Women

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54 Quoted by Frederick MacKenzie in; "The Legislative Campaign in New York for the Welfare Bills," American Association for Labor Legislation, June, 1920, p. 144.

55 Ibid., p. 143.

56 Ibid., p. 144.

57 Ibid., p. 145.

Voters submitted a report to Governor Smith designed to expose the nature and activities of the "Daly Lobby" and the "New York League for Americanism" which were primarily responsible for the political trickery which prevented the bill from reaching a vote in the legislature.[58]

This significant report was reproduced in full in the Association's Review and thus brought to the attention of thousands of interested readers. Although this investigation succeed in unmasking the opposition and arousing a storm of protest the bill failed to clear the legislative hurdle and this defeat marked the end of the first organized health insurance movement in America. The defeat was especially disappointing to those who had spearheaded the health insurance movement because they felt that their proposal had been rejected because of the political subterfuge used by its opponents and not by superior argument and evidence. Dr. Alexander Lambert, past President of the American Medical Association wrote a reassuring, yet prophetic note to Dr. Andrews after this

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58 New York League of Women Voters, "Report and Protest to the Governor, the Legislature and the People of the State of New York; The Daly Lobby and Propaganda and the so-called New York League for Americanism," American Labor Legislation Review, March, 1920, pp.81-104.

defeat:

> Don't feel so badly over the apparent collapse of moral endeavor to better things. Every action has its contrary and equal reaction and all improvements run in waves like fever charts, with the evening rise and the morning fall in the cold gray dawn of the morning after. This is not a tide of reaction, it is only a relaxation of effort.[59]

The advent of the Great Depression in the thirties signaled the second great advance in social legislation. The first sign of interest in health insurance at this time came in the form of a voluminous study which was completed by the Committee on the Costs of Medical Care, after five years of work and at a cost of one-half million dollars.[60] Using this study as a springboard the Association began, in 1933, to hold conferences and assemble further data in preparation for an active campaign for legislation. Early in 1934, letters were sent out to a small group of individuals who were known to be interested in health improvement in the hope of reviving interest in reorganizing the National Committee on Health Insurance.

Although considerable progress was made in laying the groundwork for an active legislative campaign, it

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59 Letter from Dr. Alexander Lambert to Dr. Andrews, November 27, 1920, Andrews Collection.

60 Committee on the Costs of Medical Care, Costs of Medical Care, 1932.

proved to be "too little and too late." When the showdown came in 1935 and 1936, the Association and other organizations favoring health insurance were unable to match the pressure exerted by "organized medicine." According to John A. Kingsbury:

> . . . every device known to pressure groups and politicians /was used/ to prejudice the country against a comprehensive national health program, and particularly against compulsory health insurance. . . . Like ordinary lobby groups, while the Social Security Bill was pending, they saw to it that thousands of telegrams were sent to the President and to the Congress, seeking to exert pressure without reference to the merits of the proposals; they spent tens of thousands of dollars in publicity campaigns of misinformation; they spread false rumors and resorted to scurvy attacks on individuals. They even pulled the purse strings of reputable research agencies in an effort to curb the freedom of speech of their opponents on the staffs of such organizations."[61]

To a very considerable extent it is likely that the Association as well as other organizations such as the American Federation of Labor and the American Association for Social Security were too preoccupied with unemployment insurance and old age pensions to carry on a vigorous health insurance campaign.

The Association continued to offer encouragement and support to those groups favoring health insurance

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61 John A. Kingsbury, "Health Insurance in a National Health Program," Proceedings of the National Conference of Social Work, 1937, p. 483. (This paper was selected for the Pugsley Award for making the most outstanding contribution to the subject matter of all those presented by social workers at their annual meeting.)

until 1943, but that combination of circumstances which permits progressive legislation a "fighting chance" never occurred again and thus the problem was passed on to succeeding generations under the heading of "Unfinished Business."

Conclusion

In many ways the struggle for health insurance was the most disappointing one in which the Association engaged. It worked harder and accomplished less in terms of legislative results than in any other campaign in which it participated.

The Association was almost solely responsible for introducing the health insurance idea in this country. It submitted the first plan of action for nation-wide consideration. At great expense it conducted the first educational campaign and succeeded in arousing such interest that a number of state commissions were created to study the feasibility of the plan. At one point in the early stages of the campaign it appeared that even the American Medical Association might support the measure.

As the fight progressed, however, a curious array of forces began to offer vigorous opposition. Part of organized labor followed Samuel Gompers into an alignment with the National Civic Federation, employer associations,

fraternal societies, casualty insurance underwriters, life insurance underwriters, Christian Scientists and the vast majority of doctors and waged a bitter campaign against the bill. This alignment poured vast resources into battle. It fought reason and logic with emotion and political chicanery and in the end was the victor.

In no other area of its work did the Association encounter opposition from so many different organized groups which were willing to fight to the finish. On the other hand the divided support of organized labor greatly weakened the position of the Association since it was placed in the somewhat anomalous position of seeking legislation for the benefit of labor in the face of opposition from an important segment of organized labor. In the light of these circumstances, it is not surprising that although the Association spent a considerable proportion of its resources for a short time in its health insurance campaign, it accomplished very little in terms of tangible results.

CHAPTER VI

UNEMPLOYMENT LEGISLATION

The American Association for Labor Legislation must be credited with the pioneering work in formulating and agitating for the measures which are now generally accepted as appropriate means of avoiding or minimizing the consequences of unemployment. For more than twenty years it spearheaded the attack against misunderstanding and prejudice which prevented consideration of adequate unemployment legislation. During most of this time the Association received little support from social welfare and labor organizations which normally are found in the front line fighting for such reform legislation.

Aside from the fact that the dominant elements in the American environment were hostile to governmental intervention to minimize unemployment and its consequences, the failure of the Association to realize rapid legislative progress was due to the difficulty in dramatizing the problem. Except in periods of deep depression the Association found it difficult if not impossible to arouse sufficient public sympathy with the plight of the unemployed to secure passage of remedial legislation.

Prior to the opening of the Association's educational campaign, no legislation had been enacted and

little had been done to focus public attention on the problem of unemployment. In the years from 1900 to 1904, for example, there were only eight articles on unemployment in the leading American magazines. In the years from 1905 to 1909 there were sixty-four articles, thirty-four of which discussed conditions in Europe.[1]

The American Section of the International Association on Unemployment

In 1909 the Association accepted an invitation to participate in the International Conference on Unemployment which was scheduled to meet in Paris in 1910. A delegation composed of Professor Henry Farnam, Dr. Edward T. DeVine, Lee K. Frankel, Charles P. Neill, William Leiserson, Helen Sumner and Dr. and Mrs. Andrews represented the Association at this Conference and helped to create a permanent organization known as the International Association on Unemployment. The following year, Professor Charles Henderson of the Association attended a meeting of the International Association at Ghent, Belgium and reported that the officers of that organization were most persistent in urging that a national section be created in the United States.

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1 William Hard, "Unemployment as a Coming Issue," American Labor Legislation Review, February, 1912, p. 93.

Late in 1911, President Henry Seager of the Association appointed a committee to serve as the nucleus of the American Section of the International Association on Unemployment which was to operate within the framework of the American Association for Labor Legislation. Professor Charles Henderson of the University of Chicago, was selected as Chairman and other members of the committee included: William Hard, of the editorial staff of Everybody's magazine; William Leiserson, Superintendent of the Wisconsin Employment Offices; Jane Addams of Hull House and Dr. Andrews. According to the By-Laws the purpose of this auxiliary organization was, "to coordinate the efforts made in America to combat unemployment and its consequences, to organize studies, to give information to the public, and to take the initiative in shaping improved legislation and administration, and practical action in times of urgent need."[2]

By 1914 this organization was firmly established. It had a membership of eighty-four and a balance of three thousand dollars in its treasury and pledges of over five thousand dollars for 1915. Heavy contributors to the support of this organization during the first years of

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2 Section (b) Article I, By-Laws of the American Section of the International Association on Unemployment, American Labor Legislation Review, February, 1913, p. 138.

its work included Mrs. C. Temple Emmet and Mrs. Madeline Astor of New York. The latter, for example, contributed three thousand dollars a year during the first three years of its existence.

During 1914, the national organization extended the scope of its operations by creating two state organizations. In June, the Oregon Committee on Unemployment was created under the chairmanship of Edwin V. O'Hara. Its membership included the governor of the state as well as other important government officials and private individuals. In December, the Massachusetts State Section on Unemployment was organized with Robert G. Valentine as chairman. These sections helped to conduct necessary investigations and to formulate plans for state action.

The Campaign for an Awakening

The first problem to confront the Association and its newly organized auxiliary was to arouse an indifferent nation to an awareness of the problem and the need for remedial legislation. When the economic crisis of 1914 broke this problem was temporarily solved, but in its place there arose the more urgent and difficult problem of how to cope with unemployment. To this end, the Association through its auxiliary, sponsored the First National Conference on Unemployment. This Conference was held in

New York City, February 27-28, 1914, and attended by 274 delegates from twenty-five states and fifty-nine cities. At the first session delegates gave reports on the extent of unemployment in the locality which they represented. The second session was concerned with the problem of irregularity of employment in normal times; particularly with the industrial causes of this irregularity and the things which could be done to regularize industrial employment. The third session was attended by an audience of approximately two thousand, and featured discussions of the English and German methods of dealing with the unemployment problem.

During the latter half of the year the Association devoted the major portion of its efforts in the field of unemployment to research. On June 1, Juliet Stuart Poyntz, who had collaborated with Sidney Webb on employment irregularity in England, was employed to study the problem of seasonal unemployment. The scope of her study was limited to Boston and the surrounding area. The Boston Chamber of Commerce, the Minimum Wage Commission, the Public Employment Bureau and the Bureau of Statistics of Massachusetts cooperated by providing the necessary information. Elsa Ueland, was engaged to prepare a report on the problems of juvenile departments of public employment offices and F. Ernest Richter and Frank O'Hara

studied employment practices in Massachusetts and Oregon. From field investigations, Olga Halsey prepared a report on the operation of the British compulsory insurance system and Irene Osgood Andrews, Assistant Secretary of the American Association for Labor Legislation, completed a report on the relationship of irregular employment and the living wage for women.[3]

As a result of these studies, the Association, in December, 1914, distributed a twenty page pamphlet entitled, A Practical Program for the Prevention of Unemployment in America.[4] Public demand from all parts of the country for this pamphlet was so great that four separate editons totaling twenty-two thousand copies were exhausted within a few months. The recommendations of the Association in this "tentative draft" proposed the creation of:

1. An adequate permanent employment service.
2. Systematic distribution of public work.
3. Regularization of private employment.
4. Adequate unemployment insurance.

In the meantime, trade unions, churches, government officials and civic and commercial organizations began to consider the subject. In New York, an Interchurch

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3 See American Labor Legislation Review, June, 1915, pp. 195-418.

4 Reprinted in American Labor Legislation Review, June, 1915, pp. 173-192.

Federation on Unemployment was founded to focus attention on the problem. In Massachusetts a conference called by the Governor resulted in the formation of a "Governor's Committee to Promote Work." In California, the mayor of San Francisco invited the mayors of nearby cities to attend a conference to consider a plan for the uniform treatment of the unemployed. Mass meetings were held in Cooper Union in New York City and Ford Hall in Boston to consider ways and means of meeting the crisis. In connection with the Association's annual meeting in Philadelphia, December 28-29, 1914, the Second National Conference on Unemployment was held under the auspices of the American Association on Unemployment. The proceedings of this conference along with reports on special investigations conducted by the Association were made available to the general public in the June, 1915, issue of its quarterly Review.[5]

One of the most serious problems of the crisis was the lack of reliable information concerning the extent of unemployment. Some cities made a careful census of their unemployed, but most of them had little con-

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5 "Proceedings of the Second Conference on Unemployment," American Labor Legislation Review, June, 1915, pp. 171-464.

ception of the magnitude of their problem. Perhaps the only reliable source of information concerning unemployment in the nation's industrial centers was to be found in a study made by the Metropolitan Life Insurance Company.[6] In the winter of 1915, this company instructed its agents to canvass its industrial policy-holders in fifteen major manufacturing centers to discover the extent of unemployment. The results of this survey filled an important gap in the information necessary to provide the basis for enlightened policy decisions.

In the winter of 1915, the Association undertook to further facilitate intelligent action by summarizing the experience of the more important cities in meeting the unemployment crisis of the preceding winter. In the words of its chief architect, Dr. Andrews, the purpose of this survey was, "to show what the principal American cities thought their unemployment problem was [and] what they tried to do about it."[7] Over 300 individuals and organizations in 115 communities supplied the facts in the 120

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6 Cited in: "The Unemployment Survey 1914-1915," by the American Association for Labor Legislation, American Labor Legislation Review, November, 1915, pp. 480-481.

7 John B. Andrews, "Introductory Note," American Labor Legislation Review, November, 1915, p. 470.

page report.[8] On the basis of this report the Association drafted a set of "Standard Rceommendations" for communities to take or avoid taking in the relief of unemployment. These included:

> 1. Organization: Organize the community as long as possible before unemployment becomes acute. Permanent instead of temporary organization during a crisis is essential.
>
> 2. Education: Bring the facts of the unemployment home to every citizen. . . . Avoid "the ostrich policy of refusing to face the facts on one hand and hysterical exaggeration of facts on the other."
>
> 3. Emergency Relief: Except as a last resort, discourage the starting of bread lines. . . . As far as possible supply aid by means of employment, at standard rates.
>
> 4. Separation of Unemployable and Unemployed: Differentiate the treatment of unemployable from that of the unemployed.
>
> 5. Industrial Training: Provide industrial training classes with scholarships for unemployed workers.
>
> 6. Public Work: Start or push special public work, using private contributions in time of urgent need if public funds cannot be obtained.[9] This

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8 "Unemployment Survey 1914-1915," American Labor Legislation Review, November, 1915, pp. 473-595.

9 The following passage contained in a letter from Thomas L. Chadbourne, one of the leading figures in the Association, reveals the "social conscience" of the period: "I have not felt at all satisfied with the winters' effort to deal with the problem of unemployment. As a matter of fact I felt so badly about it that my conscience constrained me to give a great deal more money to the charity organizations than I had any business giving--many thousands of dollars--in order to do my share towards alleviating a rotten situation." Letter to John B. Andrews, April 5, 1915, Andrews Collection.

should not be "made" or unnecessary work but needed public improvements in as great variety as possible so as to furnish employment to all sorts of persons besides un-skilled laborers.

7. Employment Exchanges: If one is not already in existence, open an employment exchange to centralize the community's labor market . . . . Work for federal legislation and appropriations to develop a national system of employment exchanges.

8. Regularization: Rouse employers to the importance of the problem and the advantages of regularization.

9. Unemployment Insurance: Work for the establishment of a system of compulsory unemployment insurance, supported by contributions from employers, employees, and the state, as the most just and economical method for the proper maintenance of the necessary labor reserves and as supplying the financial pressure needed to secure the widespread regularization of industry.[10]

In spite of the persistent efforts of the Association and other organizations desiring adequate unemployment legislation, little progress was made in getting action on the "Standard Recommendations." As a consequence, the country was unable to cope with the problem of widespread unemployment during the crisis of 1920-21. Some cities had taken action, but even these had "failed to organize on a basis commensurate with the need."[11]

In order to ascertain the real gravity of the situation the Association undertook a brief survey of unemploy-

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10 "Unemployment Survey 1914-1915," American Labor Legislation Review, November, 1915, pp. 593-595.

11 American Labor Legislation Review, September, 1921, p. 181.

ment in the summer of 1921. In this "Second Survey of Unemployment"[12] the Association studied the same 115 communities which had been analyzed in its "First Unemployment Survey" in 1914-1915. It noted, with satisfaction, that, "wherever headway had been made against acute distress" the "Standard Recommendations for the Prevention of Unemployment" had been utilized.[13] According to Secretary Andrews this survey was widely heralded as, "a very welcome summary of actual community experience at a time when the atmosphere was filled with conjecture and wild estimates just preceding the President's Unemployment Conference."[14]

In September, 1921, President Harding called the first official national conference to consider the unemployment problem. More than a dozen members of the Association were invited to attend the Conference as official delegates. These included: Henry S. Dennison, Edwin F. Gay, Sam A. Lewisohn, Wesley C. Mitchell, George E. Barnett, T. V. O'Connor, John B. Andrews, Charles P. Neill, Henry R. Seager, Otto T. Mallery,

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12 Ibid., pp. 191-219.

13 Ibid., p. 182.

14 American Labor Legislation Review, March, 1922, p. 79.

Samuel McCune Lindsay, Mary van Kleeck, Leo Wolman and Ida M. Tarbell. The conclusions and policy recommendations of this conference were substantially in accord with those which had been recommended by the Association. The rising tide of postwar reaction and the prosperity of the twenties, however, produced an environment in which it was impossible to arouse sufficient support for unemployment measures to gain a hearing in either state or national legislatures.

As a consequence of public apathy toward the problem of unemployment, the country was inadequately prepared to meet the unemployment crisis following the stock market crash in 1929. To make available the experience of different cities using various methods of mitigating the effects of unemployment, the Association conducted its "Third Unemployment Survey" in 1930. Questionnaires were sent to public officials, chambers of commerce, central trade unions and relief organizations in 150 cities. The results were summarized and widely circulated in December, 1930.[15] The Association climaxed an unusually active year of agitation in December, by sponsoring the Third National Conference on Unemployment in conjunction with its twenty-fourth annual meeting

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15 "Third Unemployment Survey," American Labor Legislation Review, December, 1930, pp. 375-409.

in Cleveland, Ohio. Senator Robert Wagner, of New York, delivered an address stressing the fact that unemployment was a national rather than a state and local problem. Dr. Andrews, Dr. Leo Wolman and Henry S. Dennison, a manufacturer, pointed out the weaknesses of the "American dole system" and urged unemployment insurance as the most practical method of alleviating the consequences of unemployment.[16]

These educational efforts, along with those associated with the campaigns for specific proposals, helped to arouse public demand for action.

Chronologically, the first sustained drive for legislation which the Association got underway had as its objective the establishment of an adequate system of employment exchanges. This was followed by attempts to secure advance planning of public works and finally by the campaign for unemployment insurance. The following three sections of this chapter will be devoted to a detailed account of the activities of the Association in behalf of legislation in these three areas.

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16 Senator Robert F. Wagner, "Unemployment--A National Issue"; John B. Andrews, "Unemployment Reserve Funds"; Leo Wolman, "Unemployment Insurance for the United States"; Henry S. Dennison, "Experience Demonstrates Advantages of Unemployment Reserve Funds"; American Labor Legislation Review, March, 1931, pp. 11-41.

Employment Offices

Advocates of an adequate system of employment exchanges insist that these organizations perform an indispensable function in minimizing unemployment by "bringing together the jobless man and the manless job."[17] Perhaps the most important question concerning employment exchanges is whether or not they should be operated by private organizations or by the public.

Historically, the three most important types of private employment agencies have been conducted by trade unions, charity organizations and by private individuals for profit. Those operated for profit have been, by far, the most numerous, while those operated by trade unions have been few in number and those operated by charity organizations have been "of little importance except for the rejects of the industrial world."[18]

Private Employment Agencies

The great importance of private employment agencies in America at the time when the American Association for Labor Legislation became interested in them may be gathered from the fact that by 1912 it was estimated that

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17 Charles R. Henderson, "Recent Advances in the Struggle Against Unemployment," American Labor Legislation Review, March, 1912, p. 106.

18 Loc. cit.

approximately five thousand such agencies were in operation.[19] The danger of these institutions was recognized as early as 1900. In that year Willoughby concluded, "private employment agencies do little or nothing for the solution of the problem of unemployment, but on the other hand are usually so dishonestly conducted as to make them undesirable institutions."[20] Later writers made more specific charges. Investigations showed that fees were frequently exorbitant, especially in periods when unemployment was greatest; that excessive numbers of employees were sent to areas where a temporary labor shortage existed; that workers were often exploited in an arrangement where the fee was split between the foreman and the employment agency--the fees being increased by accelerating turnover.[21]

Prior to 1914 several states made attempts to regulate employment agencies operated for profit but the

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19 John R. Commons and John B. Andrews, Principles of Labor Legislation, 1916, p. 266.

20 William F. Willoughby, Employment Bureaus, 1900, p. 14.

21 See Shelby M. Harrison and Associates, Public Employment Offices, 1924. Don D. Lescohier, The Labor Market, 1919. Paul H. Douglas and Paul Director, The Problem of Unemployment, 1931.

abuses for the most part went unchecked. In February of this year the First National Conference on Unemployment which had been called by the Association passed a resolution which declared that: "a connected network of free public employment exchanges" supplemented by such measures as vocational guidance, regularization of industry, accurate labor market statistics and unemployment insurance were the most promising solution to the problem.[22] It further indicated that these agencies should "be brought under the inspection and control of the federal government."[23] The Conference did not indicate what the federal government should control in order to eliminate the abuses of privately operated agencies.

In December of the same year the Association made available it's Practical Program for the Prevention of Unemployment in America. The specific proposals in this Program included:

1. Licensing and inspection of private employment agencies.

2. Use of license fees to enforce regulations.

3. Making appropriate administrative rules for private agencies after classifying them according to type.

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22 American Labor Legislation Review, May, 1914, pp. 353-354.

23 Ibid., p. 354.

4. Prescribing forms for records, uniform with those used by public offices.

5. Publishing information of the work of private offices together with that of the public bureau.[24]

Unlike the Conference, the Association, in this pamphlet, proposed that complete authority to regulate private employment agencies be vested in states and cities rather than in the federal government.

Immediately following the Conference a campaign was initiated for the purpose of securing legislation along the lines which it recommended. In the course of this campaign the Association printed and distributed thousands of copies of the proceedings of the Conference and a classified Bibliography on Unemployment along with special reports on the operation of existing public employment offices and the status of unemployment insurance.[25] This campaign culminated in the passage of a bill by the New York legislature on the last evening of the session, establishing a state system of employment offices. A month later, at the request of Mayor Mitchell, the Board of Aldermen of New York City authorized the establishment of the best equipped municipal employment

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24 American Labor Legislation Review, June, 1915, p. 180.

25 Reprinted and published in the American Labor Legislation Review, May, 1914, pp. 209-420.

office in America. On April 29 Representative Murdock of Kansas introduced a bill in Congress providing for the creation of a bureau in the Department of Labor to coordinate the work of state and municipal exchanges. A public hearing was held on June 5, at which Secretary Andrews spoke in behalf of the bill, but no action was taken.

Although fewer gains were made in social legislation in 1915 than in the preceding years, considerable progress was made in limiting the operation of employment agencies. With greater knowledge of the abuses of these agencies at their disposal the voters of the state of Washington passed a referendum intended to abolish them. The Idaho legislature passed a law abolishing private agencies and requiring municipalities to establish public bureaus. Other states, including Nebraska, Oregon, Pennsylvania, Texas and California passed laws imposing restricitons on the operation of these agencies.

In 1917 the United States Supreme Court declared the Washington State law unconstitutional, thus preventing the possibility of controlling the fee-charging employment agency by eliminating it.[26] Two years later the International Labor Conference urged the abolition of

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26 Adams v. Turner, 244 U.S. 590.

these agencies, but the United States was unable to follow the lead of other countries and adopt the recommendation.

The Association was relatively inactive in the agitation for regulation of fee-charging agencies during the twenties. During this period, however, no less than thirty states passed laws regulating the fees which they could charge. Eleven states limited fees to a fixed amount; ten states limited fees to a fixed percentage of wages; and eight states required the agency to submit their schedule of fees to a state official for approval. On May 28, 1928, however, the United States Supreme Court rendered these laws inoperative by declaring the New Jersey act which empowered the Commissioner of Labor to license and regulate fee-charging agencies, unconstitutional.[27]

Fearing widespread break-down of state control over fee-charging agencies, interested parties met at the headquarters of the Association and decided to recommend to the states the method of control which had long been employed by Wisconsin. Specifically, it was suggested that the states require the fee-charging agency to show: (1) good character, (2) suitability of premises,

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27 Ribnik v. McBride, 277 U.S. 350.

and (3) community need, before a license was granted.[28] Within a short time more than ten thousand copies of a pamphlet containing the details of this plan had been exhausted.

At the insistence of the Association, New Jersey quickly enacted a law embracing the main features of its recommendation. Michigan, Minnesota, North Carolina, Oregon and a number of other states enacted similar laws. In New York, however, where a large percentage of the commercial agencies in the country were located, the battle for adequate controls was long and bitter. Because of its strategic importance, the Association took a very active part in the New York fight.

In 1928 the state Industrial Survey Commission conducted hearings throughout New York on the desirability of state control over fee-charging agencies. This commission submitted a report to the legislature in which it recommended that the system of city supervision be replaced by state regulation. A bill to this effect was introduced in the New York legislature in 1929, but too late for action. In 1930 this bill was reintroduced with the support of Governor Roosevelt, the State Department of Labor, the State Federation of

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28 John B. Andrews, "Fee-Charging Employment Agencies," American Labor Legislation Review, December, 1928, pp. 399-403.

Labor and the American Association for Labor Legislation. To inform the legislature and the general public of the facts uncovered by the Industrial Commission, the Association published a digest of its findings.[29] Despite widespread support for the bill it died in committee. In 1931 the Association conducted a state-wide educational campaign which was followed by passage of the bill by a large majority in the New York Senate, but by defeat in the Assembly. Although the Association continued to fight for the passage of this bill with the support of the Governor and frequently with the campaign pledges of both political parties throughout the thirties, it was unable to secure approval of both houses of the legislature in any year.

By the close of the decade of the thirties, most of the states had adopted regulatory fee-charging employment agency legislation and the Association began to shift its support to federal control over commercial agencies doing business in interstate commerce. It drafted a bill to accomplish this objective but in spite of strong support from many quarters it never passed Congress.

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29 George H. Trafton, "New York Fails to Act," American Labor Legislation Review, June, 1930, p. 138.

Public Employment Agencies

Free public employment offices were inagurated in the United States in Ohio, in 1890. By 1914, William Leiserson was able to report to the First National Conference on Unemployment that eighteen states and more than sixteen cities had established public employment offices.[30]

The record of progress during this twenty-five year span, however, was not as great as one might conclude from merely inspecting the increase in number of offices created. Leiserson, for example, concluded:

> The administration has been placed in the hands of people unfamiliar with their design and purpose. These people have either mismanaged the offices so that they had to be discontinued or else they performed their duties perfunctorily and in a wholly ineffective manner.
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> . . . . . .
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> In practice, far from supplanting private agencies, the free offices have not even maintained an effective competition against them. With few exceptions their operations have been on a small scale, their methods unbusinesslike, and their statistics valueless if not unreliable. Four states and about half a dozen cities have discontinued their public employment offices, and most of those in existence are constantly on the defensive to maintain their existence.[31]

Despite this disappointing record, the First

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30 William M. Leiserson, "Public Employment Offices in Theory and Practice," American Labor Legislation Review, May, 1914, p. 314.

31 Loc. cit.

National Conference on Unemployment passed a resolution indicating that the "first step" toward a solution of the unemployment problem was the establishment of "a network of free unemployment exchanges." It urged the expansion and strengthening of state and local offices and the creation of a federal system to coordinate and supplement the local services.[32] In April, 1914, Representative Murdock of Kansas, with the support of the Association, introduced a bill in the lower house of Congress to empower the Department of Labor to establish a system of employment exchanges throughout the country, but it failed to pass. Again, in December, 1914, the Association stressed the necessity of an adequate system of municipal, state and federal employment offices as "an essential step toward a solution of the problem of unemployment," in its widely circulated Practical Program for the Prevention of Unemployment in America.[33]

In 1915 the Association urged the enactment of "adequate legislation establishing permanent state or municipal bureaus" and "federal legislation and appropriations to develop a national system of employment

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32 American Labor Legislation Review, May, 1914, p. 353.

33 John B. Andrews, "A Practical Program for the Prevention of Unemployment," American Labor Legislation Review, June, 1915, p. 176.

exchanges."[34] By the end of 1915 Secretary Andrews reported:

> . . . our letter files testify that our efforts in the direction of preparedness are appreciated, and already there is good legislation at least partly due to our efforts . . . . Twenty-three states now have public employment bureaus . . . /and/ definite legislative proposals in the form of bills are ready for advancement at the opportune time."[35]

In Pennsylvania, a Committee on Unemployment was established by the national organization and the state organization was primarily responsible for the passage of a bill creating a system of state employment offices.

Early in 1916 the city of Atlanta, Georgia, requested the Association to draft an ordinance which would establish a satisfactory municipal unemployment bureau. In fulfilling this request the Association drafted an ordinance which served as a standard form for other cities contemplating the same action.

In 1916 the American Association of Public Employment Offices, composed of superintendents, managers and directors of state and city employment offices,

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34 "Unemployment Survey 1914-1915," American Labor Legislation Review, December, 1915, p. 594.

35 John B. Andrews, "Secretary's Report for 1915," American Labor Legislation Review, March, 1916, p. 104.

undertook a campaign to secure a coordinated system of public employment offices. At its annual meeting in Buffalo, it appointed a committee to draft a bill to accomplish this objective. This committee held hearings in New York City, Cleveland, Chicago and Milwaukee, and with the aid of the U. S. Department of Labor and Professors Henry Seager and Thomas Parkinson of Columbia University prepared a bill to be introduced in Congress. The principal features of this plan were: (1) concentration of the employment activities of the federal government under a director of the Federal Employment Service in the Department of Labor with wide powers and adequate funds to develop an efficient federal system; (2) coordination of the state and municipal public employment systems with the federal system, by means of the payment of federal subsidies to all bureaus which should conform to the rules laid down by the director of the Federal Service; (3) organization of clearing houses in the Federal Service to draw the bureaus of neighboring states together in efficient cooperation and through a central clearing house in Washington develop a truly national system of public employment offices.[36]

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36 Henry R. Seager, "Coordination of Federal, State and City Systems of Employment Offices," American Labor Legislation Review, March, 1918, p. 22.

This bill was officially approved by the American Association of Public Employment Offices at its annual meeting in Milwaukee in September, 1917. Two months later its President, Charles B. Barnes, requested the American Association for Labor Legislation to take charge of the legislative campaign:

> I feel that your Association is the proper organization to handle and secure the passage of this bill, your Association having already secured the enactment of so many valuable laws by Congress and the different State Legislatures. I am therefore requesting that you secure consent of your Association to take charge of this bill.[37]

Conferences were held with representatives of the U. S. Department of Labor and the American Federation of Labor as well as with various other groups directly interested in the details of the bill. When agreement was reached early in December, 1917, Senator Joseph Robinson and Representative Edward Keating introduced it in Congress. Since the United States was engaged in World War I at that time, the bill was pushed as a war emergency measure on the ground that a Federal Employment Service was needed to effectively utilize the labor supply. No immediate action was taken by Congress, but this argument proved so persuasive that on January 3, 1918, the Secretary of Labor

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37 Letter to Dr. Andrews, November 13, 1917, Andrews Collection.

created a Federal Employment Service financed by a grant of $2,000,000 from the President's emergency fund. By the end of November it was reported to have over nine hundred offices in operation throughout the country.[38]

With the termination of hostilities the Federal Employment Service was practically abandoned. Congress first reduced and then refused to make further appropriations except for a small skeleton organization. This action was induced, in part, by the organized opposition of fee-charging employment agencies and employer associations. Of the sixty employer associations in the country in 1920, thirty-seven went on record against the Federal Employment Service because they regarded it as a "promoter of unionism in the United States."[39]

Lescohier summed up the results of this first attempt to project the federal government into the public employment office picture:

> The United States Employment Service was both a fortunate and unfortunate episode in the movement for a national-state system of employment exchanges. It brought the idea, for the first time, to the attention of untold thousands of Americans. It aroused in them the hope that the iniquitous private fee-charging agencies would be done away with. It created in them

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38 Margaret A. Hobbs, "A National Employment Service," American Labor Legislation Review, December, 1918, p. 288.

39 Shelby M. Harrison, Public Employment Offices, 1924, p. 89.

> an interest in efficient, responsible labor distribution. But the haste in which the service was created, the incompetence of much of its personnel, its blunders and wasteful financial policies, prejudiced many against the proposal to create a national service and furnished arguments for those whose interests, or supposed interests, were antagonistic to such service.[40]

With the Federal Employment Service all but destroyed, many states undertook to either establish or strengthen their employment service. Secretary Andrews attended numerous conferences to encourage and advise those interested in this movement.

Although the activities of the Federal Employment Service were severely curbed by the unwillingness of Congress to provide adequate appropriations, intermittent attempts were made to establish it on a permanent and effective basis. In April, 1919, delegates representing the Governors of the states and the United States Employment Service attended a conference called by the Secretary of Labor and unanimously adopted the outline of a bill to provide for a Federal-State Employment Service. A bill was drafted, based on this outline, and introduced in Congress by Senator Kenyon and Representative Nolan, but no action was taken. This bill was

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40 Don D. Lescohier, "The Unemployment Program of the International Labor Conference and its Application to the United States," American Labor Legislation Review, March, 1920, p. 52.

similar in all important respects to the Robinson-Keating bill which had been introduced in 1917 at the insistence of the Association. During the unemployment crisis of 1920-21 the Association reiterated its demand for an adequate system of federal-state employment offices. In 1921 the President's Conference on Unemployment stressed the strategic role which these organizations should play in counteracting the cycle[41] but no legislative action was taken. At its annual meeting in 1922, the Association created a Committee on Employment Office Laws to study the problem further; to recommend a model plan of organization and assist in preparing budgets to provide adequate service on a permanent basis. This committee was composed of Don D. Lescohier, Fred C. Croxton, Lewis T. Bryant, Bryce Stewart and John B. Andrews.

In 1925 the Association and other organizations interested in a system of federal-state employment offices, persuaded Senator Nolan to reintroduce the bill which he had helped sponsor earlier, but once again Congress failed to act. In 1928 Secretary Andrews requested Senator Robert Wagner to introduce the same bill with minor revisions. It was discussed in committee in 1928-29, but

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41 Report and Recommendations of a Committee of the President's Conference on Unemployment, 1923, p. xxxi.

was not reported out for consideration by Congress. Senator Wagner reintroduced the bill early in 1930, but the committee took no action. Late in February, 1931, the unemployment crisis stimulated quick passage of the bill by both Houses of Congress and it was then sent to President Hoover for signature. The President held the bill until three days after Congress had adjourned and vetoed it.[42]

The storm of protest which followed convinced the Administration that some action must be taken. Accordingly, Secretary of Labor Doak put into operation his own "substitute plan." In contrast to the Wagner bill the "Doak plan" was highly centralized containing inadequate provision for integration with existing state employment offices.

The "Doak Reorganization" was widely attacked by those who had fought for an adequate federal-state system of employment offices. In 1931 the International Association of Public Employment Offices adopted a resolution which declared, "the now existing so-called reorganized Federal Employment Service has failed and cannot succeed in developing an efficient worthwhile public employment

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42 George H. Trafton, "The Wagner Bill and the Hoover Veto," American Labor Legislation Review, March, 1931, p. 87.

service."[43] Late in January of that year, Dr. Andrews invited Secretary Doak, who was also a Vice President of the Association, to send any material that would be helpful to an Association committee which was studying his "Plan" with the view to determining the position which the Association should take. On February 3, Dr. Andrews informed Secretary Doak that the Association had decided to continue its support of the Wagner bill. Three days later Secretary Doak resigned as a Vice President of the Association and from this time forward the Association was in the forefront of the fight against the "Doak Plan." The basis of its position was explained by Secretary Andrews:

> Under the Doak Plan, Federal placement offices have been set up, controlled from Washington and often duplicating or even competing with state offices; appointments have been made by spoils-system methods; and advisory committees have not been created. The result has been inefficiency, confusion and waste.
>
> The present so-called "reorganized" Federal Employment Service threatens to set back for a decade the development of a permanent system of public employment offices in this country.[44]

In spite of the mounting opposition, the "Doak Plan" continued to function until it was abolished by

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43 Quoted in: "State Employment Service Officials Condemn Doak 'Reorganization,'" by the American Association for Labor Legislation, American Labor Legislation Review, December, 1931, p. 393.

44 "Wagner Employment Service Bill Again Favorably Reported," American Labor Legislation Review, March, 1932, p. 98.

Secretary of Labor Frances Perkins in 1933.

Early in 1933, Senator Wagner and Congressman Peyser reintroduced the Wagner measure and it was quickly approved by Congress and signed by President Roosevelt. It authorized the expenditure of $4,000,000 for each of the succeeding four years for the establishment of an adequate system of federal-state employment offices. One-fourth of the appropriation was to be used by the Federal Service and the remainder was to be apportioned to the states on a population and matching basis. The Federal Service was not established to compete with that of the states but was created to serve as an interstate clearing house and to promote efficiency among the states.

During the remainder of 1933 and 1934 the Association turned its attention to the passage of state laws designed to establish employment offices which would qualify for the grant-in-aid as provided by Congress. By 1937 all of the states had enacted laws qualifying for federal aid. Thus, the twenty year campaign for an adequate and permanent federal-state employment service in which the Association had played an important part was brought to a successful conclusion with the realization of its objective.

Advance Planning of Public Works

As late as the depression of 1914-15 little or no attention was given either by the cities or higher levels of government to the possibility of distributing public work in such a way as to stabilize employment. Unemployment was regarded as a local responsibility and the cities attempted to meet the problem on a piecemeal basis. Work projects were established on a temporary basis and discontinued when the crisis had passed.

The Association was one of the first American organizations to propose that consideration be given to public planning in prosperous periods to alleviate unemployment during depressions. To this end it proposed, in 1915, that, "a program of the amount of public work contemplated for several years in advance be laid out and then carefully planned to be pushed ahead in the lean years which experience has shown to recur periodically."[45]

In 1919, the International Labor Conference of the League of Nations met in Washington and recommended to its member countries that they should "coordinate the execution of all work undertaken under public authority, with a view to reserving such work as far as practical for

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45 John B. Andrews, "A Practical Program for the Prevention of Unemployment in America," American Labor Legislation Review, June, 1915, p. 182.

periods of unemployment . . ."[46]

These recommendations, however, were not seriously considered by the state legislatures in America, with the exception of Pennsylvania,[47] and as a consequence were inadequately prepared to meet the unemployment crisis of 1920-21. In its Second Unemployment Survey the Association noted in 1921 that the unemployment problem was still regarded as primarily a local problem, and that, "cities generally had failed to make any efforts to reserve necessary improvements for bad seasons or bad years."[48]

On the basis of the evidence in its two unemployment surveys, the Executive Committee of the Association, on January 14, 1921, concluded that legislative action in this field was imperative and decided to undertake a campaign to secure it. Otto Mallery, a new member of the Executive Committee, was selected to spearhead this campaign, largely because he was already conducting a one-man crusade for this action.

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46 International Labor Conference of the League of Nations, "Recommendation Concerning Unemployment," American Labor Legislation Review, December, 1919, p. 534.

47 Pennsylvania, Laws 1917, No. 411.

48 American Association for Labor Legislation, "Unemployment Survey-1920-21," American Labor Legislation Review, September, 1921, p. 192.

Within two weeks Mallery had persuaded Senator Kenyon, Chairman of the U. S. Senate Committee on Education and Labor, to introduce a bill providing for a permanent federal policy of long-range planning of public works. The Association conducted a limited campaign in behalf of this bill but without tangible success.

On the more hopeful side, California passed a law providing for the extension of public work during periods of unemployment.[49] Later in the year the President's Conference on Unemployment under the Chairmanship of Herbert Hoover recommended that the federal government assume the leadership in expanding its public works during periods of depression and contracting them in periods of prosperity.[50] Congress responded to this recommendation by increasing its appropriation for rural post roads by more than fifty million dollars.

In 1923 the Committee on Business Cycles and Unemployment which had been appointed by Herbert Hoover, submitted a report in which it stressed the need for careful drafting of laws to reserve public projects,

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49 California, Laws 1921, C. 246.

50 President's Conference on Unemployment, Report, 1921.

whenever possible to help alleviate unemployment.[51] In the same year, Wisconsin enacted a law along the lines of the California law.[52] Throughout 1923, the Association published a number of articles dealing with advance planning in its Review and its officers cooperated in the preparation of legislation for introduction in the new Congress.

In January, 1924, the members of the Association's special committee on public works participated in a national conference at Washington, D. C., under the sponsorship of the Federated American Engineering societies. This conference officially endorsed advanced planning of public works in a resolution which declared "a coordinated functioning of all public works agencies would be able to stabilize business and employment."[53] Otto Mallery was selected to serve with representatives of a number of engineering organizations on an Advisory Council on Public Works to consider the possibility of further action in this field.

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51 Committee of the President's Conference on Unemployment, Business Cycles and Unemployment, 1923.

52 Wisconsin, Laws 1923, C. 76.

53 American Association for Labor Legislation, "Progress in Public Works Program," American Labor Legislation Review, June, 1924, p. 159.

In February, the Association helped to draft and push through the Massachusetts assembly a bill requiring the various state departments to be prepared to supply increased opportunities for employment during periods of state-wide industrial depression. This bill, however, failed to pass the Senate.

Throughout the winter of 1926, the Association through Otto Mallery cooperated with the American Engineering Council, the American Institute of Architects and the Associated General Contractors in an attempt to persuade Congress to incorporate the principle of long-range planning of public works in its public buildings bill. An amendment to this effect failed to pass when it unexpectedly came to a vote and its sponsor was not on the floor. During 1927, Mallery continued his struggle for Congressional action, but with no success. In a philosophical vein, Secretary Andrews sought to encourage his friend Mallery who had experienced one defeat after another by declaring, "Gradually we will gain the necessary support if we all keep up the nudging and prodding wherever the least bit of smiling opportunity shows itself."[54]

In 1928, it began to appear that the persistent

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54 Letter from Secretary Andrews to Otto Mallery, May 4, 1927, Andrews Collection.

agitation which the Association had helped to conduct might result in positive action. On January 11, Senator Jones, of Washington, introduced a bill in Congress "to create a prosperity reserve and to stabilize industry and employment by the expansion of public works during periods of unemployment and industrial depression."[55] Specifically, the bill provided that when construction contracts fell twenty per cent or more for a three-month period, below the average of the corresponding three-month periods in 1926 and 1927, the President should request Congress to make available part of the funds authorized by the bill to "take up the slack."

Throughout January and February, Mallery directed the campaign for the Jones bill. In early March, however, he was forced to retire from the fight because of ill health. On March 16, he requested Secretary Andrews to assume the leadership of the movement and to take charge of the hearings which were scheduled for April 12. Dr. Andrews accepted the responsibility and immediately began to intensify the pressure on Congress in behalf of the bill and to complete arrangements for the Congressional hearings. The campaign reached a climax at the hearings before the Senate Commerce Committee on April 12.

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55 "Bill for 'Prosperity Reserve' Now Up to Congress," American Labor Legislation Review, March, 1928, p. 76.

Dr. Andrews opened the hearing with testimony in favor of the bill. Others testifying in favor of the bill included: Henry S. Dennison, President of the Dennison Manufacturing Company; D. H. Sawyer, secretary of the Associated General Contractors of America; Gardner S. Williams, Vice President of the American Engineering Council; and Gordon Wharton Pepper, former United States Senator from Pennsylvania. Five days later the Committee reported the bill to the Senate favorably and on May 5, Congressman Rathbone of Illinois introduced the bill in the House where it was immediately referred to the Judiciary Committee. Congress adjourned, however, before the measure came to a vote in either house.

In December the Association adopted the following resolution at its twenty-second annual convention, in Chicago:

> Whereas, The American Association for Labor Legislation has long favored the policy of long range planning of public works as an aid in mitigating the evils of unemployment, and
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> Whereas, There has been introduced in the United States Senate by Mr. Jones, with the aid of the Association's Committee on Public Works, a bill (S. 2475) to create "a prosperity reserve and to stabilize industry and employment by the expansion of public works during periods of unemployment and industrial depression," therefore
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> Be It Resolved, That the Association continue to urge the adoption of this preliminary legislation and further urge that the Government plan public works so as to expand them during slack times of employment and to contract them when active industry

is competing for the same men and materials.[56]

Although the Association and other organizations continued to press for action on the Jones bill throughout 1929 and 1930, it came no nearer passing the Congressional hurdle.

By 1931, however, sentiment for preparedness had reached such proportions that under the aggressive leadership of Senator Wagner of New York, the measure was passed by Congress and signed by President Hoover. In signing the bill, President Hoover made a special point of citing the work of Otto Mallery and Edward Eyre Hunt of the Association in helping to prepare and secure its passage by Congress.[57]

In its final form, the bill provided for the creation of an employment stabilization board consisting of the Secretary of Treasury, the Secretary of Commerce, the Secretary of Agriculture and the Secretary of Labor. This board was authorized to appoint a staff of experts to advise the President of the trend of business activity and to assist in the preparation of plans to stabilize industry and employment. In addition, the

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56 American Association for Labor Legislation, "Resolution on 'Prosperity Reserve,'" American Labor Legislation Review, March, 1929, p. 121.

57 "Congress Adopts Public Works Planning," American Labor Legislation Review, March, 1931, p. 95.

Act provided that certain departments of the Federal Government should maintain a six year advance plan of construction which could be undertaken at any time.[58]

Aside from sporatic attempts to persuade state and local governments to enact similar legislation, the Association relaxed its efforts in this field and intensified its campaign for unemployment insurance.

Unemployment Insurance

Prior to 1914 there was some speculation about the Ghent System which had been adopted in several European countries and the National Insurance Act through which a system of compulsory unemployment insurance had been established in England, but little serious consideration had been given to the idea in this country. In 1913, for example, Professor Charles R. Henderson, one of the pioneers of social legislation in this country, told the American Conference on Social Insurance that unlike European countries "the method of unemployment insurance is yet to be worked out" in the United States. He further suggested that "experiment alone will open the way" and prophetically stated:

> Probably we shall blunder on in the good Anglo-Saxon way, try experiments on a small scale and

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58 Public 616, 71st Congress, 3rd session.

> keep the people thinking, until some day the clouds lift and the lawyers and judges find that after all a measure required by the national welfare has all the time been lurking concealed in the cryptic oracles of the fine old constitution; even if our infallible and respectable ancestors who wrote that instrument never dreamed of the problem as even a remote possibility."[59]

In February, 1914, unemployment compensation was considered by the First National Conference on Unemployment which was sponsored by the Association but the delegates apparently did not consider it sufficiently promising to be included among their remedial recommendations.

To arouse interest in the idea the Association included in the May issue of its Review a paper by Henry R. Seager dealing with the English system of unemployment insurance,[60] and a report prepared by the German Imperial Statistical Bureau of the Division of Labor Statistics, entitled, "The Present Status of Unemployment Insurance," which had been translated by the Metropolitan Life Insurance Company.[61]

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59 Charles R. Henderson, "Insurance Against Unemployment," American Labor Legislation Review, June, 1913, pp. 172-182.

60 Henry R. Seager, "The English Method of Dealing With the Unemployed," American Labor Legislation Review, May, 1914, pp. 281-293.

61 German Imperial Statistical Bureau of the Division of Labor Statistics, "The Present Status of Unemployment Insurance," American Labor Legislation Review, May, 1914, pp. 373-387.

In December, 1914, the Association advanced unemployment insurance as the "final link which unites into a practical program the four main methods for the prevention of unemployment . . ."[62] in its Practical Program for the Prevention of Unemployment in America. It reasoned that since workmen's compensation had resulted in a nation-wide movement for "safety first" that most unemployment could be avoided by imposing financial pressure on the employer through a "carefully adjusted system of insurance."[63] Although it endorsed the principle of insurance, the Association did not offer a specific plan of administering the benefits in this particular program, but rather invited suggestions from individuals and organizations interested in the struggle against unemployment. In the meantime, the Social Insurance Committee worked intensively on the details of a bill providing for the establishment of public unemployment insurance by state legislatures.

On January 23, 1915, the Association employed Joseph L. Cohen to perfect the details of such a bill. Throughout 1915, Cohen worked closely with Ordway Tead,

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62 American Labor Legislation Review, June, 1915, p. 189.

63 Loc. cit.

Secretary of the Massachusetts Committee on Unemployment, on a bill to provide unemployment insurance to be introduced in the Massachusetts legislature in 1916. In spite of these developments, as well as a more general recognition of the desirability of unemployment insurance, the Association concluded in its Unemployment Survey in 1915, that, "unemployment insurance is as yet hardly beyond the agitation stage."[64]

As a result of the joint efforts of Cohen, Tead and the Social Insurance Committee, the first American bill providing for unemployment insurance was drafted and introduced in the Massachusetts legislature early in 1916. Like the British Act this bill required the government and employers and employees in selected industries to contribute to a fund for the purpose of providing benefits for workers in the event of unemployment. Public hearings were held on the bill, but by 1916 the pressure of unemployment had passed and interest in unemployment insurance had diminished to such an extent that it died in the committee. Thus, the first battle for unemployment insurance was lost because of the inability of its proponents to stimulate sustained interest in it during prosperity as well as depression periods.

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64 Ibid., p. 592.

During the succeeding four years, the nation maintained a high level of economic output and employment. Little interest was exhibited in unemployment insurance or any other method of dealing with the problem of unemployment. England, however, in 1920, on the basis of nine years experience with limited compulsory unemployment insurance extended its coverage to include two-thirds of its workers and greatly liberalized the benefits and other provisions of the law.

The sharp rise of unemployment in the fall of 1920 in this country stimulated renewed interest in unemployment insurance. On November 20, 1920, the Executive Committee of the Association decided to bring its state unemployment insurance bill out of "cold storage" and requested its Social Insurance Committee to put it into shape for introduction in state legislatures which were scheduled to open in January, 1921.

After considerable deliberation it was decided that a fundamental change should be made in the financial provisions of the bill. This change was initiated by John R. Commons who had prepared the bill which was introduced in the Wisconsin legisltaure by Senator Huber in 1921. This bill required employers to form mutual companies and pay benefits to their workers when unemployed. In shifting the burden of unemployment to the employer, it im-

plicitly assumed that much, if not most unemployment could be prevented by employers, and if penalized sufficiently they would voluntarily devise methods of reducing unnecessary labor turnover. This bill was the first to receive favorable consideration by a legislative committee in America, but it was defeated in the closing days of the legislative session in 1921.

In March, 1921, the Association prepared the draft of a bill based on the Wisconsin bill for the State Federation of Labor and other organizations in Pennsylvania which were interested in getting a bill introduced as a part of an educational campaign designed to produce positive action in the 1923 legislative session. The bill was introduced and, as expected, received little consideration.

Early in January, 1922, Representative Henry Shattuck, Chairman of the House Ways and Means Committee, introduced a bill, which had been drafted by the Association, in the Massachusetts legislature. Following a well attended hearing, the Committee recommended and the legislature voted to create a Commission to study the causes and extent of unemployment and various measures, including unemployment insurance, for its decrease and relief.

During the remainder of the year, the Association

devoted considerable resources to aid the campaign for the Huber bill in Wisconsin. It worked with the Wisconsin Association for the Prevention of Unemployment to develop sufficient support for the bill to secure its passage in 1923. The Association was encouraged to participate in this venture because it was generally felt that the prospects of passage of a bill in Wisconsin were better than in any other state. In addition there were some prominent members of the Association who believed with Witte, Chief of the Wisconsin Legislative Reference Library, that, "unemployment insurance will have to be passed at the next session of our legislature, if this form of social insurance is to get any foothold in this country in the next decade."[65]

In spite of the efforts of the adherents, the bill was defeated in the Wisconsin Senate in 1923, and was not given serious consideration again until 1931. Bills modeled after the Wisconsin proposal were introduced in other states, principally Connecticut and Minnesota during the twenties, but the prosperity of the period dulled the public interest in the problem to such an extent that they made no progress in the legislatures.

Despite widespread unemployment during the latter

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65 Letter from Edwin E. Witte to John B. Andrews, April 24, 1922, Andrews Collection.

half of 1929 and the first half of 1930, the Association found public opinion as measured by newspaper editorials, hostile to unemployment insurance because of the mistaken notion that it constituted an elaborate "dole" system.[66] In its "Unemployment Survey of 1930," the Association suggested that:

> . . . the turning point appears to have been the proclamation of Governor Franklin D. Roosevelt of New York, who stated before a conference of Governors in Salt Lake City in July that "Unemployment insurance we shall come to in this country just as certainly as we have come to workmen's compensation for industrial injury and just as certainly as we are today in the midst of a national wave of insuring against old age want."[67]

Sensing the imminence of one of those rare times when a combination of forces make possible great social reform, the Association began to lay plans to accelerate the passage of state unemployment insurance legislation by securing passage of appropriate national legislation.

In May, 1930, Secretary Andrews wrote Senator Wagner, of New York, to ascertain whether or not he would introduce a bill in the United States Senate to provide federal aid to states that would establish acceptable

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66 "Third Unemployment Survey," American Labor Legislation Review, December, 1930, p. 400.

67 Ibid., p. 401.

systems of unemployment insurance.[68] Senator Wagner suggested that this proposal should be delayed until favorable action had been secured on bills which he had introduced providing for collection of improved employment statistics, long range planning of public works and a federal-state employment service, which were pending in Congress.[69]

Early in June, 1930, the Executive Committee of the Association concluded that it would be unfortunate to launch an immediate campaign for unemployment insurance because adequate preparations had not been made. Accordingly, it voted to instruct President Chamberlain to appoint an Unemployment Insurance Committee for the purpose of working out an unemployment insurance plan that was adaptable to the institutions of the American system. In August, this Committee composed of Harold Hatch, William Mack, Sidney Hillman, Leo Wolman, Bernard Shientag, Paul Douglas, John A. Fitch, Ambrose Doskow, George Soule and John B. Andrews, began a series of meetings to accomplish this objective. Early in September it held lengthy conferences with Sir William Beveridge, chief

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68 Letter from John B. Andrews to Senator Robert Wagner, May 17, 1930, Andrews Collection.

69 Letter from Senator Robert Wagner to John B. Andrews, May 28, 1930, Andrews Collection.

architect of the English unemployment system, and with John R. Commons, author of the Wisconsin plan. As a result of these and other conferences with representatives of labor unions and employers, the Association, in December, made public the tentative draft of an act designed to serve as the basis for state legislation. This act provided that employers should be required to contribute to a fund for the purpose of paying benefits to their workers in the event of unemployment. It further stipulated that the state should bear the expenses of administering the act and that the fund should be administered under the general supervision of the state. To avoid a system in which stable industries were taxed to maintain the unemployed workers of unstable industries, the bill provided that individual employers could receive from the unemployment fund "dividends based on their experience in maintaining regular employment." Over six thousand copies of this bill were sent throughout the nation and it was included in the December issue of the Review, which assured its further consideration by the three thousand members of the Association.[70]

To further crystallize public sentiment for the measure, the Association called the Third National

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70 American Labor Legislation Review, December, 1930, pp. 349-356.

Conference on Unemployment to meet in conjunction with its twenty-fourth annual meeting in Cleveland, Ohio, during the last week in December. At this conference Senator Robert F. Wagner stressed the fact that the unemployment problem was national in scope requiring federal as well as state and industry-wide action. He further pointed out that, "social legislation does not pass any sooner than the public is educated to demand it" and laid down a challenge to more intensive activity on the part of those present with the statement that, "the process of education is largely in your hands."[71] Leo Wolman, of the Amalgamated Clothing Workers of America outlined the plan of action which the Unemployment Insurance Committee of the Association had formulated to meet the problem[72] and William Leiserson, of Antioch College summarized contemporary thinking as to the cause of the problem.[73] These papers and others dealing with the problem were published and widely distributed to

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71 Robert F. Wagner, "Unemployment--A National Issue," American Labor Legislation Review, March, 1931, p. 15.

72 Leo Wolman, "Unemployment Insurance for the United States," American Labor Legislation Review, March, 1931, pp. 17-24.

73 William Leiserson, "Industrial Fluctuations and Unemployment," American Labor Legislation Review, March, 1931, pp. 65-84.

stimulate a demand for legislative action.

During the early months of 1931, the Association and other advocates of unemployment compensation increased the tempo of their educational campaign because the unemployment crisis was growing more acute. As a result employers, labor unions, religious organizations, public officials, economists and many of the leading papers of the nation joined the campaign for action in increasing numbers.

The growing pressure for legislative action caused the introduction of compensation bills in Congress and in seventeen state legislatures in the early months of 1931. On January 9, Senator Wagner introduced a bill in Congress which had been drafted by the Association, providing for the cooperation of the federal government with the states in establishing systems of unemployment insurance or reserve funds. A majority of the bills introduced in the seventeen states were based on the draft of an act submitted as a basis for state legislation by the Association. Representatives of the Association were particularly active in the fight for legislation in Wisconsin, Missouri, Pennsylvania, New York, California, Massachusetts and Ohio. Although the efforts of the Association and other proponents of unemployment insurance fell short of the intended objec-

tive, it is significant that Congress and the legislatures of Wisconsin, California, Oregon, Ohio, New York, Connecticut and Massachusetts created official state commissions to study the subject.

The New York campaign was particularly interesting, because it demonstrated the fact that the Association fought legislation which it considered unwise just as vigorously as it campaigned for legislation which it considered socially desirable. To lay the groundwork for the legislative campaign for unemployment insurance in New York, the Association was instrumental in creating an organization called the Permanent Conference for Unemployment Insurance in New York. John Fitch, a prominent member of the Association, was made temporary chairman of the new organization. Throughout January and February this organization and the Association conducted an intensive educational program to mobilize public sentiment for the proposed legislation. Early in March, Senator Seabury C. Mastick, Republican, and Assemblyman Irwin Steingut, Democratic leader in the Assembly introduced an unemployment insurance bill modeled after the bill prepared by the Association. This bill failed to pass but a substitute bill authorizing insurance companies to write unemployment insurance was suddenly passed by the legislature. Following the direction of the Executive

Council of the American Federation of Labor, the New York Federation of Labor refused to take a positive stand on the matter. The Association and other social welfare organizations, however, exerted every available pressure on Governor Roosevelt to veto the bill. Shortly before the Governor yielded to this pressure the New York Federation denounced the proposed bill as "camouflage legislation" and joined the forces seeking to secure a veto. The Governor vetoed the bill so that neither the insurance companies nor the social welfare organizations realized their objective. Consideration of the problem was kept alive through the creation of a Commission to study the matter further and recommend a feasible course of action to the next legislature.

Perhaps the most significant development of the year, however, occurred in Ohio where the first open split developed among the advocates of unemployment compensation. After conducting an extensive investigation, a group sponsored by the Cleveland Consumers League proposed two basic changes in the plan sponsored by the Association.[74] In the first place, it was proposed that the principle of employer controlled reserves be abandoned and that the principle of insurance be utilized

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74 Also referred to as the "Wisconsin Plan."

through the creation of a state-wide pooled fund under public control. In the second place, unlike the Association bill, this group proposed that contributions be requested from both employers and workers.[75] A bill incorporating these two changes was introduced in the Ohio legislature but the only result was the creation of a commission to study the problem further.[76]

In addition to the legislative campaigns at both the state and federal levels an attempt was made to explore the possibilities of coping with the problem on a regional basis. In January, 1931, Governor Roosevelt of New York called the governors of Pennsylvania, Ohio, New Jersey, Rhode Island, Massachusetts and Connecticut to Albany to consider the problem of unemployment relief. As a result of this conference a commission was appointed to study unemployment insurance. Each governor appointed one member of the commission. A majority of

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75 For a discussion of the reasoning behind these proposals see Paul Douglas, "To What Degree Can Business Prevent Unemployment," American Labor Legislation Review, September, 1930, pp. 273-281; also I. M. Rubinow, "Stabilization versus Insurance," Social Service Review, June, 1931, pp. 199-213.

76 Sometimes referred to as the "Ohio Plan."

those appointed were members of the Association.[77]

By mid-summer the leaders of the Association were convinced that the prospects of favorable action were more promising in Wisconsin than in any other state. Accordingly, in August, Secretary Andrews extended an offer of assistance to Paul Raushenbush and others who were prominent in the campaign for the bill which had been introduced by Assemblyman Harold Groves in 1931. The principal difference between this bill and the Huber bill lay in the fact that it required the employer to pay premiums into an individual reserve account in a state unemployment reserve fund rather than making his payment to a mutual insurance company. This offer was readily accepted and Secretary Andrews went to Wisconsin and helped organize a group of prominent citizens known as the "Wisconsin Committee for Unemployment Reserve Legislation." This group became formally affiliated with the Association and received financial support from it.

Under the leadership of Merill Murray this organization conducted an intensive educational campaign throughout the state in the fall of 1931. Its work was especially

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77 The Commission included: Dr. Leo Wolman of Columbia University; A. Lincoln Filene; Professor William Leiserson of Antioch College; Professor C. A. Kulp of the University of Pennsylvania; Professor Eliot D. Smith of Yale; Charles R. Blunt, Commissioner of Labor of New Jersey and Daniel McLaughlin of Rhode Island.

effective in organizing and mobilizing support for the legislation in the hearings which were held throughout the state by a legislative committee.

Early in November, this legislative committee submitted its report and recommendations. By a vote of five to two it strongly endorsed the bill which had been prepared by Assemblyman Groves with the assistance of Paul Raushenbush and Elizabeth Brandeis. This bill, modified to provide for plant instead of industry reserves, was introduced in the special session which was called by Governor LaFollette to consider unemployment legislation. A month later the bill passed the Assembly by a large majority and the Senate by a smaller, but comfortable margin of votes. On January 28, 1932, Governor LaFollette signed the bill,[78] thus gaining for Wisconsin the distinction of creating the first state system of unemployment legislation in America. In the wake of victory, Edwin Witte, Chief, Wisconsin Legislative Reference Library wrote Secretary Andrews:

> Now that the unemployment insurance bill has actually gone through, I want to say that a great deal of the credit belongs to you. It was a splendid idea to get an organization started here to promote this bill. Without the work done by this publicity organization, I believe there would have been no endorsement of the measure by the farmers' organization, and these

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78 Wisconsin, Laws 1931-32, C. 20.

> helped wonderfully. Very effective work also was done by Murray and his group in the final stages when the outcome depended on a favorable vote by two doubtful senators. In both cases very effective work was done in having people back home let these senators know that there was sentiment for unemployment insurance in their districts. . . . The legislative handling of the measure was excellent; but you are certainly entitled to much credit for bringing about the organization of the unemployment committee and in giving such generous help at all stages.[79]

In the meantime, the Association supplied material, presented testimony and rendered other assistance to the commissions which were preparing reports and recommendations for legislative action. Early in 1932 these commissions began submitting reports which enthusiastically endorsed compulsory unemployment compensation, but without exception they failed to win legislative approval. On February 15, the Governors' Interstate Commission presented a unanimous report in which compulsory state-wide systems of unemployment reserves were recommended. On the same day the New York State Commission urged the establishment of compulsory reserves at the earliest possible date, but its proposals for immediate legislation fell short of legislative endorsement. In California, the Unemployment Commission under the capable direction of Louis Bloch, a former employee of the Association and Will French, a member of the General Advisory Council of the Association,

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79 Letter from Edwin E. Witte to John B. Andrews, January 5, 1932, Andrews Collection.

recommended legislation modeled after the Association's plan. Essentially the same plan was recommended in both Massachusetts and Maryland. In June, the Select Committee on Unemployment Insurance of the United States Senate unanimously reported a bill designed to encourage the enactment of unemployment insurance legislation by the states by permitting the employer who participated in such a system to deduct his contribution from his taxable income. Finally, in October, the Ohio Commission submitted its report favoring unemployment compensation, but unlike the other reports, it provided that the employee should contribute to the fund which should be pooled by the state without segregation of individual employer accounts in the first five years of the law.

In March, the Association created an Unemployment Insurance Committee under the chairmanship of Joseph P. Chamberlain, to place greater emphasis on its unemployment compensation campaign. Other members of the Committee included: Henry S. Dennison, President, Dennison Manufacturing Company; Mary W. Dewson, Chairman Labor Standards Committee, National Consumers' League; Ernest G. Draper, Vice President, The Hills Brothers Company; John A. Fitch, New York University; Mary B. Gilson, University of Chicago; George M. Harrison, President, Brotherhood of Railway and Steamship Clerks; Thomas

Kennedy, Secretary-Treasurer, United Mine Workers; Morris E. Leeds, President, Leeds and Northrup Company; Frances Perkins, Secretary of Labor; H. S. Person, Managing Director, Taylor Society; Paul Raushenbush, Consultant, Wisconsin Industrial Commission; Edwin S. Smith, Commissioner of Labor, Massachusetts; Leo Wolman, Columbia University; Irene Andrews, Secretary, New York Conference for Unemployment Insurance; and John B. Andrews, Secretary of the Association.

Large financial contributions to the Association's work for unemployment legislation during this period were made by Mrs. Dorothy Douglas, The Milbank Foundation and Mrs. L. K. Elmhirst.

As the year drew to a close, it was generally agreed that the campaign had gained considerable momentum. The Association had helped set the stage for enactment of legislation in a number of states in 1933. Dr. Andrews was particularly active in drafting and developing support for legislation in Pennsylvania and New Jersey. In addition a number of organizations had joined the campaign for legislation. Of particular significance was the decision of the American Federation of Labor, at its annual convention, to abandon its neutrality and formally endorse the proposal.

Early in 1933 a total of sixty-eight compulsory

unemployment compensation bills were introduced in twenty-five states and a bill was introduced in Congress for the District of Columbia.[80] Bills similar to that proposed by the Association were introduced in New York, Connecticut, New Jersey, Pennsylvania, Indiana, Michigan, Missouri, New Mexico, District of Columbia, California, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Hampshire and Oklahoma. Sixteen followed the Ohio plan and the remaining were either radical bills or a combination of the Wisconsin and Ohio plans.[81] No legislation was enacted, but in seven states, namely, Ohio, Maryland, Utah, Connecticut, Minnesota, California and New York, bills were passed in one house but killed in the other. This defeat was so conclusive that Witte wrote, "By the end of the year, hope for the establishment of unemployment insurance in this country through unaided state action seemed remote."[82] He attributed the decisive character of the defeat to two influences. First, the presence of wholesale unemployment

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80 "Growth of the Job Insurance Program An Evolutionary Development," American Labor Legislation Review, September, 1933, p. 153.

81 Paul Douglas, Social Security in the United States, 1936, p. 18.

82 Edwin E. Witte, "Development of Unemployment Compensation," in: William Haber and Wilbur J. Cohen, Readings in Social Security, 1948, p. 166.

seemed to render unemployment reserves less valuable as a device which might be used to produce the desired results than earlier in the depression. Secondly, he pointed out that the division of opinion among the advocates of unemployment insurance gave the public the impression that they did not know what they wanted.[83]

The controversy between the advocates of the Ohio plan and the Wisconsin plan produced important results within the Association. From the outset, it had drafted and recommended legislation to the states similar to the Wisconsin law, yet the principal advocates of the Ohio plan were also leaders in the Association. As a result its effectiveness in the struggle for the proposed legislation was weakened and the Association itself suffered from the divided loyalty of some of its most influential members. In mid-May the rift widened and the controversy became more intense when the American Association for Old Age Security, under the leadership of Abraham Epstein, broadened the scope of its purpose to include unemployment insurance and threw its influence behind the Ohio plan. From this time on, William Leiserson, Paul Douglas, I. M. Rubinow and others participated in the unemployment insurance campaign through the newly formed American

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83 Loc. cit.

Association for Social Security rather than the American Association for Labor Legislation. Later in the year Mrs. Dorothy Douglas resigned from the Executive Committee and withdrew her substantial financial support because the Association continued to urge the enactment of legislation with which she was not in sympathy.

Despite these defections, the Association continued to wage an aggressive campaign to secure the type of legislation which it believed most desirable. Each issue of its Review in 1933, was devoted almost exclusively to the unemployment problem. They contained articles by such writers as Frances Perkins, Secretary of Labor; Margaret Bondfield, former Minister of Labor in England; Senator Robert F. Wagner; Professor Felix Frankfurter, Harvard Law School; Professor Harold M. Groves, University of Wisconsin; Elizabeth Brandeis; and I. M. Rubinow, Secretary of B'nai B'rith. Many of these articles were reprinted and thousands of copies were widely circulated. Circular letters were sent to thousands of people in those states where legislative action seemed imminent, urging that they write letters and use their influence in behalf of unemployment compensation legislation.

In 1934 few state legislatures were scheduled to meet, so the Association concentrated its efforts on the campaign to enact federal unemployment compensation

legislation designed to encourage states to pass satisfactory legislation. The bill which it supported was introduced by Senator Wagner and Representative Lewis early in February. It provided that a five per cent excise tax be collected from all employers whose labor force contained ten or more employees and be used to pay unemployment benefits in those states which enacted laws meeting federal standards. An additional stimulus was added, in that an employer was permitted to deduct his full contribution from his taxable income for federal income tax purposes, if he resided in a state which had enacted satisfactory legislation. This ingenious plan provided a powerful incentive for state legislation. At the same time it circumvented the most potent argument that had been used to prevent state action, namely, that the inposition of such a tax by a state would drive employers to other states. Immediately after the introduction of the bill the Association sent out thousands of letters to rally support for the proposed legislation. The bill gained support from the proponents of all types of state bills because it left to each state the decision as to the type of law it should pass.

Hearings on the bill began on March 21 with the Association heavily represented along with other organizations such as the National Consumers' League, American

Association of Social Workers, B'nai B'rith, National Y. W. C. A., American Federation of Labor, progressive employers and prominent public officials who urged speedy passage of the bill. It was opposed by representatives of the National Association of Manufacturers, the American Bar Association, the National Editorial Association, the American Transit Association and by some of the leading industrialists of the nation.

By mid-May it appeared that there was little possibility of getting the bill through the House of Representatives. In addition, there was some doubt within the Administration that the tax offset plan was the best way to approach the unemployment insurance problem.[84] For these reasons an unofficial announcement from the White House on May 17, indicated that President Roosevelt favored the appointment of a committee to study the problem further, rather than press for immediate action on the bill. This action was, of course, greeted with dismay by such organizations as the Association which feared that further delay might be disastrous.[85]

Early in June, however, President Roosevelt declared

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84 Letter to the writer from Edwin E. Witte, December 2, 1952.

85 "Administration Job Insurance Bill 'Side Tracked' at Washington," American Labor Legislation Review, March, 1934, p. 56.

it to be the intention of the Administration to give social security high priority in the next Congress. To implement this objective he created a Committee on Economic Security consisting of the Secretary of Treasury, the Attorney General, the Secretary of Agriculture, the Federal Emergency Relief Administrator and the Secretary of Labor as Chairman. A staff of experts, many of whom were members of the Association, were employed to prepare a comprehensive study of the various aspects of the problem under the general direction of Dr. Edwin Witte who was at that time a member of the General Advisory Council of the Association.

Throughout the summer and fall of 1934, President Roosevelt reiterated his pledge to introduce a comprehensive social security program in the next Congressional session. These official pronouncements encouraged the Association and other social welfare organizations to conduct a vigorous campaign to facilitate the enactment of such legislation by Congress. The effectiveness of the Association's work was such that in November, Dr. Witte wrote, "We are very grateful not only for your suggestions but for the assistance you have given us throughout. To the American Association for Labor Legislation belongs a large part of the credit for the program that we now can envision toward more adequate legislation for personal

economic security."[86]

During the closing months of 1934, the Association, along with other organizations stressed the importance of action in the early days of the Congressional session so that if state action were necessary it could be accomplished before their legislatures adjourned in early spring.

The Committee report was made public in mid-January, 1935. Senator Wagner immediately introduced a bill incorporating the Committee's recommendations in the Senate and Representative Lewis, of Maryland, and Representative Doughton, of North Carolina, introduced it in the House. Hearings on the bill began four days later and continued for approximately three weeks. During this period representatives of the Association and other social welfare organizations testified and labored for passage of the original bill. Another group including the American Association for Social Security fought vigorously for more restrictive provisions in the bill. Still another group including the National Association of Manufacturers and the Illinois Manufacturers Association carried out an intensive campaign against the bill.

On April 5, 1935, the Ways and Means Committee re-

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86 Letter from Edwin E. Witte to John B. Andrews, November 26, 1934, Andrews Collection.

ported the bill favorably to the House, but with a number of changes. In effect, they altered the character of state legislation required under the original bill by: eliminating the merit-rating provision; reducing the number of administrative "standards"; and limiting the type of act which could be enacted to the pooled fund plan. A month later the Senate Finance Committee reported a bill to the Senate, but in a form which permitted the states to adopt a merit-rating provision and any type of act which it chose. This bill was passed by the Senate on June 19 by a vote of seventy-six to six. The differences were compromised in a joint conference committee and the report was adopted by the House on August 8 and in the Senate on August 9. President Roosevelt signed the bill on August 14 and it went into effect immediately.[87]

In its final form the Federal Act created conditions favorable to the enactment of state laws. Both federal funds and the employer tax-offset were to be granted only on condition that an approved state unemployment system was established. The states were left free to adopt the details of any plan which it considered best.

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87 Public, No. 271, 74th Congress. The legislative history of this law is based on an account by Edwin E. Witte, "An Historical Account of Unemployment Insurance in the Social Security Act," Law and Contemporary Problems, January, 1936, pp. 165-169.

Its principal requirement was that the states must deposit its funds in the Unemployment Trust Fund in the United States Treasury.

The states responded promptly. In 1936, an "off" year, seven states passed the necessary legislation to qualify for federal funds. After the November election, twenty states held special sessions to pass the necessary enabling legislation. The remaining states met the requirements during their regular sessions in 1937.

The Association, however, was not content merely to assist in securing enactment of legislation authorizing the creation of the necessary instrument whereby state plans providing for unemployment compensation could be set in motion. Realizing that more often than not, the success or failure of social legislation to accomplish the desired ends depends on its administration, the Association, in 1936, undertook to focus public attention on the problems of administering the new legislation. In 1936, for example, the Review contained such articles as: "The Role of the Federal Government in Unemployment Compensation,"[88] by John G. Winant, Chairman of the first

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88 This was an address at the Twenty-ninth Annual Meeting, American Association for Labor Legislation in joint session with the American Statistical Association, American Labor Legislation Review, March, 1936, pp. 23-28.

Social Security Board and "Social Security Laws and Administration,"[89] by Marion B. Folsom, Treasurer of the Eastman Kodak Company. In 1937 and 1938 the Review was replete with articles on the subject. Among the more important of these were: "Unemployment Compensation in Action--A Progress Report from Wisconsin,"[90] by Elizabeth Brandeis, of the University of Wisconsin; "Administration--The Supreme Test,"[91] by John B. Andrews; "Unemployment Compensation Experience in Wisconsin,"[92] by Paul Raushenbush, Director, Unemployment Compensation Department, Industrial Commission of Wisconsin; and "Handling of Social Security Reserves,"[93] by Arthur J. Altmeyer, Chairman, Social Security Board. During its remaining years the Association maintained an active interest in the problems arising from the administration of both the federal and state acts. In fact, to a large extent, it concentrated its interest in the field of unemployment to the problem of improving the administration of unemployment legislation.

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89 American Labor Legislation Review, December, 1936, pp. 165-173.

90 Ibid., June, 1937, pp. 61-70.

91 Ibid., March, 1938, pp. 51-52.

92 Ibid., December, 1938, pp. 154-160.

93 Ibid., June, 1938, pp. 65-67.

Conclusion

During slightly more than two decades of activity in behalf of unemployment legislation the Association scored an impressive list of accomplishments.

It was the first organization to attempt the task of awakening America to the need for unemployment legislation. When the sharp crisis in 1914 precipitated mass unemployment, the Association assumed the initiative and called the First National Conference on Unemployment to formulate a program to cope with the problem. As a result of this conference as well as others with the various parties interested in the problem, the Association was able to present the first comprehensive program of action to prevent or mitigate the effect of unemployment in this country.

Its work during the early years was designed to secure an adequate employment service. In this connection it succeeded in awakening some states to the need for strict regulation of fee-charging employment agencies, but it failed to secure the desired legislation in New York where a large percentage of such agencies were operated. To accomplish the same objective by another route, the Association took the lead in campaigning for a system of public employment offices. This campaign finally culminated in the provision for a federal-state employment

service in 1933 by Congress. By 1937 all states had taken steps to create state employment offices.

During the early twenties, the Association shifted the emphasis of its work, for a short time, to secure advance planning of public works as the most desirable solution to the unemployment problem. It was one of the first organizations to propose that consideration be given to the development of plans during prosperous years to minimize unemployment during depressions. Working through the Association, Otto Mallery, one of the pioneers in behalf of this legislation, fought, at times almost alone, throughout the twenties for long range planning of public works. Not until 1931 did public sentiment shift enough to secure passage of the bill which he had persuaded Senator Wagner of New York to introduce in Congress. In signing the bill which committed the federal government to make long range plans to meet unemployment emergencies, President Hoover cited the work of Otto Mallery and Edward Eyre Hunt, another prominent member of the Association, for their work in formulating and securing passage of the bill in Congress.

Finally, the Association may be said to have made one of its greatest contributions in the promotion of legislation designed to provide compensation to unemployed workers. It was the first organization in America to

develop a concrete unemployment compensation proposal for consideration by the states. Largely as a result of the Association's efforts this plan was first introduced in Massachusetts in 1916. To it belongs the major share of the credit for keeping the idea alive, in America, from its inception up to the early years of the depression. It aided materially in the Wisconsin campaign which ended in 1932 with the passage of the only unemployment compensation act prior to the Social Security Act of 1935. Thereafter, the limitation of resources forced it, along with other private organizations which depended on contributions from individuals for their existence, to reduce the scope of its activities. Therefore, the primary responsibility for the Social Security Act was due to the activities of political rather than private groups. Nevertheless, the Association supported the bill to the limit of its resources while it was under consideration in Congress. After the Act was in operation, the Association spent the rest of its years seeking to improve its administration.

CHAPTER VII

OTHER LEGISLATION

The Association did not, because of limited financial resources, strive for the same degree of performance in all of the areas in which it worked. As a consequence its accomplishments in some fields were not as outstanding as those in which it spent large amounts of money. The contribution of the Association to remedial action in some of the more important of these fields will be briefly reviewed below.

Legislation for Women

A variety of legislation has been passed in America for the special benefit of working women. The states, for example, have placed limitations on the hours they could work; excluded them from certain hazardous occupations and working conditions; prohibited their employment shortly before and after childbirth; and established minimum wages for them. In addition, the Federal government has cooperated with the states in promoting the care of maternity and infancy.

The activities of the Association in behalf of legislation for women were limited, for the most part, to participation along with other organizations in the

movements for limitation of hours, minimum wages and for promoting maternity care. Although the Association's contribution to the campaigns for these legislative proposals was of secondary importance, it was, nevertheless, sufficiently significant to warrant a brief treatment here.

Hours of Work

The International Association for Labor Legislation recognized the world-wide interest in special legal protection for women as early as 1902 by selecting night work of women as one of the first two topics to be investigated. By 1904, it had formulated definite proposals for the limitation of night work of women and submitted them to the various governments for consideration. In 1906 the Swiss government invited other nations to send representatives to Berne to consider the possibility of joint action. At this time an international treaty was entered into by thirteen nations.[1]

When the American section of the International Association was formed in 1906, it was urged by the parent organization to investigate and report on the working conditions of women in America. As a result, the Association published a tabular summary of the state laws which

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1 Adna F. Weber, "Labor Legislation, National and International," Proceedings of the American Social Science Association, 1907, p. 41.

placed limitations on the working hours of women in 1909.[2] The demand for this publication was so great that the supply was quickly exhausted.

In the meantime, the National Consumers' League, under the direction of Florence Kelly, had drafted a bill limiting the working hours of women and was campaigning for its enactment by the states. To avoid duplication of effort and to oversee its future activities in this field, the Association appointed a Committee on Woman's Work. Irene Osgood Andrews, Assistant Secretary of the Association, was made Chairman of the Committee, which also included the following members: M. Edith Campbell, Director, Schmidlapp Bureau for Securing Employment for Women; Mary E. Drier, member of the Women's Trade Union League; Ernst Freund, Professor of Jurisprudence and Public Law, University of Chicago; Josephine Goldmark, Publication Secretary, National Consumers' League; Susan M. Kingsbury, Professor of Economics, Simmons College, Boston; Anne Morgan, New York City; Marie L. Obenauer, Expert, United States Bureau of Labor Statistics; and Mary Van Kleeck, Director, Department of Woman's Work, Russell Sage Foundation.

Through this Committee the Association continued,

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2 American Association for Labor Legislation, "Protection for Women," American Labor Legislation Review, December, 1912, p. 572.

for a short time, to supplement the work of the National Consumers' League and the Women's Trade Union League for legislation to limit the working hours of women. It cooperated with the National Consumers' League and various local groups to defeat the attack on the constitutionality of the Illinois ten-hour law in 1909-1910. This case was given special attention because the Association believed that an adverse decision would prove a serious setback for hour legislation in this country. Thousands of circular letters and pamphlets bearing on the subject were sent to people throughout the state and it secured the services of the prominent attorney, William James Calhoun, who helped to successfully defend the law before the Illinois Supreme Court in 1910.[3]

In 1912, the Association published a second report showing the progress as well as the need for further legislation by the states to limit the working hours of women. Throughout 1912 and 1913 the Committee was frequently consulted by those groups which were formulating such legislation. The New Jersey ten-hour law passed in 1912, and the eight-hour law for the District of Columbia passed by Congress in 1914, contained provisions which

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3 Ritchie and Co. v. Wayman, 244 Ill. 509.

had been recommended by the Committee.[4]

Thereafter, the work of the Association in behalf of hour limitation legislation for women was largely confined to the preparation and publication of maps and summaries and analyses of legislation which had been passed, with emphasis on the necessity for further action by the states. Substantial reports of this character were published in the Review in 1916[5] and 1918.[6] Other articles on the subject were printed in the Review during the succeeding years, but they were of much less importance.

Minimum Wages

Prior to 1937, the minimum wage legislation in the United States, with the exception of laws requiring "prevailing rate" of wages in public employment, was confined to statutes covering the employment of women and children. Massachusetts passed the first law containing such a provision in 1912. The following year eight states, California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington and Wisconsin enacted similar legislation. By 1923, sixteen state laws had been passed

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4 "Protection for Women," American Labor Legislation Review, December, 1912, pp. 570-585.

5 "Legislation for Women in Industry," American Labor Legislation Review, December, 1916, pp. 360-382.

6 "Regulation of Women's Working Hours in the United States," American Labor Legislation Review, December, 1918, pp. 339-343.

and Congress had enacted a law for the District of Columbia. Further progress was checked in 1923, however, when the United States Supreme Court declared the District of Columbia law unconstitutional.[7] During the next seven years, three of the original seventeen laws were repealed and five were held unconstitutional as applied to women.

Commons and Andrews attributed the widespread demand for minimum wage legislation to increased knowledge of conditions among sweated workers and to the enactment of the British Trade Boards Act.[8] The movement for remedial legislation received its chief impetus from the National Consumers' League and the Women's Trade Union League. The Association made a limited contribution to the movement by increasing the knowledge of the subject through the publication of a number of articles and reports on various aspects of the problem.

State sections of the Association were first active in helping to secure minimum wage legislation in Massachusetts and Oregon. The problem was first discussed

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7 Adkins v. Children's Hospital, 43 Sup. Ct. 394.

8 John R. Commons and John B. Andrews, Principles of Labor Legislation, p. 54. The two principal studies responsible for the "awakening" were: Report on Conditions of Woman and Child Wage Earners in the United States, Senate Document Number 645, 61st Congress, 2nd session; and New York State Factory Investigating Commission, Third Report, 1915; Fourth Report, 1915.

before the Association at its sixth annual meeting in 1912. Henry R. Seager chose "The Theory of the Minimum Wage," as the subject of his presidential address, which he delivered at a joint session of the Association and the American Economic Association. This speech provoked a spirited discussion and according to Secretary Andrews "served a useful educational purpose." Both the speech and the discussion were published in the Review.[9]

The following year, a tabular summary of the main provisions of the laws in effect was published in the October issue of the Review.[10] The demand for this tabulation was so great that it was printed separately and reprints were widely distributed. During the same year, Mrs. Andrews prepared and submitted two significant reports on minimum wages to the New York Factory Investigating Commission. These studies were included in the highly important Third and Fourth Reports of the Commission.[11] Special reports on the progress and need for further extension of such legislation were included in the Review

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9 American Labor Legislation Review, February, 1913, pp. 81-115.

10 "Main Provisions of Minimum Wage Laws in the United States," American Labor Legislation Review, October 1913, p. 433.

11 New York State Factory Investigating Commission, Loc. cit.

in 1914,[12] 1916[13] and 1918.[14] Thereafter, the Association discontinued its limited educational activity except for an occasional short article in the Review to inform the members of new developments in the field.

Maternity Protection

The first law in America to provide maternity protection for employed women was passed by Massachusetts in 1911. This law prohibited the employment of any woman within two weeks before and four weeks after childbirth. Similar laws were passed by New York in 1912, Connecticut and Vermont in 1913 and Missouri in 1919. An examination of the correspondence and papers of the Association failed to reveal any evidence that it was active in behalf of this legislation.[15]

On the other hand the Association participated in the intermittent attempts to provide compensation or medical care for the duration of the required rest period. The Association included such a proposal in its health

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12 "Woman's Work," American Labor Legislation Review, December, 1914, pp. 636-637.

13 "Legislation for Women in Industry," American Labor Legislation Review, December, 1916, pp. 383-399.

14 "Minimum Wage Legislation in the United States," American Labor Legislation Review, December, 1918, pp. 355-364.

15 Commons and Andrews, op. cit., p. 188.

insurance bill in 1916:

> Maternity benefits: Maternity benefits shall consist of:
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> All necessary medical, surgical and obstetrical aid, materials and appliances, which shall be given insured women and the wives of insured men;
>
> A weekly maternity benefit, payable to insured women equal to the regular sick benefit of the insured, for a period of eight weeks, of which at least six shall be subsequent to delivery on condition that the beneficiary abstain from gainful employment during period of payment.[16]

In 1919 the International Labor Conference, held in Washington, adopted a draft convention to the effect that an employed woman be paid benefits during a six weeks rest period before and a six weeks period after childbirth. It also provided for the free services of a doctor or certified midwife. Although this convention had been ratified by a number of countries, this country had taken no formal action on it.

In October of the same year Senator Sheppard of Texas introduced a bill in the United States Senate providing federal funds to those states which made suitable arrangements to promote the care of maternity and infancy to all mothers. This bill was drafted and promoted by the United States Children's Bureau, under the direction

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16 "Health Insurance: Tentative Draft of an Act," American Labor Legislation Review, June, 1916, pp. 249-250.

of Julia Lathrop. The Association helped to create a demand for the bill through its educational work, but the principal credit for passage of the bill in November, 1921[17] must be given to the Children's Bureau, the National League of Women's Voters, the General Federation of Women's Clubs and to the Good Housekeeping magazine, which helped to publicize the bill.

To assist the states in passing satisfactory enabling legislation, the Association drafted a standard bill which satisfied the federal requirements. It authorized boards of health "to provide instruction, advice and such care as the Board may deem necessary to expectant mothers during pregnancy and confinement and to mothers and their infants after childbirth."[18] A number of states used this act as the model for the bill which they enacted. When the federal appropriation for state aid for maternity and infancy welfare was allowed to expire in 1929, forty-five states were participating in the federal program. From 1929 to 1935 the state programs were weakened because federal aid was discontinued. In 1935, however, Congress authorized increased appropriations

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17 Public law 97, 67th Congress, 1st session.

18 Quoted by: Irene Osgood Andrews, "State Legislation for Maternity Protection," American Labor Legislation Review, March, 1921, p. 81.

for maternity protection in the Social Security Act. As a result all states now have such programs in operation and receive federal aid for this purpose.

One Day of Rest in Seven Legislation

The earliest rest-day legislation in the United States prohibited the employer from requiring his employees to work on Sunday. The passage of these laws was motivated by the desire to protect the Sabbath from desecration. The constitutionality of these early laws was challenged no less than seventy-one times before the supreme courts of the states and the United States between 1811 and 1909, but in all except one case their constitutionality was affirmed.[19] Even though these laws were upheld by the courts, they proved to be thoroughly unsatisfactory because they were "unscientific in character and . . . not /in/ accord with the exigencies of modern industrial life."[20] They were held to be unscientific because they were "so rent with exceptions" that they had little effect even when enforced. They were held to be impractical because they conflicted with the

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19 John A. Fitch, "Rest Periods for the Continuous Industries," American Labor Legislation Review, February, 1913, p. 61.

20 "One Day of Rest in Seven," American Labor Legislation Review, December, 1912, p. 518.

requirements of a modern industrial civilization. One writer indicated the probable consequences of strict enforcement of such legislation as follows:

> Stop all trains, all street cars, all heating and lighting plants, all delivery of milk, and all garbage removal on Sunday, and the great cities will suffer as under pestilence. Stop the blast furnaces, smelters, and other industries which for technical reasons require continuous operation, and those industries will be paralyzed.[21]

The necessity of a new legislative approach to the problem was obvious to those who had studied it. Legislation was needed to prevent an employer from regularly working his men seven days a week and at the same time to enable him to operate seven days a week if necessary. To satisfy both of these requirements, legislation was drafted which simply required that employees be given "twenty-four consecutive hours of rest in every seven consecutive days,"[22] without regard to whether or not the rest day fell on Sunday. Such legislation was enacted in most of the leading European countries between 1904 and 1911.[23]

In 1911 the public was first made generally aware of the fact that thousands of workers in the steel industry

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21 Ibid., pp. 517-518.

22 "Standard Bill for One Day of Rest in Seven," American Labor Legislation Review, December, 1914, p. 630.

23 Commons and Andrews, Op. cit., p. 150.

were required to work seven days a week.[24] The indignation that followed persuaded United States Steel to voluntarily adopt a plan of one-day-of-rest-in-seven. The first official action taken by the Association came in the form of a resolution adopted at its fifth annual meeting in December, 1911:

> Whereas the number of industries that are kept in continuous operation and the number of wage-earners who are regularly employed every day in the week in such industries have greatly increased in recent years;
>
> Whereas the so-called Sunday Laws enacted in the first instance to protect the Sabbath from desecration have not only, in the turmoil and rush of modern industrial conditions, failed to do that, but have also signally failed in protecting men from the debasing effect of continuous seven-day toil;
>
> Whereas regular employment for eight hours or more a day on all seven days of the week tends to undermine the health, dwarf the minds and debase the morals of those engaged in it, by depriving them of the opportunity for reasonable rest relaxation, and enjoyment with family and friends, which is craved by every normal person; and,
>
> Resolved, that this Association favors, and pledges itself to support legislation that will werve to protect industrial workers, from being required or permitted to work regularly seven days in any week, and be it further
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> Resolved, that the president of this Association be directed to appoint a committee of five or more persons to draft a bill designed to accomplish this object, and that an earnest effort be made to secure

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24 John A. Fitch, The Steel Workers; The Pittsburgh Survey, 1911.

the enactment of this bill into law in the several states.[25]

In accordance with this resolution the following Committee was appointed: John Fitch, Chairman, Associate Editor of The Survey; Louis D. Brandeis, Attorney; Charles M. Cabot, United States Steel Corporation; Ernst Freund, Professor of Law, University of Chicago; Charles S. MacFarland, Secretary of the Federal Council of the Churches of Christ in America; William D. Mahon, President of Amalgamated Association of Street and Electric Railway Employees of America; and John B. Andrews.

The Chairman of this Committee, John Fitch, was sent to London in June, 1912, to represent the Association on a Special Commission on Hours of Labor in Continuous Industries, which had been created by the International Association to formulate a report for consideration by the delegates at a meeting in Zurich later in the year.[26] On the basis of the report submitted by this Commission, the International Association adopted a strong resolution in favor of a six day week and urged its national sections to work for such legislation.[27]

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25 American Association for Labor Legislation, "Proceedings of the Sixth Annual Meeting," American Labor Legislation Review, February, 1912, pp. 155-156.

26 International Association for Labor Legislation, Report of Special Commission on Hours of Labor in Continuous Industries, 1912.

27 American Association for Labor Legislation, "One Day of Rest in Seven," American Labor Legislation Review, 1914, pp. 611-612.

Upon his return from Europe, Fitch worked through the Association to draft a one-day-rest-in-seven bill and lay the groundwork for its passage by the states in 1913. The bill provided that all persons except janitors, watchmen and employees whose duties include no work on Sunday other than setting sponges in bakeries, caring for live animals and maintaining fires shall be given twenty-four hours of rest in every seven consecutive days. It further provided that no employer should be permitted to operate on Sunday unless he posted in a conspicuous place a list of employees required to work on Sunday with the day of rest designated for each and filed a copy of such schedule with the Commissioner of Labor.[28]

The Association was joined in its campaign by the Federal Council of the Churches of Christ, under the leadership of Charles S. MacFarland. This organization proved to be an effective ally in arousing sentiment for legislation, but at the same time the Association recognized the danger that the presence of the ministers in the campaign might lead the public to believe that the movement was designed to merely promote the observance of the

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28 "Standard Bill for One Day of Rest in Seven," American Labor Legislation Review, December, 1914, p. 630.

Sabbath.[29]

Legislation based on the Association's Standard bill was introduced in a number of states in 1913 and was passed in New York and Massachusetts.

Late in 1913, one session of the seventh annual meeting at Washington was devoted to the problem of working hours in continuous industries. William C. Redfield, Secretary of Commerce was general chairman of the session. The following papers were presented: "Work Periods in Continuous Day and Night Occupations," by Basil M. Manly, United States Bureau of Labor; "Long Hours in Railroading," by Austin B. Garretson, President, Order of Railway Conductors; and "Constitutional Aspects of Hour Legislation for Men," by Ernst Freund, Professor of Law, University of Chicago Law School.[30]

In 1914, the Association made a study of the operation of the New York and Massachusetts laws[31] and found

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29 Dr. Andrews indicated this problem in a letter to Dr. Charles McCarthy, Madison, Wisconsin: "It is difficult to make people understand that we are not concerned with Sabbath observance, and that what we wish is the draft of a standard bill providing for one day of rest in seven, with rest periods of twenty-four consecutive hours."

30 See American Labor Legislation Review, March, 1914, pp. 105-137.

31 American Association for Labor Legislation, "Operation of Weekly Rest Law in New York and Massachusetts," American Labor Legislation Review, December, 1914, pp. 613-626.

that they were "being generally observed and that many employees who had previously been obliged to work seven days a week were obtaining a weekly rest day without undue hardship to industry."[32]

Although bills were introduced in most of the states with the vigorous support of organized labor and the social welfare organizations including the Association, no other state succeeded in passing the measure until 1919, when the Wisconsin law was enacted. Dr. Andrews attributed the failure to realize success in the campaign for this legislation to the opposition of employers and the religious leaders who insisted that Sunday be made the day of rest. His analysis of the first three years of the campaign was contained in a letter written to Charles P. Neill:

> There appears to be no very deeply grounded sentiment in this country in opposition to seven day labor. . . . Organized labor has in the principal states, made a vigorous campaign in support of the bill, but without success. The usual tactics of the opposition, representing employers of labor, is to so greatly increase the exemptions as to make the bill of no account. Probably the worst obstacle to this legislation is presented by ministers who appear at the committee hearings during the legislative sessions and argue at great length either in favor of making Sunday and no other day the weekly period of rest, or else in opposition to the plan to provide for one day of rest in seven. The second oposition is usually presented by Seventh Day

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32 Commons and Andrews, op. cit., p. 152.

> Adventists who insist that the one day of rest campaign is a scheme on the part of other ministers to make Sunday the rest day; as the President of one of the State Federations of Labor wrote me at the close of a hearing on this bill in his state recently, "The principal opposition comes from some queer ministers we have in this state who think Saturday is Sunday."[33]

Thereafter the Association made repeated attempts to secure passage of its bill in Pennsylvania where the need for such legislation was perhaps greatest, but it never succeeded in securing its enactment. Special efforts were made in New Jersey and Rhode Island to get the bill passed, but without success.

In 1923 a law modelled after the Standard Bill was passed in Minnesota, but it was emasculated by so many inconsistent exceptions that the state Supreme Court declared it unconstitutional.[34] Further action was delayed until the 1930's when bills similar to the Standard Bill were passed in New Hampshire and Illinois. There is no evidence that the Association participated directly in the campaigns to secure these laws.

Old Age Pensions

Legislation to provide for old age pensions was

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33 Letter from John B. Andrews to Charles P. Neill, June 10, 1915, Andrews Collection.

34 State v. Pocock, 161 Minn. 376.

initiated at the close of the nineteenth century and adopted by most of the nations of the world by the end of the second decade of the twentieth century. Many of these laws provided that the entire cost of the pension be paid by the state.[35] The remainder required the insured, the employer and the state to contribute to a fund from which benefits were to be paid.[36]

The movement for similar legislation in America did not get underway until after World War I. Prior to that time, however, pensions were received by some aged public servants such as teachers, policemen and firemen; and by some aged workers through industrial establishment funds or trade union funds. These plans, unfortunately, were wholly inadequate both as to scale of benefits and more importantly as to coverage.[37] Thus, for many workers the problem of finding a satisfactory alternative to charity relief or public almshouses during old age remained unsolved.

The first American legislation to solve this problem

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35 Denmark, New Zealand, Belgium, France, Great Britain, Iceland, Newfoundland, Australia, Uruguay, and Belgium.

36 Germany, Austria, France, Rumania, the Netherlands and Sweden.

37 Frederick MacKenzie, "Old Age Legislation Now Up to the States," American Labor Legislation Review, December, 1920, p. 255.

through a state supported old age pension system took place in Arizona. A law was passed in that state in 1915, but was declared unconstitutional two years later because it had been poorly drafted.[38] In 1915, Alaska passed the first constitutional old age pension law in America. No further legislation was passed until 1920, despite the fact that a number of state commissions submitted reports indicating the need for such action.

The Association became an active participant in the old age pension movement late in 1919. At that time it joined the Joint Conference on Retirement, representing the civil service employees of the United States, in a nation-wide campaign for passage of the Sterling-Lehlbach bill for retirement pensions for federal employees. As a result of the efforts of these two organizations this bill was passed and went into effect on May 22, 1920.[39] Under the terms of this act, approximately 300,000 employees in the Federal classified civil service gained the opportunity to participate in a compulsory contributory system of old age insurance. According to Dr. Andrews, the enactment of this legislation "puts the United States a long step ahead in farsighted

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38 State Board of Control v. Buchstegge, 158 Pac. 837.

39 Public 215, 66th Congress, 2nd session.

care for men and women who faithfully spend their lives in serving it."[40]

This victory not only encouraged the Association to continue its efforts in behalf of old age pensions, but it quickened interest in the movement generally. Requests were received from both state and national organizations for an old age pension bill which could be introduced in the state legislatures scheduled to meet early in 1921. This demand stimulated the Association to make a more careful study of the problem and to formulate a tentative draft of a bill to be used as the basis for state action.

Bills were introduced in eleven states in 1921, but no laws were enacted. Interest in such legislation, however, was rising. Social service organizations, labor unions, fraternal organizations and church bodies began to demand action. In 1922 practically all of the state legislatures in session considered old age pension bills, but again no action was taken. One of the chief difficulties appeared to lie in the fact that the proponents of such legislation were not united behind one legislative proposal. To unify the movement and thus magnify its effectiveness, the Association took the initiative in

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40 John B. Andrews, "Old Age Pensions for Federal Employees," The Survey, May 22, 1920, p. 271.

calling the leading organizations interested in the problem together to explore the possibility of agreement on one bill which all could support. As a result, representatives of the Fraternal Order of Eagles, the United Mine Workers, the Pennsylvania Commission on Old Age and the Association held a series of conferences in New York and agreed upon a "Standard Bill for Old Age Pensions" to be recommended to the states for immediate action. This bill required the states to pay a pension to long time residents who had attained the age of seventy years and who had no other means of support.[41]

During the next five years the Association played an important role in the movement for legislative enactment of the "Standard Bill." Numerous articles and reports on old age pensions were published in the Review and thousands of reprints were distributed in the states where bills were pending; many thousands of letters were written to members of the Association and to prominent citizens of the various states, urging their support of old age pension legislation; and representatives of the Association made frequent appeals for such legislation at legislative hearings and public meetings devoted to the subject.

Although the Association contributed importantly

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41 "Old Age Pension Bill," American Labor Legislation Review, December, 1924, pp. 307-310.

to the movement, the major credit for the legislation enacted during the period 1923-1927 must be given to the Fraternal Order of Eagles. Through its Old Age Pension Commission under the leadership of Frank Hering and his assistant, Abraham Epstein, the Eagles waged a very aggressive fight for legislative action by the states.

The combined efforts of these two organizations were largely responsible for passage of bills based in large part on the "Standard Bill," by the legislatures in ten states by 1927. According to Rubinow, however, this progress was "more apparent than real."[42] The California, Wyoming and Washington bills were immediately vetoed and the Pennsylvania law was declared unconstitutional soon after its passage. The remaining six laws, Montana, Nevada, Kentucky, Colorado, Maryland and Wisconsin were largely inoperative. Unfortunately the Eagles had permitted these laws to be amended in such a way as to make them dependent on county action to supply the funds, which made it easier to get them passed by the state legislature, but for all practical purposes rendered them ineffective. "Only two states, Montana and Wisconsin," were, according to Elizabeth Brandeis, "paying pensions, even in a few

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42 I. M. Rubinow, "Old Age," Encyclopaedia of Social Science, Vol. 11, 1944, p. 460.

counties" as late as 1928.[43]

Early in 1927, Abraham Epstein who had formerly been associated with the Eagles and the Pennsylvania Commission launched the American Association for Old Age Security to intensify pressure for legislation. The formation of this organization created serious repercussions within the Association. Many of its leaders such as I. M. Rubinow, Joseph P. Chamberlain, John R. Commons, Edward T. Devine, John A. Ryan, Stephen S. Wise and Edwin E. Witte joined and accepted positions on the Advisory Council of the new Association. Dr. Andrews and others were fearful that this development would impair the work of the Association in behalf of old age pension legislation. The basis for this fear was contained in a letter to Paul Douglas, a leading member of the Association, who had also joined the new organization:

> If Epstein's movement is not strikingly successful or effective and fades away in the course of a year or two, it will do considerable harm both to our Association and to the movement for old age pensions. If, with the aid of men like yourself, it becomes a really effective national membership organization it will divert from our Association a certain amount of interest and certain financial support as any duplicating organization is bound to do.[44]

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43 Elizabeth Brandeis and Don Lescohier, History of Labor in the United States, 1896-1932, Vol. 3, pp. 614.

44 Letter from John B. Andrews to Paul Douglas, February 15, 1927, Andrews Collection.

In view of the inevitable competition between the two organizations, attempts were made to merge them almost as soon as the new one was organized. These attempts, however, failed. Dr. Andrews explained the lack of interest in the proposal that the Association take over the new organization as follows:

> I referred the matter to my Committee for discussion but the merging appeared to involve not only taking Epstein over at $250 a month, but in addition to that, taking over an office lease on Fifth Avenue which had something more than a year to run. Although the monthly rental was small, apparently for only one office room, our Committee was unanimously opposed to maintaining a separate headquarters, and there was one other cause for hesitancy which I imagine you can guess.
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> Personally I had much in mind our relationship with the Fraternal Order of Eagles which I think very important from both sides that we maintain pleasantly. I also had in mind our cooperative relationship with the committee of the United Mine Workers and the apparent danger that Epstein would suddenly at some juncture come out for a contributory plan of old age pensions which I know all three of our organizations consider unwise.[45]

From 1927 to 1934 the Eagles, the American Association for Old Age Security and the Association were most active in creating great national interest in old age pension legislation.[46] During this period almost one-half

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45 Letter from John B. Andrews to Frank Hering, January 4, 1927, Andrews Collection.

46 In 1929 Frank Hering reported that the Eagles had spent more than a quarter of a million dollars in its nation-wide campaign for old age pensions. Letter from Hering to State Senator Mastick, of New York, November 27, 1929, Andrews Collection.

of the states enacted some type of non-contributory old age pension law. Most of the laws were mandatory and required the counties and the states to jointly finance the benefits.

During the early part of this period the Association expanded the scale of its educational activities and thereby aided materially in facilitating the passage of all of the laws. Its direct legislative activities were, to a large extent, confined to New York where it played a major role in the enactment of one of the most advanced laws which was passed.

The Association's chief contribution toward passage of the Social Security Act, which created a national system of old age insurance in 1935, lay in the pressure which it encouraged its members and others to bring to bear on Congress to enact the legislation. Early in 1935, for example, Dr. Witte, Executive Director of the Committee of Economic Security, appealed to Dr. Andrews to help get the bill through the House Ways and Means Committee by stirring up some "pressure from back home."[47] Within a short time he acknowledged the work of the Association:

> It is gratifying that you are urging your members to express to the members of Congress their interest

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47 Letter from Edwin E. Witte to John B. Andrews, February 23, 1935, Andrews Collection.

> in the Economic Security Bill. All or nearly all of the letters that the members have been getting have been critical of one feature or the other of the bill and it should be helpful for them to know that there are people who want the bill passed substantially as introduced.[48]

With the establishment of a national system of old age benefits through the Social Security Act in 1935, the Association devoted its attention and limited resources to the task of seeking legislative remedies for other problems which seemed more urgent.

Administration

The Association's interest in the administration of labor laws was so great that its efforts deserve brief treatment here even though the major attention of this study is devoted to the enactment of labor legislation.

A study of the administration of labor laws in the United States in 1909[49] led the Association to conclude that the purpose of these laws was frequently defeated by inadequate provision for enforcement. The problem was so important and the possibilities of constructive action so great that Dr. Andrews reported to the Association in 1911 that "no subject is deserving of greater study, and no problem promises more valuable returns within a reason-

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48 Letter from Edwin E. Witte to John B. Andrews, February 28, 1935, Andrews Collection.

49 American Association for Labor Legislation, Administration of Labor Laws, 1909.

ably short time than that of efficient enforcement of our labor laws."[50] From this time forward, the Association concerned itself with all phases of labor law administration but its greatest interest lay in promoting a new approach to the problem.

The first indication of the change which the Association later helped to refine and promote was embodied in an article published in the Review in 1911. In this article, entitled, "Scientific Standards in Labor Legislation," John and Irene Andrews stressed the advantages to be derived from an administrative system in which the formulation of protective standards was transferred from the legislature to an advisory board, such as had been created in Massachusetts to protect the workers in those occupations involving the use of steam boilers. This board, composed of representatives of the various boiler interests, was authorized to recommend rules with respect to the construction, installation, operation and inspection of steam boilers. When approved by the governor, the board's recommendations had the full force of law.[51]

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50 John B. Andrews, "Outline of Work for 1911," American Labor Legislation Review, February, 1912, p. 164.

51 John B. Andrews and Irene O. Andrews, "Scientific Standards in Labor Legislation," American Labor Legislation Review, June, 1911, pp. 123-134.

As this article was being written, Wisconsin made a thorough-going revision of its whole system of labor law administration in the direction of making more extensive use of advisory boards. Under proposals prepared by Professor John R. Commons of the University of Wisconsin and Dr. Charles McCarthy, chief of the Wisconsin Legislative Reference Library, the legislature created the first Industrial Commission in America. According to Professor Commons, it was hoped that "the practical outcome of this new procedure should be a progressive and accurate adjustment of factory inspection to the changes in industry and the new risks that accompany modern industry."[52]

The leaders of the Association were so impressed with the possibilities of this innovation that they invited a complete discussion of it in the Review and at its public meetings. The first discussion of the new organization took place even before its administrative machinery had been set in motion. In September, 1911, Professor Commons, who had just been appointed to membership on the Commission, outlined the nature, function and hopes for

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52 John R. Commons, "The Industrial Commission of Wisconsin," American Labor Legislation Review, December, 1911, p. 68.

the new Commission[53] at the Third National Conference on Workmen's Compensation which was sponsored by the Association. A year and a half later, at the sixth annual meeting of the Association, Commons painted a glowing picture of the accomplishments of the Commission.[54] The following year the question of labor law administration was featured at the seventh annual meeting of the Association. One of the highlights of the meeting was an address on the subject by C. H. Crownhart, Chairman of the Wisconsin Industrial Commission, followed by a discussion in which Professor Commons, Edward T. Devine and Thomas Parkinson participated.[55]

Meanwhile the Association encouraged further consideration of the new method of administration by preparing and publishing a number of reports on the subject. In 1912, it published an extensive report in the Review[56] on the means whereby labor laws were enforced in the

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53 John R. Commons, "The Industrial Commission of Wisconsin," American Labor Legislation Review, December, 1911, pp. 61-69.

54 John R. Commons, "How the Wisconsin Industrial Commission Works," American Labor Legislation Review, February, 1913, pp. 9-14.

55 C. H. Crownhart, "Labor Law Enforcement Through Administrative Orders," American Labor Legislation Review, March, 1914, pp. 13-33.

56 American Association for Labor Legislation, "Efficient Enforcement of Labor Laws," American Labor Legislation Review, December, 1912, pp. 593-603.

United States with the view to determining how their administration could be improved. The following year an entire issue of the Review was devoted to a report on labor law administration by Dr. Andrews with the assistance of Irene Andrews and Solon de Leon of the Association staff.[57] The introductory note of this report was published separately as a pamphlet under the title, "Progressive Tendencies in Labor Law Administration in America," and used widely in the campaign for the new system of labor law administration.

In 1914, the Association created a Committee on Enforcement of Labor Laws to direct its future activities in this field. George M. Price, Director, Joint Board of Sanitary Control, New York, was made Chairman of the Committee. Other members included: Irene Osgood Andrews, Assistant Secretary of the Association; Lewis T. Bryant, Commissioner of Labor, New Jersey; Selskar M. Gunn, Member, Massachusetts Board of Labor and Industries; Samuel McCune Lindsay, Professor, Social Legislation, Columbia University; James M. Lynch, Commissioner of Labor, New York; Charles McCarthy, Director of Investigations, United States Commission on Industrial Relations; Dorothy Straus, Attorney, New York City; and John B. Andrews,

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57 American Labor Legislation Review, December, 1913.

Secretary of the Association.

The major development of 1915 was the passage of a law in New York replacing the Department of Labor with an Industrial Commission similar to that which had been created in Wisconsin. The Association played a major role in the agitation which ultimately resulted in the passage of this law. As a result of these activities, Samuel Gompers resigned from the Association with the declaration that it should more properly be called the "American Association for the Assassination of Labor Legislation."[58] This action was precipitated by the opposition of the New York Federation of Labor which opposed the bill because the consolidation of departments contemplated in it would eliminate some of the jobs held by members of the Federation.[59] A few other labor leaders also resigned in protest, however, most of the leaders of the state federations and national unions retained their active membership in the Association.

Throughout 1916, the Association, in cooperation with the Bureau of Municipal Research, conducted a study of the work of the New York Industrial Commission. This

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58 Letter from Milton Fairchild to Henry R. Seager, n. d., Andrews Collection.

59 Letter from John B. Andrews to Stephen Wise, March 22, 1915, Andrews Collection.

extensive report was the first American attempt to critically evaluate the work of the new industrial commissions. It concluded that the new method of administration had produced great improvements, but recommended a number of remedies to overcome numerous administrative defects.[60] As a result of its findings in this study the Association was able to give valuable advice to individuals, to groups and to states interested in improved labor law administration during the next twenty-six years.

On the basis of years of accumulated experience and intensive study, Dr. Andrews wrote what is now generally regarded as the best treatment of labor law administration which has been published to date.[61] When this book was published in 1936, work was in progress on a companion volume to deal with factory inspection and other phases of administration, but it was never published.

During the Association's final years, Dr. Andrews devoted his attention to a great extent to the problems of administration. In the late thirties he made an intensive study of the inspection problem in the coal

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60 American Association for Labor Legislation, "Labor Law Administration in New York," American Labor Legislation Review, June, 1917, pp. 237-518.

61 John B. Andrews, Administrative Labor Legislation, 1936.

mines[62] and in 1940 he published a well rounded study of labor law administration in North Carolina.[63] These studies served as the basis for constructive action.

In 1911, Dr. Andrews pointed out that "The Association in all of its work has never lost sight of the fact that the enforcement of the law is the supreme test."[64] At the close of its work thirty-one years later it appears that this statement would have been an equally accurate description of the emphasis which the Association had given its work in this field.

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62 See Chapter III, pp. 141-146.

63 John B. Andrews, "Labor Law Administration in North Carolina," American Labor Legislation Review, September, 1940, pp. 125-144.

64 John B. Andrews, "Report of Work 1911," American Labor Legislation Review, February, 1912, p. 168.

CHAPTER VIII

CONCLUSION

During the first half of the twentieth century America awoke from its nineteenth century lethargy and made rapid strides toward closing the "gap" which European countries had established in their earlier start in the fields of social security and protective labor legislation. Many influences were responsible for the awakening and the subsequent legislation. Important among these was the work of such organized groups as labor unions, social welfare organizations, and political and civic groups.

The initial impulse and central direction of the movements which were primarily responsible for the enactment of this type of legislation was frequently provided by the social welfare organizations. Among the most important of these organizations were the National Child Labor Committee, the National Consumers' League, the American Association for Social Security and the American Association for Labor Legislation. The American Association for Labor Legislation was, by far, the most important of these organizations in terms of the scope of the program undertaken and the legislation which they helped enact.

The social welfare organizations supported legis-

lation to protect industrial workers from the major hazards of economic life on the theory that the general welfare would suffer if the welfare of the wage earners was undermined. For example, the Association stressed over and over again that its purpose was to serve as a means of expression for socially minded economists, lawyers, public officials, labor leaders, employers and others who believed that industrial conditions which resulted in ill-health, poverty and other types of economic insecurity were inimical to the general welfare. Its point of view was best expressed in an early slogan: "The fundamental purpose of labor legislation is the conservation of the human resources of the nation."

This non-partisan approach frequently subjected the Association to bitter criticism by those parties whose interests were most likely to be affected by the legislation which it supported. Representatives of labor criticized the Association at times because they believed it was not sufficiently sympathetic with the problems confronting the workers, and at other times because they believed it was too eager to dictate the character of the legislation to be enacted for the benefit of the workers, whether they liked it or not. Representatives of business and sometimes professional groups resisted the Association because they believed it to be dominated by organized

labor or that its proposals, if adopted, would undermine the economic system which they were designed to improve.

In spite of these obstacles, the Association made remarkable progress in its fight for that legislation which it believed would contribute to the general welfare. Its success, both in the short run and in the long run may be attributed, in part, to the scientific approach which it employed to gain its objectives. Unlike most other organizations of similar character, its legislative proposals were always preceded by three rather well defined preliminary steps. First, exhaustive scientific investigations were conducted so that its recommendations would be based on the fullest possible knowledge of the facts. Secondly, an educational campaign was conducted to educate the public with respect to the need for legislative action to remedy the problem. Finally, experts were employed to draft its legislative recommendations so that they might come nearer accomplishing their intended objective. These preliminary steps were followed by a legislative campaign, in which all of the legitimate devices for securing enactment were utilized.

While it is necessary to be extremely cautious in fixing the relative importance of the many influences responsible for the enactment of specific legislation, there can be no doubt that the Association played a major role

in the overall struggle for social security and protective labor legislation. This study has revealed that it did not strive for the same measure of results in all of the legislative campaigns in which it participated and as a consequence the importance of its contribution varied from field to field. In some instances it drafted legislation and assumed primary responsibility for securing its enactment. In others it drafted legislation and set a campaign in motion and then turned the fight over to other groups. In still others, it simply supported other organizations which were leading the fight for legislation. The major accomplishments of the Association are summarized below.

Industrial Diseases

The Association played an important role in the movement to secure industrial disease legislation in America. Its educational activities helped to create an awareness of the problem and its recommendations helped to point the way toward a constructive solution by the legislatures. The remedy which it suggested depended on the nature of the industrial disease to be dealt with.

Prohibition

The major share of the credit for securing passage of the only law in America prohibiting the use of a

substance in an industrial process to protect the health of the workers, belongs to the Association. This law, enacted by Congress in 1912, prohibited the use of poisonous phosphorus in the match industry so that the workers would not contract the dread "phossy jaw" disease.

Regulation

For a short time the Association played a major role in the movement to protect the health of industrial workers through statutory regulation of their working conditions. "Standard bills" to protect workers from lead poisoning and compressed-air illness were drafted and pushed vigorously in the legislatures. As a result, a number of states adopted legislation based on these bills and others used them as a basis for administrative regulations. The Association soon discontinued its work in behalf of the statutory approach and shifted its support to regulation by commissions because it believed they would come nearer providing a more effective solution to the problem.

Compensation

The Association was one of the first organizations to campaign for compensation for the victims of industrial accidents. It began agitating for inclusion of all industrial diseases in state and federal workmen's compensation acts as early as 1913. Other organizations joined

in the struggle and by the end of the thirties, the federal government and a few states had adopted the "all-inclusive" amendment and virtually all of the remaining states had passed the "limited list" amendment.

Industrial Accidents

From the beginning to the end of its work, industrial accident legislation was among the top items on the Association's legislative agenda. Its greatest accomplishments were for the benefit of the victims of industrial accidents.

Reporting

Believing that accurate information was necessary before scientific legislation could be drawn, the Association began its work by initiating and providing the impetus for uniform accident reports during the first ten years of the modern movement for this legislation. During this time it drafted the first standard accident reporting bill and helped to secure its adoption by 1920 in states containing over one-half of the industrial population of the nation. Beginning in the early twenties, it left the job which remained to be done to other organizations interested in the problem.

Safety Regulations

By the end of the first decade of the twentieth

century, much legislation had been enacted which enumerated the conditions required at the workplace in order to make it safe. These laws, however, failed to stem the mounting toll of industrial accidents. With the exception of its work for rock dusting to prevent explosions in the coal mines, the Association made no significant contribution to the passage of this type of legislation. Instead it became one of the leading advocates of the plan whereby specific statutes were replaced by the standard that employers furnish a safe place of employment and safe employment. Under this plan an administrative commission was given quasi-legislative powers to issue orders to accomplish this objective. The extent of the Association's activities in behalf of this type of legislation will be indicated in the topic dealing with Administration.

During the twenties the Association was instrumental in securing legislative action in a number of states requiring rock dusting of coal mines to prevent the loss of life due to explosions. Its educational campaign was so effective that over 300 companies voluntarily installed rock dust to prevent explosions in their mines.

Compensation

When the Association began agitating for workmen's

compensation the federal law was inadequate and not a single state had passed a valid law. Largely as a result of the Association's efforts the federal government adopted adequate workmen's compensation legislation for federal employees, longshoremen and harbor employees and for private employees in the District of Columbia. When the Association discontinued its work, all of the states except Mississippi had enacted some type of workmen's compensation law. All of these laws bore the imprint of the Association's work and it cooperated with other groups in the campaign for their enactment in most of the states. In some of the leading industrial states and some of the southern states the Association was primarily responsible for directing the campaign which resulted in the passage of legislation.

Rehabilitation

The Association was largely responsible for the passage of a bill by Congress in 1920, authorizing federal aid to those states which established an approved system of vocational rehabilitation for industrial cripples. In addition, it facilitated state action by drafting a bill which would enable it to quickly qualify for funds under the act. A number of states used this bill as a model in drafting the necessary enabling legislation.

Health Insurance

The Association was responsible for drafting and introducing the first health insurance plan and deserves most of the credit for the vigorous agitation which marked the first health insurance movement in the United States. No legislation was enacted, but some progress was made in awakening the nation to the need for a comprehensive approach to the problem of improving the health of its industrial workers.

The Association supported the second health insurance movement during the thirties, which was equally unproductive of legislative results, but its contribution was of secondary importance.

Unemployment

The Association was the first organization to attempt the task of awakening America to the necessity for legislation to avoid or minimize the effects of unemployment. Beginning in 1914 and covering a period of approximately twenty years, the Association conducted an active campaign for various types of unemployment legislation. During much of this time it received little support from other social welfare organizations and labor organizations, which usually fought for such legislation.

Employment Offices

Prior to 1914, a number of states had tried to eliminate the abuses of employment agencies operated for profit by enacting regulatory legislation, but for the most part the undesirable practices of these organizations went unchecked. After that date, the Association was successful in stimulating some states to enact strict regulation of fee-charging employment agencies, but it failed to secure the desired legislation in New York where a large percentage of such agencies were located. To lessen the necessity for such organizations the Association took the lead in campaigning for a system of public employment offices. Its work in cooperation with other groups for such a system culminated in the creation of a federal-state employment service by Congress in 1933.

Advanced Planning of Public Works

Under the direction of Otto Mallery, the Association was one of the first organizations to propose that legislation be enacted to develop plans during prosperous years to minimize unemployment during depressions. It worked almost alone throughout the twenties for this legislation. Other organizations joined the Association when the depression began in 1929 and sentiment shifted to such an extent that Congress passed a bill in 1931 requiring federal agencies to make long range plans to

meet unemployment emergencies.

Compensation

The first unemployment compensation bill in America was drafted by the Association. This bill was considered by Massachusetts in 1916, but no action was taken. Thereafter, similar bills were considered by a number of states, but no legislative action was taken until the depression in the early thirties. Outside of Wisconsin the Association was the principal organization for keeping interest in the proposal alive in America during this period. It supported the campaign which resulted in the passage of the unemployment compensation law in Wisconsin in 1932, which was the only law to be passed prior to the enactment of the Social Security Act in 1935. It was also one of the leading advocates of the passage of the Social Security Act. After this Act was passed it continued its work by calling attention to needed improvements in the law.

Women's Work

Much legislation has been passed in the United States for the special benefit of the working women. Most of the credit for this legislation belongs to the National Consumers' League and the Women's Trade Union League, and to governmental agencies. The Association supported the

campaigns to set maximum hours and minimum wages for working women and to promote better maternity care for women. Its contribution to these campaigns were mainly confined to educational work designed to arouse interest and support for the legislative proposals of other organizations.

Old Age Pensions

The Association became an active participant in the old age pension movement in 1920, when it helped secure an old age insurance system for the Federal classified civil service employees. Shortly thereafter, it was responsible for calling the leading organizations interested in the problem together and formulating a "Standard Bill" for old age pensions. Although the Association contributed to the educational campaign throughout the twenties and the early thirties, the major credit for the laws enacted by the states must be given to the Fraternal Order of the Eagles and the American Association for Old Age Legislation. The Association helped to bring pressure on Congress to create a national system of old age benefits in 1935, but political forces were primarily responsible for the passage of the Social Security Act.

One Day Of Rest In Seven

The early rest-day laws were motivated by the desire to protect the Sabbath from desecration. Although their objective was no doubt defensible, they, nevertheless, conflicted with the requirements of a modern industrial economy. The Association drafted and campaigned for the first one-day-of-rest bill to be introduced in America in order that it might provide a more satisfactory solution to this problem. It realized very limited results from its efforts, since only a very few states adopted its recommendation.

Administration

While this study did not deal with the administration and enforcement of labor legislation, the work of the Association in this field was so important that it was briefly noted. Representatives from all levels of government throughout the nation continuously sought the advice of the Association on various aspects of their administrative problems. Perhaps the most important contribution which it made to better administration, however, was the support it gave to the creation of better administrative machinery. The Association was one of the leading advocates of the industrial commission in America.

It played an important part in the movement which resulted in the widespread use of quasi-legislative boards and advisory committees to create and enforce better labor legislation.

Decline in Activities

From 1932 until 1943 when the Association ceased its activities in behalf of legislation, the scope and effectiveness of its work was greatly reduced. Several factors combined to limit the scale of its activity. Among the most important was a sharp decline in its membership and income which began in 1932 and continued until the Association was dissolved. Many of the Association's most important financial supporters were forced by the depression to reduce their contributions while others discontinued them altogether. The headquarters staff was practically eliminated and the educational and legislative work of the Association was slashed to the barest minimum, but it was a difficult struggle, despite these measures, to keep the organization solvent.

The decline in the influence of the Association may also be attributed to the fact that such an organization seemed less necessary than in earlier years. By the end of the thirties all of its major goals except health insurance had been realized. Since the job which remained

was that of merely improving and extending the scope of existing legislation, some people reasoned that it was appropriate that the Association curtail the scale of its activity. More important, however, was the rise of a new and powerful force with which the Association had neither the desire nor the resources to compete. Under the aggressive leadership of President Roosevelt and Secretary of Labor Perkins, the federal government, during this period, took the lead in improving and extending existing laws and in developing social security legislation. Under the circumstances about all the Association did was to support the legislation which the government agencies promoted.

Finally, it may be noted that the decline of the Association was hastened by its clash with the American Association for Social Security over the type of unemployment legislation to be enacted. In the course of this conflict the Association dissipated much of its energy and lost some of its more influential members as well as some of its important financial contributors.

The events of the thirties weakened the Association to such an extent that it was not able to survive the developments of the early forties. In the first place, interest in extending labor legislation and social security was virtually eliminated by the outbreak of

World War II in 1941. This fact greatly complicated the task of maintaining interest in the continuance of its work. More important, however, was the death of Secretary Andrews early in 1943. This loss proved to be a fatal blow. Mrs. Andrews attempted to carry on until a successor could be found, but a suitable person had not been found by 1945, so the organization was then disbanded.

John B. Andrews

To a great extent the effective work of the Association in behalf of social security and protective labor legislation for a period extending from 1910 to 1943 was due to the brilliant leadership of its Secretary, John B. Andrews. He employed his dynamic personality so persuasively that leaders in all walks of life helped to develop the Association into one of the leading instruments for the promotion of social legislation in the United States. He was also largely instrumental in formulating the policies and directing the activities of the Association which resulted in the many legislative victories indicated above. The success of the Association depended to such a large extent on the unique quality of his contribution that it was unable to carry on after his death in 1943.

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TITLE OF THESIS The Activities of the American Association for Labor Legislation in Behalf of Social Security and Protective Labor Legislation

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