American Ideals Expressed in American Laws

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III.

To meet this burning question the Workmen's Compensation Acts have come into being. Different in their details, they have some characteristics in comon. Generally speaking they provide that all industrial accidents resulting in injuries to workingmen shall be compensated for the employer at specified rates during the time of disability, those rates being determined upon a basis of a given percentage of the wages of the injured person; if death results, other definite standards of indemnity to be paid to the dependents are provided. The precedure is simple; a claim is made before an administrative board or judge, and the mater is taken up quickly and without legal machinery. The award is made and can only be attacked on the ground of fraud or because there was really no evidence to sustain it.

These acts have been generally, though not universally, sustained when attacked as unconstitutional. The reason, doubtless, is that they have generally been made elective in form, i. e., employers could elect whether they would come in under them or not, and thus if they chose to come in they could not complain of any infringement of their rights to have due process of law because they have voluntarily consented to come under the terms of the law. It is true that election to accept the law was made attractive by a somewhat ingenious provision having some of the characterisitcs of a club, to wit, a provision that the employer who chose to remain outside of the law should not have the benefit, in a personal injury action, of one or two or all of the time-honored defenses, known as contributory negligence, assumption of risk, and negligence of a fellow-servant.

These laws have worked well—nominaly the employer pays for all injuries, in reality he insures himself in an accident insurance company (which takes charge of and pays the claims made) and adds the cost of insurance to the cost of his manufactured product. In the end, therefore, the public pays, and when all of the states have similar laws all employers will be on an equal basis.

Such laws are already in force in forty-one states and territories and the Federal Government has an act for its employees. The New York law did not have the elective feature as to certain employments and was held unconstitutional by the highest court of that state in the year 1911, because it deprived the employer of property without due process of law in that it imposed on him a liability without his consent and without his fault. Since that decision was made, however, the state constitution has been amended so as expressly to authorize such a law and another law of similar nature has been passed and upheld by the court of appeals of New York.

The compensation laws of New York, Washington, and Iowa have been sustained by the Supreme Court of the United States and have thus survived the test of the Fourteenth Amendment. The first two of these laws are compulsory and the last one elective.

Much more might, and really ought to be said, concerning labor legislation, but I must pay attention to some other fields of legislation before closing this paper. I stop now only to observe that the idea that safety and health should be promoted in all working places has taken full possession of the public mind and to this end legislation providing for the use the best safety devices, the guarding of all dangerous machinery, the prevention so far as possible of occupational diseases, the providing of safe, sanitary, and healthful shops has become universal, nor has such legislation been seriously attacked in the courts. Its validity as a proper exercise of the police power is quite beyond the question. In the more advanced states these laws are framed in general terms requiring in substance that places of employment and exposed machinery be made safe and the administrative details are committed to a permanent body or commission which has power to inspect and determine what is safe and what is not safe. This commission calls to its aid the experience of both employer and employee as well as the knowledge of the expert and formulates the administrative details in the shape of regulations which have the force of law. Thus the adjustment to new conditions and changing methods becomes easy and prompt. There need be no long waiting for legislative action.

The subject of labor unions, strikes, lockouts, boycotts and other contests between employer and employee covers so large a field that it is manifestly impossible to give it treatment. I would not be understood as minimizing its vast importance but that very fact makes a mere brief discussion all the more unfitting. Furthermore the controversies on these subjects are still acute. Only in the most general way can there be said to be any general public ideals. It may be safely asserted that the general public desires to be fair both to employer and employee; it believes that the employee has a right to organize, to strike if he be dissatisfied, and to be free from blacklisting; it does not believe that he is entitled to resort to violence to gain his ends, nor does it believe that it should be possible for the whole public to suffer great inconvenience and loss because of a disagreement between employer and employee.

The laws which will work out substantial justice to employer and employee while protecting the public have not yet been perfected although there has been much legislation. The historian or essayist of the future may perhaps be able to record the satisfactory solution of these questions. Certainly it is not possible now.

Passing from the consideration of labor problems and conditions, I would direct your thought for a moment to the very general public awakening on the subject of housing, sanitation, and living conditions in the great cities. The slums and the crowded tenement house are in many respects the foulest products of modern civilization, for in them the race is poisoned at the source, yet, for many years they passed practically without notice; they were hardly fit subjects to be mentioned in good society; nor was it realized that the state owed any duty to its poorer citizens to make conditions of life more healthful or endurable, and still less was it realized that the state had a selfish interest in the health of its citizens which would demand that something be done to remove such ulcers as these from the body politic. In most, if not all, of the states containing large cities where these problems are acute, the regulation of tenement building is now quite complete, human habitations must be provided with certain specified sanitary fittings and be built under certain rules as to light, ventilation, and ground space. Legislation in this line is rarely questioned in the courts, nor is it perceived how it could be successfully attacked. Playgrounds are appearing where there were none before, the oldtime slum is certainly being crowded out, the city child is to be given a chance, the city worker is to have light, air, and healthful surroundings, the city itself is ultimately to become, not perhaps a place where every prospect pleases, but most certainly a place where