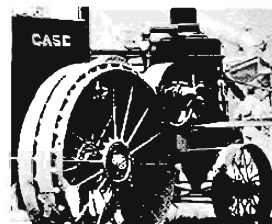
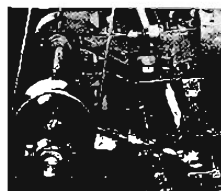
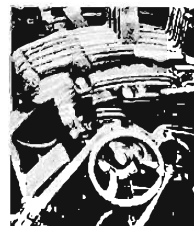


# *The Origins of* **WORKMEN'S COMPENSATION** *in Minnesota*

Robert Asher



**T**HE MACHINES that produced the Industrial Revolution brought with them at least one tragic side effect: They took their toll of the men and women who operated them. Industrial accidents increased in both number and severity with the proliferation of labor-saving, time-saving machines of all kinds that began in the last half of the nineteenth century. A report in 1882 of the Ohio Bureau of Labor Statistics described one serious industrial accident that befell a paper worker:

"One man met with a terrible and painful accident while attempting to tighten up a screw connected with the cylinder of a paper machine while the same was in motion; the wrench he was using suddenly slipped, his hand and arm were caught by the revolving cog wheels, tearing four fingers from his hand and the flesh off his arm. After being extricated from his terrible position, the flesh of his arm from his elbow was hanging in shreds from the wrist."<sup>1</sup>

An accident usually victimized other persons, too, besides the one maimed or killed, as the following account in the *Duluth News-Tribune* of May 10, 1910, illustrates:

"Hibbing, May 9 — Edward Jivery, age 35, was almost instantly killed in a local saw mill while engaged in making stovewood from lumber scraps. His clothing in some way caught in a belt of one of the pulleys and he was wound around the wheel four times before the machinery could be stopped. When taken from the wheel he was dead, many of the bones of his body being crushed. Jivery leaves a wife and two children."

Industrial accidents were not always as grisly as these.

But the rate of serious and minor industrial accidents rose continually in the United States from the onset of the Industrial Revolution until reaching a peak during the first decade of the twentieth century, probably around 1907–08. In 1907 railroad mishaps alone resulted in the death of 4,534 workers and the injury of 87,644. In 1910 the working life of a brakeman, whose job was one of the most hazardous on railroads, was estimated at seven years. Industrial accidents were so common that in 1909 a manager of a manufacturing plant could tell investigators in an unemotional manner that "When a man applies to us for work and says he has ten years experience on, say a punch press, we ask him to show us his hands. We expect to find a few fingers off."<sup>2</sup>

For workers and their families, even a minor accident that resulted in a few days off the job brought hard-

<sup>1</sup> Ohio Bureau of Labor Statistics, *Report*, 1882, p. 208.

<sup>2</sup> Harry Weiss, "Employers' Liability and Workmen's Compensation," in John R. Commons, ed., *History of Labor in the United States, 1896–1932*, 3:564 (New York, 1935); Herman M. Somers and Anne R. Somers, *Workmen's Compensation*, 9 (New York, 1954); New York State Legislature, "Minutes of Inspection Tour of Subcommittee of Commission on Employers' Liability," 1909, p. 1443 (quote), copy in John Mitchell Papers, in Catholic University of America; enclosure in letter from D. L. Cease to John B. Andrews, December 1, 1910, American Association for Labor Legislation, Records, in Labor-Management Documentation Center, M. P. Catherwood Library, Cornell University.

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ship. This was especially true for immigrants who generally had the lowest-paying jobs in industry. More serious accidents resulting in permanent disabilities that drastically reduced a worker's earning power were devastating to the laborer's welfare and that of his or her dependents. D. L. Cease, editor of the *Railroad Trainman*, has left us this vignette of the anguish of the injured railroad worker:

"... God alone knows the mental depths of despair to which the one time physically perfect man is plunged when disability overtakes and threatens his earning capacity: for in this day he knows that when he cannot work he becomes a pauper. I have seen strong men weep like children when they were out of work temporarily and their families were forced to limited living. What must it mean, then, to the one who in a moment knows he is done forever? If time permitted I could tell you of the last words of men who met death with only duty on their minds; who remembered their responsibilities even with the death sweat upon their brow, who fearlessly met the grim destroyer with full consciousness of all

that it meant to them and the only expression of personal concern aside from duty done was the heart breaking question, 'what will become of my wife and the kiddies?' "<sup>3</sup>

Until 1913, when Minnesota passed its first workmen's compensation law, the injured industrial worker had four options: He could sue his employer for damages; he could hope his employer would tender financial aid; he could fall back on an insurance policy if he had one; or he could turn for help to private and governmental eleemosynary institutions. The first option involved great uncertainty. Even if the courts did not interpose the formidable common law doctrines,<sup>4</sup> which protected employers against tort action by injured employees, the disabled person had to face the vicissitudes of a jury trial, the long delays accompanying legal action, and the prospect that his attorney's fees and payments to expert witnesses would eat up a substantial part of any award for damages.<sup>5</sup> Many employers aided their injured workers, but such beneficence was arbitrary, frequently depending on the employer's evaluation of the moral worth of the employee. Most businessmen did not give accident victims as much aid as they would eventually receive almost automatically under workmen's compensation.<sup>6</sup> Insurance policies—whether purchased from a private insurance company or secured through a mutual benefit association operated by a union, a fraternal organization, or an employer—inevitably provided only minimal emergency benefits. Perversely, such plans were generally adequate only when an accident was fatal: Then they covered funeral expenses completely.<sup>7</sup> (Of course, the dependents of the deceased now had to find other sources of support in most cases.) State and private institutions did not have sufficient resources to aid more than a fraction of the laborers and families impoverished by the effects of industrial accidents. When such assistance was available it was usually minimal and temporary.<sup>8</sup>

By 1908 many employers in Minnesota were thoroughly disenchanted with the conditions just described. They were especially disturbed by the mounting volume of accident litigation. The United States Steel Corporation's subsidiaries on the Mesabi Range, for example, were concerned about the continual harassment of legal actions instigated by attorneys, many of whom were unscrupulous "ambulance chasers," who tempted injured workers into hopeless suits against their employers. Even more annoying to businessmen was the waste inherent in the liability-litigation system.<sup>9</sup> United States Steel reported that less than half the money it paid its Minnesota employees in court or in out-of-court settlements ever reached the disabled. The rest was absorbed by court costs and legal fees.

George M. Gillette calculated that his Minneapolis Steel and Machinery Company paid \$18,000 for liability

<sup>3</sup>Cease to Andrews, December 1, 1910, John B. Andrews Papers.

<sup>4</sup>The three most important common law defenses were the fellow-servant or coservice doctrine, in which negligence of another employee was used as an employer's defense against paying damages to an injured worker; contributory negligence on the part of the employee; and assumption of risk, i.e., the injured employee had "assumed" the risk when he accepted the job on which he was injured and thus could not recover damages. See Weiss, in *History of Labor*, 3:564-66.

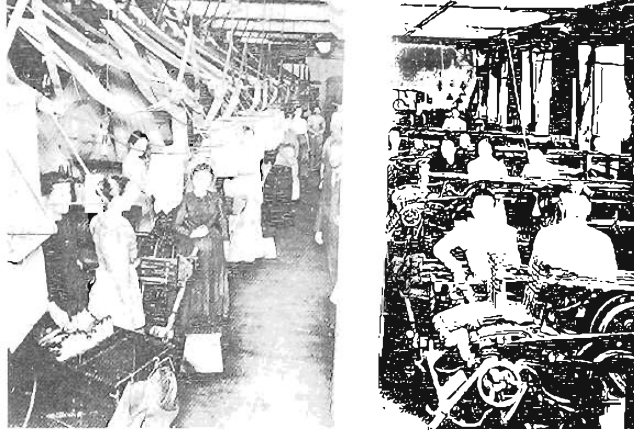
<sup>5</sup>See the statistical analysis in Ohio Employers' Liability Commission, *Report*, 1911, xxxvii.

<sup>6</sup>For example, see Minnesota Bureau of Labor, Industries and Commerce, *Biennial Report*, 1909-1910, p. 160-64.

<sup>7</sup>Employers often forced their workers to join company insurance plans and sign waivers of liability as a condition of employment. See Minnesota Bureau of Labor Statistics, *Biennial Report*, 1891-1892, p. 143-55; Weiss, in *History of Labor*, 3:568.

<sup>8</sup>Associated Charities of Minneapolis, *Report*, 1902, p. 7, 14, 15, 17, 1903, p. 17, Minnesota State Board of Control, *Biennial Report*, 1908, p. 390-97. The table on page 393 lists the causes of "pauperism." While it is impossible to know how much "pauperism" was the result of industrial accidents, people with no other alternative had to turn to the county poorhouses because of illness, disability, loss of limbs, and similar afflictions.

<sup>9</sup>The term liability-litigation system refers to the conditions preceding workmen's compensation under which injured workers had to sue—or threaten to sue—their employers to obtain relief for the hardship imposed by the injury. Employers' liability laws were those which modified the common law defenses of the employer and made it easier for an injured worker to secure an award by suing his employer.



**MEN AND WOMEN** worked at the same kinds of machines at the North Star Woolen Mills, 218 South Second Street, Minneapolis, about 1910.

insurance in 1907, but injured employees of his firm received only \$3,000 in settlements from his insurance carrier.<sup>10</sup> To Gillette and many others this typical situation seemed absurd. If an employer was going to spend large sums for accident insurance, he ought to get more from his outlay than mere protection against an unusually high verdict that could wipe him out. His injured workers should also receive benefits. Yet a large part of the casualty insurance premium went to cover the cost of contesting litigation. The insurance company's interests, of course, called for minimizing payments to injured workers. The employer of labor often wanted more: To avoid ill feeling on the part of the injured person, his colleagues, and the community at large, the employer (especially if he was sophisticated) wanted some sort of compensation paid workers. But in some cases insurance companies even included in their policies provisions prohibiting employers from settling with their workers directly without the approval of the insurance carrier.<sup>11</sup>

Minnesota employers also were well aware that, since 1903, judges and juries had been increasingly liberal in awarding verdicts to victims of industrial accidents. Between 1903 and 1907, casualty insurance companies in Minnesota paid out 58 per cent of employers' liability insurance premiums to injured workers. In 1908 the figure jumped to 68 per cent, and one year later went to an incredible 76 per cent. As insurance premiums were increased to cover the costs of the new trend in court verdicts, employers found they were paying more and more for an inefficient system that wasted funds on court litigation that exacerbated employer-employee relations.<sup>12</sup> Angry workers, of course, were ripe for the appeals of union organizers and socialist politicians.

By 1909 such large Minnesota employers as the United States Steel Corporation, the Great Northern Railroad, and the directors of the Minnesota Employers' Association had come to favor the system of workmen's compensation as the best substitute for the liability-litigation method.<sup>13</sup> By guaranteeing the injured worker

compensation without the necessity of proving employer negligence, a major source of friction in industrial relations would be eliminated. The cost of workmen's compensation would be passed on to the general public in the form of price increases. This was only just, because at the time of his accident the injured worker was producing for the welfare of society.

UNTIL 1909 organized labor in Minnesota, represented before the legislature by the officers of the Minnesota State Federation of Labor, had sought to aid the injured industrial laborer by supporting legislation to remove the common law defenses of the employer. But the effort to obtain such legislation in the face of adamant employer opposition was proving to be almost futile. Even if favorable laws could be put on the books, the injured worker would not receive a great deal of the increase. Persuaded by these facts, the labor federation in 1909 joined with the employers' association and the Minnesota State Bar Association<sup>14</sup> to petition Governor John A. Johnson to create a special "non-partisan" commission to "thoroughly investigate the propriety of trans-

<sup>10</sup>*Labor World* (Duluth), January 30, 1909, p. 1, Minnesota State Federation of Labor, *Proceedings*, 1909, p. 41.

<sup>11</sup>New York State Legislature, 133 session, "Report to the Legislature of the State of New York by the Commission to Inquire into the Question of Employers' Liability and other Matters," in New York, *Senate Document* no. 38, 227 [1910?].

<sup>12</sup>George M. Gillette, "Employer's Liability and Workmen's Compensation Acts," in Minnesota Academy of Social Sciences, Annual Meeting, *Papers and Proceedings*, 1911, p. 188, hereafter referred to as *Papers and Proceedings*, 1911; Minnesota Bureau of Labor, Industries and Commerce, *Biennial Report*, 1909-1910, p. 147; [Fred L. Gray], *Employers' Liability and Workmen's Compensation in Minnesota*, 28 (n.p., 1911), copy in Minnesota Historical Society pamphlet collection.

<sup>13</sup>The Minnesota Employers' Association represented virtually all large Minnesota employers with the exception of the railroads and the United States Steel Corporation and its subsidiaries. It also represented many smaller manufacturers and contractors. See Minnesota Employers' Association, "Minute Book No. 1," December 14, 1908-January 19, 1925, owned by the Minnesota Association of Commerce and Industry (MACI), St. Paul. This will hereafter be referred to as "Minute Book."

<sup>14</sup>The bar association had discussed workmen's compensation at length at its 1908 meeting. It then appointed a special committee to study the subject. This committee met with the Minnesota State Federation of Labor and the Minnesota Employers' Association and helped arrange meetings between labor, capital, and the bar to discuss the industrial accident problem. The bar association committee concluded that the dearth of statistical information on industrial accidents would make immediate action on workmen's compensation legislation unwise. The committee recommended that the legislature create a special commission to gather the needed data and draft a compensation law. See Minnesota State Bar Association, *Proceedings*, 1908, p. 32-70, 1909, p. 5-13.

forming the present system of compensation to employes from the basis of negligence to that of a risk of the industry." Johnson, who had previously demonstrated his concern with the welfare of the injured worker by supporting drastic employers' liability legislation, heartily backed the petition and sent it to the state senate with an unusual three-page letter of endorsement appended.<sup>15</sup>

Most of the interest groups that would be affected by workmen's compensation — employers, workers, lawyers, and casualty insurance companies — backed the proposal for an investigating commission. But the Republican-dominated legislature, fearing that Democratic Governor Johnson was playing politics with the industrial accident problem, responded by proposing a strong employers' liability bill and delaying action on the proposal for a commission. However, vigorous lobbying by the federation of labor, the bar association, and especially by George M. Gillette, president of the employers'

association, finally pushed the commission bill through.<sup>16</sup>

The resulting Minnesota Employees' Compensation Commission consisted of three capable men who endorsed the principle of workmen's compensation — for the employers, George Gillette; for the workers, William E. McEwen, secretary of the federation of labor and state commissioner of labor; and for the bar, Hugh V. Mercer, a prominent Minneapolis lawyer. Gillette was as well informed about the subject as any American employer. McEwen was a moderate labor leader who accepted the capitalist system but demanded a genuine *quid pro quo* for workers loyal to the free enterprise system:

"If the present wage system and private ownership are to continue we must come to the recognition of the fact that there is a human factor in industry, besides the capitalists who own it. If labor and capital are to be partners in industry the latter must not content itself by merely paying a bare living wage, and then seek relief in the thought that the fullest measure of social justice has been dealt out. . . . Are there not some obligations to discharge? The workman who runs the risk of modern industry, who handles the machinery over which he has no control, and who gets injured at his occupation is entitled to something more than his wages."<sup>17</sup>

Mercer, chairman of the commission, saw his role and that of the bar association as neutral, disinterested mediators, in the name of the "public interest," between the special interests of labor and capital.<sup>18</sup>

Soon after its first meeting on May 11, 1909, the commission proposed a conference on workmen's compensation to be attended by government officials, experts in the field, and the New York, Wisconsin, and Minnesota commissions. By calling a meeting, the Min-

<sup>15</sup> George M. Gillette, *et al.*, "Petition Suggesting Plans for Legislation Looking Toward Compensation of Employes for Injuries Received in the Course of Their Employment," January 21, 1909, copy in Minnesota Historical Society pamphlet collection; also published in Bar Association, *Proceedings*, 1909, p. 9 (quote)—13; John A. Johnson to Adolph O. Eberhart, January 27, 1909, Governor's Letterbooks, in the Minnesota State Archives.

<sup>16</sup> *Minneapolis Journal*, February 9, p. 1, February 10, p. 2, February 21, 1909, p. 5; *Labor World*, March 27, 1909, p. 4; *Labor Review* (Minneapolis), April 1, p. 1, April 8, 1909, p. 1; "Minute Book," April 13, 1909; William E. McEwen to Charles Farnum, April 9, 1910, Philip W. Herzog to Winslow W. Dunn, February 4, 1909, Minnesota Industrial Commission Correspondence, in Minnesota State Archives.

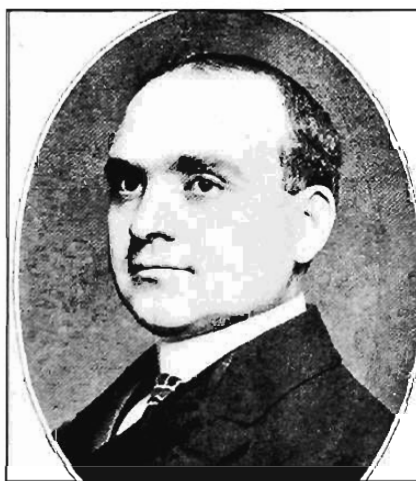
<sup>17</sup> Bar Association, *Proceedings*, 1912, p. 96.

<sup>18</sup> Bar Association, *Proceedings*, 1911, p. 55-56. "In this matter," said Mercer, "the public is our client. We are trustees. This subject cannot be and will not be properly controlled by either employers or employees."

GEORGE M. GILLETTE



WILLIAM E. McEWEN



HUGH V. MERCER



nesota men hoped to get the advice of experts who had studied European conditions firsthand and to exchange ideas and information with other state commissions.<sup>19</sup> The conference was held in Atlantic City, New Jersey, July 29–31, 1909, and was followed by three larger national conferences in 1910. By the time the last one met in November, commissions to study workmen's compensation had been created in ten states: Minnesota, New York, Wisconsin, Illinois, Ohio, Massachusetts, New Jersey, Washington, Connecticut, and Montana. The movement for state legislation had become nationwide in scope. In 1910 New York enacted the nation's first workmen's compensation law, followed in 1911 by ten states — California, Illinois, Kansas, Massachusetts, Nevada, New Hampshire, New Jersey, Ohio, Washington, and Wisconsin.<sup>20</sup> Minnesota would have to wait.

ALTHOUGH strongly committed to replacing the pernicious employers' liability system with workmen's compensation, George Gillette was fearful, from the outset of the commission's deliberations, that the increase in the cost might be so enormous that it would adversely affect employers in Minnesota. Gillette was determined to minimize the cost and as early as July, 1909, insisted that workers pay part of the bill for compensation insurance.<sup>21</sup> By June, 1910, after a European tour with McEwen, Gillette concluded that the cost of compensation would be two or three times that of employers' liability insurance.<sup>22</sup> He produced statistics on the causes of accidents which revealed that 29.74 per cent of them resulted from employee carelessness, 18 per cent from employer negligence, 10 per cent from the negligence of fellow workers, and 42 per cent from the natural hazards of industry. Gillette argued, therefore, that workers be required, if their employers desired, to pay up to 20 per cent of the cost of compensation insurance, providing this contribution did not exceed 1 per cent of a person's wages.<sup>23</sup>

Gillette drafted a code designed strictly to control the cost to employers. It included a basic scale of 50 per cent of the employee's regular wage to be paid while he was disabled, allowed employers to use their discretion in paying for injured workers' medical expenses, and stipulated that all settlements between employers and injured workers were final, except in cases of death or permanent disability when a board of arbitration, appointed by a county district court, would validate agreements. To constrict the scope of compensation Gillette proposed awarding remuneration for "all bodily injuries due to accident. . . ." This wording excluded occupational diseases and made it difficult to collect for injuries like hernias that were often unattributable to a single, specific accident.<sup>24</sup>

Mercer and McEwen favored a more liberal work-

men's compensation act. McEwen, especially, objected to employee contributions because workers would be giving part of their wages to the "cold-blooded" insurance companies.<sup>25</sup> The two men, however, attempted to compromise with Gillette by accepting employee contributions if the basic scale were raised to 60 per cent. They also favored requiring employers to provide complete medical care for two weeks, subject to a \$100 maximum; proposed that a central state board of arbitration make all workmen's compensation settlements final to protect the interests of the worker, who was often poorly informed about his legal rights; and would have awarded compensation for "all permanent injuries . . . arising out of and in the course of such settlement."<sup>26</sup>

These proposals immediately drew Gillette's fire:

"The argument is made that the workman is receiving only half wages as compensation. Except from a purely socialistic standpoint I have never heard any reason advanced why a workman should receive full compensation. The best that one can hope to provide is a form of insurance which will afford partial aid."

Obviously disturbed by the socialistic overtones of workmen's compensation, Gillette defended his demand for employee contributions on the grounds that they were "the greatest influence which is at work to prevent accidents" and because sharing some of the cost removed "much of the sting of socialism from any system of this kind."<sup>27</sup>

Gillette's attitude reflected the fact that he, like most American businessmen who endorsed the provision of

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<sup>19</sup> Hugh V. Mercer to John R. Commons, June 25, 1909, John B. Andrews Papers.

<sup>20</sup> Atlantic City Conference on Workmen's Compensation Acts, July 29–31, 1909, *Report*, (Minneapolis, 1909); Third National Conference on Workmen's Compensation for Industrial Accidents, November 10–12, 1910, *Proceedings*, (Boston, 1910); "Employers' Liability, Workmen's Compensation and Insurance," in *American Labor Legislation Review*, October, 1911, p. 87, 104–05.

<sup>21</sup> Atlantic City Conference, *Report*, 1909, 219–21.

<sup>22</sup> Third National Conference, *Proceedings*, 1910, p. 103. In his article on liability and compensation acts (*Papers and Proceedings*, 1911, p. 175), Gillette said that it would cost employers "according to the degree of hazard from one and one-half to six times" the cost under the then-current laws.

<sup>23</sup> Gillette, in *Papers and Proceedings*, 1911, p. 180–81.

<sup>24</sup> Gillette, "Comment on the Principal Differences Between the Gillette [*sic*] Code and the McEwen-Mercer Code," in *Papers and Proceedings*, 1911, p. 233–39 (quote, 234–35).

<sup>25</sup> *Labor World*, February 25, 1911, p. 6.

<sup>26</sup> A Bill for an Act to Provide a Workmen's Compensation Code," in *Papers and Proceedings*, 1911, p. 198, 200–01, 209, 221–22, 235 (quote); Minnesota Employees' Compensation Commission, *Report*, 1911, p. 175–212, 274–75.

<sup>27</sup> Gillette, "Comment on Principal Differences," in *Papers and Proceedings*, 1911, p. 239.

relief for the disabled employee, did not accept the doctrine of social responsibility for the welfare of those who could not support themselves, even though this concept was inherent in workmen's compensation. And those employers who accepted this logic with regard to injured workers were rarely willing to extend it to other categories of indigency. Rather, most businessmen accepted workmen's compensation for practical reasons. They expected it to do away with the liability-litigation system, eliminate waste, reduce employer-employee friction, and obviate the threat of excessive court judgment to injured workers, which would increase if, in the absence of a relief system, lawmakers removed the common law defenses of the employer. Businessmen hoped to have an orderly, practical compensation scheme without a great increase in cost. And most employers who favored it believed that a relief system for the disabled employee should not deliver benefits that were too liberal or it would undermine worker self-reliance and set a dangerous precedent. Employers therefore insisted that compensation payments cover only part of the wage losses incurred by victims of industrial accidents.

Gillette, Mercer, and McEwen all agreed that a primary aim for workmen's compensation was the prevention of accidents. But Gillette argued that, since it was not a relief measure but a preventive program, the level of benefits should not be excessive. Turning the logic of prevention around, Mercer and McEwen maintained that an act providing liberal relief to injured laborers — an end as desirable as accident prevention — would give employers an added incentive to undertake the expensive safety work necessary to prevent accidents.<sup>28</sup> Accident prevention and adequate relief were not mutually exclusive goals.

Until late January, 1911, Mercer and McEwen hoped to resolve their differences with Gillette so that the Minnesota Employees' Compensation Commission could unite behind a single recommendation to the legislature. But Gillette stood firm on the cost issue while McEwen refused to make any more concessions because he felt they would give the injured worker a raw deal. Consequently, Mercer and McEwen sent their workmen's compensation bill to the legislature along with the

commission's report. Gillette, while endorsing the principle of compensation, dissented from the majority bill and filed a minority report with the legislature, outlining his points of disagreement.<sup>29</sup>

MOST EMPLOYERS in Minnesota opposed any action on workmen's compensation in 1911. Although the leaders of the employers' association had secretly helped Gillette draft his bill, the association as an organization declined to endorse the Gillette measure. Indeed, anticipating strong opposition within the group, Gillette had resigned as its president on November 19, 1910, so he could support workmen's compensation without the handicap of heading an organization that opposed it.<sup>30</sup> Clearly, the thinking of the association's leadership ran far ahead of the position of the general membership. Too many Minnesota employers had not studied compensation closely, did not take a sophisticated approach to employer-employee relations, and were apprehensive about the cost and the principle of workmen's compensation. For example, at the legislative hearings on the Mercer-McEwen bill a railroad contractor objected to any relief proposal because he believed such a measure would release a worker from the consequences of his own negligence, increasing the chance of a harmful accident.<sup>31</sup>

Another employer, Francis (Frank) J. Ottis, head of the Northern Malleable Iron Company of St. Paul, a high-risk producer of railroad and agricultural castings, told his legislative representative that the bills in the legislature were

"a sort of parental legislation which is not necessary. They annul the present standard of gauging [sic] the excellency of man in the matter of personal care and discretion and encourage recklessness and neglect . . . instead of insisting upon bills of this character, if more serious attention were paid to safety devices in manufacturing establishments, more permanent good would be obtained as we would then be working in the line of prevention of accidents rather than offering a needless remedy after the accident had occurred [sic] . . . it is not just to the working men to treat them as children or as a lot of irresponsible American citizens who need protection of the character proposed, thereby indirectly implying that they are irresponsible, helpless individuals in the nature of wards of the State needing protection that neither you nor I or any other free agent would think of demanding."<sup>32</sup>

Ottis' principled opposition to workmen's compensation was probably affected by his lack of understanding that most industrial accidents were not the fault of the worker and that compensation would make employers who were insensitive to the welfare of their employees more

<sup>28</sup>Third National Conference, *Proceedings*, 1910, p. 115-20; Compensation Commission, *Report*, 1911, p. 4.

<sup>29</sup>Compensation Commission, *Report*, 1911, p. 175-212, 276-79; Minnesota State Federation of Labor, *Proceedings*, 1911, p. 15.

<sup>30</sup>"Minute Book," June 14, November 19, 1910; *Minneapolis Journal*, March 14, 1911, p. 13.

<sup>31</sup>*Minnesota Union Advocate* (St. Paul), March 10, 1911, p. 1.

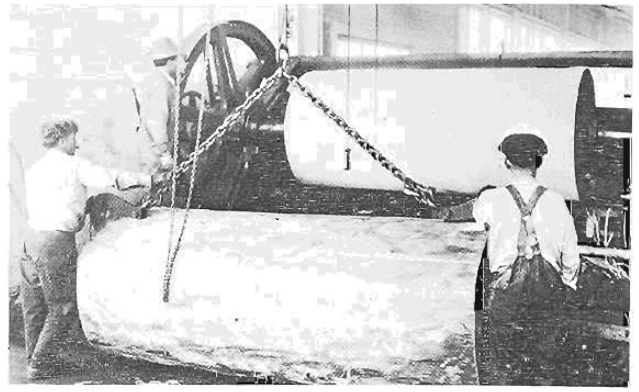
<sup>32</sup>Francis (Frank) J. Ottis to J. A. A. Burnquist, March 27, 1911, in Joseph Alfred Arner Burnquist Papers, in the Minnesota Historical Society.

safety-conscious, since they would be forced to remunerate every person injured "in the line of duty." Once the system began to operate and employers became more familiar with its functioning, much of the initial opposition by uninformed businessmen dissipated. But in 1911 the majority of Minnesota's employers did not want their state to experiment with such legislation.

Another consideration was important to Minnesota employers in 1911. If the legislature enacted a workmen's compensation law at that time, it would be instituting a new relief system whose cost could not be precisely gauged in advance. Businessmen generally crave predictability. Pioneering action by Minnesota threatened to damage business operations of the state's entrepreneurs, especially those who competed in national or regional markets, since out-of-state competitors might be under less costly compensation schemes or not subject to them at all. If Minnesota waited until 1913, the experience of other states would be available for possible guidelines. In the absence of a strong political progressive movement in Minnesota in 1911, the opposition of ultracautious employers who favored the plan in theory, and the opposition of those who were against it in principle, proved decisive. In addition, for reasons that are not known, the large railroad and mining companies in Minnesota — the Great Northern, the Northern Pacific, and the United States Steel Corporation — did not lobby for workmen's compensation in 1911 even though they favored it.<sup>33</sup>

Division within the labor movement also militated against legislative action on workmen's compensation in 1911. Organized labor was dilatory in supporting the Mercer-McEwen bill. McEwen worked hard to convince recalcitrant labor leaders that, although the scale of the bill was not as high as they would have liked, it was still preferable to continuing the liability-litigation system. The state federation of labor finally endorsed the bill in March, but the railroad brotherhoods refused to aid in lobbying for its passage. Instead, the brotherhoods successfully concentrated on the passage of an employers' liability bill which raised the amount for which dependents could sue for death by wrongful act from \$5,000 to \$7,500. The railroad unions preferred to bring court action against their employers because juries, reflecting the antirailroad bias of many of their members, treated the injured railroad worker more generously than other workers. The employers' association bitterly opposed the 1911 employers' liability bill because it feared that the \$7,500 maximum would become the maximum of the workmen's compensation bill it expected to be enacted in 1913.<sup>34</sup>

Representatives of the casualty insurance companies operating in Minnesota also opposed the enactment of any compensation law in 1911. From one perspective, the position taken by the stock companies seems illogi-



**LUMBER MILLING** operations (possibly in a Red River Lumber Company mill) about 1915

cal, since they could expect a substantial increase in total premium income under the new system. The greater actuarial certainty of fixed liability would allow insurance companies more flexibility (and higher returns) when investing long-term reserves.

From another point of view, however, the transition to workmen's compensation was fraught with danger to the casualty insurance companies. Fred L. Gray, northwestern area manager for the London Guarantee and Accident Company and the leading insurance broker in the Twin Cities, outlined the problem superbly in 1910 in a letter to Paul J. Watrous, secretary of the Wisconsin Industrial Insurance Commission. Elective workmen's compensation legislation<sup>35</sup> had to be framed to force an overwhelming majority of employers to accept it, Gray said. But if a large number did not elect to take part in the plan, Gray said the result would be chaos. The casualty companies would have great difficulty determining rates accurately for a diverse clientele — some buying workmen's compensation insurance, others taking employers' liability policies. The absolute number in

<sup>33</sup>"Minute Book," December 14, 1908, December 14, 1911; *Labor World*, March 25, p. 1, 6, April 1, 1911, p. 1; Lynn Haines, *The Minnesota Legislature of 1911*, 93 (Minneapolis, 1911); George W. Lawson, *History of Labor in Minnesota*, 181 (St. Paul, 1955).

<sup>34</sup>*Labor World*, March 25, p. 1, May 20, 1911, p. 1; Oliver Crosby to J. A. A. Burnquist, January 31, 1911, in Burnquist Papers; Minnesota, *Laws*, 1911, p. 395.

<sup>35</sup>A compulsory compensation bill was of questionable constitutionality because it denied an injured worker his right to due process (to sue for damages). An elective compensation bill gave an employer a strong inducement to elect to come under workmen's compensation by depriving him of all or most of his common law defenses if he did not accept workmen's compensation. If the laborer decided to refuse to accept workmen's compensation, however, the employer retained all of his common law defenses. See Compensation Commission, *Report*, 1911, p. 163-71, 251-73, 276; Atlantic City Conference, *Report*, 54-216; Gillette, "Comment on the Principal Differences," in *Papers and Proceedings*, 1911, p. 233.

each group would not be large enough accurately to fix rates. An elective law would malfunction in this manner if businessmen thought it too costly. Elective workmen's compensation at a reasonable cost might also cause trouble for the stock companies if the legal club used to force employers to accept it was not strong enough. But no one knew exactly how much of the businessmen's common law armor had to be removed before most employers would elect a compensation system.

In a pamphlet distributed throughout Minnesota in 1911, Fred L. Gray used those same arguments and pointed out an additional danger: If the Mercer-McEwen compensation bill, a compulsory measure whose legality was dubious, was enacted and then declared unconstitutional, insurance companies would have to write new employers' liability policies to replace their useless workmen's compensation contracts. This disruption of the orderly course of selling insurance would put the insurance companies to considerable expense.<sup>36</sup>

Casualty insurance company agents, who worked on a commission basis, had a personal incentive to oppose workmen's compensation even if their home companies endorsed it. Elective as well as compulsory compensation laws coerced employers into accepting a compensatory plan. As a result, for most employers the purchase of workmen's compensation insurance would be necessary and in some states obligatory, except for the very large employers of labor who could safely carry their own risk. Consequently, casualty insurance companies would be under great pressure to keep the cost of a *required* insurance purchase as low as possible. To do this, most companies would write workmen's compensation insurance on a low-rate, high-volume basis.<sup>37</sup> Since agents would not be selling a product whose purchase was op-

tional, logic suggested that commissions on these policies should be reduced. The Travelers Insurance Company referred to this line of thinking when it told agents and managers in a 1910 circular: "There are evident reasons why this form of insurance should command a lower scale of commissions to the agent than liability insurance. This will accord with the purpose of the Company to reduce the cost of distribution of compensation to the lowest possible ratio."<sup>38</sup> Most casualty companies fixed agent commissions on workmen's compensation insurance at 10 per cent, while commissions for other lines of insurance ranged from 10 to 25 per cent. The protests of agents led some companies to set compensation commissions slightly above 10 per cent.<sup>39</sup>

THE STOCK COMPANIES also were apprehensive that the inevitable increase in insurance rates under workmen's compensation would make employers more receptive to proposals for state insurance, give many employers an incentive to form employer mutual insurance companies, and create demands for barring profit-oriented insurance companies from writing these insurance policies.<sup>40</sup> Increases in compensation insurance costs might also lead to state regulation of rates, which would severely limit casualty insurance company profits. Indeed, within a decade after the passage of the first workmen's compensation laws, almost all industrial states regulated the rates, employers formed a large number of very successful mutual companies, and many states established competitive or monopolistic state insurance funds.

McEwen insisted that the excessively high estimates of the cost of workmen's compensation given Gillette by the casualty insurance companies misled him about the expense of the proposed system. This probably was true.

<sup>36</sup>[Gray], *Employers' Liability*, 30-31; Walter G. Cowles to John W. Plaisted, June 14, 1910, Boston Chamber of Commerce Papers, file 332-27-45, in the Harvard Graduate School of Business Administration; Fred L. Gray to Paul J. Watrous, March 30, 1910, in "Opinions on Workmen's Compensation, 1910-1911," in a scrapbook in Wisconsin Legislative Reference Library, Madison.

<sup>37</sup>Gertrude Beekes to P. T. Sherman, January 24, 1912, National Civic Federation Papers, in New York Public Library.

<sup>38</sup>Travelers Insurance Company, "Circular to Managers and Agents," May 18, 1910, National Civic Federation Papers; F. Robertson Jones to Governor George W. Clarke, December 15, 1914, Paul U. Kellogg Papers, Social Welfare History Archives, University of Minnesota.

<sup>39</sup>Minnesota Legislature, Workmen's Compensation Commission, "Minutes of Hearings," February 16, p. 3, February 24, 1920, C. R. Van Campen testimony, p. 5-7, Minnesota Industrial Commission Papers, in Minnesota State Archives.

<sup>40</sup>Federation of Labor, *Proceedings*, 1911, p. 16; *Labor World*, April 8, 1911, p. 6.



OPEN PIT  
mining on the  
Mesabi Range,  
about 1906

For example, in writing and in public appearances Fred Gray repeatedly warned that workmen's compensation would initially be exceedingly expensive to employers.<sup>41</sup> McEwen predicted that, if they could be removed from the influence of the casualty companies, businessmen would co-operate with labor in backing some kind of compensation law. Whether this assertion was correct or not, by 1913, when the Minnesota legislature next met, the experience of states which had passed workmen's compensation laws in 1911 was available to give employers an idea of what the real costs would be. Although varying from one occupation to another, the actual increase in workmen's compensation insurance costs over employers' liability insurance averaged about 300 per cent, significantly less than the potential 400 to 600 per cent increase Gray and Gillette had predicted.<sup>42</sup>

Representative Charles Fowler of Minneapolis, whose law partner, William A. Kerr, represented the casualty companies in hearings before the legislature, led the house-floor opposition to any workmen's compensation act in 1911. The position of the casualty companies coincided with that of the Minnesota Employers' Association and most employers. To win against these opponents, the supporters of the Mercer-McEwen bill needed additional help. Although the Minnesota State Bar Association might have been expected to back the bill, it was inactive in 1911 because its president, James D. Shearer, was chief counsel for the employers' association.<sup>43</sup>

In Wisconsin in 1911 the casualty insurance companies resisted the passage of a compensation law. But the leading employer organization in the state — the Merchants and Manufacturers Association of Milwaukee — advocated passage of such a law, as did the dominant urban-oriented progressive wing of the Wisconsin Republican party. Consequently, the Wisconsin legislature speedily enacted a law that provided generous benefits for injured workers.<sup>44</sup>

In Minnesota in 1911 only a handful of progressive Republicans could be counted in the legislature. And most of them were prohibitionists first and social justice reformers second, if at all. One of the main issues before the 1911 Minnesota legislature was the county option liquor question, which dominated the battle for house speaker between a wet (Howard H. Dunn) backed by the "Brewery Machine" and Joseph A. A. Burnquist, a dry supported by the Anti-Saloon League of Minnesota. Dunn beat out Burnquist. Although well informed about school policy and urban public utility franchises, Burnquist did not have much experience with workmen's compensation. The poorly drawn, superficial bill he introduced in 1911 reflected his unfamiliarity with the nuances of the problem.<sup>45</sup>

Before the 1911 Minnesota senate adjourned it had appointed an interim committee to draft a workmen's

compensation bill for consideration in 1913. The committee began work in October, 1912, but the employers' association seized the initiative by submitting a draft of its own bill and distributing hundreds of copies of it throughout the state. The bill would have covered all industrial workers and all farmers in Minnesota. Justifying the inclusion of agricultural workers under its plan, the association's counsel pointed out that 46 per cent of all accidents involving hired labor in Minnesota occurred on farms. Gillette, re-elected association president, argued that workmen's compensation coverage would help farmers attract agricultural labor, which was currently very scarce.<sup>46</sup> An insurance executive explained the motive of the association as well as anyone: "Once the workmen's compensation system is firmly established, there will arise a movement to increase the benefits paid. There is less chance of a proper handling of the matter if the burdens all fall on the manufacturers and none on the farmers."<sup>47</sup> In short, farmers would act as a restraining force to oppose substantial increases in compensation benefits. The Minnesota Employers' Association understood this. Gillette wrote a circular letter to employers in March, 1913, in which he outlined the organization's position. He reminded employers in rural districts that the best way to increase pressure against any liberal scale increases in the bill reported by the

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<sup>41</sup>*Labor World*, April 1, 1911, p. 1; Gillette, "Employers' Liability," and Gray, "Discussion," both in *Papers and Proceedings*, 1911, p. 175, 192, respectively.

<sup>42</sup>*Labor World*, April 8, 1911, p. 6. Rate figures used in computation from unmarked New York City newspaper clipping, April 4, 1912. John Mitchell Papers.

<sup>43</sup>*Labor World*, April 29, 1911, p. 6; Bar Association, *Proceedings*, 1911, p. 41, 54.

<sup>44</sup>See Robert Asher, "The 1911 Wisconsin Workmen's Compensation Law: A Study in Conservative Labor Reform," in *Wisconsin Magazine of History*, 57:123-40 (Winter, 1973-74). See also Asher, "Workmen's Compensation in the United States, 1880-1935," chapter 11, unpublished doctoral thesis, University of Minnesota, 1971.

<sup>45</sup>*Labor World*, March 25, p. 1, 6, April 22, p. 1, 6, April 29, 1911, p. 1, 6; *Minneapolis Journal*, April 19, 1911, p. 14-16; Haines, *Minnesota Legislature of 1911*, 6, 23, 27, 60-66; Charles B. Cheney, *The Story of Minnesota Politics*, 35-37 (Minneapolis, 1947); Carl H. Christlock, *The Progressive Era in Minnesota, 1899-1918*, 31-32 (St. Paul, 1972); Burnquist correspondence for January, February, and March, 1911, and copy of Minnesota Progressive Republican League, *Platform of Principles*, January 4, 1911, all in Burnquist Papers: Minnesota Legislature, Thirty-seventh session, 1911, House File 536; *House Journal*, 1911, p. 769, 1163.

<sup>46</sup>Employers' Association, *Draft of Workman's Compensation Bill*, (Minneapolis, 1912), copy in "Minute Book," following December 12, 1912, entry; also reprinted in Bar Association, *Proceedings*, 1912, p. 353-66; *Minneapolis Journal*, October 18, 1912, p. 15; Don D. Leschier, "Work-Accidents and the Farm Hand," in *Survey*, October 7, 1911, p. 38.

<sup>47</sup>Frank E. Law, *Workmen's Compensation for Accidents*, 5 (New York, 1912).

interim committee was to emphasize to their legislators that, even if farmers were exempt, the law's scale would be taken as the basis for verdicts against farmers in suits brought by injured agricultural workers.<sup>48</sup> The senate interim committee exempted farmers from workmen's compensation because it understood that the legislature would pass no bill that included husbandmen. As one legislator aciduously remarked: "There are 1,800 good reasons in my district why they should be excepted. If I voted to include farm industries in the act, I'd hear all those reasons at once on election day."<sup>49</sup>

The employers' association bill provided 300 weeks' death compensation on a sliding scale, varying with the number of dependents left by the deceased, up to a maximum of 60 per cent of weekly wages, subject to a minimum of \$5.00 and a maximum of \$10.00 per week. Compensation for temporary disability was 50 per cent for 300 weeks, subject to the same weekly limits as death compensation. Permanent total disability brought 400 weeks' compensation at 50 per cent of wages with the same limits as temporary disability. Medical benefits for the first two weeks following injury, subject to a limit of \$100, were to be provided by employers. The association also insisted that employers be allowed to require workers to contribute up to 20 per cent of the cost of workmen's compensation insurance.<sup>50</sup>

Although this scale was more liberal than that in the

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<sup>48</sup> Entry dated March 1, 1913, copy of letter from Gillette to Minnesota employers, March 14, 1913, copy of Senate Committee, *Workmen's Compensation Law*, January 21, 1913, section 8, p. 11, all in "Minute Book."

<sup>49</sup> *St. Paul Pioneer Press*, January 15, 1913, p. 12.

<sup>50</sup> "Draft of Workman's Compensation Bill," reprinted in Bar Association, *Proceedings*, 353-66.

<sup>51</sup> *St. Paul Pioneer Press*, November 5, 1912, p. 10, January 15, 1913, p. 12; *Minnesota Union Advocate*, February 21, 1913, p. 1.

<sup>52</sup> Don D. Lescoghier to James D. Shearer, December 16, 1912, Minnesota Industrial Commission Insurance Correspondence.

<sup>53</sup> *St. Paul Pioneer Press*, January 15, 1913, p. 12 (quote); Minnesota State Conference of Charities and Correction, *Proceedings*, 1912, p. 56; *Minneapolis Journal*, October 18, 1912, p. 15.

<sup>54</sup> M. P. Batterlie to W. I. Nolan, February 22, 1913, in William Ignatius Nolan Papers, in the Minnesota Historical Society; *Mississippi Valley Lumberman*, February 14, p. 29, April 18, 1913, p. 30, 31.

<sup>55</sup> There are more than a dozen letters from employers in the Nolan Papers on workmen's compensation, most of which followed the employers' association suggestions for writing to their state legislators.

<sup>56</sup> Minnesota Railroad Brotherhoods, State Legislative Board, *Biennial Report*, 1913, p. 21, 23; *Labor World*, April 19, 1913, p. 1; *Labor Review*, March 14, p. 1, April 11, 1913, p. 1.

<sup>57</sup> *Minneapolis Journal*, March 10, 1913, p. 11; *Labor World*, February 22, 1913, p. 6; Federation of Labor, *Proceedings*, 1913, p. 68.

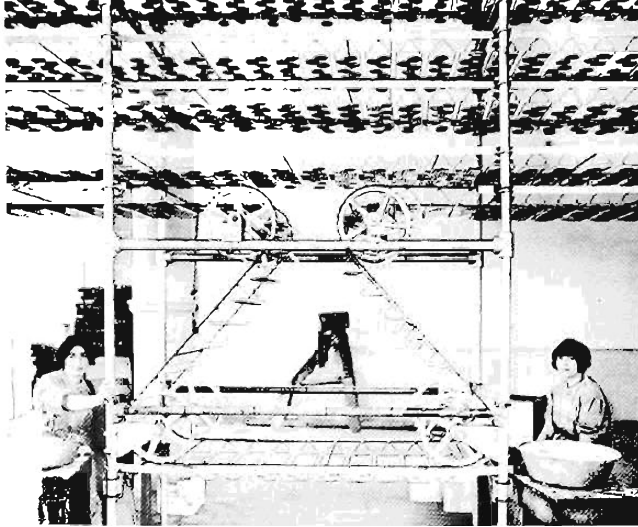
bill Gillette had presented in 1911, the Minnesota State Federation of Labor thought it too low. It asked for a \$15.00 weekly maximum, a \$7.00 weekly minimum, and compensation for death and all disability to last 333 weeks. The St. Paul Trades and Labor Assembly wanted an \$8.00 weekly minimum and a \$12.00 weekly maximum, with 400 weeks' compensation for disability and death.<sup>51</sup> Don D. Lescoghier, the special statistician hired by the Minnesota Bureau of Labor, Industries and Commerce to study industrial accidents in Minnesota, urged the interim committee to accept a basic 60 per cent scale. He pointed out that the insurance costs of the 10 per cent increase would "make no real difference" to employers, but the higher amount "would give the workers much better protection."<sup>52</sup> However, the senate committee accepted without change the association's scale and the provision for employee contribution, transferring the battle over money to the legislature as a whole.

Finally, the employers' compensation bill made no provision for state insurance. "Above all we favor state insurance," McEwen told the interim committee. The latter rejected state insurance without much consideration. It was deemed too radical.<sup>53</sup>

BY 1913 MOST of the Minnesota employers who made their views public on workmen's compensation supported the general outlines of the bill reported by the interim committee, albeit with some fear and trembling. "We have assented to the 'Employers' Bill' as the least objectionable, and a necessary evil to be endured," wrote a paper-box manufacturer in a letter to Representative William I. Nolan of Minneapolis.<sup>54</sup> In keeping with advice contained in a circular letter from the association on March 1, 1913, employers throughout Minnesota protested to their legislative representatives against elimination of farm labor and domestic servants from compensation and against other changes in the bill reported by the interim committee.<sup>55</sup>

After representatives of organized labor read the committee's bill, cries of indignation came from all sections of the labor movement. Although workers on intrastate railroads had been exempted from the compensation act, the railroad brotherhoods opposed the bill because they feared that its scale, with maximums of \$3,000 and \$4,000, would reduce their chances of obtaining large court verdicts.<sup>56</sup> The brotherhoods fought the compensation bill to the end but were unsuccessful because they were exempt and therefore were not considered directly interested parties by the legislators.

The federation of labor asked the legislature for scale increases to a \$15.00 weekly maximum and 333 weeks' death compensation. Nevertheless, the federation was willing to back the compensation bill even if the scale were not raised.<sup>57</sup> But it could not control the Min-



ICING CAKES at the Sanitary Food Manufacturing Company, located on University Avenue and Fairview in St. Paul, about 1917

neapolis Trades and Labor Assembly. At a joint meeting with the two Twin Cities locals of the International Association of Machinists, whose membership included many railroad shop machinists who shared the railroad brotherhoods' dislike of workmen's compensation, the assembly resolved to oppose the entire bill. In the opinion of the machinists and the assembly the scale of the act was too low to justify abandoning the right of injured workers to sue.<sup>58</sup> In addition, both the railroad brotherhoods and the machinists were reluctant to enter any workmen's compensation plan involving the casualty insurance companies. These groups indicated they would accept the bill, however, if state insurance replaced private insurance of compensation liability.<sup>59</sup>

Progressivism reached its peak throughout the nation in 1912. The two leading presidential candidates, Woodrow Wilson and Theodore Roosevelt, both presented themselves as reformers and confronted the fundamental issues of industrial society more directly than any major party presidential candidates have done since. In many states the voters elected large numbers of state legislators dedicated to social reform. When these reformers took their seats in their respective legislatures in 1913, joining previously elected progressives, the floodgates holding back reform were opened and a torrent of corrective laws poured forth. Legislatures which enacted workmen's compensation laws in 1911 added significant, often fundamental, improvements in 1913. Four states had passed such laws in 1912, and seven more states broke into the ranks in 1913.<sup>60</sup>

The fact that fifteen states, including the two industrial states closest to Minnesota—Wisconsin and Illinois—already had workmen's compensation, combined with the expectation that many other states would pass similar laws in 1913, all but eliminated the argument that the Minnesota legislature would handicap its state's manufacturers by approving such a relief system. But the legislature could not be expected to enact a law with

substantially greater benefits than provided by the laws of other states. In fact, the basic scale of the employers' association's bill had been taken from the 1911 New Jersey law, the lowest of any state with a significant amount of industrial activity.

THE MINNESOTA SENATE labor committee of 1913, which handled the bill reported by the interim committee, was much more sympathetic to the views of the federation of labor than the 1911 committee had been. The 1913 committee reported a vastly improved workmen's compensation bill to the senate floor. Employee contributions were eliminated, and the minimum weekly benefit was increased from \$5.00 to \$6.00. After amendments were decisively defeated to increase the maximum medical benefit from \$100 to \$200 and to raise the weekly minimum from \$6.00 to \$7.00, the senate unanimously approved the bill.<sup>61</sup>

Debate on the proposal in the house of representatives was fast and furious. Its proponents were aided by the failure of the 1911 speaker, Howard H. Dunn, an opponent of workmen's compensation, to gain reelection as speaker in 1913. Ernest Lundeen, the leading social progressive in the legislature, wanted to substitute the superior workmen's compensation law passed in Wisconsin in 1911 for the senate-approved bill. Regular organization Republicans attacked Lundeen's proposal, charging that he was a "humbugger," an enemy of the workingman, and only out to make political capital. By threatening a filibuster, Lundeen forced a compromise: The house agreed to increase the medical benefit maximum to \$195 and to allow workers who were incapacitated for thirty days or longer to receive compensation from the first day of injury instead of from the start of the third week of inability to work.<sup>62</sup>

<sup>58</sup>Trades and Labor Assembly of Minneapolis and Hennepin County, *Resolution Adopted by the Assembly*, March 4, 1913, copy in Nolan Papers.

<sup>59</sup>*Labor Review*, March 14, 1913, p. 1, 8; *Labor World*, March 15, 1913, p. 1; *Minnesota Union Advocate*, March 14, 1913, p. 1.

<sup>60</sup>Wisconsin, Ohio, California, and Illinois made important improvements in their compensation laws during the 1913 legislative sessions. Arizona, Maryland, Michigan, and Rhode Island enacted workmen's compensation laws in 1912. In 1913, Oregon, Texas, West Virginia, Iowa, Connecticut, Nebraska, Michigan, and Maryland—as well as Minnesota—passed compensation laws. See *American Labor Legislation Review*, October, 1911, p. 97, 104–05, 3:378–95 (October, 1913).

<sup>61</sup>Senate Committee, *Workmen's Compensation Bill*, 15; Minnesota, *Senate Journal*, 1913, p. 1157–61, 1649–53.

<sup>62</sup>*St. Paul Pioneer Press*, April 12, 1913, p. 1; *House Journal*, 1913, p. 1624–28. Employers opposed the Lundeen bill and endorsed the interim senate committee's bill. See E. R. Beeman, February 13, 1913, E. C. Bisbee, February 14, 1913, R. Jones, February 14, 1913, all to W. I. Nolan, in Nolan Papers.

Since the house and the senate had approved different versions of the act, a conference committee had to be appointed. Bargaining in the committee led to an exchange favoring the senate version. The house dropped its alteration of the two-week waiting period, and the senate agreed to allow medical benefits over \$100, but not more than \$200, if the court in which the injured worker's case was being administered approved the extra amount. Both houses then passed the conference bill.<sup>63</sup>

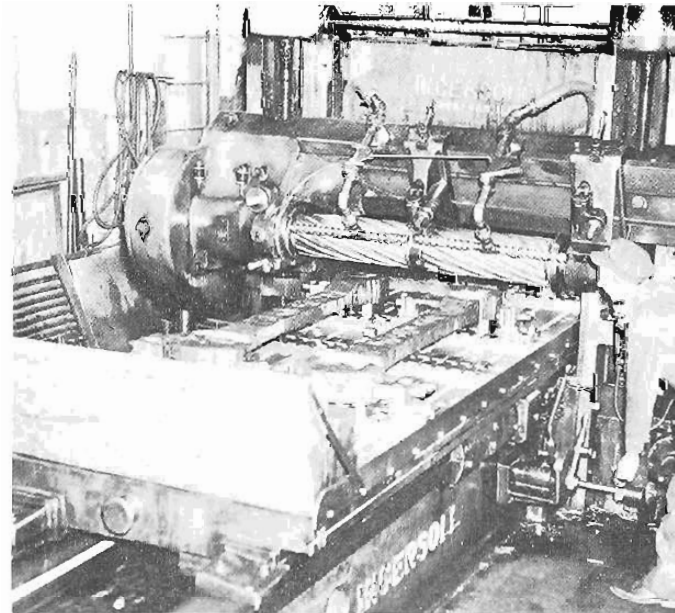
Voting in the house on two amendments to the compensation bill, one a defeated attempt to increase the weekly maximum from \$10.00 to \$15.00, the other the adopted liberalization of the two-week waiting period, did not follow party lines.<sup>64</sup> Proportionately greater support for liberal treatment of injured industrial workers came from legislators with urban constituencies. Two-thirds of the representatives from the Twin Cities and Duluth areas backed the waiting period amendment, while a little more than half of the legislators outside these major urban areas voted for the change. The breakdown of the roll call on the more expensive amendment to raise the weekly maximum shows an even more pronounced tendency in the same direction. Of the representatives from the Twin Cities and Duluth, 47 per cent backed the increase while only 28 per cent of the other legislators concurred. Workers in the Mesabi Range area must have been angered by the position taken by the six legislators from the three districts that included Duluth and the iron-mining region. Only one of six voted for the more costly amendment. Only three voted for the waiting period extension, while two abstained.<sup>65</sup>

Minnesota's 1913 compensation law — on a par with the weakest state compensation statutes in the United

States — was a compromise measure reflecting the views of both labor and capital as mediated by the legislature. The lawmakers favored the Minnesota State Federation of Labor's position and ignored the Minnesota Employers' Association's desires on two issues: Employee contributions to the cost of compensation insurance were eliminated, and the medical benefit maximum was doubled. On the other hand, the basic scale of the 1913 law was identical with the scale suggested by the employers' association with one minor exception: The weekly compensation maximum was \$6.00 instead of \$5.00. The labor federation lost out in its attempt to raise the basic scale, and its constitutional amendment to legalize state insurance died in committee.

Workmen's compensation was a consensus reform. It was not passed over the opposition of employers. But Minnesota employers lobbied assiduously, especially through the employers' association, to minimize the cost of the system they endorsed as a vehicle for reducing waste and removing a major source of antagonism between workers and employers. Reform was necessary, but it had to be cheap. There were not enough industrial workers in Minnesota to generate the strong political pressure necessary to obtain either a liberal scale of compensation benefits or state insurance.<sup>66</sup> Consequently, the Minnesota legislature enacted a parsimonious workmen's compensation law in 1913 and did not seriously consider state insurance until 1919, when the labor movement gained new support from an alliance with the disgruntled farmers of the Nonpartisan League.<sup>67</sup>

NORTHERN PACIFIC car shops at Brainerd



<sup>63</sup>*Senate Journal*, 1913, p. 1649-53; *Laws*, 1913, p. 675-94.

<sup>64</sup>The Democratic party was a small minority party in Minnesota at this time.

<sup>65</sup>Computations based on Minnesota, *Legislative Manual*, 1913, p. 146, and *House Journal*, 1913, p. 1624, 1628.

<sup>66</sup>Minnesota ranked twenty-seventh among the states in the percentage of its population engaged in manufacturing. This figure was calculated by the author from statistics in *United States Census*, 1910, *Manufactures*, vol. 9.

<sup>67</sup>For the story of organized labor's attempts to secure improvements in the Minnesota compensation law after 1913, see Robert Asher, "Radicalism and Reform: Workmen's Compensation in Minnesota, 1910-1933 in *Labor History*, 14:19-41 (Winter, 1973).

THE PHOTOGRAPH of open-pit mining on page 149 is published through the courtesy of the Library of Congress. The portrait of Hugh V. Mercer on page 145 is from *Men of Minnesota*, 139 (St. Paul, 1902) and that of William E. McEwen, from *Men of Minnesota*, 106 (St. Paul, 1915). All other photographs are from the society's collection.



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