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Workmen's Compensation -- Unusual Exertion Test for Heart Cases

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to the voters' choice. With the addition of the kind of picture described above to the mailing, will relevance or flammability weigh heavier in the Board's decision? It is true that a vital legal system demands judicial consideration of many subtleties of human experience, yet the nature of the hidden springs of political conduct in cases like these may strain the capacity of any judicial or quasi-judicial body.

The writer believes that despite the problems this case raises, the Board has sounded a healthy note for national policy. It has set a standard, rough-hewn though it may be.

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WORKMEN'S COMPENSATION—UNUSUAL EXERTION TEST FOR HEART CASES

The claimant, while engaged in his usual employment activities of lifting, carrying and stacking cases of whiskey on a truck, suffered a coronary occlusion. The deputy commissioner's order, which was affirmed on appeal to the Florida Industrial Commission, granted compensation on the ground that the claimant's injury was causally contributed to by his employment. On certiorari to the Florida Supreme Court, *held*, reversed: a heart attack suffered by an employee while at his usual work is not a compensable injury under the Florida Workmen's Compensation Law. In heart cases, when the duties incident to the employment precipitate a disabling heart attack, the injury is compensable only if the employee was at the time subject to unusual strain or overexertion not routine to the type of work he was accustomed to performing. *Victor Wine & Liquor, Inc. v. Beasley*, 141 So.2d 581 (Fla. 1962).

Under the Florida Workmen's Compensation Law, an injury is compensable if it occurs by accident and arises out of and in the course of the employment.[1] As early as 1903, judicial construction was given to the term "accident."[2] The definition provided was "an unlooked-for mishap or an untoward event which is not expected or designed."[3] This interpretation of the English Workmen's Compensation Law, upon which the Florida statute is based,[4] has been favorably considered since its rendition in both England and the United States.[5]

The Florida Supreme Court saw fit to further define the term by requiring the injury to *follow* an unexpected or unusual event.[6] This

1. FLA. STAT. § 440.02(6) (1961).

2. Fenton v. Thorley & Co., [1903] A.C. 443.

3. *Id.* at 448.

4. Brown, *Preface* to FLORIDA INDUSTRIAL COMM'N, THE WORKMEN'S COMPENSATION LAW at v (1961).

5. Clover, Clayton & Co. v. Hughes, [1910] A.C. 242; 1 LARSON, WORKMEN'S COMPENSATION LAW § 37.00 (1952).

6. McNeill v. Thompson, 53 So.2d 868 (Fla. 1951); LeViness v. Mauer, 53 So.2d 113

pronouncement in itself was somewhat surprising considering the court's well reasoned earlier opinion in which it was indicated that there was no requirement of a fortuitous event under the concept of "injury by accident."[7] "Injury by accident" had previously been thought of in its popular and intended sense of simply, accidental injury.[8] However, the court recognized the difficulties involved in requiring a literal showing of an accident such as a slip, fall or misstep[9] and in the famous *Bonnie Gray* case[10] held the accident requirement to be satisfied if there was an unexpected *result* even though there was no unexpected *cause*.[11] Recognizing the wisdom of the court's construction, the Legislature, then in session, amended the "accident" provision of the Florida Workmen's Compensation Law so as to read "unexpected or unusual event *or result* . . . ."[12]

It has been said that because of the liberal position maintained in requiring only an unusual result, the Workmen's Compensation Law may very easily become a health insurance program.[13] This contention, of course, overlooks the basic fact that before the claimant will be entitled to compensation, he must sustain his burden of proving causal connection between the work in which he was involved and the injury.[14] Therefore, once the unusual event is evident, *i.e.*, the injury, the essential question is whether the work in which the claimant was engaged did in fact, cause or contribute to the injury.[15]

The Workmen's Compensation Law does not prescribe any standard of health for the claimant, which simply means that the employer takes the employee as he finds him.[16] The Florida statute specifically provides

(Fla. 1951); Brooks-Scanlon, Inc. v. Lee, 44 So.2d 650 (Fla. 1950); Meehan v. Crowder, 158 Fla. 361, 28 So.2d 435 (1946); Cleary Bros. Constr. Co. v. Nobles, 156 Fla. 408, 23 So.2d 525 (1945); Travelers Ins. Co. v. Shepard, 155 Fla. 576, 20 So.2d 903 (1945).

7. Duff Hotel Co. v. Ficara, 150 Fla. 442, 7 So.2d 790 (1942).

8. General Properties Co. v. Greening, 154 Fla. 814, 18 So.2d 908 (1944); Clover, Clayton & Co. v. Hughes, [1910] A.C. 242.

9. "The attempted distinction between accidental results and accidental means will plunge this branch of the law into a Serbonian Bog." Landress v. Phoenix Mut. Life Ins. Co., 291 U.S. 491, 499 (1934) (dissenting opinion by Justice Cardozo).

10. Gray v. Employers Mut. Liab. Ins. Co., 64 So.2d 650 (Fla. 1952).

11. "It is enough, then, if there is an unexpected *result*, even though there was no unexpected *cause*, such as a slip, fall or misstep, in order to constitute an 'accident' within the meaning of the Workmen's Compensation Law . . . ." *Id.* at 651.

12. FLA. STAT. § 440.02(19) (1961) (amended portion emphasized).

13. General Properties Co. v. Greening, 154 Fla. 814, 18 So.2d 908 (1944); Firestone Tire & Rubber Co. v. Hudson, 112 So.2d 29 (Fla. App. 1959).

14. Arkin Constr. Co. v. Simpkins, 99 So.2d 557 (Fla. 1957).

15. Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 141 A.2d 761 (1958); Purity Biscuit Co. v. Industrial Comm'n, 201 P.2d 961 (Utah 1949); 1 LARSON, WORKMEN'S COMPENSATION LAW § 7.40 (1952).

16. Southern Shipping Co. v. Lawson, 5 F. Supp. 321 (S.D. Fla. 1933); Andrews v. C.B.S. Div., Maule Ind., 118 So.2d 206 (Fla. 1960); Borden's Dairy v. Zanders, 42 So.2d 539 (Fla. 1949); Star Fruit Co. v. Canady, 159 Fla. 488, 32 So.2d 2 (1947); Davis v. Artley Constr. Co., 154 Fla. 481, 18 So.2d 255 (1944); Allen v. Maxwell Co., 152 Fla. 340, 11 So.2d 572 (1943); 1 LARSON, WORKMEN'S COMPENSATION LAW § 12.20 (1952).

for compensation where "a pre-existing disease is accelerated or aggravated by accident arising out of and in the course of the employment . . . ."[17] However, in cases involving the employee's diseased condition, the Florida Supreme Court has asserted that the claimant must clearly show that the work contributed to the injury, beyond that of merely establishing a logical cause as is the procedure in cases involving other than pre-existing diseases.[18] This extra weight added to the existing burden is to overcome the inference that the injury was caused by the natural progression of the disease.[19] Noting that heart injuries[20] are compensable in Florida,[21] the inference of natural causation in these

17. FLA. STAT. § 440.02(19) (1961).

18. In cases involving external occurrences "where an injury is conclusively shown and logical cause for it is proven as arising out of claimant's employment a presumption arises of causal connection and the burden shifts to the one who seeks to defeat recovery to establish proof that another cause is more logical and consonant with reason." However, "in cases involving diseases or physical defects of an employee as distinguished from external occurrence to an employee such as an automobile accident claimant must prove a causal connection other than by merely showing that it is logical that the injury arose out of claimant's employment . . . ." Harris v. Josephs of Greater Miami, Inc., 122 So.2d 561, 562 (Fla. 1960).

19. Allen v. Maxwell Co., 152 Fla. 340, 11 So.2d 572 (1943); Lohndorf v. Peper Bros. Paint Co., 134 N.J.L. 156, 46 A.2d 439 (1946); 99 C.J.S. *Workmen's Compensation* § 184 (1958).

20. Heart injuries are of various types and may result from one or more of several recognized conditions. The usual etiology includes the following diseases: 1) congenital; 2) rheumatic; 3) syphilitic; 4) hypertensive and; 5) arteriosclerotic. Of course, traumatic lesions resulting from penetrating or nonpenetrating injuries must also be included as a cause of cardiac disease. The common pathological manifestations vary according to the particular etiology. The following is an indication of the more common manifestations and is by no means intended to be an exhaustive treatment of the subject: 1) congenital—"rupture of a congenital aneurysm of an aortic sinus (congenital developmental weakness of root of the aorta)"; 2) rheumatic—"enlargement of the heart, interference with the normal heart rhythm and rate, failure of the heart muscle with congestion of body tissue, and clot formation of the heart due to blood flow stagnation with periodic breaking off of clots which block important vessels in the lungs, the brain, or other vital organs (thrombus and embolism)"; 3) syphilitic—"deformity of aortic valve (valve between the left ventricular chamber and the aorta or large systemic vessel leading from the heart) and the basic lesion in the blood vessel causes weakening of the vessel wall with aneurysm formation (ballooning)"; 4) hypertensive—"changes in the wall of the small arterioles (small terminal branches of arteries) which produce an increased resistance to peripheral blood flow, resulting in an increase in blood pressure and workload on the heart—failure of the left ventricle is often the terminal event"; 5) arteriosclerotic—"reduction in the flow of blood through the coronary vessel because of a narrowed canal in the artery and a decrease of blood supply carrying oxygen and other nutrients to the heart muscle . . . ." Myocardial infarction (death of heart tissue) often results from the coronary occlusion. Mattingly, *Pathogenesis of Heart Disease*, 192 DEP'T LABOR BULL. 108-119 (1956).

21. Hampton v. Owens-Illinois Glass Co., 140 So.2d 868 (Fla. 1962); Standard Oil Co. v. Gay, 118 So.2d 212 (Fla. 1960); Crawford v. Sunlight Tile & Terazzo Co., No. 2-1138, FIC, Jan. 30, 1962; Reiser v. Friendly Frost Appliances, No. 2-1142, FIC, Jan. 29, 1962; Padgett v. City of Moore Haven, No. 2-1077, FIC, June 20, 1961; Talley v. Jaquette Motor Co., No. 2-1027, FIC, Dec. 29, 1960, *rev'd on other grounds*, 134 So.2d 238 (Fla. 1961); Barlow v. Harbor Island Spa, No. 2-977, FIC, Aug. 11, 1960; Paige v. Hallowell & Clark, 3 FCR 329 (1958); Waters v. Giebeig Constr. Co., 3 FCR 307 (1958); Rothschild v. Margolin & Hummel, 3 FCR 134 (1958); Barton v. City of Panama City, 3 FCR 62 (1957); Nero v. Artex Corp., 3 FCR 40 (1957); Spiers v. Sun Crab Co., 2 FCR 96 (1956); Maddix v. Florida Bd. of Forestry, 1 FCR 374 (1956); Pinney v. C. P. Pinney Auto

cases becomes particularly acute. This situation reflects the underlying reluctance of courts to allow compensation for injuries involved in heart cases because of the great incidence of heart attacks among the general populace.[22] Of course, accidents of any kind are not the exclusive province of industry and ultimately, the necessary prerequisite to compensation is causal connection.

There is not much contention with the position that exertion will rarely cause heart disease or precipitate an injury of a healthy heart.[23] There is, however, widespread disagreement among medical authorities as to whether exertion alone could aggravate a diseased condition so as to precipitate a heart injury.[24] As previously indicated,[25] however, when speaking of heart injuries, it is necessary to recognize the generic nature of the term. Medical science is cognizant of various cardiac and arterial diseases and can, with some degree of certainty, indicate not only the initial etiology of these conditions but also, disclose many situations which may play an important role in the aggravation or acceleration of the disease so as to precipitate an injury.[26] There is an interesting point to note in this respect. So common is the knowledge that any strenuous activity is dangerous to one afflicted with a serious heart condition, that judicial notice has been taken of the fact.[27]

In the instant case, the court carefully reiterated its position that a literal slip, fall or misstep is not a condition precedent to obtaining workmen's compensation in any type case, including heart cases. This pronouncement is clearly the unusual result doctrine that was first seen

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Paint & Body Shop, 1 FCR 164 (1955). *Compensation denied for failure to prove causal connection*: Kashin v. Food Fair, Inc., 97 So.2d 609 (Fla. 1957); Williamson v. Roy L. Willard, Inc., 59 So.2d 855 (Fla. 1952); Covell v. Burgess, 115 So.2d 177 (Fla. App. 1959); Minute Maid Corp. v. Florida Industrial Comm'n, 104 So.2d 104 (Fla. App. 1958); Barash v. Thrifty Super Mkt., 97 So.2d 154 (Fla. App. 1957); Corbin v. Florida State Road Dep't, No. 2-1152, FIC, March 2, 1962; Carter v. Pinellas Machine Co., No. 2-1064, FIC, May 9, 1961; Scalzo v. Kasdin Drugs, Inc., No. 2-1002, FIC, Nov. 8, 1960; Kilgore v. Crum & Calvin, 3 FCR 208 (1958); Ussery v. 244 N. Bay Shore Drive, Inc., 3 FCR 211 (1958); Giles v. Bonded Distribution & Storage Co., 3 FCR 8 (1957); Ettinger v. DiLido Hotel, 2 FCR 399 (1957); Parker v. E. E. Bravo, 2 FCR 397 (1957); Turner v. Sportsmen's Village, 2 FCR 396 (1957); McWhite v. Moeller's Home Bakery, 2 FCR 338 (1957); Sullivan v. Duval County Prison Farm, 2 FCR 317 (1957); Berger v. Red Top Super Markets, Inc., 1 FCR 45 (1954).

22. 192 DEP'T LABOR BULL. 86 (1956).

23. *Ibid.*

24. Dwyer v. Ford Motor Co., 36 N.J. 487, 178 A.2d 161 (1962); LAW-MEDICINE CENTER, WESTERN RESERVE UNIVERSITY, THE HEART: A LAW-MEDICINE PROBLEM 291 (1958).

25. *Supra* note 20.

26. Rothschild v. Margolin & Hummel, 3 FCR 134 (1958); MORITZ, THE PATHOLOGY OF TRAUMA 149-153 (1954). See discussion by Col. Thomas W. Mattingly, Chief of Cardiac Division, Walter Reed Hospital, concerning pathogenesis of heart disease, 192 DEP'T LABOR BULL. 108 (1956).

27. Southern Stevedoring Co. v. Henderson, 175 F.2d 863 (5th Cir. 1949); Gunning v. Mead Corp., 143 F. Supp. 35 (E.D. Tenn. 1956); Dwyer v. Ford Motor Co., 36 N.J. 487, 178 A.2d 161 (1962); Patterson Transfer Co. v. Lewis, 195 Tenn. 474, 260 S.W.2d 182 (1953).

in the *Bonnie Gray* case[28] and which is now part of the Workmen's Compensation Statute.[29] The court also went on to indicate that "an internal failure, such as a strained muscle, ruptured disc, 'snapped' knee-cap, and the like, brought about by exertion in the performance of the regular or usual duties of the employment, may be found to be an injury 'by accident' . . . ."[30] The logical inference would seem to be that if causal connection can be shown between the unusual result and the regular or usual duties of the employment, the injury is compensable without requiring anything unusual as far as preceding events are concerned.[31] However, notwithstanding this seemingly inevitable conclusion, an exertion unusual to the injured claimant's employment was established as a necessary element of "injury by accident" in heart cases.[32]

We now have a situation in which the injured claimant is not only required to maintain a heavier burden of proof of causal connection[33] but also has the previously mitigated criterion of unusual cause imposed upon him. The dissenting opinion, although joining with the majority on rehearing, raised the salient objection to the practice of affording heart cases special treatment[34] and asserted that if causal connection could be shown, the injury should be compensable.[35] It has been noted that decisions in heart cases and those in others, such as "breakage" or "internal failure" cases are irreconcilable.[36] Most courts, including the

28. *Supra* note 10.

29. *Supra* note 12.

30. Victor Wine & Liquor, Inc. v. Beasley, 141 So.2d 581, 588 (Fla. 1962).

31. Under the category of cases denying compensation for routine exertion injuries, Professor Larson, in his treatise, lists Florida and cites Brooks-Scanlon, Inc. v. Lee, 44 So.2d 650 (Fla. 1950) and Cleary Bros. Constr. Co. v. Nobles, 156 Fla. 408, 23 So.2d 525 (1945). 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.30 n. 19 (1952). It is interesting to note the author's comment in a later edition in which Florida is now listed under the category of cases granting compensation for routine exertion injuries. The author cites Standard Oil Co. v. Gay, 118 So.2d 212 (Fla. 1960) and states "the case confirms the abandonment of the unusual exertion requirement in Florida." 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.30 n. 19 (Supp. 1961 at 204-205).

32. "When disabling heart attacks are involved and where such heart conditions are precipitated by work-connected exertion affecting a pre-existing non-disabling heart disease, said injuries are compensable only if the employee was at the time subject to unusual strain or over-exertion not routine to the type of work he was accustomed to performing." Victor Wine & Liquor, Inc. v. Beasley, 141 So.2d 581, 588, 589 (Fla. 1962).

Compare Standard Oil Co. v. Gay, 118 So.2d 212 (Fla. 1960), which decision the court distinguished on the highly questionable ground that in the earlier case, there was no testimony to contradict the competent and substantial evidence offered by the claimant. Why a decision based upon uncontroverted facts should be afforded less weight on the legal issues involved than a decision based upon conflicting testimony, is a question obviously raised but left unanswered by the court's treatment of *Standard* in the instant case. Victor Wine & Liquor, Inc. v. Beasley, *supra* at 583.

33. *Supra* note 18.

34. "It was written: 'In the sweat of thy brow,' but it was never written: 'In the breaking of thy heart.'" John Ruskin.

35. Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 141 A.2d 761 (1958); 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.80 (1952); Clark, *Workmen's Compensation Law*, 20 NACCA L.J. 32, 40 (1957).

36. 192 DEP'T LABOR BULL. 86 (1956); 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.10 (1952).

Florida Supreme Court,[37] would allow compensation in cases where the exertion usual to the claimant's employment leads to a specific "breaking."[38] A study of the decisions reveal that the courts are more amenable to find an "injury by accident" in such cases simply because the question of causal connection can be more definitively determined.[39] However, requiring an unusual exertion in heart cases does nothing to ameliorate the difficult question of causation,[40] and the majority of jurisdictions have recognized this fact.[41]

Even if there were legislative support for making a distinction between those cases which involve a structural change such as a breakage, and those which do not, it should be recognized that the most frequently encountered type of heart failure is that of coronary thrombosis. In cases of this type the injury results from a sudden and mechanical plugging-up action of a blood clot which produces a structural change that can be observed.[42] Therefore, to place heart cases in an imaginary and singular category has sanction neither in law nor in logic.

Another problem inherent in the instant decision is the difficulty, and ofttimes inequitable result, in determining what is unusual or over-

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37. *Supra* note 30 and accompanying text.

38. 192 DEP'T LABOR BULL. 86 (1956); 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.20 (1952).

39. Purity Biscuit Co. v. Industrial Comm'n, 201 P.2d 961 (Utah 1949); 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.83 (1952).

40. 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.83 (1952).

41. Southern Stevedoring Co. v. Henderson, 175 F.2d 863 (5th Cir. 1949); Harbor Marine Contracting Co. v. Lowe, 61 F. Supp. 964 (S.D.N.Y.), *aff'd*, 152 F.2d 845 (2d Cir. 1945); Liberty Mut. Ins. Co. v. Donovan, 124 F. Supp. 320 (D.D.C. 1954); Southern Shipping Co. v. Lawson, 5 F. Supp. 321 (S.D. Fla. 1933); Phelps Dodge Corp. v. Cabarga, 79 Ariz. 148, 285 P.2d 605 (1955); Lumbermen's Mut. Cas. Co. v. Industrial Acc. Comm'n, 175 P.2d 823 (Cal. 1946); United States Fid. & Guar. Co. v. Industrial Comm'n 96 Colo. 571, 45 P.2d 895 (1935); Jones v. Town of Hamden, 129 Conn. 532, 29 A.2d 772 (1942); *In re* Larson, 48 Idaho 136, 279 Pac. 1087 (1929); Town of Cicero v. Industrial Comm'n, 404 Ill. 487, 89 N.E.2d 354 (1949); Slaubaugh v. Vore, 110 N.E.2d 299 (Ind. App. 1953); Littell v. Lagomarcino Grupe Co., 17 N.W.2d 120 (Iowa 1945); Hill v. Etchen Motor Co., 143 Kan. 655, 56 P.2d 103 (1936); Taylor's Case, 127 Me. 207, 142 Atl. 730 (1928); Brzozowski's Case, 328 Mass. 113, 102 N.E.2d 399 (1951); Mottonen v. Calumet & Hecla, Inc., 360 Mich. 659, 105 N.W.2d 33 (1960); Schilling v. Mississippi State Forestry Comm'n, 226 Miss. 858, 85 So.2d 562 (1956); Rathbun v. Taber Tank Lines, Inc., 129 Mont. 121, 283 P.2d 966 (1955); Guay v. Brown Co., 83 N.H. 392, 142 Atl. 697 (1928); Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 141 A.2d 761 (1958); Sanchez v. Board of County Comm'rs, 63 N.M. 85, 313 P.2d 1055 (1957); Goodman v. Egelhofer, 11 App. Div. 2d 832, 202 N.Y.S.2d 842 (1960); Clarksburg Paper Co. v. Roper, 196 Okla. 594, 166 P.2d 425 (1946); Patterson Transfer Co. v. Lewis, 195 Tenn. 474, 260 S.W.2d 182 (1953); Southern Underwriters v. Hoopes, 120 S.W.2d 924 (Tex. Civ. App. 1938).

In the following cases compensation was granted for death caused by heart attack resulting from exertion which was *lighter* than usual: Lumbermen's Mut. Cas. Co. v. Kitchens, 81 Ga. App. 470, 59 S.E.2d 270 (1950); Wright v. Louisiana Ice & Util. Co., 14 La. App. 621, 129 So. 436 (1930).

42. Spiers v. Sun Crab Co., 2 FCR 96 (1956); 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.80 (1952).

exertion.[43] Overexertion is obviously a situation peculiar to the individual and not dependent upon the general or routine nature of the duties required to be performed in a particular occupation.[44]

One is hard pressed to find a place for the unusual exertion requirement in the Florida Workmen's Compensation Law. The court is committed to the position that the accident need not be found in the cause of an injury[45] nor need the accident be unusual since the accepted definition will be satisfied by unexpectedness.[46] Upon careful examination, it becomes clear that the decision in the instant case introduces an illusory criterion into the accident concept.[47]

It is difficult to reconcile the court's ruling with the remedial nature of the Workmen's Compensation Law which, by virtue of its *raison d'être*, should be construed liberally in favor of the claimant.[48] Not holding the employer liable for heart injuries may perhaps be a means of inducing the employment of those who are afflicted with cardiac disease. If this be the case, the court should be commended in its noble and altruistic endeavor but should also recognize that such policy decisions are purely legislative in nature.

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43. Wieda v. American Box Board Co., 343 Mich. 182, 199, 200, 72 N.W.2d 13, 22 (1955) (dissent); Purity Biscuit Co. v. Industrial Comm'n, 201 P.2d 961, 968 (Utah 1949).

In his treatise, Professor Larson compares two cases which involved disabling heart attacks suffered by the employees. One claimant was a salesman and the other a longshoreman. Commenting upon the inequity inherent in granting compensation for the former and denying compensation for the latter, the author states, "it is not as though continuous heavy work over a long period built up a strong heart, while desk work for the same period resulted in a weak heart. The longshoreman and the salesman may have hearts which, weakened by disease, are no different in their ability to withstand strain. Now . . . the salesman indulges in the (for him) unusual effort of carrying a 15-pound parcel to help out in an emergency, while the [longshoreman] . . . lifts 200 pounds of mail, which for him is routine. [The salesman] gets compensation; [the longshoreman] does not." 1 LARSON, WORKMEN'S COMPENSATION LAW § 38.81 (1952).

44. United States Fid. & Guar. Co. v. Industrial Comm'n, 96 Colo. 571, 45 P.2d 895 (1935); Brzozowski's Case, 328 Mass. 113, 102 N.E.2d 399 (1951); Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 141 A.2d 761 (1958); Bohlen, *A Problem in the Drafting of Workmen's Compensation Acts*, 25 HARV. L. REV. 328, 340 (1912).

45. Gray v. Employers Mut. Liab. Ins. Co., 64 So.2d 650 (Fla. 1952); FLA. STAT. § 440.02(19) (1961).

46. Fenton v. Thorley & Co., [1903] A.C. 443; FLA. STAT. § 440.02(19) (1961); 1 LARSON, WORKMEN'S COMPENSATION LAW § 37.20 (1952).

47. Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 134, 141 A.2d 761, 764 (1958).

48. Boden v. City of Hialeah, 132 So.2d 160 (Fla. 1961); City of Hialeah v. Warner, 128 So.2d 611 (Fla. 1961); Great Am. Indem. Co. v. Williams, 85 So.2d 619 (Fla. 1956); Bailey's Auto Serv. v. Mitchell, 85 So.2d 228 (Fla. 1956); Alexander v. Peoples Ice Co., 85 So.2d 846 (Fla. 1955); Townsley v. Miami Roofing & Sheet Metal Co., 79 So.2d 785 (Fla. 1955); Parker v. Brinson Constr. Co., 78 So.2d 873 (Fla. 1955); Naranja Rock Co. v. Dawal Farms, 74 So.2d 282 (Fla. 1954); Florida Game & Fresh Water Fish Comm'n v. Driggers, 65 So.2d 723 (Fla. 1953); Di Giorgio Fruit Corp. v. Pittman, 49 So.2d 600 (Fla. 1950); Southern Bell Tel. & Tel. Co. v. Pinkerman, 47 So.2d 547 (Fla. 1950); Sanford v. A. P. Clark Motors, 45 So.2d 185 (Fla. 1950); Fidelity & Cas. Co. of New York v. Moore, 143 Fla. 103, 196 So. 495 (1940).