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tion of the food consumer. A possible explanation for the strict rule laid down here is that it checks a trend toward absolute liability so often imposed on a negligent vendor of food. In contrast, the majority of courts treat the consumer as having the greater interest.

**WORKMEN’S COMPENSATION—OFFICER OF CORPORATION CONSIDERED EMPLOYEE TO EXTEND COVERAGE OF ACT**

Plaintiff filed a claim for workmen’s compensation for injuries sustained while an employee in the service of the defendant corporation. In order to bring this corporation within the jurisdiction of the compensation commission five employees were required. The commission found the president of the defendant corporation in fact served in a dual capacity as executive and employee, thereby fulfilling the statutory requirement and awarded compensation. The circuit court affirmed the award. On appeal, held, that a president of a corporation whose duties are dual in nature may be counted as an employee for the purpose of bringing the corporation within the provisions of the Workmen’s Compensation Act. *Brook’s, Inc. v. Claywell*, 224 S.W.2d 37 (Ark. 1949).

The factors that govern whether an officer will be termed an employee in order to bring the corporation within the provisions of a compensation act are much the same as will entitle him to payments when he is injured. Generally, one will not be precluded from compensation for injuries sustained in the scope of employment merely because of his position as a corporate officer. An award or denial will be determined by the circumstances of his employment and his status in the corporate structure. When the officer performs only the ceremonial tasks required for corporate organization he is not classified as an employee. If his acts are of a manual or mechanical character, the officer might meet the definition of an employee. However, when the corporation is large and the salary paid to the president is in consideration for the discharge of his duties as an officer this will ordinarily lead to the

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10. See note 3 supra.
11. Id. at 621.
12. See note 8 supra.

6. See note 3 supra.
7. Southern Surety Co. v. Childers, 87 Okla. 182, 209 Pac. 927 (1922).
conclusion that he is not an employee. The ownership of stock in a private corporation does not preclude the possibility of being considered a worker. But if the amount of stock is substantial, or the officer is in such a position of control that he fixes his salary, hours of duty, and is not subservient to anyone then the courts view these circumstances in a practical light and classify the officer as an employer in effect, disregarding the separate corporate entity.

In the instant case the president was also general manager of the concern and spent very little time in discharging his tasks as an officer. He was normally engaged in jobs usually assigned to employees. His salary was in consideration for his work as president and as manager. However, he was the majority stockholder and owed no responsibility to anyone. This latter factor could reasonably be interpreted to conclude that the president in the principle case was acting in the capacity of an employer rather than as an employee.

However, the legislative intention in passing compensation acts was to grant the employee a means of subsistence during his period of unemployment. Since these statutes are designed to effectuate a social reform they are construed liberally to include the largest possible class of employees. The spirit of these acts encourages the application of the legal fiction of the separate corporate entity as the employer. The courts should not be so liberal with the use of this concept that persons not intended to be within the purview of the Act are included to meet the requisite number in order to confer jurisdiction upon the compensation commissioner.

8. See In re Raynes, 118 N.E. 387, 391 (Ind. 1917).
10. Donaldson v. Wm. H. Donaldson Co., 176 Minn. 442, 223 N.W. 772 (1929);
12. Leigh Aitchison, Inc. v. Industrial Comm'n, 188 Wis. 218, 205 N.W. 806 (1925).