Workmen's Compensation Benefits in the United States, 1939 and 1940

MICHALINA M. LIBMAN*

OF THE MANY RISKS confronting industrial wage earners, the hazard of injury or death arising in the course of employment was the first to be covered on a large scale by social insurance. Before the establishment of workmen's compensation legislation, employers' liability—the general legal principle of liability based on common law—gave the injured workman the right to recover damages if he could establish through proper evidence the fact that the injury was due to the negligence of the employer or his agent. The common-law defenses of the employer are based on three general considerations: the employer is not liable for any injury which is caused by the negligence of a fellow servant; the employee assumes the natural and ordinary risks incident to his employment; and any contribution to the accident by negligence on the part of the employee, regardless of the fault of the employer, precludes recovery by the employee. In workmen's compensation the right of the worker to sue is replaced by the promise of scheduled benefits obtained through a simplified administrative procedure and is based on the facts of employment and the work-connection of the injury, without demonstration of fault. Workmen's compensation benefits are stipulated by law, rather than determined by the employer or by court action, and bear a relationship to the loss of earning power suffered by the worker.

Although workmen's compensation was among the earliest of the social insurances to be developed in the United States, there are no comparable Nation-wide statistics of the number of persons receiving workmen's compensation benefits or of the aggregate amount of such payments. This information is important as providing some indication of the extent of the protection afforded by workmen's compensation and of the relative magnitude of the total payments to individuals under this as compared with other social insurance and social security programs.

To make possible such analysis, the aggregate amounts of workmen's compensation payments in 1939 and 1940 have been estimated. The figures of $236.5 million for payments in 1939 and $257.0 million in 1940 are comparable with payments under other social insurance and related programs presented regularly in the Bulletin. As is explained in detail later, more than four-fifths of the amounts included in the estimated total represent reported data, and the probable error in the estimated portion of the total is very small. It is not possible to present similar estimates of the total number of beneficiaries. While evaluation of the character and adequacy of the social insurance protection afforded by existing workmen's compensation laws would require detailed study of many other factors, such as the range of weekly benefit amounts and the duration of benefit payments for individual workers, the over-all figures do provide basic data necessary for any evaluation. The significance of the total amounts of workmen's compensation paid to workers may be illuminated also by a brief consideration of the nature and major provisions of the workmen's compensation laws.

In 1941, workmen's compensation laws were operative in all States except Mississippi. The first of these State laws was enacted in 1911, the most recent went into effect on December 5, 1940. The forerunner of all these State laws, however, was a Federal statute, effective in 1908, which covers employees of the Federal Government; another Federal act covers longshoremen and harbor workers; and a third applies to workers in the District of Columbia. Thus, within the continental United States, there are 50 independent laws, no two of which are alike in all major particulars.[1] Although all are based on the principle of compensation without regard to fault, the enactment of a different law in each jurisdiction and its repeated subsequent amendment has resulted in a multitude

*Bureau of Research and Statistics, Division of Coordination Studies.

[1] A brief analysis of the principal features of workmen's compensation laws as of July 1, 1940, containing ample State references, may be found in Dawson, Marshall, *Problems of Workmen's Compensation Administration*, . . . U. S. Department of Labor, Bulletin No. 672, 1940, pp. 192-220.

of variations. Railroad employees engaged in interstate commerce do not come under State jurisdiction; the Federal Employees' Liability Act, which provides a basis for recovery of compensation by injured railroad workers, is not regarded as workmen's compensation because of the necessity of court action.

Coverage

Although some workmen's compensation laws are far more inclusive than others in their coverage provisions, none undertakes to cover all employments. Among the most usual exemptions are domestic service, agricultural employment, and casual labor. Some States limit coverage to workers in hazardous occupations, either by listing the specific industries or occupations or by general definition. About half the laws specify the minimum number of employees an employer must have to be subject to the statute; in some of the States these numerical exemptions apply to all included employment, in others only to nonhazardous.

Workmen's compensation laws may be classified as compulsory or elective, depending on the degree of constraint to which included employers are subjected to accept the compensation provisions. Under a compulsory system the employer must accept the act and pay the compensation specified. An elective system allows the employer to accept or reject the provisions of the act; if he rejects he is usually penalized by being subject to suit with the customary common-law defense abrogated. Employers electing to accept the compensation act are generally exempt from damage suits. Some laws provide for compulsory compensation with respect to some or all public employment and voluntary compensation for private employment; others make compensation compulsory for some of the private employment and elective with respect to public employment. In 15 States, compulsory compensation applies to various segments of both public and private employment.

The employee also has the right to accept or reject coverage under the provisions of the act in some States. If an employee rejects the compensation system and sues an employer who has accepted it, the employer usually retains the customary common-law defenses.

Most States permit voluntary acceptance of workmen's compensation by nonsubject employers or by joint election of employer and employee in exempted classes, but the employer loses no rights or defenses if he does not accept. If a worker in an excluded employment is injured, he has the right to sue, with the customary defenses on both sides. The chances of favorable settlement or decision, however, are probably enhanced by the existence of the workmen's compensation laws.

Unlike other social insurance systems, workmen's compensation does not require the worker to build up rights either by contributions or length of employment. The laws cover injuries to workers in subject employment regardless of the individual's length of service, regularity of employment, or wages earned. Since coverage is determined by exposure to risk, as defined by each law, and varies with each unit of employment, there are no available statistics of the number of persons receiving such protection. The most usual measures of coverage, where available, are pay rolls and man-hours worked. Since election into and out of the system may be made at almost any time under most elective laws and nonsubject employers may elect in, or having been in, drop such election, the count of employees is made difficult by the change in status of employers as well as by the changes in the numbers of their employees. Rough estimates indicate a range of coverage at any given time from somewhat more than half the employees in some States to less than one-fourth in others.

Compensable Injuries

No workmen's compensation system holds the employer liable for every injury received by his employees, and the inclusiveness of compensable injuries also varies greatly in the several systems. The usual statutory provision is that the injury shall be one "arising out of and in the course of employment," with the additional limitation in most States that it is not due to the employee's intoxication, willful misconduct, or gross negligence. Many systems limit the injury to what is commonly known as an accident and thus exclude occupational diseases which usually develop from continued or extended exposure to industrial health hazards. Some State laws have specific provisions for occupational disease; in a few States the term "injury" has been interpreted to include occupational disease. Twenty States do not cover any occupational disease. In addition, cash compensa-

tion is limited in all but one State to injuries lasting more than a specified number of days, known as the waiting period. The waiting period ranges from 1 to 14 days in the several States; there is a provision in 33 laws that, if the disability lasts for a specified period considerably in excess of the waiting period, compensation is payable from the date of the injury.

Benefit Payments

The benefits under workmen's compensation are of two types: cash to compensate in part for wage losses, and provisions for medical care. Most States also provide for funeral benefits in case of death. When a disability extends beyond the statutory waiting period, compensation is both in money and in medical service; for shorter periods, compensation is in the form of medical treatment alone. Medical and surgical service, hospitalization, artificial limbs, allowances for attendants, and fees for expert medical testimony are the major items usually included in medical care. Almost all laws place the costs of medical care on the employer.

Disability is not defined uniformly in workmen's compensation laws and has been subject to varying interpretations. In most States the term is limited to occupational disability, that is, inability to earn wages, or the full wage, at work in which the worker was engaged at the time of the injury. In other States it has been interpreted as general inability to perform any kind of work which might be obtainable. In addition, most States provide indemnity payments for specific injuries whether or not the worker is able to return to his customary or other employment within a relatively short time. In some States these payments are made in lump sums, in others, on a continuing basis.

Cash-benefit provisions differ not only among the several States but also for the various types of disability compensated under a single system. Each of the four general classes of disability—death,[2] total disability for life, partial permanent disability, total disability for a temporary period—generally has a separate scale of benefits. Some States provide, in addition, compensation for temporary-partial disability; a few, extra compensation for disfigurement. The classes of disability are not mutually exclusive with respect to a single injury, for death will often be preceded by a period of total disability, as will most permanent-partial disabilities.

In most States the compensation scale is based on the loss of earning power of the injured workman, measured in terms of a prescribed percentage of wages earned and subject, in all but two States, to maximum and minimum limitations. Three States have based their compensation on the number of dependents rather than on the worker's earning capacity, and some modify the percentage system to take into account marital status and number of children. A number of States provide fixed sums for certain injuries but apply the percentage system to all others.

In all but three States, compensation for loss of wages or earning capacity is based on a percentage of earnings, usually the full-time wages of the injured worker. The benefit scale varies from 50 to 70 percent of wages subject to the maximum limitation; the most usual percentage is 66⅔. The maximum weekly benefit for total disability is between $15 and $20 in almost all States. The minimum in many States is $5 or the actual wage, whichever is less; one State specifies $3 per week or the actual wage. The amount of compensation is also commonly limited by a prescribed maximum period for which benefits may be paid, or a total maximum amount; for example, 260 weeks or $3,000, respectively, or a combination of such limitations. On the other hand, 7 States provide periodic death benefits until the widow dies or remarries; 17 provide life-long benefits for permanent-total disability. Specific schedules covering benefits in permanent-partial disabilities to compensate for loss, or loss of use, of a member in addition to compensation for the accompanying healing period are common.

Medical Care

There is also considerable variation in the amount and type of medical services authorized by the State laws. Fourteen jurisdictions set no specified limit on the time for or amount of medical care. Thirteen limit both amount and time, although six of these provide additional services in special cases or at the discretion of the State workmen's compensation commissioner.

[2] The Oklahoma workmen's compensation law does not provide compensation for death, because of a constitutional provision that the right of action to recover damages for injuries resulting in death may not be abrogated and the amount recoverable shall not be subject to statutory limitations.

The other States limit either time or amount. Some States provide artificial limbs or other appliances as needed; a few pay extra compensation for necessary attendants.

Insuring the Risk

Since compensation, in contrast to lump-sum payments collected from damage suits, often involves the periodic payment of benefits over a number of years, security for the payment of compensation is required in all States but one. Such security is usually furnished in the form of insurance with a carrier or proof of the employer's financial ability. The bulk of insurance is written by private casualty insurance companies along with other types of casualty insurance; 7 States have exclusive State funds, which permit no private insurance company to participate; and 11 operate competitive insurance systems which are limited to workmen's compensation. Most States also authorize what is known as self-insurance. Large employers, on proof of financial responsibility, may carry their own industrial risks, usually pledging securities to cover the future compensation claims of their employees. In most States, self-insurers are permitted to reinsure against large losses. Liable employers who fail to provide insurance or qualify as self-insurers are known as noninsurers. In order to obtain any benefits from such an employer, the injured workman or the State agency in his behalf usually has to sue, with little chance of collecting the amount due under the law.

The various State laws provide almost every possible combination of methods of insuring. Although most States permit private insurance and self-insurance, two States allow only insurance through private casualty companies. Two of the seven States with exclusive funds permit self-insurance. In the eleven States with competitive State funds, insurance by all three methods is practiced.

Compensation payments are made directly to the worker or survivor by the insurer. To assure payment in accordance with the statute and with minimum delay, penalties are prescribed for unwarranted delays, and costs are assessed against the employer in cases which he contests unsuccessfully. In many jurisdictions, prompt payment is encouraged by allowing payments to be made to workers or survivors prior to administrative action on the part of the State agency.

Medical benefits are provided as services paid by the insurer or employer. The usual methods of securing the services are payment by the insurer to the individual physician or hospital for specific service rendered; services rendered in workmen's compensation cases by doctors or hospitals maintained by the employer for general employee welfare; and medical aid furnished by workmen's compensation clinics, usually operated on the basis of contracts with employers or insurers. The first method is most commonly used by State funds and private insurance companies whose policies cover both medical aid and compensation. The second and third methods are used chiefly by self-insurers or by employers whose workmen's compensation insurance policies are limited to cash compensation (so-called ex-medical policies); as such, the methods represent self-insurance for medical-aid purposes. If the employer who provides medical care for workmen's compensation cases through his own clinic or hospital also carries full insurance, he is reimbursed by the insurance company for such services.

Almost all the workmen's compensation laws provide for an administrative agency, usually in the form of a commission, responsible for the operation of the system as well as for protecting the rights of the claimant. Moreover, four of the six States with court administration requiring court action in each claim filed have delegated some degree of supervision to an administrative agency. Reports of accidents, particularly those causing injuries which outlast the waiting period, are generally required. These reports may come directly from the employer or indirectly through the insurer. Claim procedures are simplified through standardized forms. The agency usually determines or approves the facts relating to the employer–employee relationship, the extent of the injury and whether it arose out of or in the course of employment, and the amount of compensation due. Provision is generally made for appeals from administrative decisions and recourse to court action by either party. While a wide latitude is generally allowed the employer, insurer, or employee as to methods of initiating payments with or without a formal claim, the agency usually has the right to review such actions, either after payments have begun or after they have termi-

nated, and to approve medical bills as well as the amount of compensation. Changes in determination of the extent of the disability are made or approved by the agency. The responsibility of the agency continues throughout the time for which periodic payments are due and covers any commutation of such continued payments into lump sums.

In addition to the quasi-judicial functions involved in settling claims, the State agencies are charged with the supervision of the insurance provisions of the workmen's compensation laws. Employers who wish to qualify as self-insurers must satisfy the agency's requirements as to financial status and pledged securities. In some States, included employers are compelled to show proof of insurance, and the agency may make periodic efforts to force noncomplying employers to obtain insurance. Although the insurance commissioner in each State is ordinarily responsible for the reports of financial transactions of insurance companies within the State, many workmen's compensation agencies also supervise the contract provisions of the companies, their rate structure, and the methods of claim adjustment. To safeguard against loss to the employee because of insolvency of an insurance carrier, a surety fund established by insurance companies is required by a few States. Some State laws provide that, at the discretion of the commission or in specified cases, the total compensation due in fatal or permanent-total disability cases shall be deposited with a trustee in order to protect the claimant. Although most of the laws place on the employer the primary liability for compensation, the insurance companies practically assume the immediate responsibility of their policyholders in making direct payments to injured workers and providing medical benefits. Competitive State funds function in a fashion similar to that of private carriers. Claims of employees of noninsured employers may be pressed by the agency in behalf of the claimant.

In order to relieve the employer of the cumulative compensation burden when a previously disabled worker suffers a later permanent disability, provision is made for so-called second-injury cases. Many States hold the last employer responsible only for compensation attributable to the second injury. Since the cumulative effect on the employee of such disablements may be disproportionately greater than the compensation afforded by this method, some laws have created a second-injury fund, which provides compensation for the worker on the basis of his total disability. The second employer is liable only for medical benefits and a prescribed amount of compensation restricted to the second injury. The fund, administered by the State agency, may be financed in several ways by all employers or insurers; a common method is to turn over to the fund the specified sums awarded in death cases where there are no surviving dependents.

States with exclusive funds usually have one agency to handle both the fund and the administration of the workmen's compensation act. Such administrative agencies are responsible not only for safeguarding the rights of the worker but also for enforcing the insurance of the employer. Contributions to the funds are in the nature of insurance premiums, at rates determined by the agency. Accident reports must be filed by the employer with the agency, and claims must be filed by the injured worker before payments can begin. The arrangements for payment for medical aid are similar to those in other States. A few exclusive funds also issue ex-medical policies.

Amounts of Benefits

Statistics of workmen's compensation benefit payments are presented in several different ways. Among the more conventional units of count are: (1) the amounts awarded within a specified period—that is, the amount determined as the total payment due on a claim, including in most cases payments already made; (2) the "losses incurred" (discounted value of amounts awarded) under policies written during a calendar year; (3) the "amounts paid in cases closed by final settlement" within a specified period; and (4) the amounts paid within a specified period to all persons receiving benefits during that period. The first three of these classifications are administrative in nature; the second is most frequently used in connection with rate making. The fourth classification is the only concept of benefit payments which relates to the amount of income currently derived by workers from workmen's compensation, and as such is analogous to statistics of benefits paid under unemployment insurance and old-age and survivors insurance, and other social insurance or retirement systems.

The amounts of workmen's compensation paid to individuals may occasionally differ from the compensation specified in the workmen's compensation act. When the right to recover under the workmen's compensation act is doubtful or the amount of compensation due is questionable, many States permit the parties to make compromise settlements in order to avoid litigation and provide some compensation for the injured worker. When the award for compensation is in default, usually because of noninsurance, a compromise settlement may lead to the recovery of at least a part of the amount due. On the other hand, an employer or insurer may occasionally make some payments to workers whose claims are subsequently denied by the State agency as not being compensable under the law. Such payments are relatively insignificant in number and amount.

Although workmen's compensation has been in operation for more than 25 years, no comparable Nation-wide statistics are available of the number of persons receiving benefits or the amount of benefits paid in the States. The data in the reports of the State compensation agencies lack comparability in that some are issued for calendar, others for fiscal, years; the inclusiveness of the data for the several States differ in that medical aid and occupational disease may or may not be included; and the bases for reporting benefits vary. However, each State report probably presents more nearly complete and detailed data for its own jurisdiction than any other source. The lack of uniform or comparable benefit statistics results partly from the circumstance that workmen's compensation developed on a State basis, and partly from the fact that up to this time the agencies have emphasized administration and accident prevention and paid relatively little attention to measuring and evaluating the insurance protection afforded.

Since each of the State insurance departments requires a standardized annual report from each casualty insurance company doing business in its jurisdiction, it is possible to get comparable benefit data for insurance companies. All private companies and a few competitive State funds are required to file the report. Two of the items in the reports—the amount of workmen's compensation net premiums written and the net losses paid during the year—are compiled from these reports and published annually by the Chilton Company in the *Spectator*.[2] The net losses paid represent the net amount of compensation and medical benefits paid by private insurance carriers and some of the competitive funds during a calendar year.

By utilizing both State data and those published in the *Spectator*, it is possible to derive estimates of workmen's compensation payments in the United States. These estimates, for 1939 and 1940, which are presented in table 1, by State in which payment was made and by type of insurance carrier, include both cash compensation and medical aid. Payments by private insurance companies and some of the competitive State funds are the net losses as reported in the *Spectator;* payments by the other competitive funds and by the exclusive funds are the net disbursements calculated from the financial statement of each fund; payments made by self-insurers were estimated from available State data. No attempt has been made to estimate the number of beneficiaries or to separate the amounts into their component parts of compensation and medical payments. The limitations of the data used in making the estimates are such that the resultant totals tend to be somewhat conservative.

An accurate and complete estimate of workmen's compensation benefit payments should include the value of all medical aid, no matter how financed, and compensation paid directly to the worker by all insurance carriers, including State funds and self-insurers, and amounts paid by noninsurers, as well as disbursements from such special funds as second-injury, rehabilitation, and security funds. Workmen's compensation benefits properly include payments made to persons covered by the law and by voluntary election, but exclude payments made because of employer liability of electing-out employers.

The data on insurance losses paid by private companies, as reported in the *Spectator*, are substantially complete for the amounts paid during the year by insurance carriers on policies issued by them. Medical aid is included, whether paid for directly for each case or paid in a lump sum to an insurer for the compensation costs of his clinic.

The data in the *Spectator* are net for each reporting company; deductions are made from total

[2] *The Insurance Year Book . . . Casualty, Surety and Miscellaneous*, anual issues.

losses for "salvage"—recovery by the company against amounts paid out in losses—and for "reinsurance" recovered on losses paid under policies reinsured with other companies. Most payments made by the reinsuring companies are included in the total, since these companies, with the exception of Lloyd's of London, which carries primarily catastrophe insurance, also report. Third-party recovery payments, made under another company's workmen's compensation policy, are also included in the total. The amount recovered by carriers from third parties who are not also car-

Table 1.—*Estimated workmen's compensation payments, by State, 1939, 1940* [1]

[In thousands]

State	1939				1940			
	Total benefit payments	Insurance losses paid, private insurance carriers [2]	State fund net disbursements [3]	Self-insurance payments [4]	Total benefit payments	Insurance losses paid, private insurance carriers [2]	State fund net disbursements [3]	Self-insurance payments [4]
Total	$236,491	$122,182	$68,604	$45,705	$257,034	$134,630	$72,634	$49,761
Alabama	1,001	684		317	1,054	720		334
Arizona [5]	1,471	55	1,354	62	1,471	55	1,354	62
Arkansas	3	3			23	23		
California	17,922	8,891	4,895	4,136	20,341	10,247	5,400	4,694
Colorado	2,497	539	1,189	769	2,490	553	1,170	767
Connecticut	2,967	2,523		444	3,501	2,976		525
Delaware	275	211		64	323	248		75
District of Columbia	1,509	1,161		348	1,741	1,339		402
Florida	1,616	1,405		211	1,915	1,665		250
Georgia	1,271	934		337	1,612	1,185		427
Idaho	1,068	126	656	286	1,216	183	705	328
Illinois	12,463	8,966		3,497	14,785	10,637		4,148
Indiana	3,430	2,643		793	3,858	2,967		891
Iowa	1,874	1,465	43	366	1,922	1,496	52	374
Kansas	1,572	1,128		444	1,587	1,139		448
Kentucky	3,282	1,332		1,950	3,318	1,347		1,971
Louisiana	3,234	2,461		773	3,434	2,613		821
Maine	976	820		156	992	833		159
Maryland	2,532	1,481	587	464	2,712	1,702	504	506
Massachusetts	7,096	6,764		332	7,494	7,144		350
Michigan	7,935	4,616	892	2,427	8,643	5,006	993	2,644
Minnesota	3,641	2,743	75	823	3,903	2,944	75	884
Mississippi	21	21			11	11		
Missouri	3,856	2,983		873	4,033	3,120		913
Montana	1,727	157	1,159	411	2,093	185	1,210	698
Nebraska	1,027	914		113	1,025	912		113
Nevada	677		624	53	827		761	66
New Hampshire	572	561		11	704	690		14
New Jersey	11,242	8,648		2,594	12,700	9,769		2,931
New Mexico	359	276		83	580	446		134
New York	47,497	27,858	11,851	7,788	51,252	30,077	12,772	8,403
North Carolina	1,848	1,431		417	1,988	1,539		449
North Dakota	551		551		597		597	
Ohio	16,408	36	14,430	2,023	17,055	45	14,920	2,090
Oklahoma	3,104	2,009	364	731	3,394	2,253	411	730
Oregon [6]	4,273	65	4,208		4,273	65	4,208	
Pennsylvania	20,780	9,849	3,292	7,648	21,203	10,489	2,971	7,833
Rhode Island	1,000	890		110	1,153	1,027		126
South Carolina	1,015	781		234	1,235	950		285
South Dakota	255	193	4	58	278	210	5	63
Tennessee	1,368	1,041		327	1,527	1,123		404
Texas	7,314	7,314			8,124	8,124		
Utah	1,090	204	696	190	1,109	222	689	198
Vermont	304	294		10	362	351		11
Virginia	2,246	1,415		831	2,469	1,556		913
Washington	5,053	95	4,234	724	5,576	80	4,759	737
West Virginia	5,174	6	5,074	94	5,756	1	5,608	147
Wisconsin	5,572	4,189		1,383	5,815	4,372		1,443
Wyoming	525	1	524		422	(7)	422	
Federal employees	11,893		11,893		13,048		13,048	

[1] Data for calendar years, except for Montana, Nevada, North Dakota, Oregon, West Virginia, and the United States employees, where fiscal years ending in 1939 and 1940 were used. State fund net disbursements of Utah and Maryland are also on this basis. Benefit payments made under the Longshoremen's and Harbor Workers' Compensation Act are included in the States in which the payments are made.

[2] From *The Spectator, The Insurance Year Book Casualty, Surety and Miscellaneous*, 68th and 69th annual issues, except for Arizona and Montana, for which such data were provided by the State agency; represents net amounts of cash and medical benefits paid by private insurance carriers under standard workmen's compensation policies.

[3] Compiled from State data except for California, Colorado, Michigan, New York, and Pennsylvania, which are published in the *Spectator;* represents net amount of cash and medical benefits paid by State funds.

[4] Estimated from available State data; represents amounts of cash and medical benefits paid by self-insurers plus amounts of medical benefits paid by employers carrying ex-medical policies.

[5] 1939 estimate used for 1940 since no later data are available.

[6] Data for the period July 1, 1939–June 30, 1940, were used for both 1939 and 1940 since comparable data for the year ending June 30, 1939, are not available.

[7] Less than $500.

riers is relatively small, and its omission does not significantly affect the total. If the State-fund operations, where the amount of third-party recoveries is reported, are typical, the whole volume of third-party recoveries may be considered insignificant.

When insurance companies are required to make payments into special funds, such as fixed amounts in death cases in which there is no beneficiary or the commuted value of awards in fatal and serious disability cases, such payments are reported as losses paid by the insurance companies and are included in the *Spectator* data. While these amounts will not be paid to beneficiaries until subsequent years, they are offset by the omission of the amounts paid out of the special funds in the specified year. The amounts involved in both instances are small, and the resultant net error in total benefits is even less.

Small amounts of benefits paid are reported by the *Spectator* for States whose workmen's compensation laws do not permit private insurance; for Mississippi, which has no workmen's compensation law; and for Arkansas, whose law was inoperative until December 5, 1940. These amounts represent both voluntary insurance on excluded employments and payments made to employees working in these States on behalf of employers with headquarters in another State.

The standard policy issued by insurance companies for workmen's compensation covers both the risks included by the law and the employer-liability for workers not so included. This combined protection is given both to subject employers and to employers who voluntarily elect to insure their workers. All payments made under this type of policy, whether workmen's compensation or employer-liability, are reported as workmen's compensation payments by the insurance companies and the *Spectator* and are not separable. The volume of employer-liability payments included in the *Spectator* compilation is probably very small. Losses arising under regular employer-liability policies are accounted for separately and are not reported as workmen's compensation payments.

Except for the five competitive State funds included in the *Spectator* compilation, data for State funds were obtained from the State reports and were adjusted to a net-disbursement basis similar to that used in the *Spectator*. A minor element of noncomparability is introduced by the fact that some of the State funds operate and report on a fiscal-year basis. The amount of benefits paid includes compensation and the cost of all medical care provided by the State funds but excludes the value of medical aid provided by the employer who has an ex-medical policy. Since each exclusive State fund is managed as a unit, even though parts of the fund may be segregated for bookkeeping purposes, there is no statistical problem of payments into and out of special funds, and disbursements represent payments to recipients. Workmen's compensation payments made to State employees from special funds or by separate appropriation are listed in the table as State-fund disbursements, although these funds do not cover other groups.

Self-insurance payments include not only the compensation and medical benefits paid by employers qualifying as self-insurers but also the amount of medical aid provided by insured employers with ex-medical policies. With only two State agencies reporting the amount of payments by self-insurers, it is necessary to estimate these payments for the other States. These estimates are based on State-agency data of the ratio of self-insurance payments to payments made by insurers, whether measured in terms of benefits paid in cases closed by final payments, amounts of awards, the number of claims or reported accidents, or the amount of pay rolls. The ratio so derived for each State was applied to the insurance payments for the State to obtain the estimate of payments by self-insurers for the corresponding year. Opportunity was given each State agency to review the estimate made and to recommend revisions. For seven States in which no other ratio was available, the average (mode) for the reported group was used. Since the estimated self-insurance payments for these seven States amount to about 2.4 percent of the total workmen's compensation payments for the United States, the error arising from this method of estimating is insignificant for the total.

To the amount of estimated workmen's compensation payments by self-insurers was added the value of medical benefits paid by insurers with ex-medical policies for most of the States in which this practice is known to be prevalent and for which some data were available. For the 12 States for which this item was reported or estimated, the adjustment amounted to 2 percent

of their total workmen's compensation payments. Two States which are commonly regarded as having this type of arrangement reported that they had no ex-medical policies for the period under review, and one State reported that the practice was being abolished as of July 1, 1941. The total amount of estimated self-insurance payments is therefore understated by the value of such medical benefits in the few remaining States for which no basis of estimating was feasible. This understatement is considerably less than 1 percent of the total.

Noncompliance of employers exists in practically every State except the few where compensation applies only to employers who elect by the act of insuring or by qualifying as a self-insurer. Although the number of noninsurers may be moderately large, most of them are small employers. Moreover, only a small proportion of noninsurers are financially able to pay benefits. While payments made to injured workers of noninsurers are properly a part of the total workmen's compensation payments, few States report such payments and more nearly comparable estimates for the several States are possible by omitting this factor for all of them. The resulting understatement is believed to be small. Available data on noninsurers for the States reporting indicate that, whereas the awards made to employees of noninsurers may range from 1 to 8 percent of the awards made to employees of insurers, the payments made by noninsurers amounted to less than 1 percent of similar payments made by insurers

Total workmen's compensation payments for the United States are estimated at $236.5 million for 1939 and $257.0 million for 1940. In both years about 52 percent of these payments were made by private insurance carriers, 29 percent by State funds, and 19 percent by self-insurers. Three factors account for the increase in payments from 1939 to 1940. The acceleration of business activities during the period primarily affects temporary cases; the increasing maturity of the systems affects payments for death or permanent disability; and the liberalization of legal provisions affects the general level of payments.

The increase in employment and in wage rates in 1940 as compared with 1939 is reflected in both the number of cases and amounts of benefits paid for medical aid and for temporary disability compensation. The vast majority of workmen's compensation cases are of short duration. For the United States, medical benefits and temporary disability compensation, the bulk of which relate to accidents occurring during the year, account for more than half the total payments, although the proportions vary somewhat from State to State. However, as the workmen's compensation systems mature, payments made in permanent disability and fatal cases tend to increase; although such cases are relatively few each year, the number receiving benefits is cumulative. Some States are even now paying benefits on accidents which occurred as much as 25 years ago. This factor is, of course, less important in States limiting the duration of payments to a few years. The enactment within the past two decades of State workmen's compensation legislation increasing total coverage, and liberalization of amounts and duration of compensation and medical benefits in some States, have resulted in an increase in aggregate payments for both temporary and permanent disability cases.

The importance of workmen's compensation as social insurance may be seen by comparing workmen's compensation payments with payments under other social insurance programs. In 1939, unemployment insurance payments, including those under State unemployment compensation laws and the Railroad Unemployment Insurance Act, amounted to $436 million; total retirement and survivors insurance payments under the Social Security Act, the Railroad Retirement Act, and the Civil Service Commission were $188 million; and workmen's compensation payments totaled $236 million. Comparable payments for these programs in 1940 were $536 million, $227 million, and $257 million, respectively.

In spite of the magnitude of the estimated workmen's compensation payments, it is pertinent to point out that aggregate payments made to injured workers exceeded the amounts presented here. Payments under employer's-liability may be made to workers not covered by workmen's compensation; and workers may be carried on the employer's pay roll for part or all of a period of disability in lieu of receiving smaller benefits under the workmen's compensation system. Data are not available for estimating these amounts which, while not workmen's compensation benefits, nevertheless represent payments for the same risks as those covered by the compensation systems.