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Workmen's Compensation - Aggravation or Acceleration of Particular Conditions - Nervous Tension Resulting in Stroke Compensable without Showing of Unusual Exertion

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radio station a common carrier.[13] A Senate amendment deleted the common carrier provision, providing for prohibition against both censorship and liability for defamation.[14] The latter prohibition was dropped without reason in the final bill.[15] In 1952 Congress amended Section 315 to prohibit broadcasters from charging candidates above normal rates to cover possible loss through liability for defamation.[16]

It is submitted that the decision in the instant case treats fairly the broadcaster who acted in good faith, and is the result of sound reasoning. Nevertheless, it does leave present a situation where an insolvent candidate can speak freely and leave the defamed nothing but his insolvency from which to seek damages. On the other hand, had the court not interpreted the Act as granting immunity, the broadcaster would remain in the precarious position where he faces possible loss at either the hands of the state or the Communications Commission, regardless of what course he takes, each time the candidate demands to broadcast defamation. A solution to the dilemma here presented which will be uniform throughout the states is needed, and must be arrived at either through congressional amendment[17] or through a final interpretation of Section 15 by the federal judiciary.[18]

CECIL E. REINKE.

WORKMEN'S COMPENSATION — AGGRAVATION OR ACCELERATION OF PARTICULAR CONDITIONS — NERVOUS TENSION RESULTING IN STROKE COMPENSABLE WITHOUT SHOWING OF UNUSUAL EXERTION. — A woman employee suffered a stroke while on duty which resulted in paralysis. The evidence showed that she had been afflicted with hypertension and was a perfectionist in the performance of her duties. Due to this attitude toward her work, she was subjected to considerable mental and emotional strain. The Supreme Court of Mississippi *held*, one justice dissenting, that where mental and emotional strain of employee's work aggravated employee's preexisting hypertension, and such aggravation was a factor contributing to employee's disability, workmen's compensation could be recovered for such disability. *Insurance Department of Mississippi v. Dinsmore*, 102 So.2d 691 (Miss. 1958).

Workmen's Compensation Laws are to be liberally construed to provide indemnity for accidents peculiarly incidental to the employment;[1] but they do not provide the employee with a general health, accident and old-age insurance policy.[2] The injury does not have to be an accident physica in nature, however, to be compensable.[3] For example, insanity resulting from

13. 67 Cong. Rec. 12501 (1926).
14. *Ibid.*
15. H.R. Rep. No. 1886, 69th Cong., 2d Sess. (1927).
16. See 66 Stat. 717 (1952), 47 U.S.C. § 315 (b) (1952).
17. Attempts have been made, without success, to amend Section 315 to include either the interpretation of Sorenson v. Wood or that of the instant case. See 98 Cong. Rec. 7401-4 (1952).
18. The principal case has already been cited with approval in one federal decision which also interpreted Section 315 as granting immunity to the broadcaster. See Lamb v. Sutton, 164 F. Supp. 928 (M.D. Tenn. 1958).

1. See, *e.g.*, Rucker v. Michigan Smelting & Refining Co., 300 Mich. 668, 2 N.W.2d 808 (1942); Booke v. Workmen's Comp. Bureau, 70 N.D. 714, 297 N.W. 779 (1941).
2. See, *e.g.*, Rucker v. Michigan Smelting & Refining Co., 300 Mich. 668, 2 N.W.2d 808 (1942); McKinnon v. North Dakota Workman's Comp. Bureau, 71 N.D. 228, 299 N.W. 856, (1941); Tweten v. North Dakota Workmen's Comp. Bureau, 69 N.D. 369, 287 N.W. 304 (1939).
3. Schneyder v. Cadillac Motor Car Co., 280 Mich. 127, 273 N.W. 418 (1937); Simon v. R. H. H. Steel Laundry, 25 N.J. Super. 50, 95 A.2d 446 (1953).

employment has been held to be covered under workmen's compensation.[4] The acceleration or aggravation of a pre-existing condition is compensable under the law.[5]

The fact that the injured or deceased party has a pre-existing physical condition placing him in a weakened and more susceptible state is immaterial.[6] There is a conflict of authority, however, as to the amount of exertion required to constitute an adequate aggravation or, expressing it another way, a physical effort which could be termed an "accident".[7]

The overt act, unusual exertion, exceptional strain, or sudden extraneous event is looked for by judges in an effort to find tangible proof of *causation.*[8] A normal exertion on the part of the employee in the course of daily employment which is not shown to be unusual or severe has been held insufficient to establish causation.[9] This requirement is set down by the courts to prevent an employee from collecting compensation for every illness or injury occuring to him on the job when his work is not proved to be a causative factor of the injury. The degree of exertion necessary differs from a "traumatic incident" to a very slight strain.[10]

The burden rests upon the plaintiff to prove causation, and the lack of tangible evidence may be grounds to deny recovery.[11] In at least one jurisdiction the "accident" rule has been rejected. In that jurisdiction proof of causation may be established by an expert medical witness. Here lack of an "accident" is no bar to recovery. If a medical witness can show that the injury did in fact result from the employment recovery is granted.[12]

The instant case represents a rather unique extension of coverage under Workmen's Compensation Acts in that it brings within its scope injuries or infirmities of workers whose emotional or mental attitudes toward their work affects their health. Although the courts in North Dakota have not ruled on a case similar to the one in question it would seem that an overt act or an unusual exertion must be established to show causation of the injury or aggravation of the pre-existing condition.[13]

JOSEPH R. MAICHEL.

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4. Simon v. R. H. H. Steel Laundry, 25 N.J. Super. 50, 95 A.2d 446 (1953).
5. Brown v. Minneapolis Bd. of Fire Underwriters, 210 Minn. 529, 299 N.W. 14 (1941); Masse v. James H. Robinson Co., 301 N.Y. 34, 92 N.E.2d 56 (1950); See, Sandlie v. North Dakota Workmen's Comp. Bureau, 70 N.D. 449, 295 N.W. 497 (1940).
6. Brown v. Minneapolis Bd. of Fire Underwriters, 210 Minn. 529, 299 N.W. 14, (1941); Brown v. Brann & Stuart Co., 20 N.J. Misc. 405, 28 A.2d 420 (1942); Elmstrand v. G & G Rug & Furniture Co., 87 N.W.2d 606 (S.D. 1958); See, Sandlie v. North Dakota Workmen's Comp. Bureau, 70 N.D. 449, 295 N.W. 497 (1940).
7. Coffey v. Coffey Laundries, 108 Conn. 493, 143 Atl. 880 (1928); Guthrie v. Detroit Ship Building Co., 200 Mich. 355, 167 N.W. 37 (1918); Fox v. City of Plainfield, 10 N.J. Super. 464, 77 A.2d 281 (1950).
8. Schroetke v. Jackson-Church Co., 194 Mich. 69, 160 N.W. 382 (1916); Hall v. Doremus, 114 N.J.L. 47, 175 Atl. 369 (1934); Sandlie v. North Dakota Workmen's Comp. Bureau, 70 N.D. 449, 295 N.W. 497 (1940).
9. *E.g.*, Morgan v. Travelers Ins. Co., 97 Ga. 675, 104 S.E.2d 257 (1958).
10. Guthrie v. Detroit Ship Building Co., 200 Mich. 355, 167 N.W. 37 (1918); Schroetke v. Jackson-Church Co., 194 Mich. 69, 160 N.W. 382 (1916).
11. *E.g.*, Sandlie v. North Dakota Workmen's Comp. Bureau, 70 N.D. 449, 295 N.W. 497 (1940).
12. Liberty Mut. Ins. Co. v. Industrial Accident Comm'n, 73 Cal. App.2d 564, 166 P.2d 908 (1946).
13. Booke v. Workmen's Comp. Bureau, 70 N.D. 714, 297 N.W. 779 (1941). McKinnon v. North Dakota Workmen's Comp. Bureau, 71 N.D. 228, 299 N.W. 856, (1941); Sandlie v. North Dakota Workmen's Comp. Bureau, 70 N.D. 449, 295 N.W. 497 (1940).