

# Providing for the Damaged Workman

**I**N the good-old-days when Peter Pennyman, head moulder of the local stove works had a leg and one arm pried off in the machinery the boys took up a collection. And Peter? Peter—he got better. He had no arm, no leg, but the *bon dieu* left him a stomach. So the end of the story was that P. Pennyman, injured moulder, sold bootlaces at the busiest corner of the main street for thirteen years and eleven days and when the time came to die was mourned by a wide circle of police.

Now, John Dermott, pattern-maker, was nephew to Peter Pennyman. Only John's clock struck forty-seven on February 1st, 1915. On February 3rd, during a lull in the pattern shop, John obliged the foreman by lending a hand in piecing a broken belt. No blame to John if a clumsy apprentice dropped a hammer on the belt at the instant of its highest speed. But the crash of shafting and the yell of pain left no doubt who shouldered the penalty. They lifted Dermott into an ambulance with his fourth rib where his third should be. And for a couple of weeks he had lain upon a bed trussed and iodined like the mummy of Pharaoh.

On February 6th the Ontario Workmen's Compensation Board received a notification from the employer that J. Dermott, pattern-maker, had been injured. John himself, or his wife, or son, submitted a similar declaration. Forms were quickly filled up by employer, workman and physician.

There were a few other details—nothing to frighten anybody—and the postman, one morning, slipped a long, flat envelope down the gullet of the letter-box. It was a cheque for \$44, representing 55 per cent. of the pattern-maker's monthly earning capacity. And the cheques came along, and will come along, until John Dermott quits his bed, a cured and happy man.

John may not get better; what then? He will draw the \$44 a month until the end of his days, though he live to be ninety-eight—and pensioners seldom quit earlier than that. He may die of his injuries; what of the widow? She will receive \$20 a month in perpetuity. If there are children, there is an additional \$5 a month for every chick under sixteen years of age, the total pension not to exceed \$40 a month. Maybe, Mrs. John may want to marry again. Very well, the new law makes it easy, for she is entitled to a lump sum of \$480, representing two-years' payments, within one month after her re-marriage.

There are, of course, other circumstances. Assume that our good man John is only partially incapacitated by his accident. He used to earn \$20 weekly; now he earns but \$10. In that case, says the

## An Explanation of the Workmen's Compensation Act of Ontario



By **ROBSON BLACK**

Based on an interview with Sir William Meredith.

Workmen's Compensation Act, he will receive 55 per cent. of the impairment of his normal earning capacity, which means an added \$5.50 a week, bringing his total to \$15.50.

Without supposing that any more things could happen to John Dermott than partial disability, total disability, and death, the point to emphasize is that unlike his uncle, Mr. Pennyman, he will not be called upon to hawk bootlaces, nor to bring busy housewives to the front door to buy a can of tooth-powder.

The Workmen's Compensation Act is Ontario's one revolution in twenty-five years. There have been other ructions in the jealous old *status quo* but exceedingly few have proved more than chary compromises—*squibs* of reform. In the Legislature of last year the Act was passed. On January 1, 1915, the machinery began its operation. That is, at the present writing, just two months ago. Like most other serious efforts to re-adjust conditions, the process received full accompaniment from the anvil chorus and the celebrated Hands-Off! Trio. But the Act arrived. It is Ontario's permanent guest. Only two months' trial and—what? The Canadian Manufacturers' Association officially ad-

vises all members to accept the Act without protest and give it every co-operation in the trust that alleged injustices

will be righted by time and experience. The working man has had scarcely time enough to appraise the Act at its full meaning. After all, it is *his* Act, conceived and fashioned in the recognition of conditions affecting the industrial worker. Time will probably show that the compensation law, approximately as it left the hands of its designer, Sir William Ralph Meredith, was as inevitable as public ownership of post offices; and equally bulwarked in public favor. In a twelve-month of operation, the Workmen's Compensation Law of Ontario may come to be so happily regarded that the warnings and mutterings clouding the long days of the inquiry will read like an anthology of spook-craft.

In a suite of rooms at the Normal School Buildings, Toronto, the Workmen's Compensation Board dispenses the new and overflowing measure of industrial justice. Three men, Samuel Price, A. W. Wright, and George A. Kingston are the "judiciary" and while all represent good ability and unexcitable judgment, none can be said to hold a brief for any special class or to be possessed of private fads conflicting with the spirit of the legislation. It would seem as if Sir James Whitney nominated them from the ranks

of conscientious laymen rather than as sectional extremists or over-whittled "experts." The

machinery implementing the Act is simplicity itself, at the same time being the product of elaborate actuarial preparation and under the guidance of practical masters, such as F. W. Hinsdale, who had large experience with the Washington State law.

### THE SCOPE OF THE LAW.

In every working day, from forty to fifty men are injured in Ontario who come within the purview of the new law. Nine hundred cases have been handled in less than a month and a half and this, for various reasons, is much below the average of a similar period as the Act grows older. Five Ontario men, or thereabouts, are killed every week while in their industrial duties and these form another class whose claims must have immediate attention.

Prior to January 1st, none of these men or their dependents had any right in the eyes of the law to recover damages unless negligence of the employer could be proved. Were the workman himself guilty of negligence, the way to recovery was absolutely barred—as was equally true when the cause could be traced to the negligence of a fellow workman.

All these legal exceptions aborting the spirit of even the most primitive measure of compensation were unfair and extravagant. In whatever manner a workman is hurt, he is still hurt, and his earning capacity either lessened or wholly removed. Whether he is killed by other's negligence or by his own or by nobody's, his widow and children face the same peril of poverty. A designer of less breadth of view than Sir William Meredith—suppose he had been a mere legal technician—would have quailed before the thought of upsetting fifty or a hundred hoary precedents such as glistened from the pages of previous legislation. Fortunately, the commissioner did not make the mistake of draping a new law on the bones of the old; existing statutes he accepted mainly as a horrible example of what should not be. What eventually came from the hopper as a Workmen's Compensation Act was fresh and vivid as a wireless flash.

The new law differs from any other that Canada has ever known in the amount of compensation. It used to be a lump sum (in the cases lucky enough to get anything) guessed at by judge and jury and handed over to the workman or his dependents. Under the new law, all questions as to right of compensation and the amount are determined by the board of three Government-appointed members, whose verdict shall be absolutely final. No court can repeal it; in fact, all courts are superseded. Neither are there any costs to the workman or his employer to ascertain the board's opinion. Whatever moneys are paid are split into periodical sums thus providing for continual maintenance independent of an individual's personal extravagance or folly which, under the old system, often frittered away

lump sum damages within a few weeks or months.

How does this work out in dollars and cents?

Having received notification from an employer of a man's injury or death by accident (or illness through an "occupational disease" such as lead poisoning) and with confirmatory evidence on hand from the victim or his dependents and the physician in charge, the board loses no time in sifting the facts and apportioning the payment. The presence or absence of negligence in employer or employee may sometimes affect the amount of compensation but can never void the worker's claim altogether. The only cases in which compensation is not payable, provided the accidents arises out of and in the course of the employment are: (1) Where the disability lasts less than seven days; (2) where the accident is attributable solely to the serious and wilful misconduct of the workman and does not result in death or serious disablement.

The board is hedged in its judgments by yet other considerations. Thus, no agreement to forestall the benefits of the Act is valid; no part of the amount payable to the accident fund by the employer is to be charged against the workman; nor can compensation be attached, charged or assigned without the approval of the board.

#### THE SCALE OF PAYMENTS.

Once the legitimacy of an employee's claim is admitted—and it requires only a few days—this scale of compensation comes immediately into effect:

If the accident results in death and the workman leave a widow she is entitled to a monthly payment of \$20.

If he leave a widow and children, the payment to the widow is \$20 a month and \$5 a month for each child under sixteen years of age, with a maximum total payment of \$40.

If he leaves children only, the payment is \$10 a month for each child under sixteen.

If the workman was under twenty-one years of age and his dependents are his parents, or one of them, such dependents shall receive \$20 a month until the workman would have been twenty-one years of age. This term of pension may be extended by the board.

All payments are governed, however, by the provision that in no case shall they exceed 55 per cent. of the workman's earnings in the employment. Also, the maximum salary or wages upon which the board is allowed to



Geo. A. Kingston, of the Workmen's Compensation Board.

compute compensation has been placed at two thousand dollars a year.

For the workman who is permanently disabled through his labors, it is provided that he receive 55 per cent. of his wages. That is, if he were earning \$25 a week, he must be paid \$55 a month with no time limit except the day of death.

Then by abolishing all opportunity or necessity of court actions and making the board of three members supreme, both employer and employee are facilitated in obtaining justice. Quite commonly, the persons most deserving of compensation were in the poorest position to secure it, because the old system specified that when master and servant did not agree on a settlement the remedy was an action at law. Obviously, the best man at the game of law is the man with a fat purse. Indeed, the "lessons" taught injured workmen and their dependents in obtaining justice through batteries of solicitors and costly appeals became in time a warning rather than an invitation. Then, too, the employer frequently suffered from unfair suits which he preferred to compromise rather than go to the expense of contesting. There is no room for doubt, however, that the law courts as a clearing house of workmen's claims were in effect playing into the hands of the well-to-do employer.

Who are included in the operations of the Act?

Not all, but a very large number of the employments existing in Ontario. Exclusions have been allowed and for valid reasons. Thus the retail and wholesale mercantile businesses, farm laborers and menial servants, hotel keeping and restaurant keeping, the business of an architect—the list of excluded employments



Samuel Price, Chairman of the Workmen's Compensation Board.



A. W. Wright, Vice-President of the Workmen's Compensation Board.

is a long one and the above are merely samples. Where less than six workmen are employed, mining, cheese, butter-making, power laundries, and quite a number of others are spared from the privileges of the Act and where less than four workmen are employed, as in machine shops, repair shops, cabinet work, etc., the industries are regarded as "out of bounds." The object in making these exceptions was because of the relatively small hazard involved and the impossibility in the early stages of administration to collect names and make assessments. As time goes on, it is not improbable that fresh classifications will be added to those already recognized.

All employments upon which the workmen's compensation measure exerts any influence, are divided into two general classes. Those who are liable to contribute to the accident fund constitute the more important group as regards numbers, including lumbering, pulp and paper mills, mining, quarries, iron, steel and metal foundries, agricultural implement works, chemical plants, distilleries, and a great variety of others. There is a second class, called Schedule 2, which the commissioner specified as *individually* liable to pay the compensation and who, therefore, do not contribute to the accident fund. This includes enterprises carried on by municipal governments, public utilities commissions, the operation of railways, the operation of a railway company's car shops or similar plants, the business of an express company. Construction work on railways is also included when such is carried on by the same parties which operate the finished system. What happens in case of accident to an employee in this second class is that the board establishes the amount of compensation and assessment is made upon the employer direct. As far as the workmen's interests are concerned, either

classification assures him immediate and generous treatment.

#### THE EXCLUDED LIST.

But there are workmen excluded from both sections, but still forming a substantial total. What of their position? It has been one of the finest testimonies to the thoroughness of Sir William Meredith's inquiry that these temporary "outlanders" are placed in an improved position. Had one of these men been injured in December last and had he entered suit for redress, very likely the courts would have listened to grave debates on "assumed risk" and "common employment"—meaning, "you took the risk when you took the job." Had his accident occurred one month later, with the new law in force, he would have found that, while he was obliged still to appeal to the ordinary courts for damages, there was no longer any validity to the employers' defences of "assumed risk" and "common employment"; and "contributory negligence" ceased to be a bar to recovery. Even from this clause, however, the farm laborer, the domestic servant and most clerks continue to be excepted.

#### HOW THE BOARD WORKS.

The actuarial machinery of the Workmen's Compensation Board would be in itself the subject of an interesting description, but in an article of a summarizing nature, it may be used to answer two or three more obvious questions.

Who supplies the money for the compensation?

The funds from which all payments to workmen or their dependents are derived represent, in the main, the contributions of employers. The workmen contribute nothing—in cash. The province provided for \$100,000 a year and undertook to pay for the maintenance of the governing board.

All industries are grouped and assessments are made upon the basis of the annual payroll; this is a rough and ready method and serves the purpose satisfactorily. As an illustration, the pulp and paper mills present a fairly uniform hazard for their workers. The paper-making machines and the pulp grinders are pretty much alike in the mills whether at Thorold or Espanola. The employers in this line of manufacture are hence more willing to pay their share of indemnities for accidents than if they had been "unevenly yoked" to canning factories, and car shops which bear perhaps different haz-

ards and certainly could not easily combine with them for reducing risks.

Since the bulk of the funds distributed by the Act comes from the employers, one may speculate as he pleases in regard to the ultimate derivation of the money. Upon that point, Sir William Meredith does not try to mince his convictions. "The burden which the workman is required to bear," said he, "he cannot shift upon the shoulders of anyone else, but the employer may and no doubt will shift his burden upon the shoulders of the community, or, if he has any difficulty in doing that, he may, by reducing the wages of his workmen, compel them to bear part of it."

Upon what assumption were the rates established?

The Ontario law being a new and untried measure, and as the hazard of like employment differs sometimes greatly in a Canadian province and an American state the only solution was to strike an average between the state-operated rates of the American republic and the rates charged by liability companies hitherto in Canada. Other factors also had an influence. When the general manager of an agricultural implement works received an account for .80 per cent. of his 1915 payroll as due to the treasury of the Workmen's Compensation Board, it means that the .80 is *estimated* on all available means of judgment as his share of the total of compensation awards in that particular industry during 1915. Maybe the rate will have to be increased or lowered for 1916 but that will be decided by the results of the current twelve-month. One point on which there may be implicit reliance is that all payments made to the Compensation Board go into the pockets of injured workmen, or dependents of de-

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F. W. Hinsdale, who supervises the machinery of the Act.



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ceased workmen and are not deflected for any other purpose.

When the Ontario rates get down to rock bottom, as accident experience will soon determine, it will probably be found that nowhere in America or Europe are the costs so well and easily distributed or the benefits so advantageously applied.

To the citizen inured to the old-fashioned conception of an employer's responsibility (or lack of it) for his employee's safety and welfare, an Act so sweeping as to wipe out all the old legal defences and place every injured creature on a generous allowance and his widow and children on a pension, must seem the veriest dare-deviltry. Yet the same person must concede that, if a workman is ever entitled to recovery for injury, it would be best to avoid the courts and save the amount of damages from dissipation. When Sir William Meredith goes beyond this and establishes the right of practically all workmen to continual support from the employers' fund no matter whose the negligence, he takes the ground that *Industry* and not soup kitchens must look after the helpless humans sacrificed in the service of industry. To the yawning criticism that workers surrounded by such pleasant options will not maintain their usual safeguards, the retort of experience is that no worker in his sane senses deliberately invites a painful, perhaps fatal bodily hurt for the reward of lowering his weekly wage by 45 per cent.

"It is contended," said Sir William Meredith in discussing this very point, "that it is unfair to require the employer to pay compensation during the lifetime of the workman because in many cases it will mean that the workman will receive compensation for a period during which if he had not been injured he would have been unable to earn wages. No doubt that will be the result in some cases, but on the other hand the workman loses any advantage he would have derived had he not been injured from an increase in his wages owing to an improvement in his position, or to an increase in his earning power."

The three states of the American Union which have state-administered workmen's compensation funds, Washington, Oregon and Ohio—not to mention Germany, to which the Ontario law is closely related—have very little desire to seriously amend their present forms of law. So reasonable and well-considered do these laws appear that organizations like the Ohio Manufacturers' Association and other bodies of similar standing recently gave the state-administered compensation act their hearty endorsement. There are other states in the Union which have ventured into the same field but probably in no instance can there be found a measure so courageous and complete as that which stands on the statute books of Ontario at the moment. It bends unduly neither to employer nor employee and displays a somewhat amazing facility for winnowing truth from half-truth and separating main roads from blind alleys. New York

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state, for instance, tried to tailor itself a workmen's compensation law. The result is that New York state's table of rates is only a trifle below that of the liability companies, the consequence of which is that the companies retain the bulk of the business. Where in Ontario the percentage of the pay-roll for pulp and paper mills, for instance, is \$1.40, the New York rate is \$4. Car shops in Ontario pay \$1.20 and in New York state \$4.50. Operation of packing houses in Ontario is rated at \$1.50 and in New York state at \$6.50; these instances are multiplied wherever in the two lists one chooses to make comparison.

If one desires to know the ideals which inspired the architect of this most important contribution to the social and economic progress of Ontario, probably in all the days of its history, that architect's own words may give away the secret:

"In these days of social and industrial unrest it is, in my judgment, of the gravest importance to the community that every proved injustice to any section or class resulting from bad or unfair laws should be promptly removed by the enactment of remedial legislation and I do not doubt that the country whose Legislature is quick to discern and prompt to remove injustice will enjoy, and that deservedly, the blessing of industrial peace and freedom from social unrest. Half measures which mitigate but do not remove injustice are, in my judgment, to be avoided. *It would be the gravest mistake if questions were to be determined not by a consideration of what is just to the workman, but of what is the least he can be put off with.*"

## The Last Ally

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diplomatic reasons to a royal nonentity, condemned to a lifetime of endless etiquette and senseless rigmarole. He reflected darkly on the benighted condition of the old world which made such things possible. Was there no way that an ambitious young millionaire from the new world could succeed in upsetting this almost inevitable arrangement, could succeed in scaling the walls of old world custom and tradition?

In keeping with his thoughts his pace had become savagely energetic. He now discovered that he had wandered well away from the palace into a maze of dark paths. He stopped and looked about him. And then suddenly he heard voices.

They proceeded from a thick clump of bushes close to his right. A voice raised itself sufficiently high to carry its message to his ears. The owner of the voice was speaking in German and Fenton knew enough of that language to catch what he said. It interested him so acutely that he stepped through the bushes cautiously in the direction from which the voices came.

In a small clearing, part of which was thrown into relief by a ray of light from

## Why Wait for the Boss to Fire You?

Many a young man never knows what pay-day he will find the "blue ticket" in his envelope. He is simply one of the crowd who are hired when times are good and fired when times are bad.

A young man who looks ahead prepares himself for success in business by taking practical business college and correspondence-school courses. He is the man who not only remains on the job, but GETS AHEAD. That is the kind of men employers want.

**I**F a young man is prepared to drop all efforts to improve his education after he has left school, he has no chance now-a-days to make a success in life. Even fifty years ago it was customary for a young man after entering on a business career to give up his spare hours to study and to attending lectures on various subjects that would enable him to make his mark later in life. I do not suggest doing away entirely with sports and games and sufficient physical exercise and amusement, but if he desires to take every advantage of his opportunities and to succeed in life he should have no hesitation in sacrificing some portion of his spare time to complete or rather add to his educational advantages."

D. R. WILKIE,  
(late) President,  
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