WORKMEN'S COMPENSATION INSURANCE.

CORRECT FUNDAMENTAL PRINCIPLES NOT ALWAYS FOLLOWED—INEQUITABLE METHODS OF COMPENSATION TEND TO ENCOURAGE DISHONOURABLE PRACTICES.

A careful study of workmen's compensation legislation on this side of the Atlantic and the effect of some of its provisions is contributed by Mr. Harold G. Villard in the New York Annalist. Mr. Villard points out that the necessity and desirability of legislation of this sort is unquestioned. The old system of settling accident cases was wasteful and unsatisfactory and left it problematical whether a workman, injured often through no fault of his own, should receive compensation or not. Underlying the new statutes is the noble and humanitarian idea of providing for all victims of accident. and of enabling them to recover their former working powers as far as possible. Among the prospective beneficiaries of these enactments, however, a larger percentage than ordinarily of undesirable characters and worthless members of society is to be found. If afforded an opportunity through faulty provisions in the accident compensation acts, they will on every possible occasion resort to fraudulent and underhand practices in order to secure unintended pecuniary benefits for themselves. Their example is apt to prove contagious, with the resultant demoralisation and infection of the better class of laborers. Whether workingmen's compensation laws therefore prove to be an unmixed blessing, as intended, or bring a host of evils in their train depends largely on their being kept free from defects and upon their being interpreted along the right lines.

CONTRIBUTARY NEGLIGENCE.

In the modern industrial world, accidents to workingmen causing both physical disabilities and an economic loss are bound to occur with more or less frequency. To throw the entire resultant burden on employers would work unfairly for the reason that a large part of all accidents incurred are due to the laborer's negligence. Thus, for 1913, the New York Edison Company ascribes 1,516 out of 1,748 reported accidents to the fault of its employes. Again, if relieved from all loss or penalty, the workman would be under no great incentive to avoid the occurrence of accidents, nor, when injured, anxious to have his hurts healed quickly. The conclusion has therefore been reached that, in the best interests of those directly concerned, accident compensation laws should penalize both sides and be only partially reparative. Hence the rule evolved that employers must compensate victims of accidents in all cases, but only to the extent of part of their customary earnings.

CONSEQUENCES OF OVER-ESTIMATED EARNINGS.

This principal of partial reparation underlies the compensation statutes of the individual American States, which, broadly speaking, fix on from one-half to two-thirds of the workmen's average weekly earnings as the maximum indemnity payable in cases of accidents. The New York law, however, not only adopts the highest rate of 66 2-3 per cent., but directs that compensation shall be based on average annual earnings to be computed whenever feasible on 300 times the average daily wage received. Now, as a matter of fact, very few workmen are employed 300 days in the course of the year. Holidays, sickness, strikes, unemployment, etc., all combine to reduce the time spent at work below this figure. In certain pursuits, such as the building trades, skilled mechanics have to count regularly on from three to four months' enforced idleness, on account of weather conditions. Again, work may be of an intermittent nature, as in the case of longshoremen. In all these instances, the average annual earnings come to far less than 300 times the daily wage as assumed under the New York law. The inevitable consequence of such overestimation of earnings is that the compensation paid to injured employes will be often either equal to or in excess of the sum customarily earned by the victim when at work. Far from suffering pecuniarily as the result of an accident, the disabled laborer may find himself deriving an actual profit therefrom, and is under every incentive to prolong his period of idleness for as long a time as possible. The demoralizing effect of this need not be dwelt upon. In addition, the New York plan of substituting daily wages in place of average earnings is arbitrary, and based on an incorrect principle because it makes hypothetical, instead of actual wages earned, serve as the criterion of compensation.

IMPAIRMENT IN WAGE EARNING OR NO COMPENSATION.

As a corollary to the foregoing, it follows that the mere mutilation or disfigurement of the human body should not necessarily entitle the afflicted workman to compensation. If unaccompanied by a diminution in wage-earning capacity, no indemnity should be paid, for the prerequisite therefor—namely, loss in earning power—is lacking. In all but six of the American State laws, however, provisions have been inserted awarding fixed amounts for the loss of certain members of the body. For example, the New York act prescribes compensation of two-thirds of the average weekly salary, for periods ranging from eight weeks for the loss of a phalange of a toe to 312 weeks for the loss of an arm. The new rule is introduced that the mere fact of injury entitles the workmen to an award and the salutary principle of no compensation for an accident except where a loss in earning power ensues is deviated from.

Aside from facilitating the estimation of indemnities, no valid argument can be advanced on behalf of this kind of legislation. It is based on an unjustifiable distinction between ordinary injuries and those resulting in mutilation of the body. Thus a workman, who comes out of an accident with his body intact, must show an impairment in his wage earning capacity before becoming entitled to any compensation. Another may have passed through the same accident with his worth as a producer in no wise affected and yet suffer the loss of part of his anatomy. The last named party receives in such a case a certain fixed indemnity and is not called upon to prove a resultant diminution in salary. Such a payment should not be designated as compensation, but rather be termed a bonus or solace money for having undergone an accident.

RULE OF THUMB METHODS OBJECTIONABLE.

A more serious objection to this idea of awarding fixed and definite indemnities for the loss of certain members is that it works very unfairly in practice. The loss of the same part of the body affects no two