

tion may be increased if the accident is due to the "inexcusable fault" of the employer.

In New Brunswick an employer while also liable under the Common Law, is still only liable for defects in his ways, works or plant or negligence of his superintendent or any person in his employ; but when negligence is proved, the scale of compensation for dependents of a workman killed by accident or during the workman's incapacity if the injury is non-fatal, is on a Workman's Compensation basis. This New Brunswick Act is really the most favorable to employers in the whole Dominion, as while still retaining the liability of an employer, for the fault of himself or his servants, it defines his liability to a specified amount in case of death or during incapacity.

The employments to which these Compensation Acts apply are at present limited in British Columbia, Alberta and Newfoundland to employment in, on or about a railway, factory, mine, quarry or engineering work or in or about a building (in British Columbia exceeding 40 feet in height, in Alberta exceeding 30 feet and in Newfoundland exceeding 20 feet) that is either being constructed or repaired by means of a scaffolding or being demolished, or on which machinery driven by steam, water, or other mechanical power is being used for its construction, repair or demolition. Other enterprises and agricultural pursuits are not included.

In New Brunswick the Compensation Act being of the nature of a Liability Act, extends to practically every kind of employment.

In Quebec the Act also practically covers every kind of employment except agricultural and navigation by means of sails.

Those Primarily Liable under Acts.

The person primarily liable for the Compensation in British Columbia, Alberta and Newfoundland, is the "undertaker" of the work. For instance, supposing injury is sustained by the workman of a sub-contractor, the undertaker is liable for the compensation, but he has a right to be indemnified by the sub-contractor. The importance of bearing this in mind is that the sub-contractor, as well as the undertaker, should also be insured and his wages included in the pay roll on which the company's premium is based.

In New Brunswick the person for whom the work is done, and who has supplied material or the appliances—provided these are defective—is liable to pay the compensation as if the workman had been employed by him. This does not, however, relieve the contractor or sub-contractor, but entitles the injured workman to claim from all or any provided he does not receive double compensation.

In Quebec only the employer is liable.

When the accident is caused by a stranger the injured workman can, if he chooses, proceed against the latter. In Quebec if he does so and recovers the compensation, that discharges the employer to the extent of the damages. In British Columbia he must choose either his employer or the stranger and cannot proceed against both. In Alberta and Newfoundland he can proceed against both, but cannot recover from both.

Employer's Grounds for Defence.

Under the Workmen's Compensation Acts an employer has an important defence to a claim for the benefits of these Acts, and it is the same under them all, viz.: where the accident is caused by the serious and wilful misconduct of the employee, or—in the Province of Quebec—by the "inexcusable fault" of the employee. This defence, however, is purely a question depending upon the facts, and on the employer is placed the onus and invariably the expense of establishing this if he can, with the result that in general practice every accident must be paid for either in compensation or the costs of litigation.

The only other defence open is that notice of the accident was not given as soon as practicable after the accident, or the claim made within a specified time—usually six months—but these are purely technical objections and may or may not be allowed to prejudice the employee's demand according to circumstances.

The scale of compensation payable under these Compensation Acts, where the workman is injured in the course of his employment, is half his wages during the disablement. In some Provinces the first two weeks are excluded. In the event of death, and the workman being survived by dependents, a lump sum usually three years' wages, is payable. Over the page is given a comparison of the scale of compensation in the different provinces.

Scale of Compensation.

It will be noticed that in Alberta and Newfoundland, the weekly compensation must be paid as long as the injured workman is totally disabled until the payments are redeemed by a lump payment determined by the Court or as may be arranged between the employer and the workman. If the workman is practically disabled the employer is entitled to reduce the weekly payment to the difference between the amount which the man is earning or is able to earn and the amount which he was earning at the time of the accident. If, therefore, the workman is totally disabled for life or is not earning and will never be able to earn up to his previous standard, the weekly payment—or a reduced amount—must be continued, with the result, an employer in these two provinces may have a disabled workman on his hands as long as the workman lives.

In concluding this important part of his address before referring to pending Dominion legislation re accident insurance, Mr. Falconer said:

"The new Compensation Act in Quebec has recently brought this question of Workmen's Compensation in greater prominence. The result of the Act in Quebec is, of course, that employers in that province have the cost of production and operation increased, the difference in the rates now being charged adding very considerably to the additional cost of every ton of material produced by the manufacturing and other industries. The difference is so great in some cases, that the Quebec manufacturer will not be able to compete at a profit with the manufacturer in the province of Ontario. I therefore, anticipate early legislation of the same character in the province of Ontario."