QUEBEC WORKMEN COMPENSATION ACT.

(Continued from last issued)

Note:—In last weeks article page 748, column 2, line 23 read "precedents" instead of "procedure"; same column, line 33, read "fair" instead of free". Ed.

In order to realize the importance of preserving for the workmen the right to increased damages in cases where there is gross negligence on the part of employers or their agents it is necessary to consider what has happened in other places where the workman has been deprived of this right. Take for example the Ontario Law under which the workman in all cases receives 55% of his wages. It is quite evident that if this law had never been enacted the workman would be in a position to secure a larger amount in cases where his injury was due to some careless act or neglect of the employer. It may be said that whilst he suffers a hardship in a few cases he benefits in many others, but this depends upon the number of times the workman might recover on account of negligence as against the number of times that he might have no claim at all. Modern methods involving fast production, crowded factories, intricate machinery, chemical processes and impure air require greater precaution on the part of employers. It is known that neglect of these precautions produce more accidents than all other causes. It follows therefore that since the workman's right to claim the full extent of his loss is barred by the law the employer is paying less in fixed compensation than he would require to pay in Common Law damages for the same cases.

However, it is interesting to note what developes under a system such as the Ontario one. An insured employee is hurt, let us say in the construction of a building; he is sent to procure some materials or (to do anything whatever) and accidentally falls into an exposed elevator shaft. His foreman may have been careless in not warning him to keep away from that section, the general contractor may have been careless in not insisting on proper guards or proper warning reaching all the men; the carpenter may have been responsible since one of his men working near the place legitimately moved some boards; possibly the brick-layer moved his scaffold; it may have been another contractor who boarded up the windows and blocked the light. In any case it will be clearly seen that the injured employee might claim against his own employer or any one of a number of others for varying degrees of negligence. Such conditions exist in almost every case of injury. The man working in the factory sustains njury owing to faulty machinery. The employer may be responsible for not having examined it carefully or the maker may be responsible for selling it in a dangerous condition. It is usual for the workman to sue the employer direct in all such cases of mixed responsibility on the assumption that he was the most responsible because he was in a position to protect the workman against the neglect of these other concerns.

When the Ontario workman sustains injury he is offered approximately half wages by the Board. If he finds this inadequate and consults a lawyer he is told that there is no such thing as suing the Board or the employer but that any other party who contributed to the circumstances causing the accident might be proceeded against at Common Law on the chance of recovering damages. The result is that if a contractor is careless and causes injury to his own employees they receive approximately half wages. If he causes injury to the employees of another firm he is liable to pay them the full amount of their damage. It will be observed at once that this situation is a most ridiculous one, because it brings about a great deal of litigation of a highly speculative character. This means that law costs are much higher than normal conditions. Of course it is a well known fact that these costs do not come out of the lawyers' pocket, nor out of the workman's as he is generally impecunious, but in the longrun they are paid by the employer. Evidence of this is found in the fact that since the Ontario Compensation Law came into existence the premiums collected by Insurance Companies for Public Liability insurance in that territory have increased enormously and are almost as much as the entire Employers Liability premiums under the old system. Employers require to pay higher rates for Public Liability insurance and in addition pay the Compensation Board premiums.

It should therefore be very carefully observed that any effort made by the legislature to reduce the cost of administering the Compensation Law by trying to put the lawyer out of business, will in the end resolve itself into a form of cross litigation and as in Ontario develop a highly speculative branch of the industrial accident lawyer's art, a most costly one for all concerned.

The Quebec Law at the present time is free from these objections and all that is required to improve the system is a form of summary procedure with a reduced scale of costs.

It is in the interest of the public the employer and the workman alike to have all important cases reviewed by the courts and the compensation properly fixed. Nobody wants to see some men take less than they are entitled to, because they fear to get into the lawyers hands; nor it is right that others should get away with too much, because they retain doctors and lawyers, to make the best of their case, by contending that his inquiries are more serious than those of the other fellow.

(This article will be continued in our next issue)