

Canada Law Journal.

VOL. L.

TORONTO, APRIL 1, 1914

No. 7.

ONTARIO WORKMEN'S COMPENSATION ACT. PROVISION ABOLISHING ACTIONS AT LAW.

The expediency of statutes of the type which is exemplified by the Ontario Act for the Compensation of Workmen at present under discussion in the Provincial Legislature, is now generally conceded. Even under the simplified forms of modern procedure the cost of ordinary actions at law is so great that, in a large proportion of instances in which injuries are sustained by servants in the course of their employment, they are faced with the alternative either of desisting from any attempt to recover damages, or of accepting a disadvantageous compromise. To no other class of cases, in fact, is the ironical remark made by Mr. Justice Maule in a famous trial, that "there is not one law for the rich and another for the poor," so strikingly applicable; and the hardship of the situation has been greatly aggravated, by a special cause—the operation of the doctrines concerning assumption of risks, common employment, and contributory negligence.

The essential and characteristic feature of all the statutes which have been passed for the purpose of remedying this inequitable state of affairs is a scheme under which injured workmen become entitled to a certain indemnity, irrespective of whether their injuries were or were not occasioned by the fault of their employers. The earliest legislation framed upon this model was the English Workmen's Compensation Act of 1897, which has been copied, with more or less variation, in other parts of the British Empire and in a large number of the American States. The English Act, both in its original and its amended form, expressly preserves the right of a workman to bring an action for injuries caused by his employer's breach of a common law or statutory duty, and one of the most important questions