SPEECH

OF

Hon. W. J. Bowser, K. C.

ON THE

"Workmen's Compensation Act"

ON MONDAY, APRIL 12TH, 1915

DELIVERED AT THE VICTORIA THEATRE
VICTORIA, B. C.

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The Chair was occupied by Mr. A. S. Wells, President of the Trades and Labour Council.

The Chairman: Ladies and Gentlemen: For a considerable time the organized labour movement of the Province of British Columbia has been endeavouring to secure a Compensation Act in this Province that would compensate those men who were injured in industry through accidents in the Province. We have spent a large amount of time, a considerable amount of energy, and considerable money in our efforts to achieve our object. And therefore, at this time, considering the fact that Mr. Bowser has introduced in the House a draft Compensation Act, we are desirous not only of having the Act criticized, but of having the Act explained to us, as workingmen of this Province. And therefore, this meeting has been called.

I think when you look at the speakers on the platform tonight, you will recognize instantly that this is a non-partizan meeting. It is not a political meeting, but a meeting to discuss one of the vital questions which affect the wage-earners of this Province, in so far as it refers to compensation for injuries which are an absolute adjunct of industrial operations. And, therefore, we desire not only to have the merits of the Bill explained to us, but if there are any demerits in the Bill, we desire also to have them explained to us, too. Our object is not to make anything of a political nature of this, but to do our utmost during the time which will intervene between now and the time that the Act is placed on the Statute Book, to see that we secure a Compensation Act in this Province which at least shall be as good as anything which obtains in the Dominion of Canada at this time. And more than that, the organized labour movement of this Province is desirous of seeing, as far as possible, the misery and the want which is often entailed by industrial accidents safeguarded against. We desire more than

anything else that it may be pointed to this Province as having the banner Act on workmen's compensation in this Dominion of Canada. And, therefore, the Trades and Labour Councils of various cities are holding public meetings in which this question can be discussed and its merits and demerits pointed out. And therefore, tonight, we have requested Mr. Bowser, who is the author of the Bill, to appear before you and explain to you the objects and the different clauses of the Bill, and we have asked other speakers here tonight to criticize the Bill. We have Mr. Oliver with us, who is on the opposite side in politics to Mr. Bowser, and we have Mr. Hawthornthwaite, who has had some considerable experience in the House over James Bay, and knows considerable about workmen's compensation; and we have Mr. Watchman, the president of the B.C. Federation of Labour, who is here tonight representing the desires and wishes of organized labour. Therefore, we have these men of all shades of thought on this particular proposition, and I desire that you will give your earnest attention, and refrain as much as possible from doing anything that will make this meeting unharmonious.

I will now ask Mr. Bowser to address you and explain the draft Act of the Workmen's Compensation which he has introduced into the House. (Applause).

MR. BOWSER'S SPEECH

Mr. Bowser: Mr. Chairman, Ladies and Gentlemen: I must reiterate the opinion expressed by the chairman, that this meeting cannot tonight in any sense be considered a partisan meeting, as we have all shades of politics, both represented by the Conservative, Liberal, and as well by Labour, to discuss what perhaps is one of the most important pieces of legislation that has been introduced by our Government during the time we have been in power, and particularly during the last session.

I must in the first instance, express my appreciation of the courtesy of the Trades and Labour Council in asking me to appear tonight at this crowded meeting, in order to explain the different sections of the Workmen's Compensation Act which I had the honour of introducing in the closing days of the session just ended. I particularly take it as an honour to be asked by the Trades and Labour people of this city to explain the Act in detail, in order that we may have a better appreciation of what this piece of legislation means; and at the same time, I wish to state that so far as the Government is concerned, we are only too anxious to receive every possible criticism as to the Bill itself. It is in no sense of the term a contentious piece of legislation, and it is for that reason that this meeting tonight, in the political sense, is

not to be a contentious one. We are here for free and open discussion, intelligent discussion of the Bill itself, and also for criticisms which my friends may see fit to make, no matter what party they represent. So far as the Government is concerned, we wish to perfect as far as possible the legislation which we have introduced, and for that reason we have laid it on the table for a year, so that in the recess between this and the next session of Parliament we will have an opportunity of having pointed out to us wherein this Bill does not come up to the expectations of labour, on the one hand, and also on the part of the employer, on the other—because it must be remembered that this legislation is not only drafted from the standpoint of labour, but also from the standpoint of the employer, because it imposes many duties and financial responsibilities upon the employers which were not placed upon them before, either under the statute law or under the common law as it stood. (Applause.)

HISTORY OF LEGISLATION

It may not be out of place on my part, for a moment, as some may not be acquainted with the history of this legislation, to explain as briefly as I can, and in order that you may intelligently criticize the legislation afterwards, exactly how the law stood from its inception. I must go to England for the origination of the law in connection with accidents happening to any employee in the industry in which he might be employed. Under the common law, an employer was answerable in damages only when he had been at fault. That is a well known condition, which existed in the common law of England, and which, of course, was the law in this country, until affected and amended by legislation. That is, if a workman met with an accident in any industry, and was unable to show that the injury he had received was caused entirely by the fault of his employer, he could not recover. In the development of this law, through the decisions of the courts, and also by legislation, a further qualification as to the liability of the employers for negligence was introduced, and which very much increased the difficulties which the workman found in attempting to recover damages for any injury he might have received in his employment. It was held that, notwithstanding the fault of the employer, if the workman himself had been guilty of negligence contributing approximately to the injury, he could not recover. That is the well-known doctrine of "contributory negligence." No matter how much the employer may have been responsible, even through the grossest negligence, if the workman himself had been guilty of any contributory negligence, then, in that case, he could not recover against his employer. Then there was

also a further doctrine, the "assumption of risk" rule. Those who have given study to this question know how the assumption of risk rule limited the right of the employee to recover, for he was taken to have assumed the natural and ordinary perils incident to the performance of his services. And then, that was further added to by the further rule known as "common employment," which laid down—these decisions were given by the courts—that if you undertook any employment, and it you suffered from injury, and that injury was caused by a fellow employee—or what is known as common employment—in that case you could not recover.

MANY EXPERIMENTS MADE

Now, these various rules and defences may have been justified in the opinion of some, when they were first introduced, and particularly when the decisions were given in the early days, in England. But, of course, now, under modern conditions, through the increased hazard of the numerous occupations developed in the course of industrial progress, caused by competition, the danger of injury and death to which the individual workman is subjected has been multiplied manyfold as compared with the risks of manual employment to which he was subjected when the rules of common law were developed and adopted. And as a result of this, no one being satisfied, not only the employee, but all those who have anything to do with framing legislation, have come to the conclusion that this sort of restraint placed upon the right of the workman to recover for injuries received should be modified, and it was modified to a certain extent by decisions of the court, and afterwards by legislation. There were many attempts, confined principally to legislation, and judicial modifications of the contributory negligence, the common employment, and the assumption of risk rules, to relieve the situation, with the result that in England the Workmen's Compensation Act was introduced, and also the Employers' Liability Act, which did away with the doctrine of common employment. That was also made law later in this country. The public had been so educated as to the unfairness of the position which the employee occupied in case of an injury that in 1891, in our local Legislature, the "Employers' Liability Act" was brought down. This of course did not give what the employee considered was sufficient by way of remuneration in the case of an accident; he was limited to three years' wages or the sum of $2,000, whichever was the larger. And after the passing of the Employers' Liability Act it was felt that the Legislature should go further and bring down other legislation which would improve the condition of the working man who would suffer unfortunately through an accident in his employment. And in

the year 1902 an Act was passed known as the "Workmen's Compensation Act." And I think, if I am not mistaken, that my friend Mr. Hawthornthwaite was the author of that Bill in the local Legislature, in 1902. That was before I had the honour of having a seat in the Legislature. If he was not the author of the Bill, he certainly took a very prominent part in placing it upon the Statute Book. That Act, in case of death, gave a sum equal to three years' wages, or $1,000, whichever was the larger, but not on any account to exceed $1,500, even in case of death. The first two weeks a workman received nothing in case of partial or total incapacity; after the second week he was to receive 50 per cent. of his average weekly earnings, but not in any case to exceed $10 a week. The total amount which could be paid under the Workmen's Compensation Act was not to exceed in any case $1,500.

THE ECONOMIC ASPECT

Well, none of these laws have proved perfectly satisfactory. It is felt that they should go further, and, as a result, we should have more modern legislation upon this question. From the standpoint of justice and their tendency to develop economic weaknesses, as well as other evils, men have been led to search for remedies. And we have had suggestions of different kinds from legislators and modern thinkers and writers, who are not necessarily themselves employees, but who are attempting to improve the conditions of the labouring men in every community, with the result that a large discussion has taken place in connection with the very important question of having a very liberal Workmen's Compensation Act. And the conclusion that those writers came to, as near as I can find, is this: that the trouble is one which should be dealt with on the basis of its economic aspect, and not entirely from a legal standpoint; that is to say, economically we could very well afford for the Legislature to deal with it from that standpoint more than the consideration as to who was legally responsible for the accident, and in that way, not necessarily confining ourselves to the old and original remedies which we find throughout our laws. The law had become in this respect so complex that it was almost impossible to tell with any reasonable degree of certainty just what the respective rights of the workmen and employer were in the case of an injury. It meant a great deal of expense and a great deal of litigation very often, and workmen very often were not in a position to carry the case properly before the courts. In cases where employers found that it was impossible to perhaps meet the demands from the many actions or many accidents which they may have had to deal with, they adopted what they thought was an easy course by placing

insurance upon their workmen. The result of this was that it led to protracted and expensive lawsuits, because, instead of the employer himself actually deciding what was to be done in the case of any application which was made by a workman who had been injured in his employment, under the terms of his accident insurance policy the conduct of the suit was taken entirely out of his hands, and placed in the hands of the insurance company.

LED TO LITIGATION

The result was that in the name of the employer this case was fought through the courts, and after a great deal of expensive litigation, and a great deal of time, and in some cases the employee or the injured man had absolutely fallen out of sight, had become so tired of the whole situation, as we have had in this Province in some cases, where the money is still in court, and frequently the injured man had left the Province, with no trace of his whereabouts. But, even supposing at the very end that he was successful in his litigation, then the question very often came up as to whether, after recovering judgment against his employer, he was able to recover anything by way of execution through the hands of the sheriff. That was a great difficulty which we have found prevalent in a great many cases. Very often many not only disastrous, but sad cases have been reported in our courts, where men have been incapacitated, perhaps injured for their lives, and they have succeeded in recovering damages by way of actions at common law, and after the judgment has been entered up, owing to the conditions surrounding the business world, depression, or the failure in the particular industry in which he was employed, he has found that as a matter of fact he can recover nothing at all by a final legal process.

LAW VERY UNSATISFACTORY

That, of course, was a very unfortunate position to have a man who had lost his only means of livelihood through an accident and through no fault of his own. In view of this condition, you can see at once that the law was in a very unsatisfactory condition. Then, very often, in cases where a man has actually recovered the sum which was allowed in his favour in the court, and perhaps through his inexperience in a financial way, and improvidence, he has dissipated or lost it in some speculation or investment, and thus the very money that he has recovered by a very tedious and expensive lawsuit is gone, and we find that in the end that man becomes a burden upon the public, or perhaps upon his friends. This is a condition which it is most important should be done away with if possible by some legislation. (Applause.)

In view of all this, the modern idea, as developed by those who have carefully investigated the subject, it will appear, is that the expense occasioned by the result of all injuries sustained in the course of the industry should be borne by the industry, regardless of whether the loss is attributable to any man's fault. The theory is that the cost of human wear and tear, like the cost of machinery and other elements of production, should be thrown upon and absorbed at the expense of the industry. The employer is regarded, under this modern way of working it out, as the agency to make the payments, and charge it up as a part of the cost of production, to be ultimately included in the price charged to the consumer for the product of the industry. The principles underlying the modern compensation laws also take into consideration the social side of the question, and aim both to establish and administer compensation on such a basis as to protect the injured workman and his dependants during the full period of his incapacity, in such a way that they shall not be left a charge upon society or a burden upon their friends. (Applause.)

EUROPE TOOK THE LEAD

It may be of interest to note what countries first took the lead in connection with this legislation. We find that in 1884, to the credit of Germany, that was the first nation to place upon their statute books a law along these modern lines which I have just outlined. That was followed in 1887 by Austria, and then in 1894 by Norway; Greece followed in 1901; Luxemburg in 1902; Russia in 1903; Hungary in 1907, and Switzerland in 1912. In the last few years many of the States to the south of us have been following along the same line with this modern idea of Workmen's Compensation Acts; and we now find that twenty-four States of the Union have been carrying on this investigation, and not only carrying on the investigation, but have actually placed the Act upon their statute books and made it law. There were some of the States of the Union, particularly the State of California, that found it required an amendment to their constitution in order to be able to place this legislation upon the statute book, which would affect the responsibilities of the employer, and they have had to amend their constitution, and then place this law upon their statute books. We find, perhaps, the States that are the most advanced in this legislation are Ohio, New York, and the neighbouring State of Washington. There are twenty-four States of the Union, as I have already said, that have enacted this law. It might not be out of place for me to read a short extract from the Evening Post, of New York, which can better explain what the result of this legislation has been than any words of my own.

COMPULSORY COMPENSATION

"Compulsory compensation for accidental death or injury by employers of labour in hazardous occupations is beginning to show its far-reaching effects. Those who receive the compensation are not the only beneficiaries. Public charities, private relief agencies, and even the courts, are now beginning to realize what it means to them to have this responsibility placed on employers. Gradually there is being transferred a huge burden from the small group in every community which supports its private charities to a much larger part of the commonwealth. Public charity, too, is beginning to see a reduction in the number of its wards. The courts are experiencing a falling off in the number of actions resulting from accidents.

"By the enactment of this law, twenty-four States have attacked within their boundaries one of the recognized causes of poverty. Thus the 'charity of yesterday becomes the justice of today.' No longer will it be necessary for public and private relief agencies in New York and the other twenty-three States to aid families made dependent by injuries sustained or deaths incurred after the enactment of the law and while the bread-winners were employed by those who are subject to the act. The law does not, however, release these agencies from the responsibility of caring for those families which have been or may be made dependent as a result of some accident previous to the enactment of the Act."

LEGISLATION IN ENGLAND

When we come to England, we have a Compensation Bill that was introduced there two or three years ago into Parliament; but the conditions are so entirely different in their line of introducing the Bill, and the policy adopted is so different from ours, that I do not intend tonight to refer to the English Statute at any length. In the year 1910 the Province of Ontario was the first Province to seriously take up this matter in Canada, and in that year they appointed Sir William Meredith, Chief Justice of the Province, to investigate a more modern system of Workmen's Compensation laws, with a view to drafting an Act for that Province. He put in three years of very able and conscientious work, by going through the different systems known on this continent, and also England and Europe, and after three years of study given, he drafted an Act which became law in Ontario last year and which has now been in operation a few months.

The Province of Nova Scotia was the next Province of Canada to bring down this legislation, and they are now putting through a similar law in their Legislature, which is sitting at Halifax.

AGITATION IN BRITISH COLUMBIA

The labour people of this Province, not only through their labour representatives in the local Legislature, but also through the papers, and by their utterances on public platforms, and also in the different conventions which they have held yearly, have been impressing upon the Government of the day that a Workmen's Compensation Act should be introduced. And this year the Government came to the conclusion that the time was opportune that legislation of this sort should be introduced into our Legislature and as a result it was introduced, as I stated before, in the closing days of the session, and it is now up for public discussion in the recess between the two sessions, in order to find out how it can be improved, and in order to show what mistakes we have made in the drafting of it. We have as nearly as possible followed the Ontario Act. The general principles are identical; the only modifications are of a minor nature, and for the purpose of adapting it to our local conditions in this Province. We have also taken into consideration the American statutes on this subject, including those of the State of Washington, but, on the whole, it will be found that we have followed, as nearly as we could, the Act as now law in the Province of Ontario.

The main proposition embodied in the Bill is that in every case of injury arising out of industrial occupations, compensation is payable regardless of the fault of the employer or of the workman, except where the injury is attributable solely to the serious and wilful misconduct of the workman. In that case, even, compensation is payable to the workman if the injury results in serious disablement, or to his dependants if it results in death. Then you can see the great step we have made in connection with modifying the common law in that regard—that even if the workman himself is to blame by his serious and wilful misconduct, which led up to his injury, still, in that case, if he is permanently disabled, or seriously disabled, or dies, his dependants receive compensation.

AS TO TRIFLING INJURIES

For trifling injuries which do not incapacitate the man for more than two weeks, no allowance is made. There has been a great deal of discussion on this subject, and I have no doubt some of the gentlemen with me tonight will, perhaps, speak upon this question as to whether we should not give compensation where a man is only incapacitated for two weeks. I may say that in the State of Washington it is one week, and in the Province of Ontario it is one week. But in the Province of Ontario, I think I am correct in stating that where the disability goes over the week they do not pay from the start. In this

Province, in a trifling injury which only means two weeks, we did not think it wise to give compensation; but if the disability extended over two weeks, then we give compensation from the time of the injury. That refers it back to the day the man was hurt. Now, it may be that we may see our way clear to change this in some way, or modify it by, perhaps, allowing doctors' and hospital bills for those two weeks. That, of course, is a matter for discussion, and it is for that purpose that I am delighted to have such a large audience here, and to have such able men on the platform with me, who may be able to point out many points in which this Bill may be improved, and which we will take into our serious consideration. We do not say we will put them all in the Statute next session, but we will give them every consideration, no matter what source they may come from. And we should remember that we are not all here tonight entirely as employees and workmen. There are always two sides to every question. The employer has to be heard as well as the employee, because it is the employer who pays the bill, so to speak, and he must be used in such a way that he does not think that this Bill will be prohibitive and that he will have to close down his works, for if the works close down there will not be any employment for the workman. And we want to be fair—the Government not necessarily representing labour and not necessarily representing employers. We want to hear from both sides and come to the best conclusion we can. (Applause.)

THE MAIN PROPOSITION

Now, we, as I have already told you, give compensation for every case of industrial injury, regardless of the fault. The main proposition embodied in the bill is, in every case of injury arising out of industrial occupations, compensation is payable regardless of the fault of the employer or of the workman.

Now, there is one thing more we must also remember, and one of the most important features of the Bill, the particular point I made in my opening remarks, in pointing out to you that you might go all through the courts and recover a judgment, and then find that an employer, perhaps through being improvident, or through other cause, or having his property in another's name, and going out of business, that the employee would not be able to receive a cent that he was entitled to. This Bill makes the compensation certain. There will be no trouble at all about the compensation being paid, because, under this Act, it does not depend upon the continuing solvency of the employer. The system adopted to accomplish this may best be described as a compulsory system of mutual or collective insurance. I will explain presently what that

means. We make it beyond question that the amount will be paid the moment the Board of Compensation decides what amount the man shall receive after he has been injured. This is done by grouping the allied industries together. Perhaps if I just read you one or two of the classifications it will show you how we have classified them. This is found in Schedule 1 of the Act. I have just picked them out at random. "24—Manufacture of tobacco, cigars, cigarettes, or tobacco products." "25—Manufacture of cordage, ropes, fibre, brooms, or brushes; work in Manila or hemp." "23—Bakeries; manufacture of biscuits or confectionery, spices or condiments."

GROUPING OF ALLIED INDUSTRIES

So that you see, all these allied industries are grouped together. And if a man is hurt in the employment of Smith in a bakery, Smith does not pay him. He is paid by the Compensation Board, but all the bakeries of the Province contribute to that accident. The moment there is an accident in Smith's bakery the Compensation Board makes an investigation, reaches a conclusion what the assessment shall be, and they issue an assessment upon all the bakeries of the Province, so that no man is carrying his own accidents, so to speak; he is not carrying the risk of the men that are hurt in his employment, but all the bakeries of the Province are carrying it. And in this way it is more equally distributed, the fund is always there, the workman is certain there will be no trouble when the Board gives the award as to what the relief shall be, for it is then taken from the fund accumulated in the way of these assessments. The employers are not individually responsible, but after having made investigation and having returns put in as to their pay-roll, each man will pay in the grouped industry, or each concern will pay in the grouped industry, according to his pay-roll; a proportionate rate will be struck by the Board, and he will be charged up according to the business he is doing. And in this way you do away with the useless, contentious, troublesome and vexatious disputes between the employer and the employee.

WHOLE INDUSTRY PAYS

It is not the employer that pays the employee individually for the accident, but the whole industry, which may be scattered throughout the Province. The contribution to this accident fund is payable wholly by the employer and connot be deducted from the wages of the workmen. That is to say, the workman cannot pay a cent out of his wages on account of this compensation, and it cannot be deducted from his wages. And you see by this system of mutual or collective insurance that the employer receives the insurance at the lowest possible rate; there are no overhead

charges, such as there are where you place your insurance in an accident company, there are no high-priced directors to pay, no law costs, and no dividends to stockholders. The employer gets the lowest possible rate, without any expense to him at all, in carrying it out in this way. (Applause.)

Now, there is a different system as to railways. Railways are looked upon as being on a more settled basis. And they, with their allied telephone, telegraph and steamship lines, are put in Part 2 of the Act, that is to say, they carry their own insurance—they carry their own losses. This subject was given a great deal of thought by Sir William Meredith, and he came to the conclusion that in large corporations like the Canadian Pacific Railway Company, that they would not want to be grouped with any other railway companies, and they would prefer to carry their own losses. And as a result, we put them in a distinct class of their own, and they carry their own individual losses personally of the men in their employment. But the rights and compensation of workmen who have been injured in railways are entirely the same as the policy which I have already outlined to you. Individual losses are investigated exactly in the same way by the Compensation Board, the amount of compensation is awarded under the Act in the same manner as in the classified industries.

SCALE OF COMPENSATION

Next we come to the scale of compensation. The principle upon which compensation is based is that it shall continue to be paid as long as the disability caused by the accident continues. If the man is disabled for life the compensation is paid for life; if it is only temporary disability, it is paid so long as the disability continues. (Applause.)

The amount of compensation has been fixed in relation to the workman's earning capacity at 55 per cent. of his average earnings. This is the rate fixed by the Ontario Legislature on the recommendation of the Commissioner, who considered it a fair division of the burden between the employer and the workman. The Commissioner considered the workman as bearing: (1) the loss of all his wages for the waiting period, fixed by the Bill at 14 days, if the injury does not last longer than that; (2) the pain and suffering consequent on the injury; (3) the expenses of medical treatment and nursing; (4) the loss of 45 per cent. of his wages during disability, and also the burden of going through life maimed or disfigured if the injury so resulted. These burdens the workman cannot lift from his own shoulders, while the employer can probably shift the 55 per cent. of the wages which he is required to pay upon the shoulders of the community, in the price of his

output. In case the injury results in death, the widow and children receive payments varying according to their number, but not exceeding $40 per month or 55 per cent. of the average wages.

FAMILIES ARE PROTECTED

That is to say, the wife receives $20 a month in case of disability, and each child receives $5 a month until the child attains the age of 16, and then he is supposed to be able to look after himself, more or less, and the Act in that case reduces it. But the whole family cannot receive an amount over $40 a month in case of total disability. If the disability is only partial, the workman receives 55 per cent. of the difference between the amount he is able to earn after the accident and the amount of his average earnings before the accident. You can quite see the justice of that.

Another important principle in this method of compensation is that payments are made monthly or fortnightly during the lifetime of the workman, or the period of disability, as a substitution for the wages of which the workman and his dependants are deprived, and it is only in exceptional cases where lump sum payments are allowed. They are allowed in the case of railways, where they individually pay. In that case a man is allowed commutation—he can commute the amount which the Board has given to him. But under no circumstances will that be allowed under our Statute except where the Compensation Board approves of it, because it might be that the railway company would succeed in advising the injured workman that it would be better for him to commute and take a lump sum rather than to receive so much every fortnight during the rest of his life, and this might, in some cases, be an improvident bargain that he has been enticed into. In that case the Board must be consulted, and the payments must be made through the Board, so that the independent Board appointed by the Government will have absolute control over the situation. (Applause.)

EFFECTIVE ADMINISTRATION

Now, for the purpose of prompt and effective administration of the system, a permanent Commission is created, which is to devote its entire time to this work, and known as the "Workmen's Compensation Board." In the Province of Ontario this Board consists of three people, a chairman, one representing the employers, and one representing the workingmen of the Province. They, of course, have a very large population there compared with the population of British Columbia, and they have also a great many industries which we have not in this Province, so that it would require a very large Board to, perhaps, successfully deal with the very many cases of accidents which would arise out of employ-

ment in Ontario. But we feel that in this Province it would not be necessary for us to go to the expense of having a Board consisting of three people. It may be later on we will find that it should; it may be that we will be convinced by the argument submitted to us now that a Workmen's Compensation Board of three would be better than one. But at first we would try to start as inexpensively as possible, in order to get the Act on a good working basis, and obtain the very best possible results from its administration. We give such a salary to the chairman of the Board, and the officers of the Board, as to make them absolutely independent, and do away with any suggestion that pressure or influence would be brought to bear upon them, say, on behalf of the employer. They will give their whole time to this work, and this work alone, exactly the same as the judges in our courts do. So that, in this way, I think the general public will come to the conclusion that that after all is the only way to have the Board properly constituted.

EXCLUSIVE JURISDICTION

It has exclusive jurisdiction to determine all questions under the Act, and has powers like the Supreme Court to compel witnesses to come before it. The moment an accident takes place, the Board goes to the employer, finds out the facts and circumstances from his point of view; he goes to the employee, finds out how serious the accident is, and consults the medical man. The Board then concludes as to the amount that this man shall be paid, and then proceeds to levy an assessment on the allied industries. If the accident is to an employee of a mill, then all the mills of the Province will be assessed upon that, and the money placed in the hands of the Board to pay this particular man. The decision of the Board is final. There is no appeal. There is absolutely no more litigation in connection with the accident; the whole matter is left to this Compensation Board. We do away in that case with protracted jury trials and expensive appeals. The procedure for the adjustment of the case will be very direct. It will probably be along the lines of the Railway Commission of Canada, which has made such a record of having such a sound policy for administration as was established through the late chairman, Mr. Mabee. Any of you who have had the pleasure of appearing before the Railway Board know how easy it was to approach Mr. Mabee and as well the present members of the Board. Any person at all could go before the Board; no necessity to have any legal representative. Adjustment will be made simple and direct. And we have noticed by the returns from the State of Washington that there are very few contests before the Board in that State. They have laid down

their policy; the employer knows what he has to pay; he is satisfied with it, and the employee the same.

SIMPLE AND DIRECT RESULTS

And in this simple and direct way results can be obtained at once. There is also provision made for the reviewing of the award for the purpose of readjusting the compensation. If the Board finds out the compensation was not a proper one, they have the right to adjust it by perhaps increasing an adjustment on some of the industries, and in this way it is not final. But in order that compensation should be definite and ascertainable both by the employer and the workman, the common law right of action has been done away with. The compensation provided for workmen is in lieu of all other rights of action, and the whole subject is covered by the system established under the Act. (Applause.)

Now, in this case, the Government or State working out this question on an economic basis should do something towards the expense of the system, and not throw the whole expense as a burden upon the employer; and we are contributing to the expense of the administration of that department $50,000 a year from our own treasury. So that you see that will relieve the employer to a great extent, and not throw the whole responsibility upon the employers in the particular classes from which they are made up.

TWO SYSTEMS

There are two systems of raising the fund, one known as the "current cost system," and the other known as the "capitalized system"—which can be explained, perhaps, at some later date, for it is rather technical, and would be only of interest to those who have given long study to the subject. The Ontario Commission, after looking into all these questions, thought that perhaps the time has not yet come to adopt either system as a whole. And as a result, in Ontario they have left that whole question to the Board, and the Board will decide upon the basis as to how these assessments will be made. And in this Province we have decided to do the same.

Now I have already spoken as to railways; I have already spoken briefly as to assessments, and in this connection I wish to state that reports must be put in by the employer to the Board as to the wages earned by the workman, and other information necessary in order to make up a correct pay-roll for the purpose of levying the assessment, and the Board has full power to examine the books for this purpose.

Also, in this way, we have statistical references as to the causes of all the different accidents, which, you will see, will go a long

way towards, perhaps, improving conditions, by perhaps the installation of modern machinery and by other methods—because the employers can, if they wish, bring themselves together for the purpose of introducing rules to reduce the accidents to a minimum. For, of course, we all know that accidents will happen in spite of every human ingenuity, but in this way we hope they will be reduced. (Applause.)

A SPECIAL RESERVE

A provisional assessment is made when the Act comes into effect for the purpose of providing a special reserve for use as a working capital in paying claims and establishing a reserve fund in respect of accidents happening during the first year, thus establishing a reserve before the first assessments are made. You can quite see the wisdom of that. That is to say, right at the inception of the Board they have an assessment so as to get funds in hand to look after the first accident which may happen. In this way the special reserve is reinstated yearly and continues in use in meeting the claims arising in the following year. An assessment is made so as to keep the special reserve intact. If at any time a larger special reserve is found necessary in carrying on the work effectively, the Board has power to make a special assessment to bring it up to the amount of the estimated expenditure.

The Lieutenant-Governor in Council is given power to appoint a person to make a yearly examination into the state of the reserve fund, and if at any time it is found to be insufficient to meet future payments as they become payable, without unduly or unfairly burdening employers in future years, the Lieutenant-Governor in Council may require the Board to make a supplementary assessment to be added to the fund.

We also deal with "industrial diseases." It is not necessary for me to mention these. They are all set out in Schedule 3 of the Act, such as lead poisoning in smelters, and industrial diseases which are found prevalent in connection with mining. These come under the Act, so that they are covered as well.

In Part 1 of the Act we have the grouping of industries, entirely outside of the individual payments in Part 2. And Part 2 in its classifications are only railways, telephone lines, allied railways and steamship lines. So that Part 1 really covers everything we may say, except railways.

COMPENSATION PROVISIONS

Now, in pointing out the compensation provisions, I wish to state the exceptions to which the Act does not apply. It does not apply to outworkers who perform services in their own homes,

or in other premises not in the control of the employer; it does not apply to persons engaged in clerical work, and not exposed to hazards incident to the nature of the work carried on in the employment, nor to persons whose employment is of a casual nature, farm labourers, or domestic or menial servants, nor persons employed in wholesale and retail establishments. There probably will be discussion as to this latter class—in wholesale and retail establishments. There is no economic reason why compensation shall not apply to those workmen the same as any others, but it is noticed that most of the modern Acts exempt them from the provisions. They have done so in Ontario, and I think in the great majority of the Acts of the United States. We might have to impose too great a burden, perhaps, and too great a load of detail work on the Board at the inception, and increase many times the work of organization. If it is thought advisable later on, these can be added. Or, if it is thought advisable during the discussion this year, while the Act is before the public, they might be placed in the Act next year.

Now, some have thought that in order that the system should not be overloaded at the start, it should be restricted to those industries containing three or four workmen. This may not be found necessary in this Province, but power is given to the Board to do this if they deem it advisable.

ALL INDUSTRIAL OPERATIONS

With these exceptions all the workmen who are employed in all industrial operations are covered in the Act.

There is another thing: With the exception of domestic and farm labour, provision is made in the Bill to substantially modify the common law liability of the employer in cases which do not come within the compensation provisions of the Act. That is to say, the assumption of risk rule is modified and the doctrine of common employment is done away with, so that a workman hereafter shall not be deemed to have undertaken the risks due to the negligence of his fellow workman. Contributory negligence on the part of the workman will not hereafter bar his recovery of damages, but will, however, be taken into account in the assessment of damages. That is to say, under that rule, if a man is guilty of contributory negligence he could not recover, but under this Act he can; we have abrogated or modified that common law rule—I am now referring to employees who do not come under the Act at all—we have modified that rule by saying that even in the case of contributory negligence, where the employee has contributed to the accident by his own negligence, that in that case he can still recover under our Act, but his contributory negligence

will be taken into account by the courts in the assessment of damages. (Applause.)

Now, we also have another section which is in some of the Acts and left out in others, that is to say, that in the case of a widow who has been receiving aid after the death of her husband under this Workmen's Compensation Act, that should she re-marry, the monthly payments cease, but the Board will give her the equivalent of two years' payment—$480. It will give her a two years' payment within a month of her second marriage. Some of the Statutes are silent on this, and in some of the others this has been considered a proper thing to do.

SOME SPECIFIC INSTANCES

Now, where the man is hurt and he has no dependants, the Board pays the medical attendance and his maintenance while sick, and funeral expenses—because in that case there are no dependants to which the award should go.

I wish to refer to Section 16. This is a most important section. I have pointed out already that a workman cannot have inflicted upon him a single dollar towards this assessment. He does not contribute; everything that he receives he receives free, without any contribution from him. And by Section 16 we further protect him by making it illegal for him to forego, or in any way waive the benefits of the Act. There might be cases where, as I have already said, that pressure might be brought to bear upon the part of the employer, and by a specious line of argument the employee might be shown that it might be a good thing for him to contract himself out of the Act before he obtains the contribution to which he is entitled. But we say that under Section 16 that is illegal; he will not be permitted to contract himself out of the award, or waive any of the benefits of the Act.

By Section 19, the compensation cannot be assigned by the workman; it must be for his own benefit and for the benefit of his family. He cannot assign it to any creditor, nor can it be attached by any process of court. That is to say, it cannot be garnisheed. He will have the absolute benefit—or his dependants will—of that compensation.

GOES OUTSIDE THE PROVINCE

In Section 6 we cover the case of accidents out of the Province; that is to say, where a man is employed here, but his employment takes him out of the Province, and he receives an accident during his employment out of the Province, he has the same right to compensation that he would have if he were living here. That might easily apply on any of our steamers. A man might be

employed on one of the Canadian Pacific boats and receive an accident in Seattle, or on the northern trip to Skagway. In that case it applies just the same as if the accident had happened to him in this Province. (Applause.)

Now, the question may be readily asked why this Act was not put in force this year. I am quite confident that my friend Mr. Oliver, if he does not ask it tonight, will ask it some evening when he is discussing this Bill. He says he is going to ask it tonight. I thought tonight would be a sort of lovefeast. (Laughter.) I am quite ready, however, for Mr. Oliver at any time he wants to come on in connection with any Act. (Applause.) The question will be asked: Why was not the Act put in force this year? It is a very important piece of legislation, and one that we cannot hurriedly rush into. Those States of the United States who placed this measure on their statute books have taken a great deal of time for consideration. The Province of Ontario, as I have already shown you, has taken three years, and even now their Act is not at all perfected. I had a communication the other day from Mr. Price, chairman of their Board, enclosing me a long list of amendments which he has asked the Minister in charge of the Bill in the Ontario Legislature to introduce, thus showing that although they have only been attempting to administer the Act for three or four months they have found difficulties at once.

A DIFFICULT PROBLEM

And you can quite see that in an important piece of new legislation like this there are great difficulties which perhaps can not be anticipated. They have had the same experience in the States of the Union. There are difficulties in connection with all these Acts, and particularly in new legislation, so that it is important to receive as much information as we can before we place ours upon the statute book. We wanted this matter discussed at just such meetings as this, because, as I have stated, it is not a political issue in any sense of the term. It is politics, perhaps, to the extent that we are sponsors for the Bill as the Government which is in power. But so far as the Bill itself is concerned, we invite every criticism, we invite every suggestion; we invite it from the employee, the labouring man, and we also invite it from the employer, because the employer must be heard on such an important piece of legislation as this, which places such serious financial responsibilities upon his shoulders. And it is for that reason that we are allowing the Bill to lie on the table for a year, so that it may be discussed by the public, in the Trades and Labour Councils, on public platforms and in public newspapers—so that the Government will have the very best advice that can

possibly be given them before the next session. And it must also be remembered that this would be a very bad time, owing to the financial depression, to put added expense on many groups of these allied industries which we have grouped under the Act.

MUST PROCEED CAUTIOUSLY

For instance, take our mills. If we had this Act in force now, and an accident took place in a mill on the Coast, which might be operating, perhaps, with half a crew, and an assessment was made for that accident on the industry all over the Province, you would be inflicting assessments on many mills—scores of mills—in the Kootenay country which are not operating at all, and which today, I am sorry to say, in some cases are in the hands of the bank. They cannot sell their lumber now, owing to depression in Alberta and Saskatchewan. So that you can see how unfair it would be to have this Act in force this year. Making a decided change like this, which means so much in a financial way to those industries, you can quite see the reason for the Government taking time in order to find out what is the very best bill that can be brought down under the circumstances.

My friend, of course, because of rumours of election during the last few days, will say this is an election bait. I do not know that it is a bit more an election bait than the little bill which Mr. Oliver drafted himself some few months ago, and which appeals entirely to the employee. He does not recognize the employer at all—Mr. Oliver does not—in his bill, because he is looking for the largest number of votes, and he knows there are more workingmen that have votes than capitalists. (Laughter and applause.) It is noticeable through his whole Bill that the employer, so to speak, is wiped off the map. He has followed to a great extent the Bill of the State of Washington. Without the employer, of course, you cannot have the employee; you cannot make your demands upon the employer so stringent that you are actually going to wipe out the industries themselves, because that will nullify the very effect of the legislation itself.

IN CONCLUSION

Now, Mr. Chairman and gentlemen, you have been very kind in listening so carefully to the remarks that I have offered in connection with this Bill. There is only one thing more I wish to point out, that we, in this Act, have made dependants come under the Bill so as to receive the benefits even if they are foreign dependants. Mr. Oliver's Bill is slightly different. I think he gives it to the father and mother only of foreign dependants living out of the Province. Well, our reason for putting in all the

dependants, and we do not necessarily confine them to relations—it is any person who is dependant upon the work of the workman, and who, if he had not received the accident, would have expected some remuneration towards their upkeep. Now, we had, some time ago, a decision of the Privy Council in the case of Krzus v. The Crow's Nest Pass Coal Company. Perhaps you will remember that was a case brought under our own Workmen's Compensation Act. The coal company took the ground that as the dependants in that case were foreign dependants, not residing in British Columbia, that the Workmen's Compensation Act did not apply to them. This case was carried by the Trades and Labour Council, I think, or the Union in Fernie, to the Privy Council, and they finally succeeded in defeating the aim of the Crow's Nest Pass Coal Company, the Privy Council holding that it did apply to foreign dependants. That being the law, we believe that we should follow the decision of the Privy Council and make all the foreign dependants come under this Act.

GUARDING AGAINST FOREIGNERS

And there is a reason from an economic standpoint for that as well, because, if the foreign dependants were not to receive anything for any accident under the Act, the employer might very well go to work and fill up his shop or industries with foreign employees, knowing that there would be no claim upon him for the foreign dependants, who might be living in Europe or any of these other countries over the sea, in case of an accident. So that there is a reason why, in that case, outside of the decision of the Privy Council entirely, that this line should be followed. (Applause.)

Now, I do not intend to take up further time, for I wish to give an opportunity to those who are on the platform with me to discuss the merits and demerits of this legislation. We have made this Act essentially to meet the economic condition, and not right a legal wrong. We seek in a systematic and economical way to furnish certain and reasonable compensation for disabled workmen and their dependants without the necessity of expense or delay, withdrawing the matter from the jurisdiction of the courts and placing the administration under a special department, with Government supervision. It does away with any necessity of a casualty company or other medium coming between the injured workman and his compensation, out of which they expect to make a profit. It does away entirely with a situation which tended to a concealment of fault in accidents, and makes possible a frank study of causes, which must result eventually in lessening the number of preventable accidents and reducing the cost and suffering they inflict. It also removes a fertile source of much ill-feeling

between employer and workmen, and opens the way for the development of a spirit of good will.

In short, the purpose of the Act as framed is to not only prevent by its operation the unnecessary waste of the present system and to remedy its evils, but at the same time to accord fair and impartial treatment to all persons and classes affected by its provisions. The question is one of great importance in the economic life of the Province, and there should be as little disturbance as possible once the system is established. For this reason the Government seeks to adopt a system that will give adequate relief and offer some promise of permanency. (Continued applause.)