

WORKMEN'S COMPENSATION LAW

TAKES EFFECT JULY 1, 1915, AND IS COMPREHENSIVELY EXPLAINED BY ITS AUTHORS.

Billings, Mont., May 28, 1915.
Hon. A. E. Spriggs, chairman of the industrial accident board, Helena, Montana.

My dear sir,—I hereby acknowledge receipt of your letter of recent date, requesting from me a statement, concerning the recently-enacted compensation law of the state of Montana. In the meantime, I have read in the press the statement of your board, explaining the general provisions of the law and the subject being quite fully covered in that statement, I deem it unnecessary to make further reference to these facts therein enumerated. What I might add, in the way of further explanation of the provisions of the law, or in the way of argument to employers or employees, concerning the administration, scope, or economic effect of the measure must, of course, represent my personal views, rather than any authoritative or official statement on the subject.

During the legislative session that enacted into law this workmen's compensation measure, many objections were urged against the passage of the act and the discussions attending same brought to light, from many angles, the salient features of what is now the law. The chief advocate and exponent of compensation legislation during that session was the Honorable Frank Eiteljof, to whom the state owes a debt of gratitude for the beneficent measure that is now on the statute book.

Since the adjournment of the legislature, many questions have been directed to me, by persons who will come within the purview of the law, and the nature of these inquiries is such as to show the need of a more thorough understanding of this important subject by the general public. In the briefest possible manner I desire to express my views as to the practical workings of the law. The employer of labor in hazardous occupations, as defined in this law, is called upon to answer for himself two questions: First, do I wish to come within the provisions of this law? Second, if so, under which of the three plans of insurance shall I choose to operate? The reason why an employer of such labor should answer the first question in the affirmative is: First, that after July 1, 1915, if he fails to avail himself of the provisions of this law, and any employee is injured in his service, he will, in all probability, be liable to that employee for the full amount of the damages suffered. Under the law, as it has existed in the past, an employer of labor might set up as a defense to an action for personal injuries: (a) that the accident was the result of the employee's contributory negligence; (b) that the employee assumed the risk of the employment; (c) that the injury resulted from the negligence of a fellow employee of the injured workman. After July 1, 1915, none of these three defenses will be available to the employer of hazardous labor who does not elect to come under this act, only exception being in the case where an employer can prove that an employee deliberately and intentionally caused himself to be injured. In any litigation, arising out of a personal injury, occurring in his service, the employer will be further handicapped by the fact that courts, and particularly juries, will take cognizance of the fact that there is upon the statute books a workmen's compensation law, and that the said employer did not avail himself of its provisions. There will be a natural tendency to greatly increased verdicts under these conditions. Therefore, as a matter of strictly business economy, every employer in this state, who employs men in a hazardous occupation (and nearly all occupations are classified as hazardous under this law), should at once avail himself of its provisions.

The second reason why the employer should avail himself of the provisions of this law is the broad, moral obligation which he owes to his employees and to the community. Few subjects before the public, of recent years, have received the amount of careful consideration accorded to this question of compensation laws, and the progress of the idea can be gathered by the fact that already one-half of all the states of the union have enacted compensation laws. It has grown to be almost universally recognized by thinking men that just as the employer must be prepared to meet the cost of breakage and destruction of equipment, so, too, must he be prepared, and the industry must pay for so far as such things can be compensated in a monetary way, the personal injuries of the workmen necessarily engaged in the industry. While the number of accidents and injuries are partly within the control of the employer and the employees, there is, nevertheless, a certain percentage of the accidents incident to the construction of improvements or the manufacture of certain products. That percentage can be estimated with certain limits, and the contractor, or other employer, who undertakes the construction of such works or the manufacture of such products, must reckon in his estimates of cost a certain amount of compensation for personal injuries likely to occur in the conduct of his business.

This law definitely fixes the schedule of compensation to be paid for particular injuries. The general public, as represented in the state, has an interest in seeing that every employer avails himself of the provisions of this law, for the reason that where no other provision is made for the injured workman he, or his dependents, are likely to become a charge upon the community. Every employer of labor who thus avails himself of the provisions of this law, and elects to come within its terms, will find a great deal of personal satisfaction in the fact that every man injured in his service will receive some measure of compensation for his injuries, and he will not be required, through business necessity, to undertake to defeat the claims of the injured workman. If the employer does decide to come within the provisions of the law, the question still remains as to which of the three plans set forth in the act is best fitted to the needs of his particular case. The law provides that certain employers may carry their own insurance. In order to do this, he must satisfy the state industrial accident board that he is able to pay the compensation specified in the law, to cover any accident likely to occur in his business. It will be the duty of the board to resolve all doubts in case of applications of this kind, as against, rather than in favor of, such employer. No public official will be willing to assume the responsibility for passing favorably on the application of any employer to carry his own insurance, if such approval carries with it even a remote possibility that a dependent wife or child might be deprived of the compensation justly due, in case it should later develop that such employer was not, in fact, financially able to carry the obligation imposed by the law. On the other hand, there are employers, such as the large and substantial mining, companies and railroads, who are just as responsible as any surety company, and in such cases, there is no risk on the part of the board in approving the application of the employer to carry his own insurance. Employers who are not conducting a business of such an established and permanent character, even though they are solvent and able to meet all ordinary obligations, should hardly expect the board to permit them to carry their own risks.

It is quite probable that the number who will avail themselves of the plan No. 1, as compared with the whole number of employers in the state will be very small, but will represent some of the largest employers. Two plans are open, under the law, to those who wish to insure against accidents occurring in their business; one is by insurance in any private surety company authorized to do business within the state of Montana, and the other is to take out insurance with the industrial accident board, as provided in the law. Every employer should familiarize himself with the classification of risks, as enumerated therein, furnish the information required by the board, after which he will be advised what it would cost him to insure with the industrial accident board. He can also find how that rate compares with the rates offered him by private surety companies. In this connection, the employer should bear in mind that the state is not paying anyone to solicit this insurance business, while the private enterprise is naturally interested in working up the greatest amount of business possible. It would be advisable for every employer to write to the industrial accident board at once, giving in detail the character of his business and the number of persons likely to be employed in the ensuing year. Printed blanks will be furnished upon which this information can be given. It should be borne in mind that the rates fixed in the law are adjustable, to meet the requirements of the industry, and maybe raised or lowered, according to the number of accidents which occur, and the seriousness thereof. The industries which come within the provisions of the law are divided into 27 classes. Each industry coming under the provisions thereof shall be liable to pay for all injuries happening to employees in that industry. If any employer's business is such that there are but few of that classification within the state, it would probably be best for him to take out insurance in the private surety company.

Any plan of insurance to be successful, must be operated upon a scale that will permit of the loss being divided among a great many people; otherwise, in case of a serious accident, the burden would fall heavily upon the few that happen to bear it. The choice, as between private insurance and state insurance, must be made by the employer himself; and I only wish to make brief reference here to those matters which may aid him in determining his choice. The advocates of private insurance argue with much force that private business is usually conducted with more economy and business judgment than public business; that, in taking out insurance with the private concern, the exact amount of payment is definitely determined at the beginning, and the employer is relieved of any risk incident to a great accident in any industry that comes within his classification in the state. On the other hand, it may be said that, with state insurance, the cost of competition in securing business, such as advertising, etc., is eliminated also that the cost of administering the insurance is borne by the state and is not a charge against the policy holder in any way as is the case with private surety companies. And even with less efficiency of service, it

should still be possible to write insurance cheaper by the state than by the private concern. In any event, neither private nor public insurance can carry the risk for less than the actual cost, and the industry itself must ultimately bear all of the burden. The Effect of the Law Upon Employees Just as every employer should inform himself of this act, which so vitally concerns him, so should the employees who are engaged in any of the industries classified as hazardous under the law. The employee is bound by the election of his employer, unless he serves written notice on his employer and also upon the industrial accident board that he desires not to be bound by the provisions of the law. In practical operation, the choice of the employer as to the plan of insurance will be binding on the employee, as it is not probable that many employees will serve notice of their intention not to be bound by the provisions of the law. As a matter of fact, it will not make a great deal of difference to the employee, which of the three plans of compensation the employer chooses to come under, as, in any event, the employee will be certain to receive the compensation provided for in the law, in case he is injured. When the law is in operation, and particularly as accidents occur in different portions of the state, both employees and employers will rapidly gain an intimate knowledge of its terms. The injured workman can receive from the industrial accident board, at any time, a copy of the schedule, showing the compensation to which he is entitled, and there should be little ground for dispute or argument as between the employer and the employee. The very first one of the fundamental purposes of all compensations laws is to eliminate controversies over personal injuries, and the question of liability being eliminated, and the amount of the compensation for specific injuries being fixed, there is no reason why any trouble should exist in the adjustment of claims between the parties.

I am not unmindful of the fact that there has been serious criticism of this legislation, and I consider the nature of that criticism important enough to justify some defense of the laws. It is true that the major portion of the criticism is made by those who have made no study of the general subject of compensation laws or this act in particular, and some of the critics have permitted their prejudice to prevail over their reason, and yet there still remains a considerable amount of just criticism of the law. If the workman will view the results of this law from the standpoint of those who expect perfect conditions, or a law so admirable as to permit of no suggestions of improvement, then they are doomed to disappointment; but if they make a sensible, practical comparison of the conditions which exist at this time, with the conditions which will be brought about by the enforcement of the law, I believe they will be ready to acknowledge that the law is an important enactment which greatly promotes the interest of the employees. It has been argued that the schedule of compensation is too low. In such arguments, the comparison is generally made with the recovery in personal injury cases where large verdicts were obtained and no reference is made to the great multitude of injuries where there is no recovery whatever under existing laws. Under this law all injuries will be compensated and claims will be made for injuries that would be suffered in silence under the old conditions.

In those countries and states where compensation laws have long been enforced, one of the difficulties and grave dangers to the existence of this class of legislation is due to fictitious or exaggerated claims for injuries on the part of a small percentage of injured workmen. No honest workman desired compensation where there is no injury. Men of character and integrity who comprise the great majority of the employees of the state, should discourage in every possible way all dishonest claims under the law, while insisting earnestly and fearlessly for all that the law specifies in every bonafide case. It has come to be recognized by the students of this subject throughout the United States that the administration of the law is nearly, if not quite as important as the terms of the law itself. It is absolutely essential to the working out of this phase of our industrial life that the employers and employees co-operate with mutual fairness and mutual understanding.

As to the interpretation of the terms of the law, I can say on behalf of the legislative assembly that enacted this legislation that it was intended as far as possible, to evade the technical controversies. Those words and phrases likely to be misunderstood are defined in the law itself, and the other portion of the law are to be interpreted on the basis of the ordinary use of the terms rather than the technical interpretation of the jurists. For instance, I understand that some have raised the question as to the application of the law to railroad construction work, some asserting that construction work by railroads engaged in interstate commerce does not come within the purview of the law. The intent of the law is that all construction work by any railroad in this state comes within the terms of the law, and by construction work is meant just what the average citizen means when he speaks of railroad construction, i. e., the construction of new lines, branches and spurs of railroads. The building of depots for instance or other improvements of that character in connection with roads already in operation, is not by

the ordinary citizen classed as railroad construction, neither is it intended that it should be under the terms of the law. As to the occupations and industries which are included in the law, the interpretation should be liberal enough to include practically every industry, except those expressly excluded, to wit: Agricultural pursuits or employment of a casual nature, domestic employment. Experience demonstrates in all of those states operating under similar laws that there are many difficulties in the initiation and the adjustment of the law to the different classes of industry. These difficulties can be largely eliminated if the employers and employees of the state will co-operate with the industrial accident board, and furnish freely, frankly and fairly all information or facts required by the board. In the framing of the law, special care was given so as to severely penalize those parties who might undertake to subvert its terms or escape just liabilities under it.

Outside of the employers and employees certain third parties directly affected by the law, namely, physicians, surgeons and hospitals. After July 1, hospital contracts should be drawn so as to provide for the care of the injured in accordance with the terms of this law, and there should be a division of the cost of maintaining the hospital arrangement between the employers and the employees based on the relative cost of caring for the sick, as compared with the injured. As to the employment of physicians and surgeons, it can readily be seen that justice between the parties will suggest as the law provides, that the workman may choose his own physician but the employer has the right to employ any other physician to verify or disapprove statements as to the extent of the injury. In conclusion I wish to say that I consider it extremely important that the small employers of labor should understand the unusual risk which they will assume if they fail to avail themselves of the provisions of this law. I mention the small employers because the others are undoubtedly fully informed as to that fact. Wishing you the greatest success in your very arduous task, I am, Sincerely yours, (Signed) T. S. HOGAN.

BATTLE FOR MASTERY OF DUBYSSA RIVER FIERCEST OF THE WAR

LONDON, June 8 (3:59 a. m.)—The fiercest fighting of the war as far as the Baltic provinces of Russia are concerned, occurred a few days ago in a battle for the mastery of the Dubysa river, according to the Post's Petrograd correspondent. The river changed hands five times in one day and at nightfall the stream was completely choked with the bodies of thousands of dead, so that a plank roadway for artillery was laid by the victorious Russians across the solid bridge of bodies, the correspondent says. The Dubysa, although wide, is so shallow it can be crossed on foot at some places. The Russians and Germans met at a ford half a mile wide north of Rosstjeny, where they fought all day in the water. There were several bayonet charges in mid-stream and all who fell, even though they were only slightly wounded, were drowned.

CASUALTY LIST.
LONDON, June 8 (3 a. m.)—A casualty list issued last night again shows heavy losses in killed, wounded and missing. The list contains the names of 29 officers and 3,560 non-commissioned officers and men. Thirty-three of the men are suffering from gas poisoning contracted on the western front.

UNDERSTANDING COMPLETE.
WASHINGTON, June 7.—The signing today at Khabkha, Siberia, by representatives of Russia, China and Mongolia of a treaty establishing the status of Inner Mongolia, marks the removal of one of the main obstacles to a complete understanding between China and Russia, according to views in Washington diplomatic circles.

RESIDENT OF HOLLAND BRINGS PEACE PLANS TO UNITED STATES

WASHINGTON, June 7.—Van Ghell Geldemeester, son of the religious adviser to Queen Wilhelmina of Holland, has, by a brief visit to Washington, after conferences in Berlin with high German officials, set in motion such speculation in official and diplomatic quarters here about possibility of peace in Europe. Mr. Geldemeester, it became known today, saw Dr. von Jagow, the German foreign secretary, and other members of the imperial ministry shortly after the Lusitania was sunk, and received certain impressions concerning the German attitude toward the war and the ultimate making of peace. With the knowledge, though not with the authority of the German officials, he started for Washington in the hope that informally he could portray German feeling in official quarters. On his arrival here last week he visited Count von Bernstorff, the German ambassador. The latter, learning that Mr. Geldemeester had been in Berlin and had been at the German foreign office, gave his visitor a letter of introduction, setting these facts forth. The ambassador asked the Associated Press tonight to emphasize that Mr. Geldemeester carried no credentials no official connection with his government. Mr. Geldemeester left Washington Saturday without seeing any prominent officials of the American government. He started on a trip to New York, Chicago and other cities, with the idea of convincing the editors of German-American newspapers of the help they can render in promoting more friendly relations between Germany and the United States. While in Washington the visitor from The Netherlands gave the impression to those with whom he talked that there was a peace party of some importance in Great Britain as well as in Germany, and that what was most needed at present was a continued pressure by the neutrals for mediation. He intimated to some of his friends that he feared his own country—Holland—might even be drawn into the conflict if it continued, but was hopeful that efforts by neutrals to mediate, if begun now, would be successful. Most significant of the impressions which Mr. Geldemeester brought from Berlin, it was said today, was that a large section of the populace and an important element in the German government itself were not in sympathy with the extreme militarists and believe a discussion of peace terms not undesirable. Just how far Mr. Geldemeester may have been encouraged in Berlin to present his views to the people in the United States is not definitely known.

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PERILOUS POSITION

Teuton Allies Have Penetrated Thirty Miles East of Lemberg. CAPITAL MAY FALL

The Forces Which Compelled Przemysl to Fall Are Battering Their Way Eastward, and the Encircling Movement on Lemberg is Duplicating That of Przemysl—Germans Are Also on the Offensive in the Baltic Provinces and Military Authorities Expect Heavy Fighting at Mostzisk—Losses Heavy in West.

LONDON, June 7 (11 p. m.)—If the Germans have transferred troops from the east to the west as reported, they have held sufficient men on the eastern front to continue without relaxation the offensive that has carried them and the Austrians almost across Galicia. The forces that compelled Przemysl to surrender are battering their way eastward, and according to both the German and Austrian official communications, are at one point in the southeast hardly more than 60 miles from the Russian frontier. The troops which swept through Stry have continued further east until they are 30 miles beyond that town and equally beyond Lemberg, the position of which appears perilous. Further north they are 18 miles to the east of Przemysl. So that, roughly speaking, the encircling movement on Lemberg is a duplicate of that at Przemysl. The Germans also are on the offensive in the Baltic provinces. Their official statement records the crossing of the river Windau to the southeast of Libau. A Petrograd dispatch received in London tonight says: "Telegrams from Riga report the Germans active to the north, northeast and east of Libau. The military authorities expect heavy fighting at Mostzisk, where the Russians will make a determined stand." Hard fighting and heavy losses on both sides, notably to the north of Aras, where the French seem determined to nibble their way forward, continue in the west, but the contests are hardly more than trench warfare contrasted with the fighting in Galicia. The repeated Zeppelin raids on England have aroused British armaments to extraordinarily vigorous action, a raid

on a Zeppelin shed near Brussels and the breaking down of a Zeppelin with its crew near Ghent being carried out about the same time. The British official account does not state whether the hangar attacked held a Zeppelin, but a message reaching London asserts that it did. Italy, since she has thrown troops into the field and unleashed her navy on the side of the allies, has been taken into the financial circle of the nations warring against Germany. At a recent meeting of the British chancellor of the exchequer and the Italian minister of the treasury, an agreement was reached to pool resources just as Great Britain, France and Russia had previously agreed.

GREAT DAMAGE DONE BY HEAVY RAINS IN PORTIONS OF TEXAS

FORT WORTH, Tex., June 7.—Heavy rains continued to fall throughout northwest Texas today, aggravating flood conditions, which have worked serious damage to crops and property and virtually isolated Wichita Falls, Gainesville and half a dozen smaller towns. At Wichita Falls dynamite was used today to relieve flood conditions by cutting railway embankments near the city, but without marked success. The Wichita river there is reported doing great damage, while the Red river, marking the boundary between Texas and Oklahoma, is higher than in ten years. Railroads in the affected district have suffered heavily. Fort Worth continued without gas tonight as a result of a break in the main line to the rail.

TEN PERSONS INJURED.
SAN FRANCISCO, June 7.—Two coupled runaway cars, with nearly 100 passengers aboard, speeded two blocks down a steep grade on the Filmore street hill today and plunged into two other cars, injuring 10 persons. One of them, John D. O'Neil, chief of concessions at the Panama-Pacific exposition, was dangerously hurt. His skull was thought to be fractured, physicians said, both legs were broken and internal injuries may have been sustained.

ZEPPELIN VISITS ENGLAND.
LONDON, June 7 (2:34 p. m.)—It was announced at the admiralty this afternoon that a Zeppelin visited the east coast of England last night, dropping incendiary and explosive bombs. Five persons were killed and 40 were injured. Two fires were caused by the incendiary bombs.

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