

commissions looked at the German system and exclaimed, "We can never hope to have so efficient an administration"; then they went to England and copied the British plan! The only plausible explanation of this mystery is that given me by a reliable informant who said, speaking of the commissioner sent to England by a certain state to study the British law—I quote: "He was drunk most of the time he was there." I do not have to apologize to the Canadians for speaking disparagingly of the old British law, because, whether or not they liked the ale and the stout, they had too good judgment to copy the basic principles of the British administration. Moreover, Great Britain has repudiated the old court-administered British workmen's compensation law, "lock, stock, and barrel." But we bought the gold brick. In the museum of history where it now reposes, the old British law could properly be labeled, "The lawyers' delight." Only Gilbert and Sullivan could do justice to its wage-computation provision, on which, in the states adopting it, many of our injured workers were crucified during the depression following 1929. Moreover, it left a gate open for tort litigation. Do not accuse me of prejudice against England. I am Scotch-Irish and have not a drop of German blood in my veins.

But to resume our story. When the United States and Canada were preparing to adopt workmen's compensation laws, they sent commissions to Europe and Great Britain to examine the existing workmen's compensation systems. Some of these commissions copied the worst, as well as the best, of the foreign legislation in their drafts of proposed American acts. This is particularly true of the revamps of British legislation found in many of our state acts. The German system was administrative; the British, judicial. The judicial slant in our compensation laws was imported from England.

The greatest name in the roster of those who took part in drafting the American compensation laws is that of Sir William Ralph Meredith, Chief Justice of Ontario. He drafted the Ontario act, after an exhaustive study of workmen's compensation administration in Europe and America. He avoided the crucial mistakes made by others in their adaptation of either the German or the British law. Although steeped in legal tradition, he saw the human problem in workmen's compensation and tailored a garment to fit the injured worker, instead of trying to fit the injured worker into an ancient legal scheme. Sir William was shocked by what he saw in the British courts. He recognized that court methods were not suitable in workmen's compensation cases. In drafting a workmen's compensation law, his guiding principle was "to get rid of the nuisance of litigation" and "to have swift justice meted out to the great body of men" even though some mistakes might be made. He was convinced that while some mistakes were inevitable under any system of procedure, the mistakes made by an expert administrative board with final authority would be fewer and less costly than the mistakes even of the highest appellate court. In his draft a sure foundation was provided for simple procedure. The Ontario act reads:

The decisions of the Board shall be upon the real merits and justice of the case, and it shall not be bound to follow strict legal precedent. (Sec. 68-4.)

The action or decision of the Board . . . shall be final and conclusive and shall not be open to question or review in any court. (Sec. 68-1.)

On the other hand, in the United States most of the laws left the gates open for an appeal to the courts, sometimes with jury trials. Exceptions were the federal