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MALINGERING

AND FEIGNED SICKNESS

WITH NOTES ON THE WORKMEN'S COMPENSATION ACT, 1906, AND COMPENSATION FOR INJURY, INCLUDING THE LEADING CASES THEREON.

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WITH NOTES ON THE WORKMEN'S COMPENSATION ACT, 1906, AND COMPENSATION FOR INJURY, INCLUDING THE LEADING CASES THEREON

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MEDICAL EXAMINER TO THE SUN INSURANCE OFFICE, AND OTHER ACCIDENT OFFICES; LATE HOME OFFICE MEDICAL REFEREE WORKMEN'S COMPENSATION ACT

ILLUSTRATED

SECOND EDITION, REVISED AND ENLARGED

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PREFACE TO THE SECOND EDITION

THIS work has been practically rewritten. In the first edition the subject of Neurasthenia was not so fully dealt with as its importance deserves. I have therefore rewritten and enlarged the chapters on that difficult subject. The chapters on the examination of the nervous system and functional nerve disease have been entirely revised. Chapters have been added upon Self-Inflicted Injuries; Malingering in Skin Affections; Miner's Nystagmus and Malingering; Glycosuria and Malingering; Incontinence of Urine, and Malingering; Workmen's Compensation Act, 1906, and Scheduled Diseases; Return to Work—Legal and Other Impediments; The Effect of Recent Legislation upon Sickness and Accident Claims; Suppuration and its Prevention; Immobility after Joint Injury; Rheumatism and Fibrositis, and their Relationship to Accident; Ligaments and Muscles of the Back.

Advantage has been taken of the experience gained whilst a member of the Travelling Medical Board for the London Command, and subsequently when President of the Special Medical Board for dealing with neurasthenia and allied conditions, to set out in some detail impressions formed as to malingering in the army, which I hope will be found useful. In this connection I have dealt with the difficult subject of self-inflicted gunshot wounds.

I have always found disorders of the back an exceedingly difficult subject when the question of fraud arises. I have therefore rewritten much of the part dealing with this subject, believing that my own difficulties are those of others also.

The subject of X-ray photography has become more and more important in the law courts, and much has been added to the chapter on this subject, which it is hoped will be found of practical value.

The fear of expressing frankly one's views when fraud is suspected, or is undoubtedly present, is one which is present in everyone's mind.

With regard to the law of libel, I have taken occasion to consult high legal authorities on the exact position of medical men when reporting to employers, insurance companies, and others. It is always difficult to express oneself clearly when an attempt is made to invade the technicalities of a sister profession, but I am satisfied that, having regard to the expert legal opinion I have obtained, the views expressed may be accepted as a reliable guide on this difficult question, and that the latitude which we may give ourselves when writing opinions to those who have a right to them is not overstated.

Where a difficult differential diagnosis has to be made, as, for instance, between recent and old-standing hernia, signs of old or recent rupture of the tympanum, the difference between organic and functional hemiplegia, etc., I have set out the different signs and symptoms in tabular form, as an assistance to diagnosis.

The increased number of headings to the various paragraphs will be found useful; it is a means of saving time in these strenuous days. The plan adopted is that of setting out in detail the various phases of fraud I have met, and of coupling each instance, as described, with the methods which have been found best for its detection.

Several illustrations have been added which I think help to elucidate the text.

The conclusions I have arrived at are the result of a not inconsiderable experience, for I find that since I have devoted myself to this particular class of work, during the past eleven years, I have conducted over 31,000 examinations of alleged sickness or accidents: 10,000 of these were on behalf of the military authorities, 4,100 had a medico-legal bearing, and the remainder were sick or injured employees of the two large corporations which I serve.

I am indebted to Captain Llewellyn's work on Miner's Nystagmus for many of the facts stated in the chapter on that disease. He has been good enough to revise it and to express the opinion that it will be of great assistance to colliery

surgeons. I am also indebted to my friend Captain Kingsford, R.A.M.C., for much valuable assistance in dealing with the theoretical aspect of functional nerve disease in Chapters VI. and VII.; to Dr. C. O. Hawthorne, for parts of the chapter on the Examination of the Nervous System; to Dr. Thomas Lumsden, for his revision of the proofs; and to many friends for useful suggestions.

I have to acknowledge my indebtedness to the Editors of the *British Medical Journal*, the *Lancet*, the *Practitioner*, and other medical periodicals, for the use of articles which have appeared in their journals.

I hope the new edition of the volume will be found useful; much of the leisure time of four years has been spent in amplifying and bringing it up to date.

J. C.

Porchester Terrace,
Hyde Park, W.
1917.

PREFACE TO THE FIRST EDITION

THE sympathy of everyone is naturally with the sick and suffering, and anything which may, at first sight, appear to deny that feeling, is liable to misconstruction. So that no misapprehension may exist as to the object of this book, this foreword is penned. Many deserving cases do not receive proper consideration because unworthy persons have had expended upon them the sympathy and help which are the legitimate right of the true sufferer. Those who by law are responsible for the results of accidents, in the causation of which they have had no part or lot, should not be subjected to greater burdens than those for which they are legally responsible. True it is that in many instances the loss is made good by an insurance company ; but, though corporations may have " no soul to be saved or body to be kicked," it is to be remembered that they are composed of individuals to whom the ultimate loss is a serious consideration. The cost of insuring against accidents to industrial workers is now far in excess of the actuarial estimates upon which the Compensation Acts were based ; and a study of the statistics in relation to non-fatal accidents shows an increase in the number of those accidents since the advent of this legislation, a fact which cannot be accounted for even by the speeding-up of machinery and the other conditions of modern labour. It appears, therefore, that malingering and dishonesty must have had an influence in raising the figures to their present abnormal height. Naturally the amount of compensation paid is reflected in the premiums demanded, and therefore, unless unjust claims are sternly repressed, the burden upon the community will be greater than it legitimately should be.

To those who may think that being acute to prevent or

detect fraud is not a quality within the province of a medical man, I would put this question: Is not the confining of sympathy and benefit to their proper channels, the prevention of improper claims against innocent persons, and the restoration to useful occupation of those who might otherwise become parasites of society, services which deserve well of the community? Very often this service can only be rendered by a medical man, and surely when such an opportunity presents itself it is a duty which must be performed. The medical attendant's first consideration is certainly due to his patient, but we quasi-public servants owe a duty to a wider constituency, in the unbiassed performance of which we probably do the best service to our immediate patients.

This work deals with a dark side of human nature, and does not admit of the display of that sympathy which I trust all genuine cases receive. Having met with all types of workingmen, the brighter side of the picture has at times been presented, and I gladly recall many acts of unostentatious heroism which have reflected credit not only on the individual, but also on the class to which he belongs. Deeds of fine independence, and sufferings nobly borne, remain in my memory; but with such this work necessarily has no concern. I am tempted, however, to relate an instance which came to my notice quite recently. A young man was at work in a bunker of "slack" coal, trying to clear the shoot which had become blocked; suddenly the obstacle gave way, and he was sucked down by the rush of coal. As the coal closed over his head, he called out "Good-bye" to his fellow-workmen. After fourteen men had dug for three-quarters of an hour, he was rescued from beneath tons of coal. The next day but one he voluntarily returned to work!

In 1836 a prize essay by Gavin, in the Class of Military Surgery at the University of Edinburgh, entitled "Feigned and Factitious Diseases, chiefly of Soldiers and Sailors," was published. Since then only one small similar treatise has appeared in the English language; there have been French and German works on the subject, which, although suggestive, have not been very helpful. For obvious reasons, therefore, the conclusions arrived at are my own, and the cases cited are those with which I have had to wrestle. In the illustra-

tive cases great pains have been taken to avoid giving any particulars which might lead to the identification of the corporations, insurance companies, solicitors, or medical men concerned ; so they need have no fear of being recognized. Some of my friends have hinted that the cases quoted are somewhat one-sided, in that they are mainly restricted to those in which I have been successful. I plead guilty, and shall mend my ways when *they* " hold a candle to their shame "—in public. The wise admit (to themselves) their errors, and profit more by them than by their successes. We all make mistakes, and no one knows this better than those who specialize in the difficult branch of professional work with which this book deals. It is in consequence of mistakes of which I am conscious that the many danger-signals have been erected as this book progressed.

That much of the phraseology is of a more or less popular nature arises from the fact that all the reports quoted were written for public bodies or insurance companies. The profession will, I hope, pardon the elementary definitions found in the histories of several cases, for they were interpolated solely to make the reports intelligible to the layman to whom they were addressed. Further, I hope the lapses into non-technical language will be excused by medical men when it is pointed out that to some extent this work may be of use to members of the legal profession and those who are responsible for the administration of the National Insurance Act. My thanks for much assistance are due to an eminent legal friend who insists upon remaining anonymous.

I am indebted to Messrs. Baillière, Tindall and Cox for their permission to reprint many of the cases quoted in my book on " Medico-Legal Examinations and the Workmen's Compensation Act, 1906," published by them; and to Dr. Christine Murrell for writing the chapter on Electrical Testing ; it proves her thorough knowledge of the subject. I interested myself in its progress and intervened with suggestions, and the fact that we are still friends testifies to her forbearance.

J. C.

PORCHESTER TERRACE,
HYDE PARK, W.
1913.

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MALINGERING

CHAPTER I

WHAT IS MALINGERING?

Malingering.—Until recently malingering was very little heard of, and this has given rise to the idea that it is a new disease. Although this is by no means the case, many of the predisposing causes have but recently been brought into existence; also the subject has lately had more attention directed to it, and modern methods of examination and diagnosis—such, for instance, as X-rays and the clinical administration of chloroform—render detection of the condition more easy.

Not many years ago it was practically only in naval and military circles that one heard the term used, where the ingenious Jack or Tommy feigned all sorts of ailments in order to evade an unpleasant duty or get discharged from the Service. Chewing cordite or rubbing gunpowder into self-inflicted wounds was among their more drastic means of giving an air of verisimilitude to otherwise unconvincing symptoms. The workhouses and prisons probably provided other examples. The many provisions made by the Legislature in recent years for securing benefits to injured workpeople have, undoubtedly, presented material inducements to a much larger class, and they have not been slow to take advantage of them.

K. P., a Sepoy, was shot in the metacarpal region of the right hand. After six months' treatment in hospital, he was passed by a medical board as unfit for any further service, and drafted for return to India. *En route* he came under the observation of a second medical board convoked to determine his rights to pension. One of the members of this board dissented from the others, expressed the opinion that the man was malingering, and asked to be allowed to treat the case.

There was the healed scar of a perforating bullet wound in the region of the dorsum of the first metacarpal. Some thickening in the region of the wound remained. There was extreme flexion of the metacarpal of the thumb into the palm of the hand, which was shaped like the hollow of a spoon, with the thumb lying in it and conforming to its contour. The whole thumb was flattened into this hollow, and was deeply and immovably imbedded into it. The fingers were not contracted.

The man was X-rayed, and it was found, as was anticipated, that there had been but slight damage to the metacarpus, the only injury being that a small piece was nicked out of the dorsal part of the shaft. From the radiogram it was evident that there had been no splintering of the bone. The course of the bullet, as shown by the skin wounds, had not injured the flexors of the thumb or nerves supplying muscles.

He was now put under chloroform and the thumb forcibly extended. Some force was required, and it was not possible to get immediately a full extension of the thumb. The skin surfaces of the palm and thenar eminence, which had for months been in close apposition, were macerated and covered with a thick layer of unhealthy epidermis, softened with sweat and sebaceous secretion. When cleaned it was found that the skin underneath was healthy.

Splints and strapping were applied to maintain the correct position. Massage and the battery were daily applied, and the man gained full functional use of his hand and thumb in two weeks. He was sent back to his regiment at the front.

There is no doubt that the condition observed had been caused by the soldier deliberately and constantly *sitting* on his thumb. It is quite easy for an Indian to do this, as squatting is his normal attitude.

Definition of a Malingerer.—Lord Justice Buckley defined a malingerer as one who is not ill and pretends that he is. If he *bona fide* thinks that he is ill, said the Judge, he is not guilty of that pretence.

Dr. Byrom Bramwell has defined a malingerer as one who feigns sickness, or who deliberately (knowingly and wilfully) induces or protracts an illness, with the object of avoiding duty, claiming money compensation, exciting sympathy, or for any other reason.

The same author points out that it is essential to draw a distinction between *malingering*, conscious and deliberate simulation of disease or exaggeration of symptoms, and *valetudinarianism*, unconscious or subconscious simulation of disease or exaggeration of symptoms. A valetudinarian is one who is morbidly solicitous about his health. Many of these unfortunate people are converted into chronic invalids,

or can be induced to return to work, according to the attitude taken up by the medical man in attendance. Much—very much more than is generally supposed—depends upon whether the medical man throws the weight of his personality into one scale or the other.

The Diagnosis of Malingering.—It is impossible to formulate any symptoms of this malady or to lay down any rules for its diagnosis; one can only come to a conclusion from a study of the symptoms presented, and a careful consideration of the circumstances surrounding the case. In proving the positive malingering, one has to demonstrate the negative of the complaint alleged, and for this purpose it is usually necessary to show that the symptoms exhibited are a perversion of the normal.

Relation of Compensation to Malingering.—The Common Law of England, which gave the right to obtain monetary compensation from negligent people, whether employers or otherwise, undoubtedly gave the first impetus to a more general adoption of the practice of making much out of little; the various Workmen's Compensation Acts have still further enlarged the field; and, with the advent of the National Insurance Act, malingering has come within the purview of the general practitioner, and is now a matter which all medical men must have regard to.

The first Workmen's Compensation Act came into operation on July 1, 1898, and was limited to certain classes of employees. The scope of the Act was further extended in 1901, and finally, on July 1, 1907, was made to embrace practically all classes of employees.

In the last edition of his book on "Diseases of the Spinal Cord," published in 1895, three years before he first Workmen's Compensation Act was passed, Dr. Byrom Bramwell pointed out that colliers very rarely suffered from organic disease of the spinal cord or its membranes, as the result of pure and simple concussion of the spinal cord, and that *very rarely indeed* did these cases manifest the usual train of nervous symptoms which so frequently occur after railway accidents. He ventured to prophesy:

"These conclusions may in the future be of no small im-

portance, quite irrespective of the subject of railway accidents and injuries with which we are at present immediately concerned. The tendency of modern legislation is to compensate employees who have been injured, provided that the accident is not the result of their own carelessness or error. Now, I venture to predict that if the Legislature should enact that colliers are entitled to compensation for the injuries so received, nervous symptoms will in the future be found to result much more frequently from falls of coal and stone on the back than is at present the case."

Those who are now engaged in colliery practice will appreciate the sagacity of this prediction.

Dr. Dickson of Lochgelly, a practitioner of twenty years' standing in the county of Fife, stated, at a meeting of the Medico-Chirurgical Society, that traumatic neurasthenia is now a common topic of conversation in the villages of Fife; that the *morale* of the Fife miner, which before the passing of the Workmen's Compensation Act was high, has become much deteriorated; and that the duration of illness after accidents has become much prolonged. He also stated that the average time for recovery from a fracture below the knee, which before the introduction of the Workmen's Compensation Act was three months, is now over six months.

The Necessity for Recognition.—I have found the methods of the conscious deceiver so ingenious, and the mental outlook of the unconscious exaggerator so difficult to deal with, that, having in view the fact that now it will be necessary for all medical men to look for the possibility of deceit or exaggeration in many cases that come before them, I propose to formulate certain theories with regard to these matters, exemplifying them with typical cases from my own experience, and to offer certain tests for discovering and remedies for dealing with them. One may have a case which justifies the gravest suspicion, but, without previously having had a similar experience, one hesitates to condemn it as fraudulent; it is therefore my hope that the cases quoted hereafter may be of assistance in helping the profession to perform the very serious duty that will be placed upon them of protecting the State, the Approved Societies, and Employers, from the unjust and improper demands which are being made upon them.

Those who are engaged in medical practice in large cities must have sometimes suspected that an accident is not to the recipient always a wholly unexpected event. On one occasion, whilst driving in an outlying suburb, I narrowly escaped running over a road-sweeper. After paying a visit to a house opposite where he was stationed, I remarked to my driver, "What did that man mean by getting in the way?" when he explained that he had just been having some conversation with the sweeper, in the course of which he admitted that on a former occasion he had on account of a similar "accident" obtained a certain sum of money from the Corporation by whom he was employed.

In the following pages numerous instances of malingering will be cited, and each is intended to exemplify a point in diagnosis, or assist in elucidating a problem. The following story, however, is not of any particular educative value, but I cannot refrain from quoting it, for to my mind it is an example of malingering *par excellence*:

> The Vicar of a very poor London parish, well known for his practical but discriminating charity, made it a rule to personally visit all cases before giving assistance. Late one Christmas Eve, when his family were entertaining friends, a piteous message was sent to him, to the effect that one of his parishioners had died, that there was no food in the house, and that the widow was at the door begging for a few shillings. The clergyman, urged by his family not to leave the house on such an occasion in such weather, for a storm was at its height, for once hesitated, but eventually interviewed the woman, and followed her to a tenement house, the dark, creaking stairs of which he ascended. When he entered the death chamber, he saw lying on the bed the form of the breadwinner of the family, reverently covered with a white sheet. After some conversation with the widow, and writing out various soup and coal tickets, he took his departure. When halfway down the stairs he remembered that he had forgotten his umbrella, and rapidly returned, when to his astonishment the corpse was sitting up in bed chortling!

It is seldom that so gross and deliberate a fraud is perpetrated as the following instance, which occurred in the practice of a personal friend of mine:

> Dr. F. was asked to examine A. A., a man of the shopkeeping class, who informed him that his life was insured, that he had allowed his policy to lapse, that he desired to resuscitate his policy, and that the insurance company had agreed to his doing so on condition that he sent a cheque for arrears of premiums, accom-

panied by a medical certificate stating that he was in good health. He therefore appealed to my friend to give him the necessary certificate, which Dr. F. expressed himself quite willing to do after, and only after, he had thoroughly examined him. In vain did the patient point out that the fee allowed by the company was a very small one, that the certificate was only "a matter of form," and that, as a matter of fact, he was in perfect health. The examination was undertaken; indeed, it was done with some thoroughness, for the applicant was stripped to the waist, and his lungs and heart carefully examined. Whilst thus undressed, placing his hands on his hips, or in that neighbourhood, he struck an attitude, saying, with some emphasis: "Now, doctor, are you satisfied? Am I not a fine fellow?" My friend's reply was that he did not think so, but, as he could find nothing wrong, he supposed he would have to give him a certificate, and he did.

Six months afterwards an insurance company communicated with the doctor, asking why he had given a certificate of good health to one of their assured who had just died of cancer of the rectum, and who had had an inguinal colotomy performed *antecedent* to the date of his examination.

The brave words, the dramatic attitude, the hands on the hips, were all a piece of consummate acting, designed to cover the site of a colotomy operation.

Relative Extent of Malingering.—Cases of gross deception, in which serious illness or injury is feigned, accompanied by slight physical symptoms (or, it may be, none at all), are readily and accurately described as cases of malingering; but there are other cases to which the expression cannot be so unhesitatingly applied. The undue prolongation of illness, the unwillingness to return to work, and the exaggeration of symptoms, are all matters which may well fall under the same classification; and it is not necessary that deliberate fraud should alone be present in order to make a person a malingerer. Only a comparatively small proportion of the vast number of sick people are out-and-out malingerers, but it must be remembered that, although the number is a relatively small one, there is, in the aggregate, a large number of working-class men and women who, in returning, linger on the threshold of work.

Lingerers upon the Threshold of Work.—Experience teaches that many workmen do not share the opinion expressed by the medical man who examines on behalf of the employer. Apart altogether from those who attempt to postpone return to work

by deliberate malingering there is a large number of men who put off the return to laborious work merely because they do not appreciate that complete recovery is always a gradual process, and that stiffness, and even some slight degree of pain, seldom disappear entirely until an injured part has been subjected to a certain amount of movement and exercise—such, indeed, as they might reasonably be expected to put up with, having regard to the fact that it can only be of a temporary nature. I am convinced that this is the real explanation why many cases find their way to the Arbitration Courts.

Statistics relating to this particular class of cases are practically non-existent, for until recently attention has not been drawn to the matter; I am therefore, in dealing with this subject, forced to draw mainly from my own experience. Two large public bodies and some fifteen to twenty insurance companies send sick and injured workpeople to me for an opinion as to whether they are fit for work or not. For some years past I have seen approximately 2,000 such cases a year, and 25 per cent. (*one in every four*) were reported to be fit for work. The majority of these were not typical malingerers, but they would, nevertheless, from various causes, have unduly prolonged their illnesses. It is impossible to examine so large a number of cases and not come to certain definite conclusions as to the psychic and other conditions engendered by the tendency of present-day legislation.

On the whole, I have little cause to complain of unwillingness of workmen in the Public Service to return to duty on the date when it is reported they are fit to do so.

Not so, however, with cases which are sent by insurance companies. These stand on a different footing, for they are, as a rule, cases which have already been seen by other medical men, and come for a final opinion prior to an action at common law or arbitration proceedings being instituted.

Cases of Fraud.—The trouble in dealing with cases which ought really to be termed fraudulent is not so much the difficulty of recognizing the fraud as of determining its gravity in relation to each individual concerned, because what would amount to a fraudulent statement if made by a fairly educated working-man, must be treated as a mere exaggeration when

proceeding from the mouth of an East End alien tailor. There is, however, no difficulty, when the facts are ascertained, in classifying such a case of gross fraud as the following:

A. B. injured his right ankle in October, 1909, whilst trucking a case at the Royal Albert Docks.

He was asked by the Shipping Federation to attend at my house for medical examination in April, 1910, but absolutely declined. Indeed, he had refused to receive half-wages, which were being paid to him regularly, because the agent of his employer had declined to take the money to the top of the house where he happened to be at the moment. The weekly payments were stopped, and the case came before the County Court the same month. Not having examined the applicant, I was not present at the hearing; but a doctor who had previously seen him on behalf of his employers was called, and gave evidence to the effect that, in his opinion, A. B. was well and fit for work.

Evidence was given by two doctors as to his total incapacity for work, and an award of twelve shillings per week was made in his favour. A medical referee did not sit with the Judge.

Two months after getting his award he was sent to me for examination.

Examination.—He complained that his right ankle was too painful to use in consequence of the previous accident, and that he now had pain in his right hip.

From the moment this man entered my room his manner impressed me unfavourably. He insisted on his wife being present as a witness. He was a burly, muscular fellow, who assumed a blustering, insolent attitude, and it struck me that he would be very easily provoked to violence. His mental attitude was shown by the following little incident: In order that I might examine his ankle thoroughly, it was necessary for him to take off his boot and stocking. When this was done, as the trouser-leg interfered with my view, I politely asked him to pull up his trousers; he expressed great reluctance, glaring at me in a defiant manner. However, I quietly insisted upon his doing so, and on his baring the other leg also. A portable thirty-candle-power bell-lamp was brought within a few feet of his legs, and before I had commenced the examination, or had time to turn on the electric light, he at once said: "That is the battery; this is enough for me. I will not let you examine me any more!" He forthwith put on his boots and stockings. When he had finished I switched on the electric light, and requested him to take them all off again. Seeing the mistake he had made, he changed his tactics, saying he would "not be pulled about"; but upon my pointing out that I had not yet touched him, he became more reasonable.

The ankle was absolutely normal in every particular. His suggestion of acute pain was evidently feigned. He resolutely declined to allow me to manipulate the ankle-joint, and refused to have the foot X-rayed, protesting that he "would not be burned." When it was pointed out

to him that he would feel no more inconvenience than if he were having his portrait taken, he changed his ground, stating that he would have nothing done until he had seen his own doctor, whom he stated he was in the habit of consulting once a fortnight.

With regard to the hip, when he was asked to touch the spot, without being allowed to look at his hip, great difficulty was experienced in getting him to commit himself to anything so precise, but ultimately he consented. Five separate times he indicated the painful spot with his finger, and on each occasion I marked it with coloured chalk; on four of these occasions different spots were pointed to, two of them being 4½ inches apart. It was noticeable that on leaving my house he walked with his foot turned outwards—an unnatural attitude, which would necessarily strain the muscles at the hip.

I had no hesitation in reporting this man to be a rank impostor, a deliberate malingerer. The company then informed me that for some time they had regarded him as a malingerer, and had been more than usually surprised that the Judge had held that he was partially disabled. The secretary to the company stated that they appreciated my remark that he looked a violent man, for he had, in fact, attempted to assault the doctor who had examined him prior to his being sent to me, but that it had only resulted in his putting one of his own fists through a window!

An X-ray examination was arranged, but nothing would induce the man to attend.

Result.—Three months later, at the trial, I was subjected to a very severe cross-examination when I stated that he was a malingerer, but it was proved that *at the time of the first trial*, when he got compensation for continuing disability (sworn to by two doctors), he was doing heavy work, and that for several months after his award (of 12s. a week) he had continued to do it; he had, in fact, got a day off from his work to attend the Court at the first hearing by stating to his employer that he had been summoned for arrears of rent!

This, of course, settled the case, and the Judge sent the papers to the Public Prosecutor with a view to criminal proceedings, which, however, were, of course, not taken.

A military surgeon informs me that, "as a remedial measure for exaggerators and malingerers, a very strong faradic current is the most generally useful of all remedies. When a case is without doubt diagnosed to be malingering, there need be no compunction about the forcible application of this remedy in the case of a soldier in time of war. It is almost infallible. The malingerer may stand one or two applications, but he cannot stand the prospect of a daily repetition, and so he quickly gets well. Several strong men are required to hold the patient during the treatment"!!

Malingerers of this type can only be dealt with by strong measures. It may be said that such cases are exceptional, but some time ago, on my advice, eighteen consecutive cases of a similar, if less pronounced type, were taken to the Law Courts for decision, and the result in each case has justified the advice given.

It is not often that an absolutely uncomplicated case of malingering pure and simple occurs :

History.—A. C., whilst at sea, fell down the stokehole. Fracture of the left collar-bone and bruising of the muscles of the corresponding arm were the alleged results. First-aid was rendered by the crew. He stated that on reaching port, seventeen days later, a doctor examined him, and had him removed to hospital, where the collar-bone was " reset " under an anæsthetic. The story appeared highly improbable, for fracture of the clavicle is not a serious affair, and even had the union not been quite satisfactory, as was alleged, most surgeons would hesitate to reset a collar-bone, for good results are often obtained from the most unskilled treatment of this common accident.

Medical Examination.—Four months after the alleged accident he was sent to me, still alleging inability to work. Six weeks is a reasonable period for recovery from fracture of the clavicle. Nothing amiss could be discovered. He was obviously acting a part ; under examination he wriggled, made violent contortions, and assumed an agonized expression of countenance when the shoulder, which was the only part of his anatomy he complained of, was moved. It was apparent, however, that not only could he use the muscles of the shoulder, but that he did use them, for they were not wasted, as they must have been if disused. At a subsequent interview with his doctor it transpired that in his opinion the trouble was not really in the shoulder, but in the hand ! The doctor volunteered the information that if the claimant were paid his wages up to the date of my examination, *and a little over*, he would return to work !

Two months later, no settlement having been effected, at my suggestion an X-ray photograph was taken. The negative showed that the collar-bone had never been fractured. Another examination confirmed my previous diagnosis that A. C. was an undoubted malingerer. He pretended that when the arm was raised to more than a right angle with the body, intense pain was produced ; but it was noticeable that pain was complained of when the arm was elevated sometimes to one level, and sometimes to another. On one occasion when the arm was raised to a right angle with the body, his expression of intense suffering was pitiful to see ; yet when his attention was directed elsewhere, the expression of pain passed away. It was amusing to note that when his own doctor raised the patient's arm, it did not seem to cause pain. A. C. would not work, and the shipping company would not pay, so the case came before an Arbitration Court.

Result.—At the hearing of the arbitration I demonstrated to the Court that the claimant was obviously shamming. He now complained he had lost sensation in the fingers of the left hand. In the presence of the Judge I instructed him to close his eyes and hold up both his hands. He was told to say at once "Yes" when he felt a pin-prick, and "No" when he did not. This ridiculous instruction he carried out. The fingers of the two hands were pricked alternately, and A. C. recorded many times "Yes" on the right, and a large number of "No's" on the left. Why should "No" ever have been given? If there was, as he alleged, no sensation, there obviously should have been no answer.

Notwithstanding this, the decision was given in *favour* of the claimant. The Judge stated, however, that he thought the plaintiff was "grossly exaggerating"! Although a considerable weekly allowance was ordered to be paid to this worthy soldier wounded in the industrial warfare, for reasons which were not apparent he returned to sea in a few weeks, proving himself a little ungrateful to the arbitrator who had given him the award! I wrote to the medical referee informing him of the man's ingratitude. The Judge will probably remember the case.

The following case, though it did not come under my personal observation, comes from a credible source:

E. A., who had been in regular, steady employment for some time in the lead trade, upon the declaration of a strike, immediately complained that he was suffering from lead-poisoning, and furnished medical certificates to that effect. As the case gave rise to some suspicion, it was referred to a medical man of standing, who fearlessly reported that the case was one of malingering; but his opinion was not acted upon, for E. A. for many months was paid compensation for right-sided "drop-wrist." He appears to have been no mean actor, for whilst he simulated paralysis of the right wrist so well as to obtain weekly certificates, he was actually at the same time engaged in giving performances as a professional Strong Man. Every night, at a music-hall, clad only in gorgeous harness, he lifted enormous weights. One of his demonstrations consisted in stiffening the muscles of the *right* forearm and wrist, and breaking with his right hand a thick strap which passed diagonally over from his right shoulder to his left hip!

When detected, he not only admitted it, but boasted how he had hoodwinked the examining medical men, and offered, for the payment of £5, to appear as a witness against another man who was also receiving fraudulent compensation for alleged lead-poisoning. He had the temerity to leave with his employer some picture postcards, which I now have in my possession, showing himself in his professional garb and attitudes. He volunteered the information that these photographs were taken at the very time when medical men were examining him and certifying that he was at his worst!

There ought to be some easy method whereby employers of labour should be compelled to report or prosecute such glaring cases of a particularly mean and impudent type of fraud.

Cases occur in which one is fain to seek another solution than deliberate malingering, and, in spite of the recurrence of instances of which the following may be taken as a sample, it is always well to adhere to the practice of eliminating the possibility of genuine illness before being driven to the conclusion that a fraud is being attempted.

E. C. alleged that he received an injury to his eye in September, 1913, whilst at work, which rendered him incapable of continuing at work. A few days after the alleged accident, he was sent to me and reported as fit for duty. I could discover nothing but a trifling redness of the conjunctiva.

He returned to work, but gave it up almost immediately, alleging that, as he was engaged in night work, the electrical illumination caused his eye to "water." I was satisfied that this was not so, for during one of my examinations I flashed a thirty-candle-power electric lamp on his eye without causing him even to blink. Following the usual practice of the service in which he was employed, he was informed after the accident had happened that he would be allowed half-wages during such time as I, as the employer's medical adviser, certified him unfit for work.

He was repeatedly sent to me, and on several occasions I reported him fit for duty, and on each occasion he declined to resume. Subsequently, thinking that there must be a mental element in his case, I did not press the matter, and made certain recommendations with regard to his lenient treatment. At the end of five weeks, however, as he absolutely refused to go to work, I asked for and obtained permission to hold a consultation with the senior surgeon of the ophthalmic hospital at which he was attending, and as a result we were agreed that he was quite well and fit for work. Thereupon payment of compensation was stopped.

On one occasion, when the examination was completed, he declined to leave my house, obviously expecting that I should eject him. In order to prevent any possible ground for an allegation even of a technical assault by ejecting him, I sent for a policeman, and E. C. readily enough took his departure.

Some time after stoppage of his half-pay the man sought to record in the County Court the arrangement made as to payment of half-wages, as an agreement to pay compensation at 15s. a week "in accordance with the provisions of the Act"—*i.e.*, until such time as the County Court Judge after hearing evidence ordered the payments to cease unless the parties agreed.

The employers objected to this on the ground that no such agreement had been come to, and also that the man had recovered.

The case came before the Judge of the County Court in December,

1913; and although evidence was given to show the man had interfered with the date of a medical certificate he produced, the Judge declined to accept my evidence and that of the ophthalmic surgeon who had attended him in an honorary capacity at the hospital. Notwithstanding that E. C. called no medical evidence, the Judge decided that he was satisfied that the man was still incapacitated for work on account of the condition of his eye, and held that he was entitled to have an agreement recorded for payment of half-wages during incapacity, as claimed by him, but stayed execution if an appeal were entered by the employers.

It subsequently came to my knowledge, through a communication by which one of his acquaintances betrayed him, that for some time he had been in the practice of putting sand and soda in his eye prior to his visits to me and to the hospital. Having my suspicions aroused as to his antecedents, and although detective measures are outside the province of a medical man, I adopted the following device: On his coming into the consulting-room, I ran my hand through my hair, on which occasionally brilliantine finds its way, and then shook hands with him. During the examination he was told to shut both his eyes and hold his right hand high above his head, and grasp a large soda-water tumbler which I put in his hand. The slight oiliness of his hand gave me some excellent finger-prints. I sent these to Scotland Yard, and the authorities were able to produce records of various convictions for some of which he had served terms of imprisonment.

The employers gave notice of appeal against the decision of the County Court Judge in December, 1913, on the ground that there was no evidence to justify the recording of an agreement in the terms which the County Court Judge found.

Whilst the appeal was awaiting hearing, an application was made to the County Court Judge, on behalf of the man, to remove the stay of execution, and for a weekly sum to be paid by his employers pending the hearing of the appeal. Upon the matter coming before the County Court Judge, the employers consented to pay 10s. per week upon an intimation given by the Judge that unless this was done the stay of execution would be removed, in which case the employers would have had to pay 15s. a week.

The appeal was heard by the Court of Appeal on June 10, 1914, when the Court found in favour of the employers, and held that the only agreement which had been come to was that the employers would pay half-wages during such time as I certified the man was incapacitated as a result of the accident, and as I had certified that he was able to resume work the agreement was at an end, and therefore there was nothing to be recorded.

This decision, however, left it open to the workman to take steps to prove that he was still incapacitated as a result of the accident, and that therefore I was wrong in certifying as I had done.

In consequence of the decision of the Court of Appeal, and my again certifying E. C., after a further examination, as fit for work,

the 10s. a week allowance was stopped, and in January, 1915, proceedings were taken by the man, claiming half-wages from the date of the alleged accident, less the sums previously paid.

The application was heard by the Judge with a medical assessor on March 8, 1915, when the man stated that he was still suffering from the result of the alleged accident, and that small pieces of glass had been removed from the conjunctiva on two occasions since the case first came before the Court; but the medical man called on the man's behalf admitted in cross-examination that he did not think it was possible for the glass to have remained in the eye ever since the date of the alleged accident. In the course of his cross-examination the man admitted the charges and convictions before mentioned. The Judge, without calling on the employers, found that the man had not proved his claim, and the application was therefore dismissed with costs.

The expense to the employers in the matter is estimated at about £150, as, of course, there was no means of recovering their costs from the man; but if they had not taken the steps they did it is impossible to say what the ultimate expense would have been.

Psychology of the Fraudulent Mind.—Malingering is much more common in connection with accidents than with disease, probably because of the legal liability involved ; it has, therefore, to be anxiously watched for and considered. Everyone is liable to exaggerate symptoms if doing so may operate to his advantage or excite sympathy. For instance, pain in the back following an accident is a condition which is often caused by suggestion—auto-suggestion. It does not necessarily mean malingering ; but pain in the back after an accident, be it caused by a wealthy railway company or by a mishap in one's own garden, is, much more often than not, accompanied by no serious pathological change. The pain is often only psychic.

Experience teaches that closely similar injuries attributable to like accidents present one kind of clinical picture, and run one kind of course in those who make no claim for compensation, but they present a very different picture and run a very different course in those who embark upon the troubled sea of litigation. This difference is highly significant of the influence of litigation in magnifying pain and perpetuating incapacity.

In a large number of cases which eventually come before the Courts, introspection and subjective sensations are unwittingly fostered.

The difference between physical suffering and the pain of a neurotic is that the latter satisfies unconscious longings and is sometimes profitable. Many a self-indulgent and lazy fellow, who never had an honest impulse for genuine hard work, seizes the opportunity which a slight accident affords to convince himself, consciously or unconsciously, that he need not work. This may not be actual malingering, but it is none the less contemptible.

The problem frequently presents itself for solution: Is the patient a wilful malingerer, or the victim of psychic conditions consequent upon an accident?

Psychologists tell us that we conceive only that partial aspect of a thing which the individual regards, for *his* purpose, as its essential aspect. What is considered essential varies, of course, with the point of view of the individual. For instance, the substance chalk is looked upon by different people according to the use to which it is put; the geologist thinks of it as the cemetery of millions of animalcula; the schoolmaster, as a messy but useful aid to imparting knowledge; the chemist, as carbonate of calcium. In short, the essential quality of a thing is its worth to the individual, and its value to him is its power to serve his private ends.

On one occasion, when examining a working-man for an injury to his thumb, he observed me examining the terminal phalanx of one of his fingers, which had been partially removed, obviously as the result of a former accident. "That," said he, "is of no importance; it was done at home"!

One often has much sympathy with the victim of an accident, who, by morbid contemplation of his condition, has caused his subjective consciousness to become exaggerated and made himself the slave of every abnormal sensation.

The impressions which are written on the brain cells by some physical or chemical process, of the exact nature of which we are ignorant, are stored by the million in the cortical tissue of the brain. Our ideas and impressions come to us from without. Intuition, I believe, plays but a small part in our mental processes, and outside influences and associations determine what we are and what we shall be. Normally when we reproduce impressions they are by no means as vivid as they were originally, but some brains can produce an im-

pression so as almost to visualize it. This has an important bearing upon the mental attitude in the class of case I now propose to consider. Our mental processes are such a conglomeration of subconscious operations and conscious thinking that it is difficult to understand exactly what foreruns conduct, otherwise it would be easy to understand the psychology of the fraudulent mind. At any rate we are fully cognizant that groups of thought run along the line of least resistance, and that every repetition makes the trodden path more passable. That these become to some extent automatic, and are reproduced with but a trifling stimulus, is well illustrated by the story told of the veteran who, upon a wag suddenly shouting in a stentorian voice "Attention!" was promptly brought to a standstill with his hands in the orthodox position, forgetful of the fact that he had been carrying, with both hands, his dinner rations which had just been served out to him.

Our minds are to a large extent suggestible, and in many cases the best chance of restoration to a life of usefulness is to obtain a readjustment of the master sentiment, and thus redirect the mind's activity.

It is a mistake to think that all malingering is the outcome of deliberate wickedness. Because a man does not return to work as soon as one thinks he ought, it is harsh to assume that he is a shammer, and should be branded as a wilful malingerer. Such a view is not only unjust, but demonstrates a poor knowledge of human nature. Great allowance has to be made for the personal equation. Moral responsibility, even amongst the highly educated, is a variable quantity; indeed, it varies almost as much with different individuals as do the features. We cannot always fully appreciate the mental processes taking place in each individual mind, and, as long as unregenerate human nature is being dealt with, so long are we bound to weigh all the circumstances of each case, if we wish to be fair. The mental attitude of workmen with regard to recovery after sickness is a very complicated one, and it is only by studying and fully understanding it that such cases can be successfully dealt with.

When dealing with men of the working-classes who have met with an accident, and who have some other disability (such, for instance, as a paronychia on the front of the terminal

joint of the thumb, and a ganglion over the extensor tendon of the little finger on the dorsum of the same hand), it is in a large number of cases impossible to get them to understand that there is no connection between the two, and therefore no liability on the part of the employer for *both* conditions.

It is not only the working-man who does not appreciate that, because one thing follows another, the two are not therefore necessarily co-related. The mental capacity of many of the working-classes might be fairly gauged by their ability to appreciate this act. Roughly, they may be divided into those who can and those who cannot appreciate it.

A large number do in fact clearly understand the position, but will not admit that they do so. But there is a still larger class who quite honestly, from lack of mental training or sheer prejudice, fail to grasp that because one thing follows another the second is not necessarily consequent on the first.

Self-interest, of course, influences them, but it often does so quite unconsciously. This is the *raison d'être* of many actions for damages which end in the discomfiture of misguided plaintiffs.

The attitude of an artisan who has been out of work for a long period, from whatever cause, is an exceedingly interesting study from the psychological standpoint. I have had innumerable opportunities of watching sick employees at regular definite intervals during the continuance of their illnesses, both short, long, and even when they have become chronic, and I have been much impressed by the very definite relationship there is between the duration of an illness and the gradual loosening of the capacity for the work habit. I have seen many fine specimens of the British working-man who, commencing with a sturdy independence and an honest desire to return to work, have become gradually mentally and morally debased, often solely as the result of idleness which the nature of the complaint made imperative. It is astonishing how easily, even in cases where the wolf is all but at the door, the stimulus of financial responsibility is obliterated. It is therefore of the first importance that a return to occupation, however light, should be recommended at the earliest possible time consistent with the nature of the ailment.

Those who do much medico-legal work are constantly coming

across cases of strong, healthy, able-bodied people who are absolutely well and fit for work, and are not suffering from any pathological condition, but who have become self-centred, and, having a lively appreciation of the supposed benefits of obtaining money which they do not earn, have become victims of the operation of the Workmen's Compensation Act and other Acts conferring benefits in the event of illness or injury.

Environment of the Sick Workman.—Now, what are the circumstances directly affecting the working-classes when ill? In considering this question I omit all reference to the pitiable lack of individual comfort and remedial means (worthy of the name) which is often the lot of the toiler of the community when laid on a bed of sickness, and I confine myself for the moment to the sick man's mental influences and surroundings.

It must be remembered that most sick and injured workmen belong to a class whose education is incomplete, and that they are peculiarly unfit to take a detached view of themselves, especially when ill. Many working-men of fair education, who in ordinary matters can reason quite logically, and whose mental equilibrium is properly balanced, seem to be congenitally incapable of appreciating ordinary moral obligations when it rests with them to decide whether they shall or shall not return to work. Too often the essential aspect of *their* case is the value unconsciously put upon their abnormal sensations in so far as they influence the continuance of sick pay, and, in the case of an insurance claim, the value of a symptom to the claimant is its power of obtaining either a lump sum or weekly payments.

Sources of Income apart from Compensation.—In this connection I always find it of value to ascertain, as far as possible, the circumstances of the particular individual I am examining. For instance, it is of the utmost importance to know if A. B. (who is in receipt of half-wages, say 15s. a week, under the Workmen's Compensation Act) happens to be in receipt of 18s. a week from the Hearts of Oak Benefit Society, 10s. a week from a yard club, and another 10s. from a slate club, making an income in all of £2 13s. when sick, as compared with his wages of £1 10s. a week when hard at work. Or,

as an alternative, that A. B. is in no club at all, but his wife is engaged in laundry-work or goes out charing, and he has two or three children at work. It is not an unreasonable deduction to draw that, so long as a man's circumstances are more comfortable when he is on the sick-list, he will have no inducement to " declare off " the sick-fund.

It is well known that the first stimulus for work in all classes of the community, and more especially in the working-classes, comes from the necessity of earning daily bread. It is this which keeps many men at work to whom labour is distasteful, and this applies not only to hard manual labour, but also to mental effort.

Perhaps it is not much to be wondered at that needy toilers become self-centred, exaggerate disturbances of function, and seize upon slight aches following accident as a means of temporary escape from the humdrum of manual labour. It must be remembered that the fixation of attention upon internal organs, or upon a back supposed to be strained, does reflexly, if it does not actually, produce the condition looked for; it certainly augments abnormal sensations.

The Will to Work.—We are all familiar with cases where a fixed desire and determination to take his place in the activities of life helps to pull a man through a critical illness, and, on the other hand, who does not know of cases where loss of all interest in life, either from mental, emotional, or physical causes, has turned the scale and precipitated a fatal issue?

An important piece of information, from the point of view of the insurance company, which should always be supplied, is whether the victim of an accident takes a hopeful view of his condition, whether he is really anxious to return to work and is co-operating towards his recovery, or whether, on the other hand, as too often happens, absence from work is having a demoralizing effect upon him.

The stricken soldier in the industrial warfare is, because of distrust, too often over-anxious, at all hazards, to guard himself against the possibility of future incapacity arising out of his disability. He assumes that the State, or the insurance company by which his master is protected, will minimize his illness, and therefore he must exaggerate; he considers that, in any case, the fullest demand he makes must be as nothing

compared with the vast sums at the command of the Government or insurance company.

Results of Introspection.—It is unfortunately the experience of most physicians that nervous people, who are given to self-examination, unconsciously foster subjective sensations which their stronger and better balanced neighbours would ignore. The idea of illness or of an injury and its possible consequences obsesses them. Their pains are real, but often only psychic. Such people are victimized by their unstable nervous systems. Too often they make no stand against morbid introspection. It is small wonder, then, if, by repeated medical examinations at the instance of a third party, a man's attention is concentrated on the condition of his body, the desire for sick allowance is encouraged, and gradually a vague feeling of having been wronged is first created and then fostered. Frequent gossips with others who have found themselves in similar circumstances, continual rehearsals of the details of the illness or accident, and the oft-repeated recital of sensations, all act as co-operating factors in bringing about a condition of auto-suggestion, in the diagnosis and treatment of which the medical profession is lamentably backward.

If an introspective, self-centred workman is unfortunate enough to find himself entitled, when sick, to the material advantages before mentioned, he is much to be pitied ; for he is subjected to temptations to which many succumb, even in a class whose antecedents and traditions are not his. It is impossible for him to think impartially. Consciously or unconsciously he is influenced not only by his immediate environment, but by his individual mental outlook.

When a poor man is idle, and in consequence forfeits the benefits of labour, he is looked upon as merely vicious. The vicious idle man is as yet not amenable to the law ; but when, in addition to being idle, he is healthy, and claims an allowance from the funds accumulated by a section of the community for the use of invalids, it is obvious that his conduct is prejudicial to that section of the community. Hence the malingerer must be seriously dealt with, for not only does he eat the bread of idleness, but he does so at the expense of the community, some of whom will resent, while others imitate, his vicious conduct.

It is unfortunate, in this respect, that many medical men who have looked to contract practice as the staple factor of their income have been dependent upon their popularity with the working-men for the security of the tenure of their office, because it is well known that a doctor who freely certifies for sick benefits is considered a " kind " man, and his appreciation by the working-classes is undoubted. That there is cruelty in this kindness, and that compulsory return to work on recovery is a real service, cannot be gainsaid.

There is one mental peculiarity of all classes of the community which has always struck me as being inexplicable—namely, that so many people do not seem to think it a wrong to rob a company. Many otherwise honest people do not consider it a mean thing to travel first-class with a third-class ticket, or rejoice over an evasion of the income tax. In discussing this matter with perfectly reputable members of society, I have often been surprised at the prevalent idea that an insurance company is fair game. I suppose it is the same spirit which stimulates a schoolboy to raid an orchard, when he would disdain to rob a fruit-stall, a situation which is well commented upon in " Tom Brown's School Days."

My own experience of insurance companies (and it is extensive) convinces me that in their dealings they are fair to claimants; and it does not strike one as unreasonable that a corresponding fairness should be demanded for them, and steps taken to insure it.

The Inducement to Malinger. — Apart from the rare instances in which the absence of any conceivable motive leads one to suspect mental derangement, there is in all cases of malingering a direct advantage to be gained by the assumption of disability. The usual incentives which act on the minds of those whose wiles we are here concerned with, are the desire to obtain relief from irksome tasks, the sympathy of friends and relatives, or desire for monetary gain. In the vast majority of cases the money value is the dominant consideration, and it is well to understand a little of the laws of England in order to see how far they operate as an inducement for the exercise of ingenuity which might almost be characterized by another term.

The Common Law of England enacts that it is incumbent on everyone so to regulate his business that injury shall not result to others. Failure to do this renders one liable to an action at the suit of the injured person. Such failure is known in law as negligence. The law of England holds that a man is responsible for the consequences of his acts, which are the natural and probable result of his conduct. To this there is attached the important corollary that a man is not only responsible for his own acts, but also for those of his servant, when the servant is acting within the scope of his employment and on his master's behalf. If a man suffers personal injury in this way, he may recover the expense to which he is put, and any loss sustained or to be sustained in consequence of the injury, together with such sum, as compensation for pain and suffering, as a Judge or jury may award him. When once the verdict is given in such a case, no further claim in respect of the same accident can be launched. It follows that in these circumstances it is likely that the most will be made of the nature of the injuries, the incapacity resulting therefrom, and the probability of the injurious effects continuing; because a distinct pecuniary value, immediately realizable, attaches to successful efforts in this direction.

The Employers' Liability Act, 1880, provides for payment of compensation to a person who, coming within the term "workman," meets with an accident in the course of his employment, provided the accident is not due to any negligence on the part of the workman himself. It is necessary under that Act for the injured person to prove that he was acting under the orders of his superior, that the ways, works, machinery, or plant were defective, or that the injury was due to the negligence of one of the employer's servants. If he can prove all that is required by the Act, he is entitled to the same measure of compensation as any other person injured by another, notwithstanding the fact that his injury may have been caused by a fellow-workman. The maximum sum payable is the equivalent three years' earnings.

The Workman's Compensation Act, 1906, is almost universal in its application, and applies to any person (with certain

exceptions) who has entered into, or works under, a contract of service or apprenticeship with an employer—*i.e.*, where the relation of master and servant exists, whether the contract is expressed or implied, is oral or in writing. The defence of "serious and wilful misconduct" on the part of the workman is no longer available to the employer, if the injury following such serious and wilful misconduct results either in death or in serious and permanent disablement. Therefore, if a workman through his own serious *and* wilful misconduct brings upon himself injury resulting in *temporary* disablement, he cannot recover compensation; but if the injury is a serious one and is *permanent*, or if it causes death, compensation can be recovered. By this Act all employees (except out-workers, members of an employer's family living at home, policemen, and persons in the naval and military service of the Crown) whose earnings do not exceed £250 per annum if not engaged in manual work, but without limit if they are engaged in the latter kind of work, are entitled to compensation in respect of incapacity arising from an injury sustained in the course of, and arising from, their employment. The compensation payable in respect of accidents so sustained may be broadly stated as follows:

1. Half-wages, not exceeding £1 per week, during the period of temporary total incapacity. No compensation is payable if the incapacity continues for less than seven days; if it lasts more than seven days, but less than fourteen days, compensation is payable for the days beyond the seventh; while if it lasts fourteen days or more, compensation is payable for the whole period.

2. For the period during which the incapacity is *partial*, and the earning powers are thereby reduced, not less than half the difference between the amount earned at the time of the accident and that received while partially disabled, has to be paid.

3. If by reason of the accident the employee is *permanently partially* incapacitated, and his earning power becomes less in consequence, he is entitled to receive the weekly sum which will represent not less than half the difference between the amount he was earning at the time of the accident and that which he is thereafter capable of earning.

4. In the event of the total incapacity being permanent, the compensation is continued throughout the term of the employee's natural life, but the employer after the expiration of six months is entitled to redeem his liability by paying such a lump sum as would purchase an immediate life annuity equal to 75 per cent. of the annual value of the weekly payments.

5. In the event of death, the employee's dependents, if any, are entitled to a sum of not less than £150, and not exceeding £300; any weekly sums paid prior to the fatal termination of the injury may be deducted from this amount. Illegitimate children may be dependents.

It will be observed that there is a distinct inducement to prolong an incapacity, however short it should be, until it reaches the compensation-producing period; and the advantage derived by exceeding fourteen days is manifest.

In the case of injuries from which there is ultimately a complete recovery, the pecuniary advantage of prolonging the disability depends, to a great extent, upon whether the weekly payments, together with contributions from other sources which become payable in consequence of the injury, approximate to or exceed the income received when in a state of health.

Moral Malingering.—Before the outbreak of war in 1914 a large number of strong, healthy lads, finding the discipline and work of the army irksome, procured their discharge from the Service by deliberately stealing. They went to prison with a light heart, well knowing that conviction for theft entailed discharge from the Service. Here we have, not malingering in the ordinary sense—there is no pretence of any alleged disability, no shamming of the usual kind is attempted—but a premeditated crime is designedly performed in order to permanently evade duty. The man who commits the theft is not a thief, but merely wants to get out of the army.

The Governor of Maidstone Prison relates the following case:

> E. D.—"A lad in an Irish regiment stole, was convicted, and discharged from the army. I asked him why he stole. He replied that he had just been left a little property in Ireland (whether land or money, or both, I do not know), and wanted to get out of the army and get home. I asked him why he did not buy his discharge; he explained that stealing was cheaper by £20, and equally efficacious. That is making crime, if it is not making criminals."

The Governor of Reading Prison stated that in his experience the increase of crimes committed by young soldiers was very apparent, and that the prisoner's excuse was always the same—viz., the desire to get out of the army. The *modus operandi* of the young soldier in the Reading district seemed to be to steal a bicycle, to ride it to a neighbouring town, and then to give himself up to the police.

Such an act is moral malingering. It is, of course, technically a crime; but the offender has no criminal intent—the object of the theft is not to obtain the goods stolen, but solely to merit imprisonment, and through it to reap a benefit.

It is obvious that this method of moral malingering is subtle, and in some respects more certain of success than the ordinary simulation of disease met with in civil life.

The Penalty for Malingering.—There is little doubt that, in a large number of cases of accident where the workman is in receipt of compensation from his employer and is receiving, in addition, in consequence of the accident, allowances from other sources, serious charges of malingering can be brought. It is, however, always a most difficult matter to prove, and an arbitrator not unnaturally requires incontestable proof before taking the strong line necessary.

A point which does not appear often to arise in the mind of the malingering workman is the considerable risk he runs of coming into conflict with the criminal law, apart altogether from his conduct in endeavouring to obtain money which he is not justly or legally entitled to.

The serious aspect of the case is, that if in the witness-box a workman knowingly makes statements that are untrue, he comes within the meshes of the law, and renders himself liable to be charged with perjury.

The question whether a workman could be convicted for perjury arising out of evidence given in the course of proceedings under the Workmen's Compensation Act came before the Court of Criminal Appeal in 1909, when the Court unanimously held that an indictment charging a man in such circumstances with perjury was properly laid. The following is a short statement of the case referred to :

A workman, who was concerned in proceedings under the Workmen's Compensation Act, was convicted at the Liverpool Assizes in 1908 on an indictment charging him with perjury at common law. The perjury alleged was the wilful and corrupt giving of false evidence in an arbitration under the Act before a County Court Judge. The man appealed against the conviction on the ground that an arbitration under the Act was not a proceeding to which the law of perjury applied.

The Lord Chief Justice, in delivering judgment, said that, in the opinion of the Court, arbitration proceedings before a County Court Judge under the Act of 1906 constituted a judicial proceeding. The fundamental question was whether or not such arbitration was a judicial proceeding. If so, there was no doubt that perjury at common law could be committed at such a proceeding. The consequences would be very serious if there was no power to punish perjury committed in proceedings of that kind. In the opinion of the Court, those proceedings being judicial proceedings, the indictment for perjury was properly laid. The appeal was therefore dismissed (Rex *v.* Crossley [1909], 1 K.B., 411).

The framing of indictments is a legal matter, and the exact charge which might be brought does not concern us ; but I feel confident I have seen many cases which would render workmen liable to a charge of obtaining money by fraud or by false pretences, the punishment for which is, I take it, no light matter. Indeed, a shipping company consulted me recently with regard to making two such charges in connection with cases I had examined for them.

In February, 1912, a workman was summoned before the magistrates of the Borough of Tamworth, at the instance of his employers, for having committed wilful and corrupt perjury in the evidence he gave on oath in an application to the County Court for compensation under the Workmen's Compensation Act, in respect of injuries alleged to have been sustained by him whilst at work. A further summons for attempting to obtain money by false pretences arising out of the same claim for compensation was also preferred against him, but this charge was withdrawn.

Evidence was given to the effect that the man had himself purposely caused injury to one of his eyes just prior to the case coming before the County Court Judge, and that the condition of the eye at that time was not the result of the accident which he had sustained, and for which he had for a time received compensation.

The man, who was defended, gave evidence to the effect that he had been under hospital treatment, and that the treatment was always administered properly as directed ; also that he had never tampered with his eye, nor allowed anyone else to do so except for proper treatment, and denied that he had committed perjury in the course of the

proceedings for compensation. The magistrates, after consultation, unanimously decided to commit the man for trial for wilful and corrupt perjury. He was subsequently tried on this charge at the Assizes for the county, and sentenced to six months' hard labour.

Prosecution of Malingerers.—Only some of the most flagrant cases are prosecuted, and those who are engaged in examining cases for insurance companies or large corporations know well how many criminals of this class escape well-deserved punishment. Expense, the possibility of failure in obtaining a conviction, and a want of sense of public duty, are accountable for many rogues escaping the only hard labour they are ever likely to do.

The injustice is most apparent where very small employers of labour attempt an unwise economy, and neglect to insure their workmen against accidents. Here we have the unlovely spectacle of a workman deliberately acting as a parasite on his former master, whose financial position is probably not much above the workman's. To resist such a claim in a law court may mean the master's ultimate ruin (for in the event of success no costs will be obtained from such a workman); on the other hand, the continual drain, of say, £1 a week is more than his poor business can stand. I have seen a strong, able-bodied labouring man remain sixteen weeks on the sick-list under these circumstances, for nothing more than a sprained ankle!

The following cases are quoted by Dr. Byrom Bramwell in the *British Medical Journal* of April 19, 1913:

"In *The Times* (June 22 and 29, 1899) a case is reported in which a man claimed £500 damages and £33 18s. expenses from the London and North-Western Railway Company for injuries received by falling into a hole, which it was alleged was improperly protected, on the platform at the Kensal Rise Station. The company proved that the man was an impostor of the worst possible class, and that no such accident as he alleged had occurred. The man was eventually tried at the Central Criminal Court for trying to obtain money by false pretences, and sentenced to six months' imprisonment.

"In the *Railway News* (October 29, 1904) a case is reported in which a man sued the London and North-Western Railway Company for £5,000 damages for injuries sustained during the

shunting of a train. Out of 500 persons in the train—it was a Saturday afternoon and a very crowded train—the plaintiff, who was bumped during the shunting, was the only person who complained of injury or made a claim against the company. From the moment the carriage in which this man was seated was bumped, he set himself to work up a false claim. He pretended to be stunned by the shock, but was sufficiently wide-awake to obtain the names and addresses of two of his fellow-passengers, whom he produced as witnesses. After the alleged accident he went into a nursing home and became a cripple, deaf, half blind, and unable to walk except with a stick, at such times as he thought exhibitions of suffering would help his case against the company.

" The company found on inquiry that his record was a very bad one—' his whole business seems to have consisted in obtaining goods on credit under various aliases, selling them, and pocketing the proceeds '—and had him watched by detectives. When he thought himself secure from observation, ' he was a strong, active man, jumping on and off omnibuses and trains in motion, carrying his own portmanteau and rugs, making trips to Richmond and other places, playing with a football with his children in a park at Brighton, and otherwise making the best of a blighted existence.'

" After his cross-examination at the trial his counsel closed the case, and the jury found a verdict for the company without calling a single one of their witnesses.

" The man was subsequently arrested, tried for perjury at the Central Criminal Court, convicted—the jury not finding it necessary to leave the box—and sentenced to nine months' imprisonment with hard labour."

CHAPTER II

PREVENTION OF MALINGERING

In order that the preventive measures I propose discussing may be fully appreciated, I shall first consider the causes which are responsible for many of the labouring class seeking to postpone their return to work.

It is abundantly apparent to those who have much to do with working-men that there are certain persons who deliberately set class against class, who day by day breed discontent, who prolong the period of incapacity caused by illness, and debase honest working-men; but with these harpies this work does not deal.

Most of us who have to spend weary hours in stuffy County Courts recognize that the back benches are filled by a nondescript audience, composed mostly of the unemployed and unemployable. Without exception, I never saw more attentive audiences. There is little doubt that many of these people are there for educational purposes; many learn how to conduct themselves in the witness-box when making a claim, what line of conduct is most advantageous during the long waiting period before the trial in court, and how best to circumvent their *bête noire*, the medical man who happens to be interested in malingering. The points which specially amuse and interest this motley mass always interest me. Their idea of humour and their very evident and ready sympathy shown towards men of their own class, even in palpably fraudulent cases, gives a low-comedy interest which helps temporarily to brighten an otherwise dreary experience.

The Dependent Position of the Doctor.—As long as medical men who attend the working-classes are dependent on the working-men for their position, so long will gross exaggeration and malingering be rampant.

Medical men doing this class of work have said to me that it is not in their interest to tell members of a club that the time has come when it is their duty to declare off the sick-fund.

If an employee's doctor had the courage he would, at a very early stage, cause the morbid growth of ideas to abort by resolutely declining to be party to exaggeration and self-examination. If this is not done at an early stage, it is hopeless to attempt it later on. Surely it is the duty of medical men to help the State to count amongst her citizens the maximum number of units capable of working.

> A. D. fractured his fibula, a condition which, most surgeons will agree, wholly recovers in from six to eight weeks. He drew compensation for two years, limped badly with a stick, *but sometimes forgot to do so.* He was very indignant when told that the time had come when he should resume work, and it required the lengthy procedure of the Law Courts to induce him to return to work.
>
> A. E. met with an accident, and took to his bed. He groaned piteously when asked to turn, and assumed the attitude of one thoroughly exhausted. At the end of the examination, having left the room, I suddenly returned, and found him, with a smiling countenance, sitting up in bed detailing to a friend how exceedingly clever he had been!

The position of the medical man is rendered more difficult if he lives in the neighbourhood of his working-class patients. The rule is not absolute, but it is generally found that the better a man is paid, the better he does his work; it is always true that the more independent the position of the medical man, the less biassed is his judgment.

Medical Certificates of Unfitness too easily Obtained.—Medical certificates of unfitness for duty are too easily procurable from some general practitioners, with the inevitable result that sick-pay, by the various benefit societies to which so many working-men belong, is unnecessarily prolonged. Actions for damages carry in their train, in a large proportion of cases, a moral degradation to the working-man which is truly pitiable. Most of us are frequently in the position of having small disabilities oppressing us, in spite of which we do our ordinary duties, and thus, by ignoring those petty physical troubles, prevent them from getting the mastery over us.

To most medical men simulation of disease or malingering

presents a difficult, almost insoluble puzzle. It is not hard to understand the reason. In ordinary medical practice feigned illness seldom occurs; whereas the examiner to a large municipal corporation or insurance company has to keep an open mind as to the possibility of deceit and exaggeration (conscious or unconscious) in every case that comes before him.

In a considerable number of cases where work is not resumed when recovery has taken place I believe the cause to be failure to procure an independent and reliable medical certificate. In many cases prolonged absence from work might be avoided if employers took a more personal interest in those of their employees who meet with accidents at their works.

The Workmen's Compensation Act has practically compelled employers to insure against their legal liability for accident claims of every description, and this has necessarily displaced the human interest that employers took in their servants when injured, and has substituted for it the purely economic interest of the insurance companies, which, of course, must be run on business lines.

I feel confident that in these circumstances constant watchfulness, and not infrequently much firmness, on the part of medical examiners is absolutely necessary in the interests of employees themselves, apart altogether from the business aspect of the "sick-pay" system. Such a line in the early stages of all cases of attempted malingering is the truest kindness to the workman, for the moral degradation which inevitably follows months of misspent time and unearned income *must* have far-reaching effects on character and conduct, both in the home and subsequently in the workshop.

History.—A. F., a porter, aged twenty-four, stated that whilst moving timber he sprained his right ankle by getting the foot between two pieces of wood. *Eight months after*, when he was sent to me for examination, he declared he was still unable to work, as the ankle constantly doubled over, and that he was unable even to walk far, because it began to swell.

Examination.—He was asked to take off both boots and stockings and walk about my consulting-room. He at once replied that he could not walk without limping. When told that it did not signify whether he limped or not, he walked, but obviously intentionally turned the right foot so that he walked wholly upon its outside edge; yet when firmly told to put his foot down flat on the ground he did so in a perfectly natural manner!

He told me that he often stumbled, but it was difficult to believe this. When asked to stand upon his toes, whilst I balanced him with my hands, he did so at first with both feet, and then on the right foot alone.

He was, in fact, a deliberate malingerer, and he knew it. He told me that he was receiving no medical treatment—obviously none was necessary—but he *obtained from a doctor, in exchange for sixpences, certificates of disability as often as he wanted them.*

As he left my house he asked me what I thought of his case, and I told him. I advised that compensation should be stopped at once.

This was done from the date of my examination. A. F. placed his case in the hands of a solicitor, but the legal representatives of his employers took a firm attitude, and nothing further was heard of the matter.

The Duty of Medical Men not to countenance Exaggerated Claims.—The difficulties which defendants have in refuting unjust or exaggerated claims are enormous. A plaintiff assumes that the defendant will minimize his alleged injuries, and—consciously or unconsciously—is led to exaggerate them. Not unnaturally, he looks to his own family doctor to support him against what he assumes to be a large and wealthy corporation, and in my experience he is seldom disappointed.

By self-observation, the encouragement of every morbid sensation, and a complete surrender of his better *ego*, he tutors himself into a condition in which his aches and pains—assuming them to be present—run riot.

Litigants of this class should be taught that a firm determination to turn a deaf ear to their distorted sensations really makes for happiness, and that self-control, self-respect, and a return to work when able, are of more service and more lasting value than many coins of the realm.

Now, the best treatment for a patient of this sort is a little plain speaking by his own doctor very early in the case. But what is the position of the family doctor? Can he do this, or anything approaching to it? Too often, I fear, if he did so, it would mean the sacrifice of his position as medical attendant. I have on more than one occasion, when in consultation with the family doctor, been asked by him to *give my views quite candidly to the patient.* Not long ago I sent a man, who had been bedridden for six months and appeared to be paralyzed, back to work within a week by means of a few well-chosen sentences!

Medical Certificates and Reports.—A certificate, asked for by a patient, *handed to him* at his request, which sets out the *bona fide* opinion of the condition of the patient by a doctor who has conducted an examination, cannot be a libel *according to English law.* It is not a libel whether the diagnosis happens to be right or not. If the disease is correctly stated, it is clearly not libellous; if an error has been made in the diagnosis it cannot be a libel without publication; and as the certificate has been *handed to the patient,* the only publication which can take place must take place through the patient himself, and on such a publication no action for libel could be founded. Any such certificate is privileged on two very substantial grounds: first, it is made in the course of the medical man's duty; and, second, it is made at the request of the plaintiff. For instance, if after examination I found a young, unmarried girl to be pregnant, and also to be suffering from syphilis, I would, if she asked me, give her a certificate to that effect without any hesitation. I should be careful, however, first to be clear that she asked for it, and, second, I should hand it to her personally. Such a course would be perfectly safe, for the opinion I expressed would be to the best of my knowledge and belief; and should it turn out that my diagnosis was an erroneous one, the young lady has only herself to blame if she publishes it. "Publication" is the *sine qua non* in all cases of libel. Such a certificate would be given in the ordinary course of my professional duty, and, obviously, under certain circumstances an injustice might be done if I refused it.

It should be noted that in Scotland the law of libel is more strict. There the principle is admitted of solatium for wounded feelings even where the slander has not been uttered publicly, but only in a communication to the offended person himself. Nor does Scottish law draw the distinction between libel and slander which is made in England.

Medical Reports Privileged.—When asking for a medical report, insurance companies would do well to state that the report, whatever its nature—provided only it be given without animus—is privileged, and that they will indemnify the doctor in respect of all the possible consequences arising therefrom. By adopting this course they would obtain reports of more real value. Unsatisfactory reports are often sent in

by medical men who are afraid of committing themselves on paper, and thereby, as they think, possibly exposing themselves to the loss of much or all of their hard-earned capital in an action for libel or slander. The question of privilege is so important, from the medical man's standpoint, that a full reference to the subject will be found on pp. 97 and 516-518.

Medical Defence Union.—A large number of medical practitioners, by mutual co-operation, have already freed themselves from the trouble and expense incident to defending their professional reputation against attack. Many years ago the Medical Defence Union was formed for this purpose. For a limited entrance-fee, and a small annual subscription, the costs of any action taken up for a member by the Council are defrayed, and, if a small additional annual premium is paid, any member can insure himself up to some two or three thousand pounds against " the costs of the other side and damages " if any, even in lost actions. By a payment of some nineteen shillings per annum, any registered medical practitioner can relieve himself of all expense in connection with actions which may be brought against him involving professional principle, provided only that he can satisfy the Council of the Defence Union as to his good faith in the matter at issue.

Difficulty of Lay Tribunals in appreciating Medical Evidence.—Arbitrators, judges, and juries cannot always, in the nature of things, properly appreciate medical matters, which are generally technical and often perplexing, as the following case illustrates :

> A. G., a painter, aged forty-five, made a claim for half-wages on the ground that in the course of his work whilst holding a ladder it slipped, and he fell flat on his back.
>
> *Examination.*—He was sent for examination sixteen days after the alleged accident. The details of the accident were very carefully gone into, and the following interesting history was elicited :
>
> He stated that he felt some inconvenience at the time of the alleged accident, but very little afterwards, and continued work for *four* days. He then had, apparently, an attack of influenza, being suddenly seized with pains everywhere ; he felt cold and shivery ; his eyes were sensitive to light ; he had a headache, backache, felt giddy, and was sick. His statement was that he remained in bed for three days, then got up, called upon his doctor, who lived near, and obtained a certificate of unfitness for work. Three days later he

again called on his doctor. It appears that then, and not till then, he told the doctor about the accident, alleging that his illness was caused by it, and obtained another certificate to that effect.

He was very breathless on coming up the short flight of stairs to my consulting-room. On examination I found no trace of an injury. He was manifestly suffering from marked anæmia, due to constitutional causes, although he appeared to have made himself believe that the fall was the cause of all his symptoms. He was apparently determined not to work if he could help it. He complained of a constant drumming noise in his ears "like a locomotive," obviously the result of extreme anæmia. He told me that he was suffering from "shock," but it is unlikely that a man could sustain "shock" by merely falling on to his back from the ground-level.

On applying the faradic current to his back on two or three occasions, he stated he felt the electricity over the alleged painful area, when, in fact, although the coil was still buzzing loudly, I had, unknown to him, cut the current off, so that it could not reach him. Repeatedly he said he felt the current more as it approached his loins, although on each occasion I had switched it off before it reached the pole applied to his loins. When I carefully pointed this out to him, and explained how he had given himself away, he was good enough to say, in a somewhat patronizing way: "I like your style; you speak very plain."

I noticed that when he was putting on his clothes he bent his back quite freely. As he was an employee of the London County Council, it was my duty to tell him that he was able to return to work; but he said he was about to consult a "professor." Eventually, however, he agreed to go back to light work, if it were provided for him.

Three months later, as he had not resumed work, I examined him again in conjunction with another medical man. He was still obviously anæmic, and complained of various symptoms, such as blood-spitting, hæmorrhoids, giddiness, all of which were manifestly produced by his general condition of health, with which the accidental fall could have had no possible connection.

Result.—At the arbitration proceedings, nearly three weeks later, he did not attend, and the Judge postponed the hearing for a month; on the second occasion also he did not appear, and the Judge again postponed the hearing for a month. On the third occasion the plaintiff, but not his doctor, put in an appearance, and judgment was given for the defendants. This case cost the employers £60.

The Importance of Medical Examination prior to Employment.—The majority of employers insure against the risk of financial loss in case of accident, by paying a premium to an insurance company, which covers the employer's risk. The amount of the premium is, of course, regulated according to the risk, and it is practically certain that very soon the premium will be in progressive ratio to the workman's age. The em-

ployer if he wishes to retain the services of the older and more experienced workman will then have to pay an enhanced premium for the privilege of doing so. This means that the older workman will inevitably be supplanted by the younger. Already large numbers of working-men who are getting on in years, but are by no means inefficient, are compelled to join the ranks of the unemployed. Indeed, it has been recently stated by a Local Government Board inspector that the Workmen's Compensation Act has done more than anything else in recent years to force men between fifty and seventy years of age into the workhouse. Mr. Sidney Gladwell has pointed out that statistics to any useful extent are not available as to whether old men are more or less liable to accident than their younger brethren, but there can be no doubt that the older a man becomes, the more serious are the consequences likely to ensue from even a slight accident.

Very many of the difficulties which have to be contended with would be obviated if a thorough medical examination were made of all workpeople prior to their entering upon any employment. The advantages of such a system are almost too obvious to need enumeration. Insurance companies would certainly give more favourable terms to employers who adopted the practice. Pre-existing physical defects could not be worked in to enhance the severity of a minor accident. Casual labour, of course, presents a difficulty ; but is it too much to imagine that a system might be devised whereby even casual labourers could be examined and given a medical report, which they would retain and produce as occasion required ? Medical examination is a condition precedent to employment by most public bodies ; and, as there is nothing to prevent a contract of service being made subject to proof of physical fitness, this requirement could very well be extended to employment by private persons and firms.

Results of County Court Actions.—There are good reasons for supposing that the provision made for the decision of disputed claims by the County Court is not a sufficient safeguard in itself to prevent malingering; but a comparison of the returns as to litigated cases in recent years is not uninstructive. Whereas in 1908 there were 2,503 cases decided by the Courts (which represented 0·7 per cent. of the whole number of claims),

in 1913 there were 5,701 cases, representing 1·19 per cent. of the total claims. In the year first mentioned the resistance of the employers in Court was successful in 453 cases (representing 18 per cent. of the Court-decided cases); in 1911 it was successful in 814 cases (18·1 per cent.), in 1912 in 1,403 cases (24·3 per cent.), and in 1913 in 1,309 cases (22·96 per cent.). If a comparison is made between the years 1911 and 1912, it will be found that there were 1,304 more cases decided in 1912 than in 1911, and the employers were successful in 589 more cases than in 1911. The number of cases in which the employee's claim has been successfully resisted in each of the last seven years is—1908, 453; 1909, 660; 1910, 676; 1911, 814; 1912, 1,403; 1913, 1,309; 1914, 1,091.

The rise in the number of claims successfully resisted by the employer requires to be considered by those who contend that malingering is not on the increase.

TABLES COMPILED FROM BLUE BOOKS ISSUED BY THE HOME OFFICE, DEALING WITH THE OFFICIAL RECORDS OF COMPENSATION UNDER THE WORKMEN'S COMPENSATION ACT, 1906.

Cases during the year 1911.
423,052.

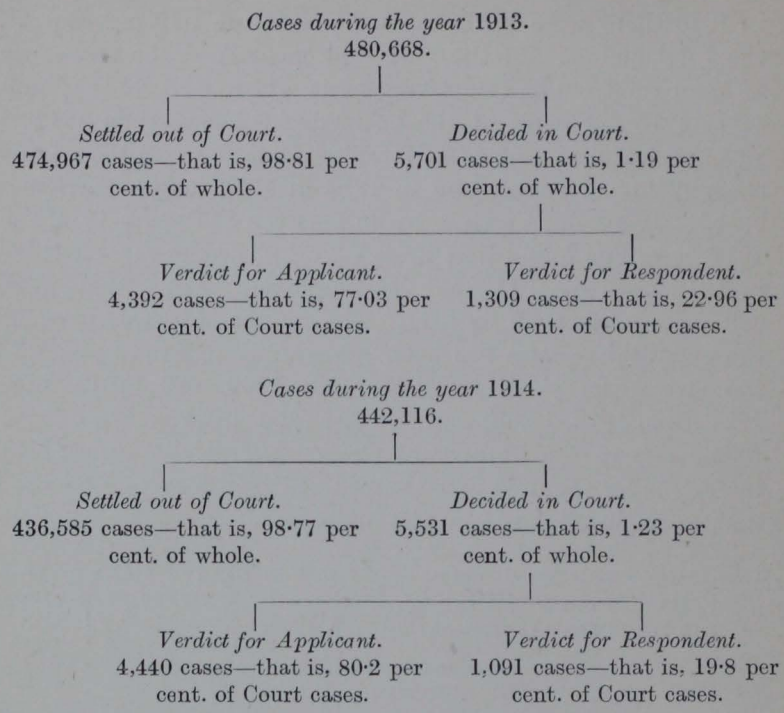
Settled out of Court.	*Decided in Court.*
418,565 cases—that is, 98·94 per cent. of whole.	4,487 cases—that is, 1·06 per cent. of whole.

Verdict for Applicant.	*Verdict for Respondent.*
3,673 cases—that is, 81·9 per cent. of Court cases.	814 cases—that is, 18·1 per cent. of Court cases.

Cases during the year 1912.
428,005

Settled out of Court.	*Decided in Court.*
422,214 cases—that is, 98·7 per cent. of whole.	5,791 cases—that is, 1·3 per cent. of whole.

Verdict for Applicant.	*Verdict for Respondent.*
4,388 cases—that is, 75·7 per cent. of Court cases.	1403 cases—that is, 24·3 per cent. of Court cases.



This means that, in the year 1914, in 98·77 per cent. of all cases the employer submits to the injured workman having his claim settled without a judicial decision. Nor is the reason far to seek. In many arbitration cases where a workman is injured, the only point the Judge (who, of course, generally has no adequate medical or surgical knowledge) is called upon to decide is a purely surgical one, and technical points are always raised, both by solicitors and doctors who specialize in these cases, with results so unsatisfactory that 98·77 per cent. of the cases are settled apart from the Court. It costs at least from £20 to £30 successfully to defend a County Court action of this class, and about twice that amount in the event of failure. Workmen and their solicitors know this. Is it unreasonable to suggest that a large proportion of the cases in the 98·77 per cent. are settled by processes which might be described by an ugly word ?

The vast majority of these were, of course, not fighting cases ; but how many weeks and months of unnecessary sick-pay have

been paid to lazy, skrimshanking employees rather than risk the result of disputing impudent and dishonest claims? One large friendly society has for years been paying £10,000 a year in excess of the actuarial estimates of the sickness claims.

Impartiality in Certification.—The danger of allowing one's sympathies to carry one away, and of mixing up sentiment with business, as is so often done in the County Courts in Workmen's Compensation cases, is that one is tempted to be generous at other people's expense. Sentiment is admirable in its proper sphere, but surely it should have no place when attempting to adjust the balance between master and man.

Two Irish priests lived together and shared the same room. One rose early, and during his morning walk was importuned by a passing peasant for a copper. He repeatedly told her that he had none, but, in response to persistent appeals, actually offered to feel in his pockets, adding that he would give her whatever he found. He was astonished to find half a sovereign, which he handed to her. Mightily pleased by what no doubt he considered was a charity, he returned to join his fellow-priest at breakfast. Having related the story with great gusto, and not a little pride, he was met with the chilling rejoinder, "Yes, but you had my breeches on!"

When tempted to give a certificate out of sympathy, be adamant. Never under any circumstances lay yourself open to the gibe that you can be influenced by either master or man. Remember that the spoken word of the unwary is dangerous, but the written word remains.

Nothing is easier and more alluring than to allow our sympathies full play and to be freely generous—at another's expense. Sentiment and business make an ill-matched co-partnership. It is so easy to pity the poor working-man at the expense of his master. That gentleman may have his own ways of dispensing charities; at any rate, he has not commissioned you to do it for him. He places you in the position of a Judge when he asks you whether his workman is fit or unfit for work.

It is difficult to see why defendants should have to pay damages measured by the extent of the plaintiff's capacity for practising auto-suggestion, especially when, as so often happens, the result of an arbitration cures what the physician could not.

The conscientious and efficient performance of his duties by the doctor is practically the only means of preventing the perpetration of the fraud or semi-fraud which is so frequently attempted, because the malingerer is generally playing a game of "Heads I win—Tails you lose." Even if his fraudulent attempt is completely exposed, retribution rarely overtakes him.

> A. H. alleged that he met with an accident, injuring his back, which compelled him to walk with his back bent at an obtuse angle. After examination, which included X-ray photography, I satisfied myself that he was not suffering as alleged, and I told the Court so. Evidence was given by two medical men, one stating that he was suffering from functional paraplegia, and the other that he was suffering from spinal irritation, the result of the injury. I think, however, that I must have been right, for the Court was satisfied, after hearing the evidence, that no accident had occurred!

Mr. W. D. Spanton, F.R.C.S., consulting surgeon, North Staffordshire Infirmary, and a Home Office medical referee, in a pamphlet on Ergophobia makes a reference to this question which I quote *in extenso*:

"Sentiment is all very well in its proper place; hitherto it has been too much one-sided to have any value in relation to what is, after all, a matter of bargain between master and man; and the more that is realized the better it will be for the community generally.

"Another aspect of the matter, which has a more serious bearing on our profession, is the hostile attitude assumed by some Judges with regard to medical evidence. I will quote some cases to prove this. So long as the evidence is in favour of the injured man it is acceptable enough. We find, for example, a professional witness coming forward to swear in the most elaborate and technical manner how one man had his pleura adherent to his heart, which was the chief reason of his disablement! The evidence on the other side, which revealed the absolute absurdity of the plaintiff's witness, was ignored, and a verdict entered for the injured innocent.

"Another case is even more glaring. A man is said to have had a strangulated hernia caused by a fall, and an operation was performed for its cure by a hospital surgeon, who allowed the man to go home about a month afterwards, to all

intents and purposes well, but weak. Nine months afterwards an action is brought by the man to claim a continuance of his pay under the Workmen's Compensation Act, alleging that he is not fit, and never will be fit, to work again. He had been receiving pay not only from his employers, but also from a relief society until a short time before. This pay had been stopped by that society, on the authority of the surgeon, as he considered the man able to work. At the trial two medical men were called on the man's behalf—one of whom probably never has operated and never will operate on a case of hernia, who can have no special surgical knowledge of such matters; and the other a young and inexperienced beginner who never held any responsible surgical appointment, and whose opinion on such matters in any medical assembly would be entirely ignored. This is what the first witness deposed, and the second corroborated:

> " There was an operation scar, and on one side of the lower part of the abdomen was a rigidity of the muscle, although the leg was flexed. It was suggested that the injury produced local peritonitis, which caused adhesions between bowel and bowel, and all this caused the man great pain nine months after the injury, so that he was incapable of doing any kind of work. It was further stated that ' the atrophied muscles might wear away if he could use the muscles and keep himself erect.'

" To me this is slightly ambiguous, but, then, I am only a surgeon. Then after this we find the evidence of the surgeon who operated, who has had a large experience of such cases of his own, and whose opinion on such matters is authoritative, and he tells the Court that—

> " He had operated on the man for hernia, and he was in due time discharged as cured. He found recently no reason for the alleged pains; the abdomen was soft, and he had no reason to think there were adhesions or peritonitis. There was a wasting of the muscles from having done no work so long. There was no peritonitis at the time of the operation, and none since.

" After hearing both sides, the learned Judge (having refused to entertain the idea of a medical assessor or referee) sums the matter up by saying he ' preferred ' the evidence of the doctors for the plaintiff; he ' considered the surgeon for the defendant might have overlooked the peritonitis; it was not his business to find it out,' and so on. Surely this is little

less than an insult to surgical common-sense, and a premium on ignorance. What can be the good of surgical knowledge and experience if it is to be kicked aside by a Judge, however eminent, in order to make the case fit in with his own views of it? Unless he happens to have a hernia himself, I do not suppose a Judge knows any more about it than the advertisements in the papers describe; and if he is so innocent as to accept a man's statement as to pain when no physical cause is apparent for it, then it seems to me that everyone who gets a headache or a bellyache, or any other ache, provided he has had some previous injury, will always meet with a sympathetic hearing, and we shall proceed by degrees to engender a class of workers more and more effeminate. Perhaps I ought not to use this word 'effeminate.' It is unfair to women, for they are, as a rule, much more brave than men with regard to physical pain—indeed, I cannot recall the case of a woman whose claim to exemption from her work has rested on the pain which men are so fond of trotting out as an excuse for their ergophobia."

Contracting Out.—The Workmen's Compensation Act of 1906 absolutely precludes the possibility of contracting out in any way. Prior to the passing of the Act, one occasionally recommended workmen to be accepted conditionally.

> A. I., a very fine muscular man of over 6 feet, who had been a Guardsman, applied for admission into the service of the London County Council as a park-keeper. He had a hernia, and I advised his acceptance subject to the proviso that, should he be incapacitated from employment as the result of his hernia, he should receive no benefits which might otherwise accrue to him, and he was accepted for service on these terms. When, however, the last Workmen's Compensation Act came into force, it nullified this agreement, for the Act expressly forbids all contracting out.

This is a mistaken policy, for there are many cases in which contracting out for certain disabilities might well be allowed, such as where a man has monocular vision, or has some slight defect in hearing, conditions which to a greater or less extent predispose towards accident, but which ought not to prevent his earning a livelihood. It is obvious that if such people were allowed to contract out they would not help, as they do now, to swell the army of the unemployed.

Medical Examination Form.—The form for medical examination of candidates entering a large public body is usually divided into two parts, one to be filled up by the candidate and the other by the medical examiner.

Practical experience of a very large number of these entrance examinations, amounting to over 10,000, has proved the value of the following question: Are you *now* in good health? In this connection a medical friend informed me of the following instructive case, which came under his observation:

> A. J., who appeared to be well, strong and healthy, and answered questions quite frankly, was passed as wholly satisfactory. Two months later she absented herself from work, and sent a medical certificate to the effect that she was now incapable of work, as she was the subject of neurasthenia, which had lasted some three months.

Another instance showing the advantage of inserting this question is as follows:

> A. K., a clerk in the public service, stated, four months after he had been admitted into the service, that he was unfit for clerical work as he was suffering from writer's cramp, and seemed to claim as a right that he should be transferred to an outdoor occupation. When asked how long he had suffered from writer's cramp, he quite frankly, and even boldly, stated that he had had the disease for many years, and, indeed, that was the reason why he left his last occupation!

No ordinary medical examination, however carefully and searchingly conducted, would discover this condition. The copy of the candidate's medical examination form was therefore referred to, and it was pointed out to him that he had intentionally deceived, inasmuch as he now admitted that he had had the disease for years, and that some four months previously he had replied in the affirmative to the question: "Are you now in good health?" This settled the matter.

Examination of Urine—*Albumen.*—The mere presence of albumen in the urine is by no means an indication of nephritis, either acute or chronic. I never summarily reject candidates because albumen appears to be present in the urine when I first examine them, because frequently upon re-examination it is absent. Albumen is temporarily present in the urine much more frequently than is supposed; it is not fair that a candidate should be finally rejected until microscopic examination of the centrifugalized deposit has been made. The examina-

tion of over 10,000 specimens of urine impresses me with the feeling that there is yet much to learn. I have repeatedly noticed that when albumen has been found in the urine, if the patient is asked to pass a second quantity for further test, albumen is not infrequently absent from the second specimen, although it was passed but a few minutes after the first. In a large number of cases I believe the first reaction was really produced by nuclear albumen obtained from a deposit lying in the urethra, probably the result of an old gleet, which, being washed out by the first sample examined, was therefore not present in the second.

There is, of course, no doubt that in many cases, especially in young adults, albumen is indicative of what is known as "physiological or adolescent albuminuria," and does not point to organic change in the kidneys.

The practical difficulty lies, not in the academic question as to whether functional albuminuria is a sufficient reason for rejecting a candidate who is otherwise healthy, but in settling whether in a given case the albuminuria is or is not due to definite kidney mischief. Anyone who has conducted many examinations must be satisfied that it is unjust, when considering the temporary passage of a small quantity of albumen (which, after all, is too often but a symptom of we know not what), to magnify it to the importance of an organic disease, and reject the candidate.

The problem can only be solved by repeated examinations for albumen, and microscopic examinations of the deposit at stated intervals on several consecutive days. Hyaline casts alone do not indicate disease; I think it unwise to reject a candidate (altering, it may be, his whole career) on account of the doubtful presence even of epithelial casts, especially when one remembers that the diagnosis of the nature of a doubtful cast often depends upon the personal equation of the microscopist.

A. L.—Some time ago I found that a specimen of urine contained albumen, and laid it aside for further testing. The next candidate could not urinate in the consulting-room, and was asked to do so alone in my laboratory. Finding he could not micturate even then, he presented me with a specimen which he had craftily poured from the one he found already there. It was only upon my telling him that I had found albumen in his urine that he confessed. The lesson was a valuable one.

Sugar.—So many substances besides glucose reduce cupric sulphate to the hydrate or oxide that I never reject a candidate unless with the phenyl-hydrazine test the crystals of glucosazone are actually seen on the field. Indeed, I have observed the presence of temporary glycosuria, accompanied by a high specific gravity, and crystals of glucosazone, induced apparently by mental and physical causes. Candidates often make long night journeys to London. They not unnaturally have considerable mental stress when appearing before selection committees, and subsequently before the medical examiner. They are not infrequently the subjects of a condition which responds to all the tests for diabetes, but which is nevertheless of a temporary nature, as I have frequently proved by one or more re-examinations. It should not, however, be forgotten that glycosuric urines often reveal the early stage of true diabetes.

A. M., a professional man whom I was examining for a public service, stated very definitely that he could not urinate when asked to do so in my presence. It is my invariable rule to insist upon this. When told that the examination could not be completed without it, he was obdurate, but later, when offered the advantage of a room to himself, he stated quite frankly that he was the subject of diabetes, and that I should most certainly find sugar in his urine !

A. N.—On one occasion a specimen of urine voluntarily brought in a bottle was found to be normal, but the urine passed in my presence contained sugar.

When a patient consults his doctor, there is no reason why he should not be absolutely frank ; indeed, the whole transaction is based on this premise. When examining candidates for important positions one has to introduce a little of the spirit expressed in the old maxim—*caveat emptor.*

Periodic and Systematic Medical Examination of Sick Employees.—At my suggestion, two of the largest Corporations in this country, both of which I serve, send to me all employees who have been on the sick-list for twenty-eight days, not for treatment, but for medical examination and report. This is also the practice of the Home Office, and has been found to work well. My experience of its adoption by the two bodies to which I have referred is eminently satisfactory.

These two Corporations retain the services of a staff of over

100 well-qualified district medical officers, whose chief duty is to furnish certificates in the case of illness of members of the staff, and, in certain sections of the work, actually to treat the sick employees.

After twenty-eight days' absence from work on account of sickness the case (for the purpose of certification only) passes out of the hands of the district medical officer into those of the chief medical officer, who either certifies the employee fit for duty, or gives a certificate for further leave of absence, as he thinks fit. If, however, at the end of that period the employee alleges that he is still unfit for duty, he is again sent to the chief medical officer for certification and report.

Medical officers, when sending up cases, are required to communicate directly and privately in writing with the chief medical officer, especially in difficult or obstinate cases. Head officials are authorized to send to the chief medical officer at any time suspected malingering cases, even though the employee concerned has not been absent for so long as twenty-eight days.

There are many reasons why this system has been found to work well.

Since there is no relationship of doctor and patient between the chief medical officer and the employee, the former is in every sense independent.

The district medical officers are glad to have an opportunity of imposing upon the chief medical officer the disagreeable task of accepting the responsibility of informing employees that the time has come when their illness no longer prevents their working.

When a number of district medical officers are employed it is a definite advantage to a large public body to have one medical officer who, on the one hand, is in touch with the district medical officers, and, on the other, personally responsible to the head office.

There can be no question that the system is an effective check upon malingering and unduly prolonged illness, and is well worthy of extension.

Judging from my experience, there can be no question that the mere fact that the twenty-eight day rule implies re-examination by an independent medical man has the effect, not only

of making men antedate their return to work—for a large number return to work as the twenty-eighth day draws near—but induces many, when they do attend for examination, to declare themselves fit for work. It is no uncommon thing, in the course of the examination of some ten or twelve patients, to find one or two *offer* to go back to work forthwith without examination, and two or three willingly return when it is pointed out to them that they are in fact fit for duty.

It has been well said that it is not the punishment, but the inevitableness of punishment, that prevents crime. And so I believe that the regularity with which employees are sent to me at the twenty-eighth day has a far-reaching effect in diminishing the sum total of sick-leave in the two large public bodies I serve.

Figures which show a Remarkable Reduction in Sickness following Periodic Examination.—In the case of a large group of employees in a public service, all of whom had been medically examined before entering the service, and were entitled to medical attendance by district medical officers paid by capitation grant, it was found that, prior to the institution of the independent medical inspection after twenty-eight days, the total number of days men were on the sick-list amounted in one year to 14,400 ; whereas, subsequent to the institution of the new rule, this number was reduced to 9,600—a reduction, in a well-organized and disciplined small force, of no less than 4,800 days in one year, the percentage of reduction being $33\frac{1}{3}$. During the corresponding periods the total number of men sick for *more* than twenty-eight days was reduced by the somewhat surprising figure of 50 per cent.

A. O., who had been drawing sick-pay for nearly two years prior to the passing of this twenty-eight-day rule, complained that he was weak and had a pain in his back, and that the weather affected it. I satisfied myself that he had no physical disability, and pointed out to him that, as he had not given notice of his injury a year ago, he could not claim under the Employer's Liability Act ; that the alleged accident happened prior to the passing of the Workmen's Compensation Act of 1906 ; that I believed he was never really ill ; and told him that he was to return to duty forthwith, otherwise I would report him unfit for duty, and he would be dismissed without compensation. He returned to work, and has never since complained of his back or any other portion of his anatomy.

Systematic Examination of Sick Employees has Other Advantages.—The twenty-eight-day rule, though by no means equal to systematic re-examination of every employee at set intervals, certainly enables one to keep an eye to some extent upon the health of the employees generally. The following cases may be cited showing the unexpected results of medical examination.

Two tramway drivers, each with slight injury to head, were found to have locomotor ataxia.

An elderly man with fractured radius of the wrist was found to have advanced paralysis agitans.

A man with injury to the shoulder was found to have advanced phthisis.

A man with a slight cut on his hand was found to have general paralysis of the insane.

A tramway driver with a slight injury was also found to be suffering from heart disease—aortic regurgitation.

In two cases men with sprained ankles were found to have locomotor ataxia.

The Comparative Ease with which Non-Litigious Cases can be dealt with.—Cases seen under this system of examination are capable of being dealt with by proper moral suasion, unhampered by the difficulties which are encountered when a case is in process of being litigated. I doubt if the following examples could have had such desirable results if they had been pursuing the ordinary course of legal proceedings:

A. P. had an accident; seen after having been treated for myelitis for thirteen months; full pay most of the time; bedridden; ordered to hospital for observation, where he had "fits"; blackened his face to give them a realistic effect. I sought and obtained a private interview with him, and ventured upon some exceptionally straightforward plain speaking. He walked to my house, distant a mile, next day, and resumed work within a week.

A. Q., a pensionable officer, had malingered for thirteen months; complained of obscure pains; examined by eleven doctors during his supposed illness. Never had any objective symptoms; kept under observation in hospital for nine weeks; charged with malingering before employers; ordered to be dismissed and forfeit pension if work not resumed. Commenced work forthwith.

A. R., who covered a wound $\frac{1}{6}$ inch broad with ointment, lint, three bandages, and a large gout-boot, was obviously surprised, and I

fancy not a little indignant, when most of his dressings were put in the fire, and he was told to resume work that day.

A. S., who had been on the sick-list for three weeks, was sent to me as he complained of a sprained right thumb. I discovered he had made the journey to my house from his home—a considerable distance—on his bicycle. As there was nothing apparently wrong with his thumb, he was told that as he was able to ride his bicycle he was able to resume work at once, which he did.

The following case illustrates the difficulty that there often is in dealing with employees who are entitled to a pension if sickness and permanent incapacity overtake them, and whose work has in the course of time become uncongenial:

E. E., a shoemaker aged forty-five, employed at an asylum, was assaulted by a patient, who struck him on the head several times with a hammer, inflicting one or more scalp wounds. Though not rendered unconscious, he was somewhat confused and dazed. The wounds were sewn up; there was no fracture. He remained in bed for a week, and complained of many subjective symptoms.

Three months later he was sent to me with a view to his being pensioned. He was evidently not attempting to get well, the case was a curable one, and I arranged for his admission to a hospital. This, however, he declined.

It was pointed out that he was either ill or he was not. If ill, in view of the fact that he had done no work and received full wages for three months, he ought to avail himself of the opportunity afforded of being rapidly cured free of expense to himself; and if not ill, he should not be allowed to indefinitely postpone his return to work.

Eventually he entered the hospital, and while there complained of headache on one occasion only. In ten days he declared himself well and fit for work. He was therefore discharged.

Immediately after returning home he procured a certificate from his doctor to say that "he said he had a headache," that he was unfit for work, and that a more detailed certificate would follow in three weeks!

I again examined him in consultation with the house surgeon of the hospital and the medical superintendent of the asylum. We all agreed that he was really fit for work if he cared to do it, and I reported accordingly. He was, however, obdurate, threatened suicide, and was therefore again sent to me for re-examination. I pointed out to him that I had believed all along that he was perfectly fit for work, and that the line of conduct he was adopting might entail his dismissal from the service without pension. He then took me into his confidence. It appeared that he had many troubles, that he was then and had for a long period been in the hands of a money-lender, that there was an unfortunate antagonism between him and

his superior officer, and he quite frankly said he would do anything to get away from the work he was then engaged in.

I again advised that he was fit for work, and recommended that he should be transferred to another asylum, where I believed there would be many years of useful work in front of him. Steps were taken to try to relieve his financial embarrassments, but, as is the case with so many people in the toils of money-lenders, borrowing had become a habit.

He settled down for several months, and it was officially reported that he was doing his work quite satisfactorily. A little later he was called up to the National Reserve, and died of pneumonia whilst in His Majesty's service.

I should like to mention a case in which some strong measures were necessary to restore the workman to self-respect.

A. T. was confined to his bed, the result of an injury. He complained of intense pain when I touched the dorsal region of his back. His case reminded me very forcibly of one in which, but an hour before, I had given evidence in the High Court. The injury in that case, where the claimant was awarded nearly £100, was not so severe as it appeared to be in the case before me, and I made up my mind to bow to the inevitable and report accordingly, when I suddenly bethought me of my trusty friend, the electric battery. There is a popular, but of course erroneous, idea that an electric current is not felt even in minor injuries of the spinal column. On application of the battery the claimant said he did not feel it over the painful area. The current was made considerably stronger, and he tried to bear it manfully. At last, with a howl, he fell in a heap on the ground. There was no one in the room to sympathize, so he was told to get up and not make a fool of himself. It was explained that I now knew what was the matter with him, and that he was to go back to work at once.

His wife, who was downstairs, hearing the yell, entered the room, and I explained to her that he was now well, as he had been cured with the battery. I said I was very pleased; he said he was, and the wife agreed with both of us. A. T. said he would go back to work forthwith, and did so.

A System of Lay-Inspection as a Means of checking Malingering.—It has been suggested that large employers of labour should have on their staff a number of inspectors, who would assist the examining medical officer by visiting workmen suspected of malingering at their own homes, and otherwise obtaining information about them. Such inspectors have, in fact, been already appointed by some friendly societies and mine-owners, with good results.

It must be remembered that the examining medical officer is often entirely unacquainted with the claimant. He has to rely for the history of the case almost exclusively on the claimant's statement, or that of interested friends. Such histories are, of course, often very unreliable, so much so that an experienced medical officer practically always ignores them. A man suffering from a stiff shoulder may state that he has been, and is, attending the hospital daily for massage, or, conversely, a man with an ulcerated leg supposed to be confined to his room may be really attending hospital daily, or, still worse, going to and from the neighbouring public-houses. In either case we have only the man's word for it, and the corroboration or disproof of his statement obtained by the unexpected visit of an inspector would be most valuable. Or, again, a man may state that his wife and children are starving, and he is only too anxious to go back to work, whereas as a matter of fact the former is keeping a small shop, and some of the latter are earning weekly wages. Or, yet again, he may be receiving sufficient sick-pay from various friendly societies and slate clubs to render him better off when ill than when well.

Surprise Visits.—The subjoined case illustrates the advantage that may be obtained from an unexpected visit:

> A. U. detained me a suspiciously long time at his front-door. Thinking that he had probably been getting into bed whilst I waited, I ventured to look below the table, which was covered with a table-cloth, and there found his clothes, which he had evidently just taken off. I have no doubt that, had I followed the example of the late Mr. Rose, and put my hands into his boots, I should have found them warm.

Impersonation.—The following fraud would scarcely have been attempted had a regular system of lay-supervision been in vogue:

> A. V. was sent to me by a solicitor for examination and report. An appointment was made, and a man giving the correct name attended. He was duly examined; he had the usual pain in his back, tenderness, giddiness, incapacity for work, etc. He said he was a boxer, and looked one. I was about to write my report, and state that he was a malingerer, when the solicitor rang me up on the telephone and asked me to describe him. I did so. It then appeared that this scoundrel was counterfeiting and assuming the name of another. He was detained, under some pretext, while a detective who

knew him was sent to my house. They were brought together by a subterfuge, and he was, as we had expected, not the real claimant. This man and a friend made a living by periodically having accidents!

Prevention of Fraud.—The deterrent effect of the fear of detection and subsequent punishment is the only factor that will prevent deliberate and intentional malingering; the necessity of increasing the chances of detection and the probability of punishment is therefore apparent. If a man is found out in this meanest of frauds, he must be ruthlessly exposed to all the consequences of his act. It is, in my opinion, the duty of all medical men fearlessly to expose any attempted fraud of this despicable character, and of the employer, failing the State, to see that it is punished.

Sometimes when a man is suffering from a serious disability, for which he has no claim for compensation, the temptation seems irresistible to utilize a subsequent accident as a means of obtaining compensation for a condition the disability from which has previously been borne by himself alone.

It is advisable that in all accident cases a very thorough medical examination should take place at the earliest possible moment, in order to ascertain the physical condition of the patient, for this may have an overwhelming bearing upon the subsequent history. Too often the victim of an accident is taken to a hospital, and receives attention from a house surgeon who has not the time to do anything more than attend to the immediate objective symptoms of the accident.

Judges in the High Court have power, in cases where no jury has been empanelled involving technical matters, to call in an expert as an assessor. An assessor sits with and advises the Judge upon the technical matters involved, but the Judge alone decides the case, after giving so much weight to the views of the assessor as he (the Judge) thinks proper. A Judge in the High Court may in certain circumstances refer the whole matter in dispute to a referee, and in that case the referee acts as an arbitrator, and decides the matter as distinct from sitting with the Judge as an assessor.

Similar power with regard to assessors and referees is given to the Judges of County Courts. But when the referee is a medical referee, and advising in workmen's compensation

cases, special provisions are introduced. In these cases the medical referee, when he sits in the County Court as an assessor, does so exactly in the same way as when called to act in this capacity in the High Court—with this exception, that in County Court cases, when a workman's compensation case is being arbitrated, he may be required to make a report, which his colleagues acting as assessors in the High Court, or non-medical assessors in the County Court,cannot be called upon to do.

It not infrequently happens that after the report is made the dispute becomes automatically settled.

If all cases were medically examined by a medical referee attached to the County Court, by an order of the Judge, prior to arbitration proceedings, and it were known that the facts found by the independent expert would be treated by the Court as the material upon which to base its decision, there would be very few occasions on which the Court would have to exercise its functions, except to administer the law in relation to the facts found; at any rate, there would be an end of the extra-ordinary pathology which some medical men find it consistent with their conscience and honour to place before a Judge, in the hope that his lack of technical knowledge may give their client the benefit of a doubt which should never exist.

Unfortunately, the means available for treatment are sadly deficient. Attendance at the out-patients' department of a hospital or the surgery of a hard-worked practitioner usually affords less curative treatment than is necessary.

The Legislature provides that half-wages shall be paid to injured workmen, but makes no provision for treatment; this was probably left to the good sense of the community. There is nothing to prevent a foolish employee making medical treatment nugatory by carelessness or studied indifference, or by failure to consult qualified professional advice. It is an important question whether, in the best interests of all parties, it is not essential that the provision of, and submission to, proper treatment should be made compulsory. I fear that until the importance of early and proper treatment is recognized, and its provision enforced, the ever-increasing burden imposed by the Workmen's Compensation Act will not be really checked or reduced.

The only means of staying the inroads upon our national resources which are caused by the undue prolongation of illness and the creation of sequelæ are to be found in early, ample, and sufficient treatment of those who seek to obtain an illicit advantage by exploiting for their own improper ends provisions intended to ameliorate the condition of those who meet with the accidents which must inevitably occur in our great industrial enterprises.