Raynaud's Phenomenon*

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Medical terms, no matter how precise in their derivation, often lack the descriptive, human quality of our common speech, as illustrated by painters' colic, hatters' shakes, potters' asthma, knife-grinders' rot, brass-founders' ague, and many others. In recent years among workmen operating vibratory tools, pneumatic hammers and chisels, there has been increasing mention of "white fingers", "dead fingers", and "dead hand". The condition, "Raynaud's phenomenon", its causation, incidence, and clinical course among selected occupational groups in Great Britain was comprehensively investigated by Agate (1949), Agate and Druett (1946), Agate and Tomblinson (1946), and more recently by Jepson (1954). While it was recognized that the disorder was not uncommon in the general population, the findings suggested that in certain workmen the disease was an effect of their occupation, in fact an industrial disease.

Affected workmen in these groups, however, were unable *simpliciter* to recover compensation as the disease was not included in the list of "prescribed diseases". On March 21, 1950, following the judgments in several test cases in the Court of Appeal and the House of Lords and the rejection of a claim in 1949 by the Industrial Injuries Commissioner and two Deputy Commissioners, the "Minister of National Insurance referred to the Industrial Injuries Advisory Council for consideration and advice the question whether Raynaud's phenomenon should be prescribed under the National Insurance (Industrial Injuries) Act, 1946".

Under the Industrial Injuries Act, 1946, and as extended, financial benefits, formerly workmen's compensation, including in certain cases supplementary allowances, are provided for injuries caused by accident arising out of and in the course of employment and likewise for certain diseases designated "prescribed diseases". Even so, in some instances, as a result of judgments in the courts, workmen have obtained compensation for diseases which are not prescribed on the interpretation by the courts that the disease was due to accident in which the injury had resulted from the cumulative effects of recurrent minimal trauma, in effect a series of repeated similar minor accidents. Ultimately, however, the courts rejected this concept of industrial disease by repeated accident and regarded it as a continuous process. This had the effect of excluding such cases from compensation. The only remedy then open to affected workmen was to press to have their condition included in the schedule of "prescribed diseases". Experience over many years has proved (Meiklejohn, 1954) that this is no simple process as the conditions of prescription have been very rigidly defined successively in the reports

of the Samuel Commission (Departmental Committee on Compensation for Industrial Diseases, 1907), the Rolleston Committee (Home Office, 1933), and the Date Committee (Ministry of National Insurance, 1948).

Furthermore, workmen have an urge, indeed the very human one, to obtain prescription of their diseases, as industrial injury benefits are substantially higher than sickness benefits under the National Insurance Act. In recent years this attitude has been excellently illustrated by dermatitis; workmen recognize one variety only, namely, occupational dermatitis. Likewise in dusty occupations there is one cause of breathlessness, dust, so that progressively over the last 20 years the definition of the disease has widened from silicosis in particular to pneumoconiosis in general. Now the agitation is to embrace bronchitis and emphysema.

As previously stated, the Minister of National Insurance on March 21, 1950, referred Raynaud's phenomenon to the Industrial Injuries Advisory Council. They in turn passed the question for consideration to the Industrial Diseases Sub-Committee, who, after full investigation, submitted a majority and a minority report (H.M.S.O. Cmd. 9347). The Council by a majority adopted the Sub-Committee's Majority Report (the conclusion of which is that Raynaud's phenomenon should not be prescribed). Dr. L. G. Norman was unable to support either the majority or minority report of the sub-committee and submitted a dissenting note:—

"In my opinion Raynaud's phenomenon caused by the use of vibratory tools should be a prescribed disease with the limitation that a claimant should not qualify for disablement benefit unless his loss of faculty exceeded 10 per cent."

From the reports of the sub-committee it is clear that the members investigated the subject very thoroughly and that, while unable to present a unanimous report, they were agreed upon certain fundamental points. Thus the majority report records quite unequivocally that:—

"The survey has confirmed that there are to be found a certain number of clearly occupational cases of Raynaud's phenomenon caused by the use of vibrating hand and machine tools and involving a definite although relatively minor degree of disablement."

Later in discussing the degree of disablement in these occupational cases it is recorded that generally it is very trivial, often amounting to no more than temporary inconvenience, and that under the Industrial Injuries Act the great majority of cases might well be assessed at less than 1%. A small group of cases existed in which the disablement was greater but even in these the sub-committee considered that the disablement might probably be assessed about 3%. It would appear that this trivial degree of disablement—loss of faculty—was the basic reason for the recommendation that Raynaud's phenomenon should not be added to the schedule of "prescribed diseases".

Nowhere, however, do the sub-committee mention whether or not they had observed a single case in which

*A Report of the Industrial Injuries Advisory Council. (Pp. 16, 6d.) Ministry of Pensions and National Insurance (1954). Cmd. 9347. H.M.S.O. London.

the disablement arising out of the disease was substantial. By inference Dr. L. G. Norman's dissenting note suggests that he foresaw the possibility of occasional cases in which the loss of faculty might exceed 10% and indeed this was the substance of the argument presented by Mr. C. R. Dale in his sole Minority Report.

The fact stands that the sub-committee and ultimately the Council unanimously accepted that, among certain workmen, Raynaud's phenomenon occurs as an occupational disease. Disagreement among the members was on the question of prescription. Rejection—by a majority—was based almost entirely on the trivial degree of disablement in the great majority of cases, but there is no doubt they were also in some measure influenced in their decision by the long-familiar stock arguments—and which will persist—about the difficulties of diagnosis in the individual case, the fear of an avalanche of frivolous claims, and the range of industrial cover. The Council's recommendation has the effect that the odd workman who may be substantially handicapped by Raynaud's phenomenon caused by his occupation is denied the remedy and appropriate benefits under the National Insurance (Industrial Injuries) Act, and this despite the fact that he and his employer pay weekly contributions to the insurance fund.

The sub-committee realized that their conclusion would give rise to disappointment and apparently they themselves had some misgiving, for the chairman in the report to the Minister stated on behalf of the members that their decision was presented "on the understanding that you would be informed of their desire to be given an opportunity of reconsidering the question if as a result of any future developments it should appear to you that they could usefully do so".

To some it might seem that Dr. L. G. Norman's note had provided a workable scheme, which, having regard to the facts and if adopted, would at least have given the workman the appearance of justice. The Byssinosis Scheme and Benefit Schemes for pneumoconiosis have long provided evidence of the difficulties of such arbitrary limitations. In practice Dr. Norman's scheme would probably have resulted in the certification of the great majority, if not all, of diagnosed cases. This follows from the fact that in the assessment of the degree of disablement the doctors would be largely dependent on the patient's description of his intermittent attacks, and, in reference to this and entirely without cynicism, it has been my long experience and shared by others that patients have an uncanny power of learning and repeating the convincing story. Furthermore, in workmen's compensation it is generally accepted that where there is reasonable doubt decisions should be liberal in favour of the injured workman; that is to say that the workman should be given the benefit of the doubt. So to reject any diagnosed case as less than 11% would not reflect much liberality. Some will argue that the assessor must be satisfied that reasonable doubt exists; some doctors are more easily satisfied than others and this leads to lack of uniformity of decisions in different areas throughout the country.

The Industrial Injuries Advisory Council's single term

of reference was to advise the Minister whether Raynaud's phenomenon should be made a "prescribed disease". To decide this they were bound to observe, as they did, the principles established for the prescription of industrial diseases. This being so, existing knowledge of the disease and previous experience of the arguments advanced to include (or exclude) other diseases in the list of "prescribed diseases" immediately foreshadowed the ultimate decision and indeed the division of the members of the Council. And so it will continue due to no fault or lack of humanity in this most excellent body.

Raynaud's phenomenon is not to be prescribed. But that is not the end; the general problem remains. Are we to go through the same prolonged labour—four and a half years in the present instance—and inevitable stillbirth in relation to bronchitis, emphysema, "rheumatism", impairment of hearing, and anxiety states in particular occupational groups? Furthermore, in industrial diseases the emphasis so far has been on causation of the disease by the occupation, while increasingly workmen are raising the issue of aggravation of existing diseases. Sooner or later this issue also must be faced.

There is another very important fact which cannot be avoided, namely that the Industrial Injuries Act introduced the principle of insurance into workmen's compensation. The workman, by a special weekly contribution, insures himself against the risks of industrial accident and disease. This consideration, of course, was outside the Council's terms of reference. The government having introduced the insurance principle—*pace* Sir John Cameron, Q.C.—must accept the implication, which means that any workman who contracts an industrial disease is entitled to expect that he will receive of right the appropriate injury and disablement benefits and supplementary allowances. It is entirely irrelevant to adduce arguments about the small number of cases, the slight degree of disablement in the majority of cases, and the difficulties of diagnosis and administration. To the injured workman his case is the single and total issue and an issue of just rights.

While not germane to the present issue of Raynaud's phenomenon, it is necessary to allude to the substantial differences which exist between benefits under the National Insurance Act and under the Industrial Injuries Act. As figures are sometimes more impressive than words let us take the example of a young married man with two dependent children. He contracts acute pneumonia whereby he is gravely ill and away from work for six weeks. Under the National Insurance Act he receives the following weekly payments (scale at January, 1955): self 32s. 6d., wife 21s. 6d., first child 10s. 6d., second child 2s. 6d.—a total of 67s. If this same workman is incapacitated, yet in sound health, for a similar period by a septic thumb following an injury at work these are the corresponding weekly payments: self 55s., wife 21s. 6d., first child 10s. 6d., second child 2s. 6d.—a total of 89s. 6d. The difference in the benefits is substantial, the explanation, of course, being the insurance against injury.

Legislation for workmen's compensation despite anomalies and defects has a long and honourable record

in the social history of Great Britain. In its development guiding principles have become established but the question now arises whether these are still effective to meet the demands and outlook of the new system of comprehensive social insurance introduced in July, 1948. Current medical knowledge of the influence of occupations and working environment on the health of workmen can no longer support, without modification, the hitherto arbitrary division, as represented by "prescribed diseases", between social and industrial diseases, especially as these attract different rates of benefit. Doctors find themselves increasingly mystified by the legal and administrative interpretation of disease. That they should be required to assess loss of faculty in percentages by stages of 1% is quite unrealistic. Is there any fundamental reason under comprehensive social insurance why sickness and injury benefits—based on subsistence level—should not be the same during the first 156 days of incapacity—that is, the statutory period of injury benefit? If such uniformity were established many medical problems would be resolved and valuable savings in medical and administrative man-power and costs would be achieved.

Among the arguments hitherto advanced in support of higher rates of benefits for industrial accidents and diseases as opposed to those of non-industrial origin are the following. First it is essential that men should enter dangerous trades vital to the community. This need merits special provision for casualties. Employers and workmen have recognized this so that danger money and dirty money have been included in the negotiation of wage rates. Secondly a workman disabled at work suffers his injury while working under a contract of service, a factor which does not attach to non-industrial accidents and diseases. This argument, however, does not take full cognizance of the fact that many workmen by their own negligence or that of their fellow workers contribute—often substantially—to their own injury at work. By the passing of the Law Reform (Contributory Negligence) Act, 1945, contributory negligence lost much of its power as a defence—especially in jury actions. Furthermore, the Law Reform (Personal Injuries) Act, 1948, abolished the doctrine of common employment as from July 5, 1948. Thirdly it was thought that additional injury benefits would help to diminish the number of actions at Common Law. This has not proved to be true—indeed they have increased substantially and have

aggravated the law's delays. One reason for this is that receipt of injury benefit does not exclude, in addition, remedy at Common Law, if negligence by the employer is alleged. Furthermore, the legal aid scheme for poor persons has enabled some workmen to promote such claims while safeguarding them against legal costs. In any case trade unions generally include legal aid among the benefits to members, but without involving the union in the payment of costs if awarded against the workman.

The immediate need—so it seems to me—is for the Minister of Pensions and National Insurance to inquire comprehensively into the working of the Industrial Injuries Act in relation to the National Insurance and associated welfare Acts and incidental Acts referred to above. It may be that the existing system and principles must continue. Even so, the record of an up-to-date exposition of the subjects and viewpoints would be invaluable.

Since 1953 a distinguished committee, officially known as the Departmental Committee to Review the Diseases Provisions of the Industrial Injuries Act, under the chairmanship of F. W. Beney, Q.C., an acknowledged authority on workmen's compensation, has been taking evidence. The report so far has not been published. It is to be hoped that this committee will elucidate, if not resolve, many of the outstanding problems or, if this is not possible, direct the attention of the Minister to the need for a commission with wide terms of reference.

The Report on Raynaud's phenomenon must not be shelved. It must be an important landmark in the history of the development of industrial injuries insurance and "prescribed diseases".

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