

# THE HIGH COST OF LAWING

BY VICTOR C. CORMIER

ELMER PRINDLE, a meek law-abiding American — we might say *the* meek, law-abiding American — is seriously injured while riding in a taxicab which crashes into another vehicle. For the first time in his humble career he is the center of attention — but alas! unconscious of his brief glory. When he awakes in a jungle of pain, he is in a hospital, the object of much medical tinkering. It is a long siege, but he survives to carry the marks of the mishap. The debts which have accumulated at home, and the stack of doctors' and hospital bills, must await the return of his earning capacity. But at least Elmer is now well enough to consider taking the matter to law. He has thought about it while flat on his back and it seemed a simple enough procedure, especially since there were any number of kind lawyers willing, nay eager, to help.

What followed may be termed the legal education of Mr. Prindle, God bless him.

Elmer admits with a smile that

he knows nothing about law, and he is not exaggerating. Even for those who have a speaking acquaintance with litigation, it is a maze of fantastic rules and tricky detours. The seasoned practitioner himself stumbles into pitfalls on its tortuous paths — at the client's expense, usually. What except bewilderment, therefore, can be the fate of our Elmer? Nevertheless, he is warned at every turn that "ignorance of the law is no excuse." As he is led from one mysterious bypath into another in that maze he begins to find out what complex procedures he faces, what financial and nervous burdens he must assume, how many spiked fences separate him from a verdict and the distance between a verdict and cold cash. Somewhere along the journey a question emerges from the long-drawn ordeal:

Is it worthwhile for this Elmer, for any Elmer, to Go to Law over a matter which may loom large in his own eyes, but which to the law itself is trifling — though not too trifling to produce legalistic tan-

gles, delays, obscurities, and prevarications?

Elmer is completely (and a little sheepishly) ignorant of the cause of the accident. The most important single event in his life, but he remembers it only as a blur of pain! At the moment it happened his mind was fixed ruefully on last night's disastrous poker, and the new disaster blotted out even that. The owners and drivers of the colliding vehicles attempt to fasten the blame upon each other, and Elmer begins to consider himself lucky that they don't try to fasten it on him. About the only facts on which there is general agreement is that there was, indeed, a collision and that Elmer was in it. These prove insufficient ground for an out-of-court adjustment, although Elmer, groggy with the burden of debt, hungers for a settlement.

From the willing horde he has selected a lawyer. In retaining John Bland he was really paying him a compliment. After all, this is the most important case in the world — to Elmer Prindle. Having placed himself under Bland's guidance, he knows that he is on his way to enforce his rights and recover damages.

The search for witnesses begins. After much effort a few are discov-

ered, but they evince a curious reluctance about coming to the aid of the battered citizen. In several instances it is apparent that other parties to the accident have approached the witnesses already and deftly slanted the direction of their memory. The able Mr. Bland, however, squeezes enough alleged facts from the witnesses to justify bringing suit. The legal formalities thereupon swing into play. Process is issued and the hunt is begun to serve the defendants, who have run discreetly to cover to postpone the evil day. In the end they are tracked down and served. Formal denials are hurled back at our Elmer. Negligence is denied and the burden of proving such negligence is placed on the victim of the accident.

Elmer follows the ramifications of the legal procedures and grows dizzier as they unwind with the tantalizing deliberateness of a slow-motion film. Motions in court are directed to the matters alleged in pleadings. Bills of particulars are furnished. Examinations before trial are held to discover unknown facts. Commissions are issued to collect the testimony of witnesses now residing in other States. An appeal is taken from preliminary court orders, first by one side then by the other, with attendant ex-

pense. Physicians' reports, X-ray pictures, laboratory analyses, and other medical data are compiled. Photographs and diagrams of the scene of the mishap, costly and difficult, are prepared. One after another every available witness is interrogated and a signed statement is obtained, if possible. These records will be indispensable, since the persons involved will have forgotten the little they still think they remember by the time the case comes to trial. Time is consumed at every step — time and money and the dwindling residue of Elmer Prindle's patience and peace of mind.

Finally the action is placed on the court calendar. The defendants, those from whom Elmer seeks to collect compensation, turn out to be great believers in the jury system, if only because a case on the jury slate (in New York County, let us say) cannot be reached for nearly two years. Anyhow, the defendants refuse to waive their constitutional right to a trial by jury.

For some two years, therefore, the action slumbers on the calendar, nearly forgotten by everybody but Elmer. He, too, might forget it if not for the reminders of bill collectors. The great hour is fixed and draws near. Witnesses must be

served with subpoenas, if they can be found. It develops that a few of them have died and one has moved to Europe. Because the testimony of certain missing witnesses is crucial to the case, an adjournment is obtained. After additional delay and expense, they are located, and Elmer reaches zero hour.

The jury is selected and the trial gathers steam. Witnesses are examined and cross-examined. As the story of the accident unfolds from the witness chair, it becomes more confused, more contradictory, than an international diplomatic conference. Two sets of experts, equally reputable and well-paid for their services, give divergent interpretations of what precisely happened to Mr. Prindle's limbs and nerves in that distant day when the two vehicles collided. Elmer, listening to their technical debate, feels vaguely that they have not touched the heart of the matter: his long agony, the dismay of his loved ones at home, the dislocation of his placid life and the nightmares about collisions that remain as a hangover of the disaster. At long last the opposing counsel make their summations, and their talk seems to Elmer full of elaborate irrelevancies. The court instructs the jury, which retires with Elmer's fate in its hands.

The proceedings have lasted four days. Elmer is lucky that a mistrial is not ordered. Oblique reference was made somewhere along the line to the circumstance that one or both of the defendants are insured against liability, and their counsel demands that the whole thing be called off on this ground. There is also a claim of "incurable" misconduct by counsel during the trial. But the court has found sufficient ground for instructing the twelve good men and true to disregard the breaches of legal etiquette, and the trial stands.

Then, after the years of waiting, the long worry and long bills, Elmer gets a verdict. Victory! The plaintiff is awarded \$5000. Elmer's face is wreathed in smiles. Five grand sounds like a fortune. He thanks Mr. Bland and Mr. Bland's assistants and tries to signal gratitude in the grin he exposes to the twelve jurors and the judge.

## II

His self-congratulation does not last long. Opposing counsel evidently do not accept the verdict as seriously as the plaintiff. They poll the jury to determine whether the verdict was arrived at by casting lots and not as the result of deliberation — such verdicts are not ap-

proved by most courts and may be set aside. It may also develop that the jurors may have decided in advance to abide by the decision of the majority — another catch that may vitiate the verdict. It may also be disclosed that one of the mighty twelve secretly visited the scene of the accident and reported findings to his fellow jurors. Though his report may contribute exactly nothing to the sum-total of evidence, it is heinous misconduct and sufficient to void the verdict. The court itself has the right to set aside the jury's decision if he considers it contrary to the evidence or the law.

Having negotiated these unexpected hurdles, Elmer discovers that the five thousand bucks are still out of his reach. As per custom, the court grants the defendants a stay of execution for thirty and sixty days in which to perfect an appeal. Meanwhile payment is postponed. Quietly and studiously, Elmer's able enemies study the record, find flaws and loopholes aplenty, and serve notice that an appeal will be taken. Mr. Bland imparts this sad news to his client. Elmer's joy, having simmered down to bewilderment, now turns to gloom. He is made to understand that the Bland organization must now in turn study the record and prepare

briefs and wait once more for decisions from on high.

And so the law moves on ponderously, and months stretch into years. Elmer has now trudged in the maze for nearly four weary years. Being among the luckier litigants, the verdict for the plaintiff is finally affirmed, the damages are paid, and the curtain is rung down on a trifling affair involving one Elmer Prindle, a meek and law-abiding American who had the ill grace to be mixed up with two colliding vehicles.

As Mr. Bland has explained, Elmer should consider himself fortunate that the defendants were insured to the \$5000 point, and responsible financially. Had their insurance been limited to a smaller figure and had they been without other assets, the solidest verdict within the gift of the law courts would have done him no good. Mr. Prindle's \$5000 are allocated as follows:

Lawyers' fees .....	\$1666
Loss of wages .....	1000
To the doctors .....	750
To the hospital .....	250
Other expenses of illness.....	100
Expenses of litigation.....	234
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	\$4000
<i>Balance to victim.....</i>	<i>\$1000</i>

Such is the high cost of lawing — to the litigants to say nothing of what it is to the taxpayers. The entire machinery of justice has been in motion for years, even if slow motion, with results altogether out of proportion to the effort and investment. The facts in dispute could, most likely, have been ascertained more quickly and more fairly by a group of disinterested experts, somewhat in the manner of procedure in workmen's compensation cases.

All this Elmer — his ultimate "satisfaction" nine-tenths chagrin and one-tenth cash — senses in the meek, mixed-up way that is natural to his kind.



# THE PAINT AND POWDER RACKET

BY LOIS MATTOX MILLER

ACCORDING to the advertisers' testament of our super-colossal age, if a woman is not beautiful and alluring it's just her own fault. If her skin isn't as the rose petal, if her hands have not the softness of an angel's caress, if her lips aren't luscious, if her eyes don't shine, it's simply because she hasn't been reading the right advertising, or buying the right brands of paint, powder, perfume, lotion, lipstick, or skin food.

In answer to this propaganda, the women of America have helped cosmetic manufacturers transform a feminine vanity that is older than Cleopatra into a great modern industry. They put \$400,000,000 worth of cosmetics on their faces last year — thereby benefiting their souls, it is to be feared, rather more than their skins. They bought a staggering tonnage of promises, few of which could ever be kept: 52,000 tons of cleansing cream, 27,000 tons of skin lotion, 20,000 tons of complexion soap, 18,000 tons of "nourishing" cream, 2500 tons of rouge. Add to that the im-

measurable amount of massaging, baking, freezing, scraping, and muscle-molding that was applied in the name of beauty and one begins to understand why an outstanding dermatologist said that "the American woman treats her skin as if it were a doormat."

In order to discover facts about this cosmetic comedy which every woman should know, the author consulted prominent skin specialists recommended by the Medical Society of the State of New York, studied cosmetic advertising and promotion, and had a representative number of widely-used preparations subjected to laboratory tests. The results show that quality is often identical where price is not, and that the advertisers' version of skin health and beauty bears as much relation to physiological facts as the green-cheese fable does to lunar astronomy.

The dermatologists are, unanimously, not amused by the cosmetic comedy. They consider most cosmetics physically harmless, but extravagantly overpriced and —