

THURSDAY, 17TH SEPTEMBER, 1908.

Hon. A. R. GUINNESS, M.P. for Grey, examined. (No. 2.)

1. *The Chairman.*] You have seen this Bill, of course?—Yes.

2. I understand you are anxious to give us some evidence with regard to the working of the Workers' Compensation Act as it at present exists?—I am.

3. Will you please make a statement, then?—I do not propose to offer any suggestions with regard to amending any clauses of the Bill at present before the Committee. I wish to give some facts which I think might induce the Committee to insert some new clauses in the Bill. Under the present law, if an employer is insured and one of his workmen meets with an accident that workman can make a claim either under the Workers' Compensation Act, at common law, or under the Employers' Liability Act against that employer; and if the employer is insured, when he receives that claim he has to forward it to the insurance company in order that they may, under the terms of their policy, defend that claim. Now, the case that I have in view is this: An employer was insured in the Oceanic Company, and his workman brought an action against him under the common law. The employer gave notice of that claim to the Oceanic Company. They could not settle the claim, and the case went to Court. The Oceanic Company appointed their own lawyer to defend that case for the employer—a firm of builders they were—and the case was tried before District Judge Haselden and a jury. The claim was for an injury to the workman's hand caused by a defective planing-machine. The jury awarded some £65 or £70 damages for the injury to the worker. After the verdict was entered up as a judgment of the Court the worker wanted his money, but the employers, not being in a good financial position, claimed, of course, from the Oceanic Company the amount of the verdict. The Oceanic Company said "Oh, no! we are not going to pay; you must sue us now." What I maintain is this: that where the insurance company, under a clause of its policy, takes in hand the defence of an action of that kind, then the law ought to be amended so that it shall not be necessary for the employer to sue again on that same cause of action the insurance company to get the amount of the verdict entered up against him for the injury to his workman; and I suggest that a clause shall be put in the Bill that where the necessary notice has been given to an insurance company of an injury, and the company employs its own lawyer and conducts the defence on behalf of the employer and an adverse judgment is given, then that the judgment should be entered up not only as a judgment against the employer, but as against the company as well. In other words, the employer should recover the amount of the verdict without having to go through the expense and risk of fighting the case all over again at some future time; because some of the witnesses may be away, and there might be many reasons why he could not recover a second verdict, and by that way the insurer's case might become abortive and he would lose the premiums he had paid and the benefit of the insurance.

4. *Hon. Mr. Millar.*] You suggest that, where any verdict is given against the defendant, that judgment should be deemed to be against the insurance company or any persons who have undertaken to indemnify the defendant?—Yes, that is so.

5. *The Chairman.*] The employer is the defendant in the case?—Yes, that is the person who is covered by insurance with the company.

6. And the judgment, you say, should be a sort of double-barrelled one: it should be deemed to be entered against the person who has undertaken the insurance?—Yes, provided he has an opportunity of defending the action brought by the worker against the employer who is insured.

7. Is there any other point with regard to the Bill that you would like to bring before us?—I think the suggestion of a schedule giving a scale for the loss of limbs is a wise and necessary one, because it will prevent a lot of litigation. There is always a dispute—I am speaking as a professional man—between the company and the workman as to what is the value of a limb, and I have known very different amounts to be awarded. In one case I recollect a man being awarded £100 by the Judge of the Arbitration Court more than he expected; in fact, he would have taken £150 less than was awarded if it had been settled out of Court. In another case the man expected a great deal more than he got. I heartily support that portion of the Bill providing for the miners' complaint, which has been caused through the men working in mines which were in an insanitary condition, and agree that it should be called an accident for which the worker can make a claim for compensation.

8. *Hon. Mr. Millar.*] It is preventable to a large extent if the companies like to take the necessary steps?—Yes, if the companies would go to the expense of spraying the dust, the miners would be much safer.

9. *The Chairman.*] Mr. Jackson, secretary of the Greymouth Wharf Labourers' Union, cited a case to us which his union brought against a shipping company. The case was thrown out on a technicality, and the union had to pay the expense. Do you know anything of that case?—Yes, it was for breach of award. Of course, the company said they were misled. They were called upon to meet a case for breach which was alleged in the citation to have occurred at "2 p.m.," and it should have been "2 a.m."

J. H. RICHARDSON examined. (No. 3.)

1. *The Chairman.*] You are Commissioner in charge of the Accident Branch of the Government Insurance Department?—Yes.

2. Have you seen the new Bill which has been laid before the House?—Yes.

3. Have you made yourself acquainted with its details?—I think so.

4. Will you please give us your opinion with regard to it—I mean in contrast with the existing legislation?—I suppose the best way will be to explain to the Committee regarding any clauses which I think need comment. With regard to section 2 ("Partial dependants"), I think this should be altered, and that the words in the third line of the paragraph, "his death, or would