

ments of the Act of 1900, and it repeals the Employers' Liability Act of 1882 and its two amendments of 1891 and 1892. As a matter of fact, since the passing of the Act of 1900 the Employers' Liability Acts are not of much practical importance, and they rarely have been taken advantage of. They have induced the impression no doubt that they increase the cost of premiums, but that is quite erroneous. I think that both from the workers' and employers' point of view, now that we have the Workers' Compensation Act, it is eminently desirable to repeal these three statutes. I presume the Committee has gone into the question of the increased cost of premiums.

7. We have had conflicting evidence on that point?—I mean when this measure shall have become law. Of course I do not profess to be able to give expert evidence on that point; that is a matter for the insurance companies. But I should say, on the face of it, it is obvious that one of the incidental effects of the measure must be to cause an increase in the cost of insurance, because in the first place the aggregate amount of liability is increased, and then by virtue of clause 9 of the Bill the liability of the employer is increased. I may say, however, that clause 9, as the Committee is no doubt aware, embodies a principle which is already in force in England. I may say that in England it was decided that where a man met with an accident—I suppose it would not be considered an accident in the popular sense—but where a man had met with a disability under certain circumstances which showed that, had he not been afflicted with a disease he would not have been injured, he did not come within the scope of the Act of 1897. A worker ruptured his stomach in lifting a weight. He died in a couple of hours. It was then found he was suffering from a disease of the stomach, and that had it not been for that disease he would not have died from the strain. It was held that he had not met with an accident within the meaning of the Act, and consequently the dependants were not entitled to compensation. That particular case did not go to the House of Lords, but subsequently another case in which the same principle was involved did reach the House of Lords, and it was held that the fact that the injury was induced by the diseased condition of the worker did not disentitle him to compensation. In the case of a stevedore who was seized by an epileptic fit when working on a ship, and fell down the hold and was seriously injured, it was held to be an accident. Thus the decision first referred to was overruled. Those decisions, although not really binding on our Court of Arbitration, have been followed in New Zealand. Closely allied to that class of case is another: It was recently held in England that where a man had become lead-poisoned in the course of his employment—there was no evidence to show how the poison had got into the man's system; it may have been imbibed through the process of breathing, got in through a wound, or been absorbed slowly through the skin—that was held not to be an accident. The man died, as a matter of fact, but it was held not to be an accident, because to constitute an accident it was necessary to point to a definite time when the poison entered. In consequence of that decision fresh legislation has been passed in England bringing certain industrial diseases within the meaning of the statute, and clause 9 of this Bill simply proposes to conform with the law in England. There are two cases of recent date in New Zealand. You will find one in late issues of the *Labour Journal*, *Maxwell v. N.Z. Collieries, Ltd.*, an Auckland case, and another case reported in this morning's *New Zealand Times*, *Wilcox v. The Wellington Hospital Board*, in which the claim was dismissed because the Court was unable to say when the injury occurred. It was in each case a heart injury in which the injurious effects had gradually set in, and they could not be shown to have been produced in the course of the employment. If clause 9, however, is passed these cases will be covered. The irresistible tendency of decisions is towards including industrial diseases, and this clause 9 only proposes to follow the Workers' Compensation Act as recently amended in England. Another point I would like to bring under the notice of the Committee is the definition of "worker" on page 3 of the Bill. I object to the words "any person whose average weekly earnings, calculated in accordance with the provisions of this Act, exceed five pounds." I have in hand at this moment the case of a man who died in the course of his employment. He was a pieceworker, and during his employment when the injury happened he earned £5 4s. 6d., but prior to that he was for a long time out of employment and did not earn anything like £5 a week. As this clause stands a man like that would be out of Court, because if you look at clause 6 of the Bill you will see that the compensation will be based, not on the average weekly earnings for any antecedent time, but according to the wages he was receiving at the time he was injured. I submit, therefore, that any differentiation in the definition of "worker" is undesirable, and that that part of the clause should be struck out or radically amended; otherwise grave injustice is possible. Again, clause 11 provides that the Act shall apply to the Crown, and it seems to me that the procedure will be under the Crown Suits Act as modified by this Bill. If you look at the Crown Suits Act you will see that the procedure is rather complicated. I think it would be much simpler if the Minister in charge of the particular Department under which the accident happened was made the respondent. The policy of the workers' compensation legislation is simplicity. The present practice is to make His Majesty the King the respondent, stating the official designation of the Minister in charge of the particular Department in brackets afterwards, and surely there is no necessity to have anything to do with the Crown Suits Act. The present procedure is simple.

8. And less expensive?—Yes. I strongly recommend that amendment to the consideration of the Committee. Then clause 14 is something new. I do not deny that there is a great deal to be said in favour of it; but it has been decided that a man cannot be compelled to go under an operation, even though medical evidence is available to show that an operation would probably benefit him.

9. That is, if the risk is inconsiderable in the opinion of the Court?—Yes, the clause gives the Court power to say whether a man should undergo the operation or forego compensation. I have no doubt the Court would construe that very liberally in favour of the worker, but I will give you a case in which I acted for the claimant recently, though as a matter of fact it never came to the Court. The man in the course of his employment got concussion of the brain and broke a