1908.

NEW ZEALAND.

LABOUR BILLS COMMITTEE

(REPORT OF) ON THE WORKERS' COMPENSATION BILL; TOGETHER WITH MINUTES OF EVIDENCE.

Report and Minutes of Evidence brought up on the 5th October, and ordered to be printed.

ORDER OF REFERENCE.

Extract from the Journals of the House of Representatives.

FRIDAY, THE 3RD DAY OF JULY, 1908.

Ordered, "That a Committee, consisting of ten members, be appointed, to whom shall be referred the Workers' Compensation for Accidents Bill, and certain other Bills more particularly referring to labour; three to be a quorum: the Committee to consist of Mr. Alison, Mr. Arnold, Mr. Barber, Mr. Bollard, Mr. Ell, Mr. Hardy, Mr. Poole, Mr. Tanner, Right Hon. Sir J. G. Ward, and the mover."—(Hon. Mr. MILLAR.)

REPORT.

THE Labour Bills Committee, to whom was referred the above-mentioned Bill, have the honour to report that they have duly considered the Bill, and have taken considerable evidence thereon, and that they recommend that it be allowed to proceed with the amendments as shown on the copy attached hereto.

WILLIAM W. TANNER,
Chairman.

5th October, 1908.

MINUTES OF EVIDENCE.

TUESDAY, 15TH SEPTEMBER, 1908.

CHARLES MONTE MONTEFIORE examined. (No. 1.)

1. *The Chairman.*] What is your position?—General manager of the Ocean Accident and Guarantee Corporation (Limited).

2. Your company is engaged in workmen's insurance with regard to accidents, I suppose?—Yes.

3. And you have a knowledge of the details of the business?—Yes.

4. In that capacity you are fairly well acquainted with the law of compensation for accidents?—Yes.

5. And you are also acquainted with the Bill before us on the same subject?—I have read it once or twice. I would not say I am very familiar with it.

6. Do you think you are sufficiently acquainted with it to give us your opinion with regard to its contemplated action?—Yes.

7. We shall be glad to hear your statement with regard to the anticipated action of the Bill?—I think it is a great improvement on the previous ones.

8. In what respect?—Inasmuch as it is self-contained, and is not subject to the various amendments of the previous Acts, which were contradictory in very many ways.

9. You think the compilation has been well done, and avoids the conflicting readings which come from a series of Acts?—Yes.

10. What can you tell us of the action of the former Acts generally?—Well, each amendment varied the previous Act in most material points, and some of these material points were not noticed until after these amendments were in force for years. The change in the *personnel* of the Arbitration Court caused a decided difference in the payment of large sums. At the present time the question whether a lump sum should be payable or not is not in a satisfactory position—that is, in the old compilation.

11. Has that been remedied?—Yes, to a certain extent. I dare say there are improvements made in this Bill, but I presume it has only been drafted by the Draftsman and will be subject to amendment.

12. Has the business of your corporation been very extensive?—Yes, I think we *were* doing the largest business in New Zealand.

13. Then, there are other companies engaged?—Yes.

14. Do you consider your business has been decreased by the passing of these Acts?—Oh, no! it brought in a class of insurance that was not in existence before.

15. It has largely assisted your business in volume?—Yes, in volume it has created a large business; but for the last two years the workers' compensation business has paid nobody (indemnifiers).

16. Has that been the result of the last amendment?—Yes, the various amendments, and the way in which the claims have been increased in number as well as the way in which they have been manipulated. Then, the benefits have been very much increased.

17. Have the claims been increasing in number out of proportion to the increased population of the Dominion?—Yes, on the wages-sheets. We calculate all these things on the wages-sheets.

18. Is it fair to ask you what the amount of insurance your corporation receives annually is?—I think we receive between £25,000 and £30,000 in workers' compensation premiums.

19. That would cover employees in all classes of industry?—In every class.

20. Have you any impression as to whether the amount of business will be lessened or increased if this Bill comes into operation?—I do not think the actual Bill will increase the business, except in the increase of wages-sheets and the increased population of the Dominion.

21. The business itself is an increasing quantity?—Yes.

22. Do you meet with many difficulties in adjusting claims under the existing law?—Yes, I have had as many as three thousand claims in one year to deal with. The great majority of these claims are easily settled, but others are——

23. Trifling?—Not altogether trifling. It is not the more serious accidents that cause any difficulty. It very much depends upon the class of person who is making the claim, and also upon the class of advice he gets. The majority of disputes—you might say nine out of ten—are caused by want of knowledge on the part of the applicant or an endeavour to obtain something which is not really payable.

24. They are attempts at overreaching?—Yes. That is only natural. If a working-man loses a finger he is anxious to get as much as he can, just the same as a business man if injured in a collision tries to get as much as possible. You cannot blame men for trying to do so.

25. Can you remember many cases of compensation claims in connection with what are known as occupational diseases?—Not a great number. The great majority of these claims are really ordinary diseases. You see, there is nothing so certain as death—every man has to die. One man dies of heart-trouble, another of affection of the lungs, kidneys, or something of that kind, and there is a continual attempt on the part of his relatives to endeavour to show that something in the shape of an accident has happened; and these cases are very difficult to cope with.

26. There are more disputed cases of accidents which are alleged to aggravate existing diseases than anything else?—Yes.

27. How do you get on in the settlement of those claims?—Generally speaking, they come along, and if there are any difficult points they go to Court.

28. Do you have many cases before the Court?—I do not have very many.

29. Generally speaking, the bulk of the cases are settled except from causes arising out of want of knowledge and in which disputes occur?—Yes, or from bad advice given.

30. Have you asked for any amendments in existing legislation?—Yes.

31. Frequently?—On several different occasions.

32. And have brought the matter before the responsible Minister?—Yes, before the late Mr. Seddon.

33. Do you find any of the suggestions you made to the late Premier embodied in this Bill?—Yes, some of them.

34. Do you know whether any suggestions have been made in the interests of those paying compensation and insurance?—The matter has been referred, I understand, to the Commissioner, and he has given advice upon it, and the members of the Employers' Association have given evidence. I have been with the latter on different occasions when they have done so. Of course, there have been many suggestions made by the Labour party.

35. Do you get many cases of permanent injury?—Yes, a fair proportion.

36. Which knock a man out of employment for the rest of his life?—Not such a great number as you might fancy. A man loses an eye, and is always quite satisfied that he is not going to get work again until such time as his claim is settled.

37. Do you find that there is a tolerably quick recovery after that?—Yes, very.

38. I would like to hear any statement you might like to make, if there are any passages in the Bill you desire to refer to?—I think paragraph 2 of the memorandum on the scope of the Bill is an exceedingly good one.

39. That is simply a memorandum, and would not be part of the Bill?—No. Take Part I, clause 4: I have a case in point now. There is nothing in the present Acts which enables us on behalf of an employer to pay an amount into Court and see that it is allocated properly. I have had several cases where widows have been left with young children and demanded that the whole sum be paid over to them. They want to take out letters of administration, which I always discourage. I like to see it done by the Public Trustee. At the present time I have a case where I have to pay £400 into Court because the woman has two young children. In such a case there is the fear that if she got the whole of that sum it might not reach the dependants under the Act. There ought to be some provision where on death the money should be paid into Court, and allocated to those who are dependants. On probate of a will the money is treated as a life policy or any other property of the deceased. I think something should be done with that.

40. You would like to see a provision whereby the compensation shall be tied up for the purpose for which it was really paid?—Yes: in other words, that it should not be taken as an estate. That is the real meaning of the Act in the first instance. Section 5 seems to me to be in very good form, and section 6 is good. Section 8 seems to be rather indefinite—that is, where they are persons under the age of twenty-one. It is almost a pity that something cannot be done so as to fix the amount, insted of having a dispute every time. A young fellow may be an apprentice getting 8s. or 10s. a week, and there is a dispute as to whether he should not get £1 a week, and it goes to the Court.

41. The case is retried every time?—Yes. Of course, there will always be the wish for the pound. Section 9 (Compensation for certain diseases): There should be a provision made—I do not know whether there is, later on—for the medical examination of these men. A man joining a friendly society has to undergo a medical examination, as does a man who wishes to insure his life, and in cases like this, where the benefits are larger, it seems to me that there should be an arrangement whereby, if a man claims on account of a disease, the employer should have the right to ascertain whether the man was sound when he first employed him.

42. *Hon. Mr. Millar.*] As a matter of fact, the only disease included here which is known to exist in New Zealand to any extent is pneumonicosis, which is caused by the dust in a quartz-mine?—Yes.

43. In the case of anthrax, it develops almost immediately?—Yes; that is a complaint which is contracted from the bite of a fly. But there is a clause providing that diseases may be added by the Governor in Council.

44. Yes, but only if the injury started in New Zealand?—There is a large amount of rheumatism in mining life.

45. Coaldust does not bring about pneumonicosis, which only exists in quartz-mines in one or two instances: it can be prevented by a jet of water used to keep the dust down?—Yes. There is one matter I would like to refer to; it is this: A foreigner comes here and meets with an accident causing death. Under the old Act it has been held that dependants living in foreign countries are dependants in terms of the section, and it is very difficult to find these out.

46. I intend to put a clause in making that apply only to countries where the same right is accorded to Britishers. The clause has been omitted here—it was in the Bill last year—and I purpose asking the Committee to put it in here?—That is all right. We have still here the wording "serious and wilful misconduct." It is the wording used in all the Acts.

47. *The Chairman.*] Has it been a source of difficulty?—Yes.

48. Can you suggest any better reading?—There have been more appeals from decisions on that than anything else in the Old Country, and it seems to me that the interpretation of it is continually changing. At one time "serious and wilful misconduct" would only mean drunkenness, but now it is held that if a man does anything that he is directly instructed not to do, that would be misconduct, always providing that he does not do it unthinkingly and in the interests of his employers at the time. Clause 14 is a very much-needed clause. This is where a man refuses

to be medically attended to. I have had a case where a man deliberately allowed his hand to get stiff in order that he might obtain compensation. I think a man should be compelled to go to a medical officer when an accident happens.

49. Is it not your custom to employ medical officers for that purpose?—I employ them, but I do not know that others do. We have a doctor at the office, where men can be attended to. It is only in the big centres where you can have a special medical officer.

50. You are satisfied, then, with clause 14?—I would not like to say I am altogether. It is a very much-needed clause, but I do not know whether it will altogether meet the case. It says, "if his death is caused, or if and so far as his incapacity is caused, continued, or aggravated." It is very difficult to say what cause has effected a man's death.

51. How about the exceptions from liability mentioned in clauses 15 and 16—an agreement may be arrived at?—That is if a man is already suffering from a disease. Does this refer to the diseases only that the Minister mentioned? Does it mean any disease? because that is a very proper thing to have.

52. *Hon. Mr Millar.*] We have had several cases of men who have suffered an injury and received compensation, but afterwards when they seek employment no one will employ them, and they are debarred from earning a living owing to the risk to employers who consider these men defective. In such cases, where a man is practically incapacitated, and unable to perform his duties in the same way as a man with the whole of his faculties unimpaired, is it right that he should be able to contract himself out of the Act in order that he may be able to make a living? This can only be done by the Magistrate, so that there would be full publicity given to the case and an opportunity of opposing the agreement would be given?—That would be a very proper thing, for I have known several cases of the kind. In cases of death it would also be a very proper thing to provide the money should be paid over to the Public Trustee.

53. *The Chairman.*] We have that point before us?—I think it should be done in all cases. It would save the dependants a large sum of money.

54. Do you find many cases where, with the knowledge that a large amount of money is to be paid to the relatives of a dead workman, endeavours are made by the creditors to intercept it?—Yes. I always carefully point out that creditors in any shape or form cannot attach the money under the existing law. The compensation is absolutely exempt, but there are attempts made to obtain sums of money by creditors.

55. Most of the following sections, from section 17 onwards, relate to procedure?—Yes, that might almost be taken as read. Clause 23 gives the right for an action to be taken within twelve months in the case of death. That might be right, but I think it is too long a period. The employer may have the very best grounds or proof that no accident occurred, but if he has to wait only for six months before the action is brought the witnesses he might call might probably have left the district or got spirited away. In such a case the witnesses would not be available. Some saving clause might be put in whereby, once notice of action is given, the employer could bring the matter before the Court, and then the injured person would not suffer any disadvantage. By such means he would get evidence when it was fresh in the witnesses' mind.

56. You would suggest that notice of an intended action should be served almost immediately?—Yes, I think so.

57. *Hon. Mr. Millar.*] The reason why the time was extended was this: We had several cases where the employer had paid half the man's wages until the time for giving notice of bringing an action has expired, and then he has snapped his fingers?—I fancy that such a case as that must have applied years ago, because the Court has held that the payment of wages is a bar to such proceedings, and has reopened the case every time.

58. We have made that provision to prevent anything of the kind. Perhaps twelve months is too long a period, but the object is to prevent any schemer practically depriving men of their rights?—I have had cases where I have paid, under the first notice, compensation, and then discovered some weeks after, when we got full information, that absolute fraud had been committed. So one has to be very careful, in making these arrangements, that, while the honest man is protected, the employer is not committed to a very heavy sum by a man laying himself out to commit fraud. It says in clause 28 that the compensation shall be paid into Court. The Court may order it, but unfortunately you cannot pay it into Court until such time as the writ has been issued. Afterwards it comes out all right, because clauses 28 and 29 are on the lines I have mentioned.

59. This could be amended so that where any agreement had been entered into by or on behalf of the dependants the amount should be paid into Court?—Yes, I think so, and it would be a great safeguard to the dependants, because it would do away with anything in the shape of a sharp settlement. I have heard of cases where a small sum has been paid because, perhaps, the person was anxious to get the money and remarry, or something of that kind.

60. *The Chairman.*] Is there anything in the miscellaneous sections of the Act to which you would like to direct the attention of the Committee?—The employers' liability is knocked out of this Act.

61. It is repealed?—There should be some provision made in this way: There have been cases—there was one where the only dependant was an old lady of eighty-odd. She was certainly dependent, and there was £400 paid. Now, it is almost impossible to think that old lady would live more than a few months, but the money had to be paid to others. In such a case I think the Court should be permitted to say what amount should be paid, the same as in the case of a lump sum.

62. Where there is an aged dependant you think the compensation should be a lump sum to be arranged by the Court: is that what you mean?—Yes. With regard to clause 48, "Medical examination," we have had a large amount of trouble over that. It is only the injured person who has the right to demand that he shall go before the Government referee. If he is discontented with the certificate given by the doctor he can demand to go before the referee appointed by the Government, but the employer has no such power. I instructed a man to go before the referee of the Government, and we were told we had exceeded our power in doing so. I think the employer

should be able, in the event of any dispute with the doctor, to send the injured person to the referee.

63. In this Act it says the worker "shall," if so required by the employer, "submit himself for examination by any registered medical practitioner nominated and to be paid by the employer or any such other person"?—If there is a dispute the man has his doctor and the employer has his, and we want a referee so that the man can be instructed by the employer to submit himself to the referee. At the present time the worker is the only person who can claim to go before the Government referee.

64. Would you be in favour of having a Government referee?—Every time, sir. That would finish the dispute. I do not think there is anything else I need refer to.

65. *Mr. Arnold.*] You say that you are prepared to accept the decision of a Government referee every time?—Yes.

66. Have these referees given general satisfaction in the past?—I think so. There have been cases where we thought they were perhaps not right, but at the same time we have always taken their decisions. Doctors differ from one another.

67. You find that these referees are fairly impartial?—I think so. It does not always follow that they are the most competent men, in certain cases. The medical referee is an ordinary practitioner, and would not be a specialist like Dr. Ferguson; yet under the Act he takes all cases.

68. Do you know of cases where men suffering accidents have been recommended not to go to the referee and have got less compensation?—Yes, I think so. It is almost invariably to the advantage of the injured person to go to the referee, because by doing so he does away with one of the most expensive features—that is, when experts are called before the Court and a number of medical men are engaged. I have seen as many as seven—three on one side and four on the other.

69. *Hon. Mr. Millar.*] This Act provides for a considerable increase in the benefits to the workers insured over and above what is provided for in the present law?—Yes.

70. Can you tell me whether your legal costs are considerable in connection with your business?—Yes, pretty fair.

71. In assessing your premiums you have to take into account the estimated amount for legal costs?—Yes.

72. Under the provisions of this Act the number of cases which will go before the Court will be materially reduced?—Oh, yes! I should say very much so.

73. The employers' liability having been wiped out, and all accidents having been practically brought under this law or under the common law, whichever is preferred, you will be in a better position to assess your liabilities, or to compute them?—Yes.

74. In view of these facts, do you think the Bill will necessitate any material increase in the premiums charged?—I think certain trades and occupations will require adjustment.

75. Irrespective of whether the Act comes into force or not, there are certain trades in New Zealand that are of an unpayable character?—I have had the advantage of being able to compare my results with those of other people doing the same class of business, whereby we have been able to take seven-eighths of the total wages-sheets in a number of industries, and in some of these cases the loss-ratio per hundred pounds of wages has been from double to treble the actual rate per hundred pounds of wages paid as a premium.

76. Would the passing of this Act in its present form, subject to some minor amendments which have been suggested, tend to increase the premiums to any extent over the industries of New Zealand?—I think so to a certain extent, but the present rates ruling in New Zealand are inadequate, and if they were placed on what is an adequate rate over the present rates I do not think, except in certain trades, it would be necessary to make material increases.

77. Of course you have had no experience of the disease pneumonicosis, and do not know what rate might be charged on that?—I had a large number of cases in Sydney of a disease arising in connection with the sewage-works. It might possibly necessitate an increase in the premiums in this case.

78. But there are a number of industries in which the passing of this Bill would not to any extent increase the premiums?—With regard to the miner's disease, I do not think it would cause a great increase in the premiums, provided that before the men were employed they were medically examined. I do not think there would be many new cases. The majority of such cases is where men have come from other parts suffering from complaints. The chief feature, of course, is the increase in the amount from £300 to £500.

79. Yes, and the same thing applies to the law-costs. Having only the one Act will reduce your costs to some extent, which I presume would go against the other advantages which you say would be fair to the worker?—Yes, I think the provision that all cases shall be heard by the Arbitration Court in lieu of going before many men with different ideas will effect a great reduction. It will prevent a large number of things that occur undoubtedly. We get some unfortunate cases occasionally where we have to send a solicitor perhaps forty miles away, and people trade on this, and compel us to go to tremendous expenditure. This will be avoided if the cases are settled by the Arbitration Court.

80. *Mr. Hardy.*] In the event of this Bill becoming law, do you think the premiums will be increased to the farmers?—The farmers at the present time are paying what is an absolutely ridiculous rate. The farmers' risks are bad, and it is one of the industries which should pay considerably more. The loss-ratio went up from 4s. per cent. on wages-ratio in the first year or so, and has steadily increased year by year until it reached 15s. and 16s. per cent., and they are only paying 8s. 6d. or 9s.

81. I am not dealing with the present rate: my question is, if this Bill becomes law, will it increase the charges farmers will have to meet?—I do not think it will.

82. Then, as a whole you approve of a great many of the proposals in the Bill?—Most of them.

83. And those you do not approve of you have noted?—Yes.

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 as 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

but for the incapacity due to the accident which caused his death have been so dependent," should be struck out, and that after the words "As were," in the second line, the following words should be inserted: "domiciled or resident in New Zealand at the time of the accident which caused his death and were"; and in the third line, after the word "of," insert the words "that accident." The reason I make this suggestion is that there is considerable difficulty in settling with dependants under the present law when the dependants are in foreign parts. For instance, in the case of an Austrian who was killed in Auckland, we had to pay dependants who lived in Croatia, and it was rather a difficult job to get the matter settled. We have also had to pay relatives living in Sweden, and it seems to me that it would be much better if the payments were confined to dependants living in the Dominion, unless there were some reciprocal arrangements made with other countries.

5. *Hon. Mr. Millar.*] If New-Zealanders had the advantage of the law in the particular country?—Yes. Under the definition of "relative," I think that the word "person" should be altered to "worker." As respects seamen, should not this relate to men on the ship's articles only? Under the interpretation clause it has occurred to me to suggest that "trade or business" should be defined, and this should be inserted: "'Trade or business' includes trade, business, or work carried on temporarily or permanently by or on behalf of the employer to which the Act would apply, if such trade, business, or work were partly or wholly the regular trade, business, or work of an employer." It may already be provided for under the Bill, but I am making this suggestion because it has occurred to me that in such an industry as a laundry conducted by the Salvation Army, that particular business should bear the risk of the trade. At present it seems doubtful whether that would be so under the Bill. The definition of "total dependants" I would suggest should be modified in the same way as "partial dependants," by the insertion after the words "As were," in the second line, of the words "domiciled or resident in New Zealand at the time of the accident which caused his death and were"; also by inserting the words "that accident," after the word "of," in the third line, and by striking out all the words in the paragraph after the word "of" in the third line. It seems to me that in section 3 it is a little doubtful as to the exact position with regard to local bodies. Under the Bill of last year there was a schedule relating to them, and I would suggest that the Committee consider the advisability of making this clause a little clearer. Going back to paragraph (*b*) of subsection (2) of section 3, I think probably that it would be as well to insert a clause saying that "for the purposes of this subsection an employer may have more than one trade or business." In paragraph (*a*) of section 4 it has occurred to me whether some schedule or scale should not be prepared showing the exact proportion of the full compensation that each dependant should get. If some scheme of that kind were favoured by the Committee, it would save litigation and greatly simplify matters. Then, I think each dependant would know what he should get, and there would be little room for disputes. It is a little difficult, of course, to devise a scale that would be quite equitable; but, still, it is a matter which I suggest to the Committee it should take into consideration. This is a tentative scheme I have prepared which the Committee might consider: "If it were a widower (or a widow), and there is a child, or step-child, or an illegitimate child," I think the full compensation should be paid. If there were "two or more children, or step-children, or grandchildren, or illegitimate children," the full compensation should be paid. If a widower (or widow), only 75 per cent. of full compensation; father (or step-father), 60 per cent.; mother (or step-mother), 60 per cent.; one child or grandchild, or illegitimate child, 50 per cent.; grandfather, 50 per cent.; grandmother, 50 per cent.; one or more brothers or sisters, 50 per cent. This scheme would be on the understanding, of course, that in no case of death shall the total sum of the compensation payable exceed the full compensation. If a scheme of that kind could be adopted matters could be settled very promptly. In any event it would be a guide, and if there were several dependants their respective shares could be settled proportionately.

6. *Mr. Barber.*] That would not include everybody entitled to compensation?—It would include the bulk of the dependants. Any cases not included would have to be specially dealt with. I am merely making the suggestion as a means of avoiding disputes and possible litigation.

7. *Mr. Bollard.*] How would you deal with two dependants, one of whom was agreeable—how would you discriminate between the two?—That might have to be dealt with by the Court in the absence of an agreement between the dependants. Still the scheme would give a working basis on which matters could be adjusted between them. In subsection (*b*) of section 4 I would like to make a suggestion for the consideration of the Committee—namely, to delete the last four lines of this subsection (*b*), and substitute the following: "A sum equal to three times the value of the benefits received by these dependants from the deceased worker during the twelve months immediately preceding the accident which caused his death, but not exceeding in the aggregate in any case the sum payable under the foregoing provisions." If something of that kind could be adopted it would save a lot of trouble in settlements.

8. *Hon. Mr. Millar.*] It is proposed to recoup the actual loss. If it were 10s. per week, £78 would be paid for the three years?—Yes. In subsection (*c*) I think these words "or illegitimate" should be carefully considered. If a man is dead it becomes very difficult to dispose of any statement a woman may make against him. I think the words should come out on that ground.

9. You would strike out the words "whether legitimate or illegitimate"?—Yes. In section 5, in the second line, I would suggest that the words "in default of agreement" be inserted after the word "shall." I think, right through the Bill, if matters can be settled without appeal to the Court, it is good policy in the interests of the workers, the employers, and the insurance companies.

10. You would be able to give the workers the money that would go to the lawyer?—Yes, I think so. I notice occasionally, when litigants come to settle the terms, that some of the lawyers say they want another twenty guineas or so added, and it is not very hard to imagine where that goes. In subsection (7) of section 5 I think the words after "weekly earnings"—that is, the words "at

the time of "—should be struck out, and the word "before" inserted; and the words "any smaller" in the third line struck out, and the word "the" inserted in place of them. In the fourth line I think that the words "if engaged" should be inserted after the word "earn." I am making this clear so as to distinguish the earnings before the accident and after the accident. In subsection (10) I would suggest that the words in the first and second lines beginning with "there," and reading "there shall be deducted therefrom the value to the worker of" be struck out, and the words "regard shall be had to" inserted. It is a little doubtful now what the position is. Subsection (1) of section 6, I think, should be struck out, and the following substituted: "(1.) The term 'average weekly earnings' as used in this Act means the average weekly earnings received by the worker while at work during the twelve months preceding the accident if he has been so long employed by the same employer, but if not then for any less period during which he has been in the employment of the same employer; but in estimating such average no account shall be taken of any periods during which the worker has been absent from work." It seems to me that after that it would be advisable to insert two clauses; they were in the Bill of last year, but the Draftsman has struck them out of this. I think subsection (2) should be struck out, and the following inserted: "Where by reason of the shortness of the time during which the worker has been in the employment of his employer, or of the casual nature of the employment or the terms of the employment, it is impracticable at the date of the accident to compute the rate of his remuneration in accordance with the foregoing provisions of this Act, his average weekly earnings shall be deemed to be the average weekly amount which during the twelve months previous to the accident was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district." Then this ought to go in, I think: "Where the worker has entered into concurrent contracts of service with two or more employers under which he works at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident" In subsection (1) of section 8 I think that all the words after the word "permanent" in the third line should be deleted and the following inserted: "his average weekly earnings shall be deemed to be not less than £2 per week, and the reduction of his earning-power shall be deemed to be not less than the difference between that sum and the weekly sum which he will probably be able to earn after attaining the age of twenty-one years." I think that in section 9, subsection (1), in the third line, after the word "employment," the words "within the twelve months previous to the date of the disablement" should be inserted. I suggest this because otherwise the illness might back-date a long time; and there should be some limit to it. I could not make out in subsection (4) of section 9 what was the exact meaning of the subsection. Personally I think that the date of the accident should govern the position and not the date of death. In subsection (5), after the word "entitled" in the sixth line, I think that the words "in default of agreement" should be inserted. In subsection (6) of section 9 the word "pneumoconiosis" is incorrectly spelled. I believe that the spelling is "pneumonoconiosis." In connection with these industrial diseases it has occurred to me to suggest whether the worker should not proceed against his last employer, such last employer having the right to recover from the previous employer, proportionately, of course, if the previous employer were also liable. There was some provision of the kind in the last Bill.

11. That is fixed in subsection (5)?—It does not say that he has to proceed against the last one.

12. Yes, it does?—I doubt it. Subsection (2) of section 10: It seems to me that this subsection should receive some consideration. At present it is a little doubtful as to what is the real position. It has occurred to me in this connection to raise the question as to what would be the position of a lascar and his dependants if he were engaged in unloading a New Zealand ship at Calcutta, or if working for a contractor. A shipowner might be responsible to the worker, with no right of indemnity against the contractor. As regards paragraphs (*b*) and (*c*) of subsection (4) of section 10, should not the charter be entered into in New Zealand? Subsection (5) of section 10: I understand the Minister is going to deal with this. It seems to me that if a station hand is unloading a boat, or if it is the case of a fisherman, or diver, or timber-rafter, it is a little doubtful if the Bill would apply to him. I think it should be made clear that it does apply, as none of these should be deprived of the benefit of the law. Section 11, subsection (2): The words "naval or" should be inserted before the word "military" in the second line, and I think it should be made clear that any Department of the Government service of New Zealand should be also bound. The workers might not be absolutely servants of the Crown, but there are such Departments as our own office, the Public Trust Office, and the State Fire Department that employ workers more or less. These Departments were created under separate statutes, and may be sued apart from the Crown Suits Act. In paragraph (*b*) of subsection (4) of section 12, in regard to contracts entered into between the principal and the contractor, it seems to me that it should be put as it was before, and that all the words after the word "Act" in the third line should be deleted and the following substituted: viz., "and the contract entered into by the principal is such as to involve a payment by him of not less than twenty pounds for the due and complete performance thereof." He might pay in two or three instalments otherwise and possibly dodge the law.

13. We could put the word "total" in, and strike out the words "at any one time"?—Yes. Subsection (9): I am a little doubtful as to what this means. The expression "ordinary and natural sense" strikes me as a layman as a little involved. In last year's Bill the local authorities were clearly defined in a schedule, which the Law Draftsman has dropped. In that Bill there was no difficulty in saying who was a local authority.

14. *The Chairman.*] We will resume consideration of the Bill from where you left off at last sitting?—Yes. Section 15, subsection (1): I think that the words at the end of the subsection—

viz., "and if the said representation was false to the knowledge of the worker"—should be deleted, as in my opinion they may lead to fraud. Subsection (4), section 16: I think that after the word "Magistrate" the following words should be added: "and, unless the Magistrate otherwise orders, any money payable to such person under any such agreement may be paid to him, and his receipt thereof shall be a sufficient discharge." This is to enable any one to get the money without unnecessary and hampering formality. Section 17, subsection (3): I think the Draftsman should say what this means. Does it mean the importation of another Court into the matter? Section 19, subsection (2): The words "one month" should be altered to "three months." There may be delay in getting probate or administration (from the Supreme Court) of a worker's estate. Section 20, (1): Which is the Court? Should it not be the Magistrate's Court? Section 20, (2): I think that the words "in default of agreement between the parties interested" should be inserted after the word "shall" in the first line. In section 22, subsection (1), I think the provisions of the present law should be embodied, and the following words put in: "and before the worker has voluntarily left the employment in any case where by reason of the accident he was unable to continue in the employment."

15. That is intended to prevent men claiming who give no notice of the accident at the time, but after leaving the employment raise the question?—Yes. In subsection (2) of section 22 the Draftsman has put in, in the second line from the end of the subsection, the words "or ignorance of fact or law." This introduces a very objectionable departure. It enables a man to plead ignorance of the law.

16. Ignorance of the law has been held to be no excuse. That is the legal maxim. Does it not apply in every case?—I cannot say, as I am not a lawyer; but I think this enables a man to get at the employer in a way that is very unreasonable. The words should come out. With regard to subsection (4) of the same section, it seems to me that the letter posted should be registered; otherwise there is no proof of delivery. A man may say he has posted the letter, and there is nothing to show that he has not done so. That would need the word "registered" before the word "post" also in subsection (5). In subsection (6) I think that after the word "by" the words "or on behalf of" should be inserted. Frequently, as already explained, Government servants are not employed by the Crown. They might be in one of the Departments and not in the Civil Service. In section 23, subsection (1), the Law Draftsman has extended the period to twelve months. It seems to me that the matter should be sized up long before that, and that six months is surely reasonable time enough in which to bring an action. If the worker leaves the matter for twelve months, people have forgotten all about it, and it is then difficult for the employer to get together the necessary evidence. I would suggest the advisability of substituting "six months" instead of "twelve months" in both places in the subsection, and similarly in the fourth line of subsection (2) of altering the word "twelve" to "six." The same remarks apply in subsection (3). I fancy that is the law at present. In subsection (4) of section 23, for the reasons I have mentioned before, I think the words in the third line, "or ignorance of fact or law," should be knocked out. It seems to me to place the employer in too difficult a position altogether. Failing their deletion, employers and insurance companies will never know how they stand. Any doubt of such a kind always has an adverse effect on rates. In section 24 I notice the Law Draftsman has introduced a new departure: if it is proved that an accident has happened and there has been no incapacity, then a declaration of liability may be made to take effect at some future time. It seems to me that that is an extraordinary provision. A man might ring in anything on that later on. The position would be extremely unfair to the employer. If there is no injury at the time surely that should dispose of the matter. If the clause remains I feel satisfied that it will materially affect the rates of premium. No insurance company would protect the employer against such undefined and problematical liability except at a very high premium. If the whole clause cannot come out there should certainly be some time-limit—say, six months thereafter—during which the effects of the accident or disease must appear, for the clause to be operative.

17. It is a far-reaching provision, is it not?—Yes. In subsection (2) of section 25 the subsection seems to me to give power to the worker to sue the insurance company. I fail to see why the insurance company should be dragged in in this way. The insurance company simply stands at the back of the employer and indemnifies him. It indemnifies the employer and protects him, but any trouble that takes place is purely between the employer and the worker. I would suggest that the word "by" be inserted after the second "or" in the third line of the subsection.

18. You would not have the insurance company brought in as a second party?—No. There is provision for compensation or insurance moneys, in the event of the employer's bankruptcy, being earmarked for the worker or his dependants, and I think that is sufficient. Subsection (3) of section 25: I do not think there should be any retrospective action, as that will seriously affect rates of premium. In section 31 there is provision for the Court dealing with compensation, and varying and readjusting it in certain circumstances. I think this clause should go a little further, and also apply to any unexpended balances in the hands of representatives, so that the Court could intervene if necessary.

19. Have any cases occurred where such intervention has been necessary?—It occurs in relation to property left by a person, in which case the Supreme Court may vary the terms of a will. In the case of workers' compensation the widow might marry again, and there should be some such power to intervene in the way I suggest.

20. In which case the children would become primarily dependants?—Yes; if the widow married again the second husband should not be able to use the money. The unexpended balance should be for the benefit of the dependants who need it. Section 32: I think that in the second line, after the words "of unsound mind," the words "or under any other legal disability" should be inserted. In subsection (2) of section 32, after the word "unless," I think that the words "and until" should be inserted before the words "the Court," so that it would read "unless and until the Court otherwise orders." It is a little vague now. I think that reference should not be made to

the Court if the parties can settle the matter amicably. In dealing with section 32 I think there should be some provision made so that, failing the Arbitration Court intervening where there is no representative, any moneys could be paid to the Public Trustee, or that he should be allowed to step in and automatically receive the lump sum and apply it to the maintenance of the injured worker who is a minor in such manner as he thinks fit. I think also that in this section the Public Trustee should have power to compromise on behalf of the minor. He has power to deal with intestate and lunatic estates, and I do not see why he should not deal with these cases. In section 33 I think there should be provision so that "compensation payable in respect of medical, surgical, or funeral expenses may be paid to any person entitled to take proceedings for the recovery of such compensation, and that his receipt thereof shall be a sufficient discharge." In section 36 the rate of interest appears very high. I think the clause should come out, as tending to increase future rates of premium. In section 39, subsection (5), I think the words "or otherwise" ought to be inserted after the word "receiver." That is in line 36. In section 41 it seems to me there should be provision that when judgment has been recovered against an employer by or on behalf of any person for compensation under this Act such person shall not be entitled to recover damages against the employer independently of this Act in respect to the same accident. I think, generally speaking, that the Act should provide that a worker should elect which course of action he is going to take, either under this Act or at common law, and if he fails under one he should not be allowed to go on under the other. There should also, I think, be provision in the Act—I am not speaking with regard to any particular section—so that "when any claim against an employer for compensation under this Act, or for damages independently of this Act, has been settled by agreement, no person bound by that agreement shall be entitled to recover from the employer in respect of the same accident any sum whether by way of damages or of compensation other than the amount so agreed upon." I merely suggest this to prevent unnecessary litigation.

21. You mean that cases have occurred in which persons have entered two different actions, one under this law and one under the old liability law?—Yes, I have known cases in which a man has proceeded at the same time in different ways. I think he should elect which course he will take.

22. They do not recover separate sums under each Act, this and the old liability Act?—No, but they use the two sometimes. Subsection (3) of section 44: This should, I think, be the present value of the weekly payments as in other cases. Under sections 45 and 46 I think there should be a time-limit of six months from the date of the settlement with the worker. It seems to me there should be some finality about the matter; otherwise rates of premium are sure to be adversely affected. Section 50 should, I think, be deleted as regards the dependant, and the following clause in the previous Bill substituted: "Where the Governor is satisfied that by the laws of any other country within the dominions of the Crown compensation for accidents is payable to the relatives of a deceased worker, although they are resident in New Zealand, he may by Order in Council declare that relatives resident in that country shall have the same rights and remedies under this Act as if resident in New Zealand." I may mention that that was in last year's Bill, but the Law Draftsman has dropped it out for some reason. I might tell the Committee that I have had several cases where the dependants have been living in remote parts of Europe and with whom I have had to settle, and it seems to me to be unfair that employers in this country should have to bear the charge of providing against claims of that kind. I have had, as previously explained, to settle with dependants living in Croatia and in Sweden. In connection with this clause I would strongly urge the Committee to consider whether it would not be advisable to make the matter one of reciprocity with any other country that is agreeable.

23. Are you satisfied that they are dependants?—We have to settle with them, and disputes occur with regard to remittances made by the dead worker to them. It is extremely difficult to disprove dependancy in such cases. In reference to the Schedule to the Bill, I would suggest that provision be made so that the Governor, by Order in Council gazetted, may include any other occupation that is of a hazardous character. I make the suggestion because under the present law the position is governed by the word "hazardous." An accident in any occupation, no matter of what kind, that the Court may hold to be hazardous would be governed by the Compensation Act. That is the present law, but under this Bill that provision is eliminated, and the hazardous occupations are set out in the Schedule. "Horse-racing" is, however, not provided for, but it seems to me to be clear that horse-racing is an occupation to which the Act should apply. It is impossible to say what other occupations should be put in, and as experience showed the necessity the Governor, if he had the power, could add them. It would not affect the insurance companies until the Governor included them and until the employers arranged the necessary "cover."

24. *Hon. Mr. Millar.*] Does not the schedule apply only to occupations where the person is made liable only when the employment is not a direct part of his business?—I do not think so. He is a direct employer. Paragraph (*b*) of section 3 of Part I governs the position, I think.

25. *Mr. Barber.*] Do you not think this First Schedule is too extensive. Take the erection of any building, for instance?—I think it is quite right to put that in, because the erection or pulling-down of a building must surely be hazardous.

26. Supposing you are putting up a one-story building?—Even a one-story building is dangerous.

27. There is nothing dangerous about a man working on a one-story building?—Then why let the Act apply to a carpenter? I think it is essential to put the schedule in, for unless the particular occupation is part of the employer's trade or business, the worker would not be protected.

28. You might just as well make everything dangerous, and take the schedule out?—In the old Act, in respect of the word "hazardous," we never knew where we were. It depended on the will of the Court. One day an accident in connection with an occupation not ordinarily embraced under the Act might be hazardous, and another day it was not. My experience in connection with the Act makes me satisfied that something in the direction of the schedule is necessary. In the

Second Schedule I think the idea of naming the actual instances of permanent disablement might be considerably extended. This point has been considered in England. In the *Journal of the Institute of Actuaries* there is a prize essay written by John Nicoll, F.F.A., A.I.A., one of the members of the Institute, in respect to the "Actuarial Aspects of Recent Legislation in the United Kingdom and other Countries," on the subject of compensation to workmen for accidents. It is extremely interesting, and I should like to read some extracts from it to the Committee if you do not mind. The part of the essay that particularly affects the matter now under consideration is that relating to the liquidation in Italy of the indemnity in the case of *permanent* partial and total disablement. The extract is as follows:—

"For the purpose of liquidating the indemnity in the case of permanent inability, absolute or partial, the following rules shall be observed:—

"(1.) Permanent absolute invalidity will be held to consist in the total loss of—

"(*a.*) Two arms or two hands:

"(*b.*) Two legs or two feet:

"(*c.*) An arm and a leg, or a hand and a foot:

"(*d.*) The sight of both eyes:

"(*e.*) Loss of mental power involving inability to work.

"(2.) Permanent partial invalidity will consist in the diminishing in part, but essentially and throughout life, the fitness to work. In cases of permanent partial invalidity, with a view to the liquidation of the indemnity, the annual salary may be held to be reduced in the following proportions:—

	Per Cent.
"The total loss of the right arm, or the greater part of the arm	80
The total loss of the left arm, or of the greater part of the arm	75
The total loss of the right hand, or of five fingers of the right hand, or of the lower part of the right arm, or of a thigh...	70
The total loss of the same for the left hand and arm	65
The total loss of a leg	60
The total loss of a foot, or the lower part of the leg	50
The total loss of the sight of one eye, together with the serious diminution of the sight of the other eye	50
The total loss of hearing	40
The total loss of the sight of one eye	35
The total loss of the thumb of the right hand	30
The total loss of the thumb of the left hand	25
The total loss of the forefinger of the right hand	20
The total loss of the forefinger of the left hand	15
The total loss of part of the thumb of the right hand	15
The total loss of the little finger of the hand	12
The total loss of the middle, or ring, finger of a hand	8
The total loss of a toe or of a joint of a finger	5
Inguinal rupture	15
Complete deafness of one ear	10
For serious mental disturbance, which does not exclude manual labour, the wages may be considered reduced to the extent of	50
In case of the loss of several members, the reduction of wages corresponds to the sum of the relative quota of the single reductions, but must not exceed in all	80

"The total and incurable paralysis of the limbs or of the powers renders them completely useless, and is equivalent to the total loss of them. When, instead, it renders them only partially useless, the reduction of wages may be considered in the measure directly inferior, and may not go beyond the minimum limit of 5 per cent."

Some remarks made by Mr. Nicoll appear to me to be singularly appropriate at the present juncture, as showing the necessity for a schedule by means of which compensation for various injuries can be readily assessed. He says, "Again, the regulations in the Italian Act fixing the proportions of inability to be assumed in connection with the loss of various members of the body must tend to make the administration of the law much more simple and uniform. Vagaries have been noticed in this respect in connection with the working of our own law (*i.e.*, in Great Britain), and there is no doubt that some such regulations as are contained in the Italian law would tend very much to improve matters with us (*i.e.*, Great Britain) in fixing the amount of compensation payable under our Workmen's Compensation Act. It would seem that in Germany the Miners' Union and accident insurance companies have, in like manner, fixed upon a scale of values to be allowed for injury. According to that scale, loss of a left hand is estimated as causing a reduction of 60 or 70 per cent. of the industrial value; loss of a right hand, a reduction of 70 or 80 per cent.; and loss of both hands, a reduction of 100 per cent." This matter has also been further considered in Germany, for I find in a book entitled "Examination for Life Insurance," by an eminent American practitioner, Dr. Charles Lyman Green, who is an ex-president of the National Association of Life Insurance Examining Surgeons in the United States, a somewhat similar scheme in the form of a chart, the particulars of which are as follows:—

G. Haag's Graphic Schedule (apparently in connection with the German Scheme of Compulsory Assurance), showing the Percentage Loss of Earning-power through Permanent Partial Disability (Compensation allowed equal to 60 per Cent. of Disability under the State System of Compulsory Insurance of Workmen).

Nature of Disablement.	Percentage of Total Disablement.
Loss of one eye (according to qualifications of workman)	30–40
Union of the bones forming joint at the shoulder, complete, right arm	50
Ditto, left arm	40
Inability to elevate arm to the horizontal, right arm	30
Ditto, left arm	20
Habitual dislocation at shoulder, right arm	35
Ditto, left arm	15
Deafness, both sides	75
,, one side	10
Elbow—	
Active subluxation (partial dislocation), right	60
Ditto, left	50
Passive subluxation (partial dislocation), right	75
Ditto, left	60
Union of the bones forming joint at right angles, right	40
Ditto, left	30
Union of the bones forming joint at obtuse angle, right	60
Ditto, left	50
Arm—	
Entire arm, right	80
Ditto, left	70
Paralysis in radial distribution, right	50
Ditto, left	40
Paralysis in ulnar or median distribution, right	75
Ditto, left	60
Badly united classic fracture of radius, right	60
Ditto, left	50
Hand—	
Union of bones at wrist, right	40
Ditto, left	30
Loss of entire hand, right	75
Ditto, left	65
Loss of thumb, right	25
Ditto, left	20
Loss of first finger, right	17
Ditto, left	15
Loss of second finger, right	13
Ditto, left	12
Loss of third finger, right	9
Ditto, left	8
Loss of little finger, right	11
Ditto, left	10
Hernia in linea alba	50
Inguinal hernia	10
Bilateral inguinal hernia	15
Femoral hernia	15
Bilateral femoral hernia	20
Large hernia with escape of intestine	50–100
Hip exarticulation (amputation), right or left	85
Knee (right or left)—	
Subluxation (partial dislocation)	50
Relaxation improved by apparatus	25
,, ankylosis (union of bones of joint), straight	50
,, ,, ,, at obtuse angle	80
Fracture of knee-cap unsuitable for extensor apparatus	50
Amputation above knee-joint	80
,, below knee-joint	60
Shortening (of leg) compensated for by obliquity of pelvis or elevation of sole	20
Pseudarthrosis (false joint)	80
Ankle ankylosis (union of bones of joint)	30
Foot, loss of	40
,, ,, part of, if involving loss of support	40
Big toe, loss of	10
Any other toe	5
All affections of the lower extremities requiring use of cane, crutches, or prothetic apparatus	50–75

There are certain proportions for limbs, arms, thumbs, and fingers just as in the other case, as well as for other permanent injuries. I am supplying this information to show you that this aspect of the matter is receiving consideration (and in one case practical effect) in other countries; and in view of what I say I think that the schedule should be altered and extended as in the appendix hereto. While the Committee may regard some of these suggestions as tentative, still, on the other hand, some such scheme if adopted would prove of great advantage in actually administering the law. There is no doubt that in the experience in this Dominion these matters are not at present settled by any uniform method, but simply according to the pertinacity of the worker, or the pertinacity and ability of his lawyer. There are no merits in many of the cases, and the Department, in common with all the insurance companies, simply gets out of the difficulty as best it can without litigation. By having a simple scheme which would be fair to all, much of the existing friction and difficulty would be avoided. It is impossible at present to deal with such matters on a uniform basis.

29. *Mr. Ell.*] The companies never know where they are?—No. If there was some such scheme as this there would be much less litigation, because the employer would know, if a man lost his finger, how much he would have to pay, and the same with other injuries.

30. *Mr. Bollard.*] There are many serious injuries that a man may receive which would not be covered by that?—Yes, there are internal injuries; but, of course, no schedule could possibly provide for those.

31. If this Bill becomes law will it increase premiums?—We have gone into that very carefully in the office, and taken into consideration the increased benefits under the Bill, and, so far as we can see, the extra benefits would not increase the present premiums beyond 7½ to 10 per cent. We are as confident as we can be in the circumstances of that, so that if a man was paying a premium of 10s. on his wages at present he would simply pay about 11s. under this Bill.

32. It would be 10 per cent on the present premium?—Yes. In connection with the premiums generally we are, of course, more or less groping in the dark, as the companies did and are still to some extent doing in England; but I do not think that the premiums should be increased more than I have stated.

33. It would not be more than 10 per cent. in any case—not even in some of these special trades?—No, I think not. Of course, all our premiums are subject to alterations. As we gain experience from the statistics we are keeping, that must happen. What I should say is that, apart from any other reasons which would operate whether or not this Bill is passed, we do not think that the actual passing of the Bill would increase premiums by more than 10 per cent.

34. *Mr. Hardy.*] In the case of farm labourers—that is a tremendous section of the business of the country—will it increase the premiums?—I do not think so—not more than generally. I know of no reason why it should.

35. Do you think it would increase them by from 7½ to 10 per cent.?—I think so.

36. You have given us a great deal of information about the schedules: have you taken into consideration, in dealing with the special trades, why some limb should be more valuable to a farm labourer than to a clerk, or more valuable to a clerk than to a farm labourer, or does your scheme place all on the same level?—We have considered that, but in a scheme of this kind we can only deal with matters in the rough.

37. Have you any scheme which would assess the value of limbs according to the special trades in which those limbs would be required?—I do not think so. It would become so involved that it would be impossible to work it out in practice.

38. The loss of a leg might not injure a clerk very much, but it would almost entirely incapacitate a farm labourer, and it would be of very much greater value to him than to a clerk: I presume you know that?—Yes, but we could not deal with that aspect of the matter practically, because, as I say, the effect would be different in every occupation.

39. Then you think it would be better to deal with all alike and put all on the same footing in accordance with the amount insured?—I do not see how you are going to arrive at any scheme of so extended a character, at all events until much more experience has been accumulated.

40. You think there may be special value to these limbs according to the occupation?—I think the loss of a leg would be more serious to a farm labourer than to a clerk, but I do not see any method by which we can deal with such a matter.

41. You fear it might break down the usefulness of the schedule?—I do not think that.

42. Then why not provide for it?—Because we should need to have an extended schedule, and the matter is somewhat involved. We are not at present prepared to formulate such a detailed scheme.

43. If it is a good thing, why not have an extended schedule?—I am not prepared just now to suggest to the Committee the basis of an extended schedule. I think it would be sufficient at present to give the proposed scheme a fair trial, and then, if we find we could extend it, to do so. We could feel our way as we went along. I think the whole idea an excellent one, and, as you will see from what I have said, there is independent authority in England in the same direction. Your suggestion is, however, one that might fairly be considered later on as we accumulate experience. We might find that the whole thing might require reshuffling, and we could then possibly suggest what is needed. The Government could then adopt some such idea if it thought fit. I have no doubt the Government would carry out any reasonable suggestion the Department might make, because their desire would be to make the Act as fair and workable as possible.

44. *Mr. Barber.*] I am not quite satisfied with the First Schedule. The object is to enable you to charge differential rates in the trades defined as hazardous, which will be required to pay a higher premium?—So far as I am concerned such an idea never entered into my mind as to make a distinction merely because of the schedule. The object is to get rid of that doubtful expression "hazardous." Under the present law the position, where the employment is one not

ordinarily covered by the Act, depends on the interpretation of the word "hazardous," which in turn depends upon the interpretation put upon it by the Arbitration Court. This is an effort to strictly define "hazardous trades."

45. If I wanted to insure a worker to cover my liability under this Act, should I have to pay a higher premium if the employee was working in one of these hazardous trades?—No more than at present. Supposing you have a navvy excavating on your place. That is not your usual business. That would be a hazardous occupation, but you would have no more to pay than an ordinary man employing a navvy would.

46. If I want to protect myself against liability, and I take out a policy, shall I have to pay a higher premium, because the trade the man is engaged in is classed in this schedule as hazardous?—No, the premium will not be altered from what it is at present, except to the extent that may be necessary owing to the passing of this Bill.

47. In the First Schedule a hazardous occupation is "the charge or use of any machinery in motion and driven by steam or other mechanical power." Well, every girl employed in a factory comes within that definition; she is working machinery that is driven?—That provision only brings in people who are not already provided for. It will make no difference to the premium.

48. *Mr. Bollard.*] I suppose injury to a farm labourer carries about the lowest rate of premium?—It is at present 10s. per hundred on the wages.

49. Suppose I send him up to clear the gutters in a two-story building—my dwellinghouse—and he falls down and breaks his leg, would he be covered?—Clearly: he is doing something in the ordinary course of his duty. It is all part of his work.

50. If I sent him up to cut off the tops of my trees, would he be covered?—I think so, if it was an odd job. But you might put him to heavy work like bushfelling, and then he would not be covered, because the rate would never pay for that.

51. *Hon. Mr. Millar.*] At the present time are the premiums remunerative?—I think they pay fairly well, but there is not much profit in them.

52. The employers of workers provided for under this Act will pay a maximum increase of 10 per cent. on existing premiums?—I think so; subject to this: that as we go along, apart altogether from anything in the Act, it may be necessary to lower or raise the premiums as we gain experience; but I do not think anything in this Bill will increase the premiums by more than 10 per cent. except in connection with the miners' risk of pneumonoconiosis. I cannot say what will be the effect of that. The rates of miners may or may not be more than ordinarily affected by that particular disease.

53. If this Bill becomes law there will not be as a maximum a higher increase than 10 per cent., and there might be less?—Yes.

54. Do you anticipate that by the reduction in the legal expenses incurred you will be able to pay the increased amounts?—I think the Bill will have a material effect in reducing the law-costs, and if some schedules such as those I have suggested are adopted the expense will be materially reduced.

55. It will not be necessary to consult a lawyer, because the injured person will know what he is entitled to receive for the particular injury, and all he will have to do will be to prove the amount of wages he has been receiving?—Yes. The monetary loss of a finger or any other injury is measured by the schedule, and if there was any dispute the Government referee would settle that.

56. *Mr. Ell.*] In answer to the Minister you said the Bill might considerably lessen the legal costs of the Department: can you give us a rough estimate of the legal costs?—I could not do that. It would involve analysing cases for many years past. There is no doubt, however, that a great number of disputes would be avoided.

57. Without any legal costs?—Unless the worker foolishly went to a lawyer to contest the case. I think it would save the time of the Arbitration Court if some such scheme as I suggest were adopted.

58. *The Chairman.*] There would be elements of finality that are not present now?—Yes. The matter at present largely depends upon the opinion of the Court and the pertinacity and ability of the lawyer. So far as the companies are concerned, they get out of the claims as best they can without litigation, but the position is frequently made much more difficult when lawyers are imported into the matter.

59. I suppose the report from which you read extracts has been written in the interests of only the insurance companies?—I think decidedly not, as the writer of the paper which was read at the Institute of Actuaries was speaking not in the interests of the insurance companies, but from an academic and entirely impartial point of view. He is not a partisan, but was speaking to his fellow-members, and not to the public. His views must therefore be thoroughly unbiased.

60. If he were an examiner for the insurance companies we might fairly assume he was writing for their benefit?—The paper I quoted from is from the *Journal of the Institute of Actuaries.*

61. The other writer you quoted had a pretty well defined list of injuries?—Yes.

62. And that has been worked out on a practical scientific basis?—I think so.

63. It is not guesswork, for every part of the human frame and every joint is mentioned?—Yes. That is from the German experience. That country has an extended scheme of insurance against invalidity and other disabilities of a far-reaching character. I am distinctly of opinion that the schemes I have indicated would work out well in practice and give satisfactory results.

Appendix.

Second Schedule.

Nature of Injury.	Ratio of Compensation to that for Total Permanent Incapacity of the Worker if this Schedule did not apply.
Loss of both eyes	The present value at 5 per cent. compound interest of the full weekly compensation as for total permanent incapacity (as above).
Loss of both hands	
Loss of both feet	
Loss of a hand and a foot	
The total and incurable loss of mental powers, involving inability to work	
The total and incurable paralysis of the limbs or of the mental powers ...	
The total loss of the right arm, or of the greater part of the arm ...	80 per cent. of ditto.
The total loss of the left arm, or of the greater part of the arm ...	75 " "
The total loss of the right hand, or of five fingers of the right hand, or of the lower part of the right arm	70 " "
The total loss of the same for the left hand and arm	65 " "
The total loss of a leg	75 " "
The total loss of a foot or the lower part of the leg	60 " "
The total loss of the sight of one eye, together with the serious diminution of the sight of the other eye	75 " "
The total loss of hearing	50 " "
The total loss of the sight of one eye	30 " "
The total loss of the thumb of the right hand	30 " "
The total loss of the thumb of the left hand	25 " "
The total loss of the forefinger of the right hand	20 " "
The total loss of the forefinger of the left hand	15 " "
The total loss of part of the thumb of the right hand	15 " "
The total loss of the little finger of the hand	12 " "
The total loss of the middle or ring-finger of the hand	8 " "
The total loss of a toe or of a joint of a finger	5 " "
Complete deafness of one ear	10 " "
In the case of the loss of several members, the reduction of wages to correspond to the sum of the relative quota of the single reductions, but must not exceed in all	80 " "

* (1.) For the purposes of this schedule the loss of one eye by a worker who is already permanently and wholly blind in the other eye shall be deemed to be the loss of both eyes.

* (2.) For the purposes of this schedule the loss of a hand or foot by a worker who has already lost a hand or a foot shall be deemed to be a loss of both hands, or both feet, or a hand and a foot, as the case may be.

(3.) For the purposes of this schedule an eye, hand, or foot shall be deemed to be lost if it is rendered permanently and wholly useless.

(4.) Where a worker suffers by the same accident more than one of the injuries mentioned in this schedule, he shall not in any case be entitled to receive more than full compensation as for total incapacity.

* These—*i.e.*, (1) and (2)—should come out, otherwise they may affect premiums. The inclusion will sooner or later prevent such people getting work, as the insurance companies will be doubtful about covering such risks if specially dealt with in this way, the liability being so great.

FRIDAY, 18TH SEPTEMBER, 1908.

GEORGE HENRY LIGHTFOOT examined. (No. 4.)

1. *The Chairman.*] What are you?—President of the Wellington Trades and Labour Council.

2. Your Council takes some interest with regard to this workers' compensation question?—Yes, we have considered the Bill at some length.

3. You have had a copy of this Bill?—Yes.

4. And you are here in a representative capacity on behalf of the Council?—Yes.

5. Will you proceed with your statement in your own way?—I might say that my Council is very well satisfied with the Bill, generally speaking, but there are one or two small matters which we think could be amended. There is one thing I would like to refer to before proceeding further, and that has regard to the last paragraph in the memo. to the Bill.

6. The memo. is never part of a Bill: it is supposed to be a description of the Bill when first introduced; it is only supposed to be explanatory of it in the first instance?—We have looked through the Bill very carefully, and could not discover anything regarding this last paragraph: "But he cannot sue his employer for damages merely because of the negligence of a fellow-servant." There is nothing in the Bill covering that. If the Committee is satisfied of that we will take no further notice of it, but we would like to be assured on the point.

7. You say the statement is not borne out by the Bill?—I do not think so, but I was instructed to ask for information as to whether it was borne out by the Bill, or whether it was the intention of the Committee to include it. It is one of the most dangerous things, and might take away all the good points in the Bill, or a good many of them.

8. I do not see anything in the Bill to that effect, but we will keep the point in view?—We would like to suggest, if there is any possibility of getting it, that the amount of compensation shall be computed on the weekly payment of the whole of a worker's wages instead of one-half. My Council feels that when a worker is incapacitated he is really in want of more money than when he is actually working, and if a provision could be inserted to that effect it would be a very great improvement in the Bill. But I suppose it would be difficult to get that, because it would raise the premiums to be paid to the insurance companies.

9. Does this make any alteration in the existing law?—No. The existing law provides for one-half. Then we would like to have struck out the bottom of clause 2, in the definition of "worker," "but does not include any person who is a relative of the employer and dwells in the employer's house, or any person whose average weekly earnings, calculated in accordance with the provisions of this Act, exceed five pounds."

10. If his payment exceeds £5, and he is excluded, he is not debarred from any other method of procedure?—He would not be able to proceed under this Bill, and if the Employers' Liability Bill is repealed I do not see what other remedy he would have.

11. That person is put outside the scope of this Act?—Yes, and we think that should not be so.

12. Does this make any alteration in the existing law?—I do not think it does. Relatives are not mentioned, and have the same rights as other workers.

13. It narrows the definition of "worker"?—Yes, and it might possibly cause hardship.

14. There may be a valid reason for that?—A man might be in business and have a relative—even a distant relative—working for him, and if he met with an accident the employer might turn him adrift, and he would have no recompense at all. It seems to me to be rather a dangerous position. The relative might be a cousin or brother-in-law.

15. We will take a note of that for future reference. Can you point out anything more?—Clause 16, subsection (2): We ask that the following provision be embodied in the Bill: "That no agreement between an employer and a worker, whether made before or after the coming into operation of this Act, shall be effective so as to exempt the employer in whole or in part from any liability to pay compensation under this Act for any injury to be suffered by the worker." I know of one case that happened about three years ago where a man was permanently injured for life, and he accepted, on the representations of an insurance company, a sum of £30 as a total settlement. I could give the man's name, but do not care to have it published.

16. Is that man totally incapacitated now?—He can work, but cannot earn full wages. He has lost the grip of his right hand.

17. Are we to understand that your Council is entirely opposed to this contracting out?—No; but we object to an agreement being come to when the worker does not get the full benefit of the Act.

18. You object to it to that extent?—Yes; he should get the full amount he is entitled to under the Act. Clause 19, subsection (2): This makes provision for the relatives of the deceased worker to take proceedings. We ask, if the deceased was a member of a union, that the union shall be entitled to take proceedings on behalf of the relatives, particularly where they are residing at a distance or out of the Dominion.

19. You would really have the interpretation clause altered, and extend the definition of "representative" to include a union representative?—Yes, that would cover it.

20. And the alteration would come in in subsection (2) of section 19?—Yes, and also in the interpretation clause. Clause 27 I am not clear about. I am afraid it would have the effect of hanging up an action for an indefinite period. I think provision should be made that the action should not be unduly delayed because that security is not given.

21. How would you meet the difficulty, then?—As a rule the person liable might possibly be resident out of New Zealand, and yet be protected by the insurance company doing business here; but because the original party was resident outside the Dominion the insurance company might stay proceedings for an indefinite period. That is pretty well all I have to say in regard to the Bill, but there is a matter in the First Schedule regarding hazardous occupations I would like to refer to.

22. Do you object to some of the occupations being included?—No. We would like to add to the schedule those who are engaged on wharves and ships.

23. That would include sailors?—Yes.

24. Would you limit the definition by saying "those engaged on wharves and ships while loading and unloading"?—I think it should apply to ships when trading in New Zealand waters.

25. *Hon. Mr. Millar.*] They are absolutely covered here. The schedule only applies where the principal is liable if he is not the direct employer in these particular trades. There is a clause which provides that the principal does not become liable unless the contract is over £20?—It would be sufficient if it covered men engaged on ships and wharves while the ship was in port either loading or unloading.

26. The principal there is always responsible: it is the shipping company or Harbour Board who is employing those men?—That is so.

27. Under the original Act, if you engaged a porter to carry your luggage from the wharf to the hotel, and he was run over while doing so, you would be personally liable for £400; if you engaged a man to put a pane of glass in your window, and while he was doing so he fell down and broke his leg, you would be liable. The principal becomes responsible in any of these hazardous

trades if the contractor cannot pay?—I think it would be an extra safeguard to have those employed on wharves and ships included in the schedule, because the actual employer in some cases might not be a strong man at all. We should also like to see provision made in the Bill providing for medical aid and expenses incurred in the removal of the injured person.

28. There is in the case of death, up to £20?—Yes, but not for an ordinary accident. We think there should be provision for medical aid and the cost of conveying the worker to his home.

29. You do not mean for the payment of all his hospital expenses and medical attendance while he is ill?—No, we are not asking for that, but merely for first aid and the cost of conveying the injured worker to his residence or to the hospital. This should be made a first charge on the employer.

30. It is to cover the position where a number of people stand around an injured person, and no one likes to assist for fear of being held responsible?—That is so, it is everybody's business and nobody's business. Unless some one is made responsible there is no one to blame.

31. You want it made a first charge on the employer until the injured man can be put in charge of responsible persons?—Yes. I think that is all I have to say in reference to the Bill.

32. *Mr. Barber.*] Do you think the alteration in the law you suggest will affect the premiums charged by the insurance company?—I am not in a position to state exactly, but I do not think there is anything in the Bill as it stands that would materially affect the existing premiums; but I am not an actuary.

33. *The Chairman.*] There is now a limitation of time provided within which an action may be brought, so that it is not possible for a person years afterwards to claim compensation for an accident. Do you consider it fair to either party to allow actions to be brought after a period of twelve months has elapsed? Is not twelve months a reasonable period?—I think twelve months would be a reasonable period in the majority of cases. There might be cases where an internal injury would not show out in that time, but almost any injury would show itself within twelve months.

WILLIAM HENRY BENNETT examined. (No. 5.)

1. *The Chairman.*] What are you?—President of the Builders' Federation of New Zealand.
2. Whom do you represent?—The Employers' Federation.
3. You have made yourself acquainted with this Bill?—Yes, as far as I possibly could.
4. And in giving evidence here you are speaking on behalf of the Federation?—Yes.
5. Will you tell us what impression the Bill makes on you?—The Bill is a very large one, and there are some very important questions involved in it. I have made a few notes, which I will give you as shortly as possible. The first point noticed has reference to the interpretation of "relatives." It has a very wide scope, and in this connection we note what we consider to be an unwise provision in subsection (*c*), section 4, Part I—unwise in that it might happen to be a question of fact where the only person able to disprove it might be dead. Further on in the interpretation of the clause, lines 10, 11, and 12, we fail to see why the relative of an employer should be deprived of benefit under this Act. In connection with this I might mention that I have a son who is in charge of my workshop. I state this case because it comes home to me personally, and I know the facts are as I give them. Unfortunately, my son lost two of his fingers in a planing-machine. Why should he, I ask, be deprived of compensation under this Act because he works for his father?
6. Was he insured under this Act?—He was insured with the rest of my employees, and received a certain amount of compensation from the insurance company, but under this Bill he would be deprived of that.
7. *Hon. Mr. Millar.*] He lives in your house?—Yes. We suggest that the words after "person" in the tenth line to the word "house" in the twelfth line be struck out, and that a new clause be added making it necessary that when a relative is included among the employees due notice be given to the company insuring. That would, of course, enable the insurance company to make any inquiries they desired as to the *bona fides* of the employment. Section 5, subsection (6): Why mention "average weekly earnings" when section 6 sets out that it must be based on the amount received when working full time? Take the wharf labourer, for example: It is constantly urged before the Arbitration Court as a reason for high wages that the average weekly earnings are low, while it is admitted that the hourly wages are high. If a man works full time at 1s. 6d. an hour he would be making £3 12s. a week, although nearly always it is much less. Under this clause he would be paid £1 16s., which, added to his club money, if he belonged to a benefit society, would make him better off than when he was working. Should not clause 6 be altered to read "average actual earnings"? An employee may not be an average worker; he may be a man who is very casually employed, but when he does work he gets a fairly high hourly wage. If his compensation is to be based on a full week's earnings we thing it would be unfairly loading his insurance money. Clause 9, line 31: We think the word "wholly" should be inserted between the words "is" and "due." In connection with the industrial disease referred to in clause 9, subsection (5), we think this will cause a lot of trouble and litigation. Take a painter or plumber, for instance, who is a casual hand working for a number of employers during the twelve months: how is he going to set out the liability of his several employers if he gets lead poisoning? which in many cases is caused by the uncleanly habits of the worker. After a good deal of consideration we fail to see why certain occupations are set out as "hazardous." The only reason that we can see why these occupations are set out as hazardous is that the insurance company may load them with extra premiums. Section 12, subsection (8), treats of a subject that is giving the building trade a great deal of anxiety. It sets out that the principal and contractor, as well as the subcontractor, are liable to pay compensation to an injured workman employed by the subcontractor. That is all right, but what about the subcontractor himself?

Is the principal and contractor liable for an accident that may happen to the subcontractor? who, by the way, is not covered by an accident-insurance policy—not being an employer under the old Act. If clause 55 is carried we fear it will be extended to all subcontractors, which is not necessary, as these subcontractors are to all intents and purposes contractors in their special lines. It appears to us that the whole trend of this amendment is to increase the rates of insurance from 10 to 20 per cent., and they are very high now. Clause 24 is very wide in its application, there being no limit to the time when a worker, having secured a declaration of liability—and he has twelve months in which to do so—may claim compensation. He may remove to other parts, where his actions and movements are not under review, and his ultimate trouble may arise from quite different causes to those under which he has secured the declaration. We think in the first place that the three months under the present Act is quite long enough for the injured worker to make his claim, and that the limit should be stated during which he may claim compensation. The Second Schedule sets out the compensation payable for partial disablement: For the loss of one hand, 80 per cent.; the loss of one foot, 60 per cent.; the loss of one eye, 30 per cent.; and then it goes on to say that for the purposes of this schedule the loss of a hand or foot by a worker who has already lost a hand or a foot shall be deemed to be a loss of both hands, or both feet, or a hand and a foot, as the case may be. It seems to us that under this clause a man may receive £400 under the 80-per-cent. provision for the loss of one member, and for the other loss it is a further £500. This will tend to prevent men partially disabled obtaining employment. The raising of the amount for total incapacity from £300 to £500 we think is too great an injustice, and should not be more than £400. I do not know that I have anything further to say. We feel that in several particulars this Bill has been operated upon by the insurance companies, and that they are amply guarded, and that, especially in relation to relatives and the length of time in which workers can make their claims, the provision should remain as it is under the present Act.

8. *Mr. Arnold.*] You referred to the clause in reference to lead-poisoning, and said that this was brought about greatly on account of the uncleanliness of the worker?—Yes. I have a case before me that happened in Wellington some years back, where a painter got a painter's colic so badly that he was totally unable to follow his employment, and the medical testimony was to the effect that the paint and putty the man was continually using had entered his fingers by means of the finger-nails, and any one who knows anything about the trade at all knows that paint and putty does collect around the base of the finger-nail, and that unless it is kept continually clean the poison enters the system and does the man a large amount of injury. It is also known that, especially among men of intemperate habits, this regularly happens. I have been told that men who are handling quicksilver in connection with quartz batteries are very much liable to the same thing. It is through carelessness in handling poisons that this injury is caused.

9. *Hon. Mr. Millar.*] You are aware, I suppose, that these hazardous trades have been included in the English Workers' Compensation Act for years?—I understand this is based on the English Act.

10. Do you not think it is right that where men are engaged in the same industries they should have the same protection as they have in Great Britain?—Yes; but why should particular trades be picked out and called "hazardous."

11. I am referring to diseases?—I think the workers should be protected, certainly.

12. You would not be put in a worse position in such trades than the employers in Great Britain?—No, I do not think so. Our trouble here is this: that our work is so casual in its nature that the workman is continually shifting about from employer to employer; he may perhaps have five or six employers in six months, and under such circumstances which particular employer is going to be saddled with the responsibility?

13. You are aware that the schedule containing the hazardous trades is inserted with the object of providing that the employer is liable where the contractor is not in a position to pay. It is to cover a case where an employer goes into some speculation outside of his regular business. Under the present Act the principal is responsible for every five-pound note if the contractor cannot pay. The definition is now so large that every man is liable for the compensation due if the actual employer cannot pay?—I am quite satisfied with that explanation. We have been puzzled over this matter for some time, and if that is the explanation of it I am perfectly satisfied.

14. Another clause says that the principal is not liable unless the amount is over £20 for the contract. At present he would be liable for any accident if the employer could not pay?—That explanation is perfectly satisfactory.

15. You said that the payment of compensation ought to be taken on the average earnings per week. Under the old Act they paid on the average wages, and we found that if a man happened to work for three hours at a particular trade it was based on that. I remember a case where a man was employed on the Dunedin *Evening Star* to unload rolls of paper: he had been employed for about four or five hours when one of these rolls fell on him and broke his leg, and the amount of compensation paid by the insurance company was only half-a-crown a week, because his average earnings were only 5s. a week. Do you consider that fair?—No; but I think there are other ways of meeting a difficulty like that. You might limit the minimum amount to be paid. The present proposal to base it on the full weekly wage is wrong, and I think the employers would be quite willing to fix a minimum amount below which a man could not be paid.

16. That is to say, you prefer the old clause of the Act to this?—Yes. We quite recognise that there are portions of the present Bill which are far preferable to the existing law, and we think the provision for definite sums to be paid in the case of particular injuries is a step in the right direction. We employers have had some experience of lawyers who have got hold of these cases and worked up trouble, while they have really taken away a great amount of the compensation in law-costs which should have gone to the worker. Anything that will do away with that practice will be of great benefit to the country generally.

17. You are aware that you are liable at present under the common law and the Employers' Liability Act. It is now laid down that there are only two ways by which proceedings can be taken —viz., under the common law or under this Act; and if the parties lose at common law they cannot go back to the Workers' Compensation Act. The maximum, as you know, under the Employers' Liability Act is £500, and if £500 can be given under this Act without increasing the premiums it must be of benefit to the parties?—We understood that it was going to raise the premium from 10 to 20 per cent.

18. We have had the representatives of two of the largest insurance companies doing business here, and there is one more to come to give evidence. Mr. Montefiore and Mr. Richardson have appeared before us to give evidence in order that the Committee and the House may have an opportunity of knowing what their opinions are with regard to the proposals in this Bill increasing the premiums; and if from their evidence the Committee is satisfied that there would not be an increase in the premium if the provisions of this Bill were adopted, would that not remove the objections your Federation has against the Bill?—Yes. Can you tell us why subcontractors have been included in the clause as coming under the Workers' Compensation Act—clause 55, I think it is?

19. We have a case at the present time showing the necessity for this—that in connection with the Crown Mines, in the Thames district, where the management has deliberately said "We do not let a contract." It is a class of work where a small kind of contracting goes on. They do not call for tenders. They go to five or six men, and offer them a certain amount of driving at a winze or at a stoping at a given rate; and it is for that reason this clause is put in—in order that the trouble may be got over. There is no attempt to interfere with legitimate contracting, but there is a desire to get over what has been deliberately done to evade the law by placing a responsibility on men which by law the company ought to meet?—Yes. An explanation of these things makes a lot of difference.

CHARLES ALFRED EWEN examined. (No. 6.)

1. *The Chairman.*] What is your position, Mr. Ewen?—General manager of the Commercial Union Assurance Company in New Zealand.

2. Have you seen this Workers' Compensation Bill?—I have just seen it. I looked at it last evening.

3. *Hon. Mr. Millar.*] Was not a copy of it sent to you some time ago?—I did not see it.

4. We sent out copies when the Bill was presented?—That may be so, but I did not see it.

5. *The Chairman.*] We should like to hear any objections or suggestions you would like to make in connection with the Bill?—I spent several hours looking over it last night, but can only speak in a general way regarding it. I should not like to criticize the Bill after only a few hours' reading. I suppose you would like to know what effect I think it would have upon the employers of labour as far as insurance premiums are concerned.

6. Yes?—As far as we are concerned, I have taken out figures with regard to our business, which I am sorry to say has been less than that done by some companies, and I find that had the Bill been in existence during the last twelve months it would have necessitated an increase in the compensation paid of about 30 per cent.—that is to say, the employers would have been liable to pay that amount in excess of what they have paid.

7. Do you mean in amount or in number?—In amount. As far as our business is concerned, we should have required an increased income of about 10 per cent.—between 10 and 15 per cent.; that is irrespective of two of the clauses in the Bill which we have been trying to get at the bottom of, and cannot quite follow—clauses 24 and 10. They are unknown quantities—they contain unknown liabilities, and only experience can tell us what premiums will be required to cover them. As far as clause 24 is concerned, I am afraid no company could cover that liability. A man may be injured slightly, and make a declaration which enables him at any time—perhaps years afterwards—to make a claim for total incapacity from labour. That, I think, opens the door to very doubtful claims.

8. But the claim provided for in clause 24 would have to proved before the declaration of liability was given: he may bring an action against an employer, or any person liable, for a declaration of liability, and the Court may in that action make a declaration of that liability; but it would have to be proved, would it not?—We are not quite clear about that. Two or three of us have gone through this clause. A man apparently may be injured, and have a claim for compensation. He may think it will permanently affect him, and can make a declaration which, ten years afterwards, will enable him to make a claim upon the employer.

9. *Hon. Mr. Millar.*] I will explain the reason for this provision: A man, say, is working in a blacksmith's shop, when a splinter flies off and goes into his eye. There is a stoppage of work and he receives half-wages for perhaps seven or eight weeks, when the eye is apparently restored and he goes back to work. Six months afterwards he loses the sight of his eye, which is directly traceable to the accident. Under the present law he has no claim whatever for the loss of his eye, because in the meantime he has received half-wages?—You wish to reopen the case?

10. Yes, where it is proved at the time that the accident resulted in the total loss of the eye, and there is no doubt about it. The Court will have to be satisfied that the loss was directly traceable to the accident; in the case of an internal injury the Court would not be able to tell. The Court will only allow a declaration to be made in cases where it is sure that the accident was responsible for the injury sustained?—It is a very long period of time.

11. There might be a limited time provided. We should like to provide that, where an accident happens, and the ultimate result within a reasonable time is known to be permanent disablement or partial disablement, the benefits intended to be granted to the man should not be denied

to him because he had not taken immediate steps to make his claim immediately after the accident took place?—That seems quite reasonable, but the expression "at any time thereafter" is too indefinite. We had a case where three years afterwards a man who had received an injury went to Dr. Cahill and said that the injury he had received had now incapacitated him, but the doctor was not prepared to say that. That man eventually died of cancer in the hospital. An attempt might be made in such a case as that to use this clause.

12. *The Chairman.*] You would like to see this contingent liability limited?—Yes.

13. *Hon. Mr. Millar.*] The next clause says that where a man is malingering the Court may, instead of dismissing the action, make a declaration of liability, while the next clause again allows the Court to review its decision. These two clauses are framed with the simple object of providing that a man shall get compensation where he is entitled to it, but provision is made against malingering, because there have been cases where a man has dropped his crutch after he has recovered compensation?—Yes, there are a number of claims which are not *bona fide*.

14. We might put a limit of time in the clause you refer to, and if that is done would you be satisfied?—Yes, I think so. With regard to clause 10, which applies to accidents happening in connection with the shipping, subsection (2) says, "This Act applies to accidents happening on board a New Zealand ship, as defined in this section, to any worker in an employment to which this Act applies, wherever that ship may be at the time of the accident." Take, for instance, the s.s. "Aparima," belonging to the Union Steamship Company, which goes to Calcutta. She employs a number of men there to load and unload her.

15. They would not be covered, because they are not in the ship's articles?—Who makes the claim? Should it not read that accidents happening on board ship should apply to those on the ship's articles. I think the Bill would cover them quite amply.

16. It is only intended to cover the ship's crew. At present the law is that you are in New Zealand when within three miles of the coast, and this clause is to cover the men all the time they are on board the ship when in the service of the company. If the accident happened in Sydney the worker would still get compensation if he came from New Zealand?—Yes.

17. *The Chairman.*] Does not the second subsection do what you are asking for if the accident happened to a seaman employed on a New Zealand ship?—It does not say that it only applies to that.

18. *Hon. Mr. Millar.*] This clause does not apply to anything but the ship's crew, which is exactly as it applies within New Zealand anywhere on the coast within the three-mile limit?—Yes; and to the islands in Great Britain.

19. It does not apply to Great Britain?—What about the New Zealand Shipping Company?

20. The New Zealand Shipping Company is not registered in New Zealand, and it would not apply to the ships belonging to the Huddart-Parker line?—That is so.

21. Now, with regard to clause 23, "Limitation of actions under the Act": This limits the action for the recovery of compensation to twelve months after the date of the accident?—Surely that is too long. The present Act provides for six months; and further on, in subsection (4) of section 23, it says, "Failure to commence the action within the time limited shall be no bar if in the opinion of the Court the failure was occasioned by mistake, or by ignorance of fact or law, or by absence from New Zealand, or by any other reasonable cause." That surely opens the door to fraud. Surely in the case of a man meeting with an accident six months is enough to enable him to bring his action.

22. There have been cases where the employers, when a man has met with an accident, have strung him on by giving him half-pay for six months, and when he applied for the next six months' half-pay they have refused it because he had not given notice?—I do not think there are many workmen now who would misunderstand the position. I am speaking here from the insurance companies' point of view, and I think these two clauses must increase the chance of the employers having to pay higher premiums.

23. I suppose there will be a slight increase in the shipping rates, because you will have to carry the risk very much further?—Yes, and this section 23 will also affect our premiums. If the time is going to be increased to twelve months, 10 per cent. advance would not cover all these unknown quantities; we should want a 15-per-cent. increase.

24. *Mr. Alison.*] Do you mean an additional 10 to 15 per cent. on present premiums or on the additional premiums?—Ten to 15 per cent., say, in addition to those prevailing for the last twelve months. Ten per cent. would have been required to cover the additional losses if this Bill had been in force instead of the present Act.

25. Supposing you were charging 20s. per hundred, what would the additional premium amount to?—Twenty-three shillings. I am only now referring to the First Schedule, containing the hazardous occupations. With regard to the Second Schedule, we think it requires revision. It is rather bald: loss of one hand, 80 per cent. of compensation for total incapacity. Assuming there is a maximum of £500, £400 has to be paid for that. Then there is the loss of one foot, 60 per cent. With regard to the loss of one hand and one foot, I might say there is no provision made for the loss of a leg and an arm. A man may lose one hand and yet not suffer so much incapacity as a man who loses a whole arm. These rates would be fair enough in the case of a man losing the whole of his arm or his leg, but in the case of a hand or foot they are a little high. They are very much higher than have ever been paid in New Zealand.

26. There is no difference made in the loss of a hand and the loss of an arm?—No, and that would lead to litigation. And then there is the loss of a foot and the loss of a leg. We think the compensation for the loss of an *arm* might be reasonable, but it ought to be less for the loss of a hand or foot. In the second paragraph of the schedule it states, "For the purposes of this schedule the loss of a hand or foot by a worker who has already lost a hand or foot shall be

deemed to be a loss of both hands, or both feet, or a hand and a foot, as the case might be." That is to say, if a man loses his hand to-day he receives under this schedule £400, and next year, if he loses the other hand, he receives the minimum for total incapacity, £500—that is, £900.

27. Our attention has already been called to that by a previous witness. You think he had better lose those limbs at once from the point of view of the insurance company?—Yes. Of course, all we have to do is to regulate our business to indemnify a man for the risks he is running. I am merely pointing this out to you because it has a bearing on the premiums to be paid.

28. Although it might complicate that schedule, does it bear with anything like fairness on men in different professions? For instance, in the case of a clerk who has lost a hand, he might be able to turn over the pages of his books with his left hand, but a labourer could not wheel a barrow?—Just so. A skilled engineer who loses his right hand suffers more than a clerk who meets with a similar injury. A clerk very soon is able to write with his left hand, but the engineer must suffer a great loss.

29. Up to the present have the payments been uniform?—No: there have been adjustments in individual payments, sometimes a man getting £100 and sometimes £300.

30. *Mr. Alison.*] Take section 5, subsection (6), "During any period of total incapacity the weekly payment shall be one-half of the worker's average weekly earnings at the time of the accident": it has been suggested by a witness that instead of half the average weekly earnings it should be the full weekly earnings?—That would make a great increase in the premiums. Under the present Act the maximum weekly compensation is £2; under this Act it is £2 10s. Supposing a man were getting £5 a week he would be entitled to half of that, so you have increased the maximum by 10s. under this Act.

31. Then it would make a substantial increase in the premiums to be paid?—Yes, nearly double the amount, I should say.

32. With regard to clause 24, what time-limit do you suggest should be substituted for "any time thereafter," in line 18?—I have not considered that.

33. *The Chairman.*] We have had a suggestion from one witness that it should be limited to, say, five years: would that be any improvement?—Are you going to make insurance compulsory? because I suppose some employer would be liable. Supposing he has gone out of business or become bankrupt?

34. That was only a suggestion from a witness?—Our opinion is that such a thing is very liable to abuse. A man will endeavour to prove that the disease he has contracted has been caused by an accident which occurred years before.

35. Would you suggest a time which, in your opinion, should be fixed, as against the words "at any time thereafter"?—We were hoping to see clause 24 struck out of the Bill, but I understand from the Hon. Mr. Millar that we had not looked at its effect in the light intended. I should think a twelve-months limit would be enough.

36. After hearing the explanation of the Minister are you still of opinion that clause 24 should be struck out of the Bill?—No; there was a good deal in what he said. I had not thought of it in that light. There is a great deal to be said in its favour if the claim is *bona fide*, but there are many claims where the person tries to show that the injury is due to accidents that do not come under the Act. The longer the time the more difficult it would become to prove that the man was honest, because the witnesses disappear.

37. You consider that subsection (4) of clause 23 should be struck out altogether?—We think so, because that opens the door very wide. The Act has been in force long enough for all workmen to know pretty well when they have to put in their claim. I do not know whether there are any lawyers present, but I think a great deal of our trouble in the past has been due to workers having their claims built up by lawyers. Of course, there are lawyers and lawyers.

38. *Mr. Hardy.*] Do you think the proposals in this Bill are an improvement on the existing law?—I think the Bill is an improvement on the present Act. It makes clearer many matters which were obscure before.

39. You approve of the schedule being placed in the Bill setting out the amount of compensation for the loss of the several limbs and parts of the body in accidents?—I think that might be enlarged.

40. Do you approve of shortening the time for making claims against the companies?—I think the time provided here, twelve months, is too long.

41. You think, if an accident has taken place the effects of it should show themselves before the twelve months are up?—I think so, so far as our experience goes.

42. It would be possible for a man to meet with an accident that might not be very serious, and afterwards he might meet with an accident of a similar character, but more serious: would the claim be for the first or second accident, or just for the position in which the man may be in at the time?—If he is again injured and incapacitated, he would have a second claim, I should say. You are speaking from an employer's point of view.

43. I am speaking of an internal accident?—There is always a difficulty in handling those cases.

44. Do you cover many farmers' risks?—Not very many; a great many farmers carry their own risks. Those who employ casual labour do not insure—they do not cover their labourers.

45. Is it a payable or non-payable part of your business?—It is not paying a sixpence. We call it a cut rate. It has been cut down to 7s., 8s., and 9s. Of course, all these rates are taken by experience, and experience has only been brief in New Zealand. Experience has shown that farmers' risks will pay at 10s.

46. If these proposals become law, how much do you think the charges will be increased by so far as farmers are concerned?—I think they would be put back to 10s. per cent., the old rate.

47. It would increase it 25 per cent., at that rate?—I do not know that it would be fair to say this Bill would increase it. I think the old rate would have to come in even under the present law.

48. Do you think the present proposals will increase the rates?—Not so far as the farmers are concerned, but they will in all those hazardous risks mentioned in the First Schedule.

49. Not the farmers?—I do not see how the farmers will be affected to any extent.

50. *Mr. Barber.*] You believe the hazardous risks, as defined in the First Schedule, will increase the amount of the premiums—to what extent?—I think 15 per cent. would be a reasonable thing. The figures I have taken out show that had the Act been in force during the last twelve months we should have had to charge 10 per cent. more. Then, we want a margin for clauses 10 and 24, and I think a reasonable increase in the rates would be 15 per cent.

51. Do you think, if clause 24 were modified it would relieve the premiums to any extent?—I do not think any company could cover that—it is an unknown quantity. They might arrive at some rate later on.

52. *Mr. Alison.*] In your experience, are there many false claims made by workers?—Yes, there are; but I do not think they are always to blame.

53. Why?—I think they get into the hands of lawyers, who build up a claim. Of course, the percentage is not very heavy in such cases. I should not think more than 20 per cent. of the claimants get more than they are entitled to.

54. Do you find cases where the worker, after an accident happens, makes no claim at the time, but subsequently makes a claim on the company for injuries not due to that accident at all, but to some physical disease?—That has happened, but the cases are limited in number where men have attempted to claim afterwards.

TUESDAY, 22ND SEPTEMBER, 1908.

ERNEST VALENTINE MILLER examined. (No. 7.)

1. *The Chairman.*] What is your position?—Manager of the Colonial Sugar-refinery Works.

2. Where at?—Chelsea, Auckland.

3. You have seen the new Workers' Compensation Bill which is now before Parliament?—I have.

4. I understand there is a fund or benefit scheme in connection with your people which may or may not be affected by this Bill?—That is so.

5. Do you wish to make a statement with regard to this fund and its operation?—Yes.

6. We shall be glad to hear it if you will give it in your own words?—I would say, first, that there are two societies in connection with our employees at Auckland; one of these is called the Provident Fund, and the other is the Benefit Society. The two have different objects. The object of the Provident Fund is to provide a sum at death—life insurance; also pensions for the workers. The Benefit Society is founded to provide relief in cases of sickness, hospital subsidy, funeral-allowance, and some other benefits. We are enabled to carry on these funds on account of the exemption which we obtained from the operation of the Workers' Compensation Act—the existing Act. If the Bill becomes law the large subsidy which is paid to these societies by our company will be withdrawn, since the company will be liable under the law to pay compensation for accidents, and cannot be expected also to subsidise societies providing for accident and death, and the societies could not exist without the help from the company which they get at present.

7. That means that the contributions of the men would be insufficient?—Quite insufficient.

8. What is the proportion of the men's subscriptions and the contributions of the company?—In the Benefit Society the company gives pound for pound for the subscriptions of the men. In the Provident Fund the company has given a great deal more than pound for pound.

9. How long has the Provident Fund been established?—Since 1890.

10. And the Benefit Fund?—I think about two years subsequent to that—about 1892. It would be well to take the two societies separately, and I will speak first about the Benefit Society.

11. That is the one immediately affecting the men?—Yes. They get compensation for sickness and accidents, but in the case of the other fund they get the insurance and pension, which, of course, is a very important thing for them. When the Bill first came up, and at various other times, we compared the operations of the Benefit Society with the operations of the Act supposing there were no Benefit Society. The secretary took out the whole number of cases first of all for the five years ending 1906, and then the two years which have elapsed since that time. In the former period there were 684 cases relieved by the Benefit Society in the five years. The amount paid in relief was £1,322 9s. 11d. Most of these payments were for sickness, of course, and a few of them were for accidents.

12. *Hon. Mr. Millar.*] Give us the respective numbers?—I cannot give you that. I can give you the number of accidents which would have come under the operations of the Act.

13. Every accident comes under the operations of the Workers' Compensation Act?—But every accident will not be compensated, I believe.

14. Every accident where the worker is away from work for more than seven days?—Yes. Eight cases would have come under the Act.

15. *The Chairman.*] There were eight cases in which the men were incapacitated for seven or more days in the five years?—Yes.

16. *Hon. Mr. Millar.*] Were there any deaths among them?—No. The compensation paid was nearly as great as the compensation which would have been paid under the Act in respect of these particular accidents—that is to say, that in those eight cases the men received benefits from the society which did not amount to quite so much as they would have done under the Act. In

the two years up to date there have been 544 cases relieved by the Benefit Society, and the amounts paid £679 15s. Twenty of those cases would have come under the operations of the Bill if it had become law.

17. *The Chairman.*] They were over the seven days?—Yes. The amount of compensation actually received by those twenty cases was £87 3s. 4d.; the amount which would have been received under the operations of the Bill if it had become law would have been £84 15s. 8d.

18. *Hon. Mr. Millar.*] What were the respective figures of the eight cases for the last five years?—I have not got them summed up on my document. It is hardly possible to go into all the particulars as to the rules of the society, but to my mind these numbers are sufficient to show that on account of the very great number of mishaps which the Benefit Society can and does relieve in comparison with those which the Act would meet the benefits derived from the society are very much greater.

19. Can you give us any idea of what the contributions of the men amounted to during the five years in which you paid out £1,322?—I have not tabulated it. I can read the figures for each year. There are different branches in this Benefit Society, and in the annual balance-sheet the different accounts are kept separate.

20. But you get the total of the men's contributions?—We get the total of what is paid into the fund, which includes the company's subsidy as well as the men's contributions. The men paid half of £323 15s. 9d. for the year 1901; for the year 1902 the total was £295 14s. 7d., and the half of that would be about £147 10s. The following year the total was £279 14s. 11d., or £140 practically; for 1904, £349 10s., or about £175; 1905, £302, or £151 paid by the men. For the last two years, 1906 and 1907, the amounts were £292, or £146; and £394, or £197 as the half contribution.

21. £343 for the two years?—Yes. In fact, the Benefit Society has very little funds in hand; the company's subsidy and the men's contributions are all used for the benefits from year to year. The Benefit Society rules provide that the subscriptions from the men shall be 6d. per week, but there is an agreement with the company at the end of the rules under which the company undertakes to pay half that amount.

22. Do the men actually pay 6d.?—No, only 3d.

23. But 6d. is credited to each man's account?—Yes. With regard to the Provident Fund, before 1890 there used to be a Provident Fund for the benefit of the officers of the company only, but it was thought desirable by the management in Sydney to extend this so that the whole of the employees should have the benefits of the fund. With your permission I will read what the chairman of the trustees said in reference to this shortly after the inception of the fund. It will give you an idea of how the fund started:—

Extract from Speech by Mr. Knox in February, 1892.

The Chairman, in proposing the next toast, said, "The last toast on the programme, 'Success to the Provident Fund,' is that of the day, for this meeting is in a measure intended to mark the establishment of the fund, being rightly deferred until it is an accomplished success, having now some 600 members, and assets exceeding in value £15,000—a large sum considering the short period that the fund has been in existence, but one which will, I hope, be deemed trifling ten years hence, when it should embrace every man in the service who is qualified to subscribe, and amount to at least £100,000. Before I ask you to join me in drinking to the toast it may be well for me to say something of the evolution of the fund, and of the leading principles of its rules; for I think you all ought to know how the fund originated, and what grounds we have for faith in its future and stability. It was in 1889 that I first began to try and puzzle out some scheme which could take the place of our first confessedly imperfect Provident Fund, and thus provide a means of living for men growing old in the service or disabled by sickness or accident, and with this object in view I read such books as I could obtain bearing on the matter. These were all, however, about sharing of profits, and I was compelled to put them aside not because such division of profit is an unwise proceeding from the point of view of those who might wish to share the gains without any responsibility for the losses incidental to all trade, but because employees as a class have not yet realised that the profits made are the earnings of the men who find the money, as the weekly or monthly payments to them are the remuneration for their work, and that sharing the profits without likewise bearing part of the losses is in effect accepting a charitable dole. Now I was sure that the last thing you wanted was to sacrifice your independence, or to accept a dole of any sort, and I had therefore to put on one side all the schemes described with much eloquence in the books of which I have spoken, feeling sure that when you wanted part of the profits that were the due earnings of the shareholders' capital you would get this by buying the shares of the company with your savings, and that till then we had better go on the old basis of paying you fairly and duly for the services you rendered to us, and retaining the balance for the proprietors of the business. I did not, however, abandon my search for the Fund, and one day was rewarded by finding in a little book called 'The Management of an English Railway' a short account of the Provident Fund of the London and North-western Railway, which seemed to me pretty well what I wanted. Details not given in the book were supplied to me by Mr. Eddy, who took an interest in what I was doing, as he was at the time endeavouring to start such a fund for the railway service—of which, by the way, political jealousy has robbed the railway men—and I then took into my counsels Mr. Walton, and we set to work to draft the leading rules. From the first, however, I decided to make three or four important departures from the English scheme—viz., to put the whole of the employees on the same footing as to subscription, whereas the London and North-Western Fund was for the salaried staff only; to allow of the investment of part of the funds in shares of the company; and to make the rules relating to the return of subscriptions to men leaving the service as liberal as was possible and just. In other

respects the lines of the other society have been followed, and I can only hope that we shall in the course of time be able to show as satisfactory results. Very many years must elapse before our accumulations are near theirs; they have £500,000 in hand, and the payments for deaths and pensions have not yet in any one year absorbed the interest, leaving the subscriptions to go to the principal sum—but, on the other hand, we give a higher interest; and, as the chance of life is better here, it is not unreasonable to predict that our fund has a successful future before it if managed with care and prudence when the time comes for the payment of pensions to members who retire. The directors have shown their desire to make the matter a success; it is for you now to achieve this by interesting yourselves in bringing into the fund the men who are able to subscribe, and whose life and habits are such as to make them desirable members. There are no doubt some here who do not share my views as to excluding charity from a business of this sort, as it is now excluded, for I sought and obtained the company's support on the ground that there was good value to show for the sum they give annually to the fund; but I feel sure that the great majority think as I do, that a pension, however large, is dearly purchased by a sacrifice of any portion of the independence of spirit which you should all possess, and, whether you agree with me or not, I am sure I am right in this—I have doubts about being right in other matters much more often than other people suppose—and I certainly will stick to the lines I have laid down and to the principles that have guided me in this matter. Did time permit I might say something as to the adoption by Governments of this principle of pensions for wage-earners which is now being tried in Germany, and discussed in other countries; but I need only say now on this subject that no Government scheme could give you the benefits you can obtain under our fund, that you will manage such a business or any other business much better than it would be worked for you by Government officials, and that you need not therefore interest yourselves from a personal point of view in the discussion."

Mr. Walton (the principal chemist), in responding to the toast, said—"Mr. Chairman, and fellow-members of the Provident Fund: This is the first occasion on which the trustees have been able to meet any large number of the subscribers, and for affording the opportunity we are indebted to the hospitality of the General Manager, who, though acting as Chairman, has the misfortune of not being permitted to avail himself of the benefits of the fund; to his practical sympathy with his fellow-employees, however, the success of the scheme is entirely due. The other four trustees are themselves subscribers, and, as their interests are identical with those of the members, you have a very satisfactory guarantee that the affairs will be administered for the general good. At the same time I think it would be well, when the date for the next election comes round, to appoint others to office from among those who are eligible, and thus extend a knowledge of the details of the scheme. The time was when men were regarded by some employers very much in the light of machines, to be used as long as they were able to work, and then thrown aside when worn out. But these days are gone, and it is now being more and more recognised that employers, and even the whole community, owe a debt to those who spend their best days in toiling with their brains and with their muscles for the good of all. This is virtually admitted in the proposed State-insurance schemes, to which reference has already been made; but whether these are ever carried out or not it is in the highest degree creditable to those on whom the management of the Sugar Company devolves that they have taken a lead in the matter, and shown such thoughtful consideration for their employees. I am not aware of any proposal that has ever been put forward with more liberal provisions. In addition to our own contributions there is an equal subsidy from the company, with the very high rate of 6 per cent. interest on the accumulated funds, and every penny of the whole is to be used for the benefit of the subscribers. If we ever had doubts about such an institution recent events have made us painfully conscious of its value. Four of our number, strong healthy men, in the prime of life, have already passed over to the majority, and in each case the widow, the children, or other relatives have become entitled to a year's pay. But, lest it should be feared that the fund may be unduly weakened by these payments, it might be well to state that the present income is sufficient to meet more than thirty average death claims every year without encroaching on the invested funds. Life is at the best uncertain, and it must make a man's mind easier to know that by a little self-denial in subscribing to a fund like this he has to some extent provided for those who are dependent on him; and if, as each one hopes, he should live to a good old age, he has the prospect of receiving a fair pension when his working days are over."

24. *The Chairman.*] That, I suppose, adequately describes the management of the scheme at the present time?—Yes, except that the fund has grown very much since that time.

25. Can you give us a statement as to the position of the fund?—I have an actuarial statement, but have mislaid it apparently. I should like to point out the revenue for the year ending June, 1907; the accounts for the last year are not yet to hand. The subscriptions of the employees—this, I might say, is not confined to our business at Chelsea, but the whole fund—amounted to £5,911.

26. That embraces all hands throughout Australasia?—Yes. The company's contribution was an equal amount. The interest on deposited funds was £5,619, and the dividends from the shares amounted to £6,637.

27. Those four sums make up the actual revenue for the year?—Yes. In addition to that I might say that, on account of the distribution of the shares by the company which will come into operation at the end of this month, there will be a sum of nearly £20,000 accruing to the fund.

28. In what way?—The directors of the Colonial Sugar Company have practically made a gift of a number of shares to the present shareholders of the company.

29. They have enlarged their share-list?—Yes.

30. By adding paid-up shares to the account of shareholders from some accumulated capital or reserve?—Yes.

31. And the amount that will come to the Provident Fund will come to more than £20,000?—Yes.

32. Which will also be regarded as invested capital?—Yes.

33. And that is in effect £200,000?—The accumulated funds for the year I am speaking of amounted to £208,971.

34. I was trying to get at the value of the shares credited to the Provident Fund?—The number of shares owned by the Provident Fund in June, 1907, was 3,452, and the book-value of those was—the actual value was a great deal more—£107,800.

35. What was the original value of the shares?—£20. The actual value is now somewhere about £50.

36. *Mr. Barber.*] You said the book-value?—Yes—that is, the value when they were bought some time ago. The book-value then was greater than the nominal value.

37. *The Chairman.*] The interest, you said, was £5,619?—Yes.

38. You say that the funds of the Provident Society have been invested in shares of the company until 3,452 shares have been bought up. Their original value was £20 when subscribed, but they have risen in value since, and being bought at different times they varied in price?—Yes.

39. If you take them at 10 per cent., the interest should have been £6,904?—You are speaking of the interest. That does not refer to these shares. It is the dividend which refers to the shares. The dividend was £6,637.

40. Apparently it was not a continuous 10 per cent. dividend, but not far short of it?—Probably some of the shares were bought during the year. On referring to the previous year's accounts I see that there were not so many shares held before, so that there must have been more shares purchased, and these would not pay full dividend for the year they were bought. On account of the very large subsidy and help given by the Sugar Company the Provident Fund is able to give benefits in excess of those offered by any society that I have heard of. I put in a book of the rules of the Provident Fund.

41. There is a copy of the rules attached to the report of a Royal Commission which inquired into these matters some ten years ago?—These rules have been revised from time to time.

42. The subscriptions of the employees are regulated according to the scale of wages, and amount to about 2½ per cent. of the yearly wages or income?—Yes; for the labourer getting £2 2s. a week there is a little latitude as to what he shall subscribe, but he generally subscribes 1s. a week.

43. What proportion does that bear to his wages?—Very closely 2½ per cent., and at death his relatives receive a sum of £104.

44. Have you had many cases since the establishment of the fund where this money has been paid?—We have had several cases in Auckland.

45. And it has been paid in all cases of death?—Yes, every case. In the case of an employee who reaches the age of sixty he is entitled to a pension based on the actuarial report.

46. Are you paying any pensions yet?—Not yet, but two are applying to me for it from Chelsea. There are eight or nine in the other place. This fund includes the officers as well as the men.

47. The clerical hands, who remain longer as a rule in the service, are likely to draw their pensions longer than the others, I suppose?—Yes, I should say so; but the ordinary worker is not eligible as soon as he comes into our employ.

48. Can you give us the amounts of the various pensions you are paying?—I am not quite sure. The first pension that was paid, I believe, was ten years after the inception of the fund, and it amounted to £25 6s. 3d. a year—about 10s. a week. Of course, the fund was very young, and the man had only been subscribing for about ten years.

49. It was based on the term of the contribution?—Yes. Another pension is £83 8s. per annum. In 1903 one of the senior officers of the company got £271 10s. Another pension is £121 12s., and others are as follows: £43 19s. 10d., £68 11s. 3d., £45 4s. 6d., £36 15s., £367 17s. 6d., £27 9s., £47 9s. 6d., and £382 2s.

50. That is the highest, is it not?—Yes. The first pensioner died this year on the 14th June, having paid in subscriptions about £32. He received altogether £157 3s. 7d.

51. You have given us the details of twelve pensions ranging from about £7 10s. a week to about 10s. a week?—Yes.

52. It is to be assumed that the clerical hands joined at the very beginning?—Yes, a number of them did.

53. You say there are two applications in from Chelsea which have not yet been dealt with?—Yes.

54. Have you any separate account showing the total contributions of the Chelsea men only to the Provident Fund?—I have not got it with me.

55. *Hon. Mr. Millar.*] Is it compulsory on the employees to join this fund?—No.

56. Are there many men who are not members of one fund or the other?—I should not think more than half-a-dozen, except those who are taken on one day and put off the next.

57. It is purely optional whether they join one or other of the funds or both?—That is so. There is a very old hand in the company who is not a member of the Provident Fund at all.

58. Does he belong to the Sick and Accident Fund?—Yes. Another employee is not a member of the Sick and Accident Fund, but is a member of the Provident Fund.

59. Can you tell us the total number of hands who belong to the funds?—316. There are, of course, a large number of casual hands.

60. Can you tell us which fund has the most numerous body of subscribers?—The Benefit Society. We can admit them at any moment, but before becoming a member of the Provident Fund a man has to be in the company's employment six months. We may have a large number of men on

building operations, and when their work is finished they are put off, and men who are employed on such a job are not encouraged to join.

61. In the case of men who have been six months with you, but owing to depression have dropped out, in the event of being reinstated are they allowed to continue to contribute to the fund?—If they have been members before there is a rule providing that they can be reinstated within twelve months by paying up the back amounts with interest.

62. Then a break can occur in a man's contribution which he afterwards can make good?—Yes.

63. *Mr. Poole.*] In connection with the Provident Fund, in the case of dismissal what is the financial position of the person dismissed?—In a case of dismissal at any time he receives back all his contributions without interest.

64. Have you heard any expressions of disapproval at all with respect to the operations of this fund?—At the inception of the fund the men did not properly grasp the position. That was years ago. But as time has gone on I have heard very little about it.

65. Is there a general expression of satisfaction with regard to it?—There is a very strong expression of satisfaction on the part of a number of the men.

66. *Mr. Bollard.*] In the event of death, in the case of a man who has contributed 1s. a week, how much would his relatives get from the Provident Fund?—£104.

67. Would the proportion be the same supposing the deceased had paid half-a-crown a week?—Yes, the same in proportion.

68. *Mr. Barber.*] How many employees are engaged by the company?—The number fluctuates considerably. Referring to regular employees it is very little more than the number subscribing to the Benefit Society. There are only about five or six who are not members of the society.

69. How many would they amount to?—About 320.

70. Is that the total number throughout Australasia?—No; that is the total of the number in New Zealand.

71. *Mr. Alison.*] Is a continuation of the contracting-out system a matter of advantage to the company?—It would be a matter of choice to headquarters whether they would take on the responsibility which the Act would throw on them, and in addition subsidise these societies; but I understand it is not intended to do so. If the Bill is passed as at present introduced the company will consider its responsibility to the employees satisfied by observing the Act, in which case it will be a great deal cheaper to the company to come under the Act. It is no monetary advantage to the company at present.

72. In that case it would be a loss to the workers employed by the company if the contracting-out system were set aside?—A very severe loss.

73. Is there more than one workers' union connected with the company?—I think there are ten or twelve unions altogether that we have to deal with.

74. Have meetings of the workers been held with reference to the Bill and the clause affecting the Benefit Society and the Provident Fund?—Yes, on various occasions.

75. Has every worker had an opportunity of attending those meetings?—Yes.

76. And what has been the decision arrived at at the meetings held?—The decision in the case where a certificate was applied for to the Conciliation Board was that there was a large majority in favour of the certificate being granted to allow them to contract themselves out of the Act. At the last meeting to consider the Bill there was a unanimous vote in favour of asking you to get the contracting-out clause included in this Bill, so that it should not touch the two societies; and not only so, but the meeting was very enthusiastic.

77. What was the amount to the credit of the Provident Fund?—In 1907 it was £208,971; but I would like to mention that probably the excess of revenue over expenditure would for 1908 be something like that of the preceding year, in which case there would now be £20,848 added; and in addition there would be close on £20,000 at the end of this month coming to the Provident Fund, so that at the present time I should not be wrong in saying that the funds to the credit of the society would amount to about £250,000.

78. *The Chairman.*] And what funds are credited to the Sick and Accident Fund—is it treated as a whole?—It is treated as a whole, but also the accounts are kept individually. The Sick and Accident Funds are pretty well used as available, so that the amount to credit in 1907 was only £10 16s. 2d. in Auckland. The other branches have generally more to their credit than the Auckland branch. There is provision in the Benefit Society that in case one branch gets into trouble it can be helped by another branch.

79. What you desire is that clause 56 of the Bill be deleted?—That clause 56 be deleted and the contracting-out clause in the existing Act be included in the new Act. The contracting-out clause provides that if the workers are not satisfied with the benefit they are receiving from the societies they can apply at any time to the Board of Conciliation, and if the Board so decides the certificate may be revoked.

80. *Hon. Mr. Millar.*] I think you said that it was optional and not compulsory on the men to join this Provident Fund?—That is so.

81. Do you know that the very first rule in your book says that they shall?—Yes, I was wrong there. I had the men in my mind, and not the officers of the company.

82. It is compulsory practically on every man under the age of thirty-five, under certain examinations and after being placed on the salaried staff?—That is the salaried staff; it is optional with the workmen.

83. And if this clause is passed the company may carry on the Provident Fund—that Act does not affect that particular portion at all?—Yes, they may.

84. This branch of the business is purely for a Pension Fund?—Yes, and insurance.

85. The whole principle apparently is the Pension Fund?—It is equally an insurance—for death and a pension.

86. That is not affected by the Act at all?—It practically will be affected by the Act.

87. Only to the extent of the salaried officers?—No. The company could not be expected to have the responsibility of the accident law and subsidise these two societies.

88. It is optional now?—Yes.

89. Do you know of any other companies that are doing exactly the same thing as your company and are still under this Act?—No.

90. Are you aware of any insurance and other companies which have Superannuation Funds? I do not know of any.

91. You would not deny the fact that there are concerns amongst the companies doing business outside of Australia which, while having their own Superannuation Funds, still have the Compensation Act in force?—Applying to workers?

92. Yes. I understand you to say that so far as you know there is no opposition to your fund?—There has been opposition in the past, so far as I have heard from rumours. There is a little opposition now, but I believe it is very little.

93. You have heard of the Chelsea Sugar Workers' Union?—Yes.

94. Has that union ever indorsed the opinion that the Benefit Fund should be kept going?—I could not say.

95. Did you not second the resolution that Mr. Alison should be asked to take every step possible to have this clause cut out of the Bill?—Yes, I moved that resolution.

96. And the men were asked to vote on it by show of hands?—By voice.

97. Do you think that represented the true opinion of the men?—I believe it represented the opinion of a great majority.

98. Would you be surprised to learn that the scheme has been opposed and is now opposed by the Chelsea Sugar Workers' Union?—I could hardly credit that. There were a large number of members of the Chelsea Workers' Union present, and some who spoke strongly in favour of the scheme, and I cannot believe that those men would speak like that and then vote against it in their union.

99. My advice is this, that the Chelsea Workers' Union desire the clause to remain in the Bill?—I do not know what sort of a meeting they must have had to pass that.

100. Can you give me your wages-sheet at the Chelsea Sugar Works for the year?—I have not got that here.

101. Under this Benefit Fund of yours what is the maximum amount paid to a man at death by accident or anything else?—£15.

102. If he was in receipt of £2 2s. a week what would his relatives receive under the Act?—Up to £300.

103. Three years' salary—and yet you say this is a greater benefit than is provided by the Act?—Yes. It is important to report the reasons which I gave, as follows: No scheme can meet every contingency of life. The Benefit Society meets every contingency that the Act meets, and if the compensation in rare cases is not so great as under the Act that is more than compensated by the fact that the society meets perhaps fifty cases for every one that is met by the Act.

104. Can you tell me what premiums you will have to pay under the Act to insure the men at your works?—No.

105. I will show later on approximately what the wages are and what the premiums would be to be paid by the company under this Act, although the company may withdraw their pound-for-pound subsidy, which amounts to £150 in a year; at no time has it exceeded £175—the maximum amount ever subscribed to this Benefit Society—all of which benefits can be obtained by the members themselves from any other benefit society?—At a cost of four times the subscription.

106. Oh, no! and then they are not absolutely covered. You take to yourselves power to throw a man out if he has been twice ill—you have more stringent rules in this society than have any other benefit society?—The men are very well satisfied with them.

107. I see there is one provision in these rules which is as liberal as any in an ordinary benefit society: You give a man from 10s. to 12s. 6d. a week, but then you take the right to deal with him as you think fit. He is getting that for 3d. a week, for which he would have to pay about 1s. per week in an ordinary benefit society. If the company withdrew its subsidy from a branch and it was closed there would be no injury to the men so far as the accumulated funds are concerned, because there are none?—That is so; there are no accumulated funds.

108. Is your company allowed to contract itself outside the Act in Australia by the local Acts?—I cannot say.

109. Do you think it is right that you should have the right to contract yourselves outside of an Act of Parliament?—If the workers think they can get more benefit by it I think it is right.

110. If all the unions to which these men belong carried a resolution opposing this scheme of yours, would you think it was unfair then to continue it?—We could not continue it, because our certificate would be revoked. It is only because the men voted for it that we got our certificate.

111. In five years you could not get your certificate renewed because there will be no Conciliation Boards?—I suppose there will be something to replace them.

112. In your opinion you consider it is an advantage to the men to work under this system?—Yes, the Provident Fund and the Benefit Society, or either alone. You cannot meet every possible contingency of life, but these do meet every contingency that the Act meets, although some not in an equal degree. In one respect it is a good deal inferior to the Act—in the case of death by accident—but there are fifty other mishaps that the society would meet and relieve.

113. Parliament some time ago declared that there should be no compulsory membership in a private friendly society—that is, a friendly society run by the owner?—I understand that.

114. Is it or is it not the fact that every man who goes to work at the Chelsea Sugar Works is made aware of the fact that he has to join this society if he wants to remain in the company's employ?—It is not a fact, and it has never been done to my knowledge.

115. The position is put perfectly clear so that there can be no misunderstanding—that upon a man applying for employment and being taken on he is given to understand in a quiet and indirect manner that if he desires to continue in the company's employ he must join the Benefit Society. That is a statement made, not by one man, but by dozens of men at the works?—That is not correct, sir.

116. I would like you to ascertain from your foreman whether there is anything in that statement?—I would like to explain at this point that on some few occasions when we have had to reduce hands—it is not often done—preference has been given to men who were members of the Provident Fund. That is absolutely the only ground for the statement you have made.

117. The statement has been made very freely in Auckland individually that these are the facts of the case. There is no such condition made when the man starts, but he is quietly told, or it is made known to him, that if he wants to continue on he must join the Benefit Society?—I have never known that, and it is against my orders if it has been done.

118. *The Chairman.*] You spoke of meetings which members of the society have held: are those meetings held at times when the bulk of the men can attend?—Yes, at this last meeting, for instance, I was asked by two members if I would allow the whistle to blow thirty minutes earlier to allow the meeting to take place, and this was done.

119. I suppose many of the men cross from the works to Auckland to go home?—Yes.

120. And the meetings are held on the works?—Yes.

121. *Mr. Alison.*] Have you had any indications from members of the Workers' Union that they are opposed to the contracting-out scheme of your company. [I understood this question to read "that the union is opposed to the contracting-out scheme of your company"]?—Absolutely no indication whatever.

122. *Mr. Bollard.*] Supposing the company did away with the Benefit Fund and Provident Fund and divided the money amongst the subscribers—I am speaking now so far as the Chelsea works are concerned—how would those funds stand as compared with the insurance premiums?—Taking the two amounts together the company would have to pay a good deal less.

123. *Hon. Mr. Millar.*] You will supply me with your wages-sheet at the Chelsea works, and by that we shall know exactly what the company would have paid?—Yes. It may save misapprehension if I say that in the Benefit Society the different branches are supposed to be financial individually, but the Provident Fund is not divided into branches.

124. We want to know what has been paid at Chelsea?—It will be in proportion to the total amount.

125. *Mr. Bollard.*] So far as you are concerned you are positively sure that the company would save money by coming under the operations of the Act?—I feel morally certain of that.

126. Then you say you know the feelings of the workers, and can positively assert that they would prefer to remain as they are?—Yes, a very large majority of them would.

127. How long have you been manager of the works?—About twenty-four years now.

128. You ought to know the feelings of the workers in that time?—Yes.

SAMUEL SLIMOND KINNAIRD examined. (No. 8.)

1. *The Chairman.*] What are you by occupation?—Refinery foreman at the Chelsea Sugar Works.

2. How long have you been at the Chelsea Sugar Works?—Twenty-four years; ever since it started.

3. Do you know anything about the two institutions established there, one called the Benefit Society and the other the Provident Fund?—Yes.

4. Do you belong to them?—I belong to the Provident Fund only.

5. Do you remember it starting?—Yes, in 1890.

6. And you have been a contributor to it since?—Yes.

7. Are there many of the men who contribute to one or the other?—Yes. I think the numbers contributing to the Benefit Society are 310 or 320, and to the Provident Fund about 110.

8. Are you a member of the union called the Chelsea Sugar Workers' Union?—No.

9. Does that include many of the men, do you know?—I believe it does. Nearly all, if not all. The sugar-workers are a class by themselves, and there are other men there belonging to other unions.

10. Have you any knowledge of the Chelsea Sugar Workers' Union and its membership?—No.

11. Nothing except from hearsay?—Only from hearsay.

12. Are you connected as an officer in any way with either of the funds?—Yes.

13. Which one?—The Provident Fund only.

14. Can you give us any information with regard to the Sick and Accident Benefit Society?—Yes.

15. How is it regarded by the men employed at the works?—With very great favour, I think.

16. It meets with general approval?—Yes.

17. Have you heard anything to the contrary?—I do not think so.

18. The fund is working, is it not, under a certificate granted under the Workers' Compensation Act?—That is so.

19. Was that certificate applied for by the men who are members of the fund?—Yes.

20. Of their own volition?—Yes, as far as I know. It was agreed to at a meeting of the men.

21. Where are the meetings held?—At various places. We have now a very large dining-room at which the meetings are held.

22. Is that on the works?—Yes.

23. When are the meetings held?—Sometimes during the meal-hour, and at other times after the day's work is over. Sometimes, in consequence of the boats to town running very infrequently, the manager allows us to knock off a little bit earlier to attend a meeting.

24. They are not lengthy meetings, then?—No; the longest is about an hour.

25. *Mr. Poole.*] Did the members of the union commission you to give evidence here at all?—No, not from the union.

26. From the Benefit Society?—Yes, and the Provident Fund. I represent the two funds here. We have a joint committee composed of members of the committees of the two funds, and lately I have been chairman of the joint committee, and have been asked in that way to come here.

27. *The Chairman.*] By the committees which are elected by the members?—Yes. Of the Provident Fund committee only two are elected by the members.

28. *Mr Poole.*] Have you heard any expressions of dissatisfaction at all with the existing funds?—No; rather the other way about.

29. And the members, so far as you know, are particularly anxious to stand by the Provident Fund in preference to anything the proposed amendments in this Bill would give them?—Yes, that is so.

30. *Mr. Alison.*] You presided at a meeting recently held of the sugar-workers as a whole?—Yes.

31. To take into consideration clause 56 of the Bill, which we were considering at that meeting: was there a full expression of opinion on the subject?—Yes, I believe there was.

32. The feeling of the meeting was against any alteration of the existing scheme which you are working under?—Very decidedly against any alteration.

33. Was there one dissentient voice raised?—Not one.

34. It was a very large attendance?—Yes.

35. And was an enthusiastic meeting?—Yes, towards the end decidedly so.

36. If it is stated that the Sugar Workers' Union is opposed to the existing system of contracting out, would you consider the statement to be correct?—I would think it very strange.

37. Have you heard from any of the sugar-workers anything that would indicate that they were opposed to the existing scheme?—No, I have personally heard nothing of the sort.

38. When men are taken on for employment are they called upon to join either the Benefit Society or the Provident Fund, or is it at their own option?—I believe they frequently make application to join the Benefit Society after starting and before they have been scarcely any time there at all.

39. And if they do not join are they dismissed?—No.

40. Have you known any single case where a man has been dismissed for that reason?—No.

41. *Hon. Mr. Millar.*] I think you said that at the last meeting of the sugar-workers there was perfect unanimity prevailing?—Yes.

42. And the motion was moved by the General Manager of the company, Mr. Miller?—By the Works Manager.

43. Do you think any of the men would openly declare their hostility to a motion proposed by the Works Manager, or would be likely to express an opinion against it?—It might have that effect, but I do not think any right-thinking man would agree to anything he did not want.

44. I suppose you know that when his bread and butter are at stake and he has a wife and family a man generally keeps quiet when he would like to speak—I suppose you have been in that position yourself?—I cannot think of it.

45. You have a committee of the Provident Fund and a committee of the Benefit Society?—Yes, separate committees.

46. And then you say there is a joint committee, which meets and decides matters?—The two committees meet when something turns up which affects both our societies.

47. How does this Act affect the Provident Fund?—By abolishing our pensions scheme and insurance.

48. Wherein does the Act say they are touched at all?—I believe it does not do so, but the probability is that the company will not subscribe to our Provident Fund and also insure our lives under the Act.

49. Why not, when it is a Superannuation Fund with a death payment for which you are paying, and they subsidise you to the extent of 50 per cent.? They are relieved of no insurance premium for that. The maximum death payment is one year's salary?—Yes.

50. You are aware that in the case of death by accident under the Workers' Compensation Act the relatives of the deceased get £400?—In the case of a man who gets killed under our scheme the widow receives £100. The amount would be larger under the Workers' Compensation Act, but there are many other advantages under our scheme.

51. But in an ordinary benefit society you can get all those benefits by doubling the subscriptions; the scale varies from 6d. to 1s. 6d. a week according to the man's age. Do you think the workers would be likely to come and tell you they objected to your Benefit Society? Do you ever discuss matters with them?—No.

52. Are you called upon to discuss any union matters with them?—No.

53. Then you are not likely to know the views of the union?—No, I am not likely to know.

54. When I tell you I have in my possession information that has been sent to me since your last meeting, when the resolution which has been referred to was carried, stating that the Sugar Workers' Union strongly support the clause in the Bill, I suppose you are not in a position to say whether that is their opinion or not?—That is so.

55. Well, I have it?—I am surprised to hear it. I can assure you that there are a large number of men up there who want you to delete that clause in the Bill.

56. Those two committees met, and the members of the Provident Fund committee voted on a question affecting the Benefit Society although they are not members of it?—The question at our meeting affected both societies.

57. According to your statement just now, there are only 110 members in the Chelsea works who belong to the Provident Fund out of 320?—Yes.

58. Would you allow the representatives of the 320 people to vote on matters that affected the Provident Fund alone?—I cannot quite answer that question.

59. It seems to be a peculiar procedure that where there is a fund in which a man has no interest whatever he should be allowed to give an expression of opinion and exercise a vote in connection with it. Assuming the Act was altered and did away with the Benefit Society alone and allowed the Provident Fund to remain, leaving the company to be responsible for accidents according to law, do you think that, after the speeches made at the meeting of the company calling attention to the great advantages of superannuation and recognising the valuable services rendered by the employees to the company, the mere fact of the company being compelled to carry out what this law says would make them stop their contributions to this fund?—I could not say what they would do.

60. Do you think a large wealthy company like that, which has any amount of money as we know from the balance-sheets, would object to the payment of £3,000 a year, which is the maximum it has ever paid, and consider itself so affected by this legislation as to make it withdraw that £3,000 a year?—I could not say. *I do not think I could have understood this question as here given, as I previously expressed the opposite opinion.* *See page 4.*

61. You do not think it would?—I should think it would not.

62. If there is any sincerity in the words of the Chairman of Directors, which were given to us by Mr. Miller to-day, nothing that will be done by this Act will be a justification to the company for withdrawing that £3,000 from their old and valued servants?—I am afraid that is a matter which is outside my knowledge.

63. *The Chairman.*] Can you tell us whether the committee of the Provident Fund at Chelsea and the committee of the Benefit Society ever meet separately?—Yes, they may have business in which only one of the societies is concerned.

64. And members of the other committee do not then intervene?—No. It is only when something touches both that the joint committee meets.

65. *Hon. Mr. Millar.*] Have you ever met jointly on any question save when your society was attacked by Parliament?—I believe we have not.

66. *Mr. Alison.*] Were the officials of the Sugar Workers' Union at the meeting that was held?—I do not know them. Mr. Wallace, the secretary, was.

67. Not being in the employ of the company, if he were in favour of the Bill he would have been quite able to speak in favour of it?—I should think so.

68. He would have no fear of any consequences in creating any antipathy?—You would think not.

69. *Mr. Hardy.*] I received a letter signed "S. S. Kinnaird." Is that your signature?—Yes.

70. Was this letter read at the meeting?—Yes.

71. Was it carefully considered?—Yes.

72. Are the members of the Sugar Workers' Union also members of the Benefit Society and Provident Fund?—I could not tell you. I do not know the officers of the union.

73. Are the members of the Sugar Workers' Union members of the Benefit Society and Provident Fund?—I could not tell you.

74. Was there a covering letter with this letter of Mr. Philson's asking you to be sure and get it passed, or was there any pressure brought to bear on the workers asking them to approve of this letter?—No.

75. So far as you know they seem to be satisfied with this letter?—Yes.

76. And knew that it was in opposition to some of the clauses in the Bill before Parliament?—Yes.

77. And yet they willingly approved of it?—They willingly approved of it. Before this letter was sent it was proposed that some one should come down to Wellington.

78. *The Chairman.*] Your evidence is really to this effect: that so far as your knowledge goes the men do not wish their society to be interfered with?—That is so.

79. And you cannot understand how it is that the members belonging to the Sugar Workers' Union are asking that the present society shall be broken up?—No, I cannot understand that.

THURSDAY, 24TH SEPTEMBER, 1908.

PATRICK JOSEPH O'REGAN examined. (No. 9.)

1. *The Chairman.*] What are you?—Solicitor, practising in Wellington.

2. I understand you are acquainted with the working of the Conciliation Board of Wellington?—Yes, I am Chairman of that Board.

3. And you have some knowledge of the Workers' Compensation Acts now existing?—Yes.

4. Have you seen the Bill which is now before the House?—Yes, I have read the Bill.

5. This Committee would be glad to have your opinion with regard to its provisions?—Yes.

6. Will you make a statement in reference to it?—Perhaps I had better make a short statement. I think on the whole this measure is a decided improvement on the existing law. In the first place, it makes for simplicity, which is very desirable. It embodies all the existing amend-

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

leg. During the course of treatment the doctors discovered that the man's heart was very weak, and had it not been for the condition of the heart it was considered that the man would have recovered. The doctors are even now of opinion that if the man would undergo a slight operation the fits of vertigo to which he is subject would disappear; but the man, knowing that he has heart disease, will not take an anæsthetic. The employers in that case have paid full compensation—the Union Steamship Company are the employers—and they might have brought the man before the Arbitration Court. The Court would say that the man could not be compelled to go under the operation. The new provision, however, will place the responsibility on the Court.

10. *Mr. Hardy.*] How would you stop malingering: it is for that?—No, the Act of 1900 has made full provision for that, and this Bill contains the same provisions. The Second Schedule to that Act contains a provision that an employer can require a worker to be examined by a doctor, and if he refuses to be so examined he disentitles himself to compensation (sections 5 and 6). There was a case in Scotland where a man was injured, and the doctors were unanimously of opinion that if he would take walking exercise and allow his leg to be massaged he would recover. He refused to do either, and the Court held that he was disentitled to compensation. That is the only authority I can find on the subject. There is no doubt, however, that a worker is under a moral duty to take care of his injury and to follow medical advice. Clause 15, relating to agreements, ought, in my opinion, to be struck out. That is something entirely new, and, I think, would open the door to very grave abuses. Clause 16 goes with it, because it is the machinery part. In practice it would mean that employers would endeavour to induce their men to sign these agreements, and in my opinion it is not a fair position to place any working-man in. I propose now to refer to some amendments I have prepared which I think would make a very desirable improvement in the Bill, and in order to assist the Committee I have put these amendments into form and have given reasons in support of them. I would first refer to the memorandum giving a digest of the Bill by the Law Draftsman. The last line of the memo. says, "But he cannot sue his employer for damages merely because of the negligence of a fellow-servant." I want to explain to the Committee what that means, and why I think it is a very objectionable principle. The meaning of that is this: At common law, if a claim is made against an employer, one of the defences open to the employer is that the accident which caused the injury to the worker was due to the negligence of a fellow-servant. That is the meaning of the term "common employment." The doctrine of common employment, shortly put, means this: that where a worker is injured by the negligence of a fellow-servant who is in the employment of the same employer, then the injured worker cannot recover compensation from his employer. The great maxim of the common law is *respondent superior*—that is to say, a man who puts another in his place to do anything is liable for all injury caused by the negligence of that person. To this rule the doctrine of common employment is an exception, as if a man is injured or killed through the negligence of a fellow-servant in the same employment the employer is not liable at common law. Now, if this Bill passes into law two courses will be open to the worker: he will be able to sue under the Workers' Compensation Act, to which the defence at common law does not apply; or he will be able to sue at common law, in which term must be included the Deaths by Accident Compensation Act of 1880. The reason why he may prefer to sue at common law is that he may sue for any amount the jury may give him. The sole advantage of the Employers' Liability Act was that within the limits to which the Act applied the defence of common law was excluded. Section 3 of the Employers' Liability Act of 1882, especially the last four lines of that section, says that if an injury occurs to a worker he will have the same remedy as if he were not a worker. Now, of course, the Employers' Liability Act will be repealed, and only these two courses will be open to the worker. The defence of common employment is really a new thing. It is a piece of Judge-made law. It was never heard of in England or anywhere else until 1837, in the case Priestley *v.* Fowler. The doctrine was not finally developed until the year 1892, when Johnson *v.* Lindsay was decided, and the House of Lords decided that where a worker was injured by a fellow-worker who was not working for the same employer the defence did not apply. I may say that the Courts have given a very wide interpretation to the meaning of the term "fellow-worker." The foreman in charge of works would be a "fellow-worker."

11. It would not apply to a case where a man sends a wagon to another place to get a load of straw, and the man in the saleyard employs another man to load up?—No.

12. The two men would not be in common employment?—No.

13. A man is driving a traction-engine with another man, and through the fault of one the boiler explodes: would not the employer be responsible?—No, not at common law, unless it could be proved that he knowingly employed an incompetent man. I may say that no jurist writes in defence of the doctrine of "common employment." But I can refer you to one who condemns it very strongly, and his book will be found in the Library—"Ruegg on Employers' Liability" (Chapter I). The amendment I suggest is this: "From and after the coming into operation of this Act, if and when compensation for death or injury is claimed independently hereof, it shall be no defence that such death or injury was caused by the negligence of any fellow-servant of the deceased or injured worker." I think that will remove a brutal blot from the law and only be doing simple justice. The next amendment I propose is, "In connection with agreements made by and between any claimant and his employer or by and between any claimant and his employers' insurers, in settlement of any claim for compensation, whether under this Act or independently hereof, the following provisions shall apply: (1) No such agreement shall bind any claimant unless or until it can be shown that he signed the same with the approval of a solicitor; (2) no such agreement shall bind the dependants of any claimant unless and until they shall have concurred therein in writing with the approval of a solicitor: Provided that such concurrence shall not be required on the part of dependants who are infants at the date of such agreement." That amendment does not go as far as it appears, and it means no more than simple justice. I will give a case in point: A man is working for an employer in a quarry; a stone rolls from the face of the

quarry and strikes the man's ankle and inflicts rather a serious injury. He is taken to a doctor, who pronounces that he is suffering from a severe sprain and a contusion of joints, and the doctor advises a certain course of treatment and rest. After a while the man gets considerably better; he signs off and goes back to work. He is paid so much compensation for the time he has been away, and the employer gets him to sign a receipt showing that he has received so much "in full settlement of all demands." After a while the leg gets bad again, and the man goes into a hospital. His leg is taken off, and he sues for compensation under the Act, and, though it is quite clear that the loss of the leg is due to the accident, the Court holds that the worker is disentitled on account of the agreement. That is only one of a number of cases which have come under my notice. It is not so much the employer as the insurer that continually worries a man to sign off, and, as he is offered a lump sum to do so, the temptation is strong to a needy man. The result is that, even if he is crippled afterwards, he is out of Court. It has been decided in England, and the decision has been followed in New Zealand by the Court of Arbitration, that the claim of a wife or other dependant is something separate and distinct from the claim of the injured worker. Consequently, in a case where a worker was injured but subsequently got better and signed an agreement in settlement, and afterwards died through a recrudescence of the injury, his wife was held to be entitled to the difference between the sum that the deceased received and the maximum recoverable under the Act. That is an English case, and it has been followed in New Zealand. Hence the Committee will see that the third paragraph of my suggested amendment is simply declaratory of the existing law in a sense, but there is this one moot point which this clause of mine would set at rest: The English case to which I referred decided that the wife's claim was separate only when the worker died, and the New Zealand case went no further than that. It is still to be decided whether, if a worker became permanently incapacitated but did not die, his wife could claim anything. The language of the Judges in both cases is that the principle applies only if the man dies, but the point is not expressly decided. It will be obvious to the Committee, however, I think, that it would be very unfair to say that the principle would not apply if a worker became permanently incapacitated, because, surely, speaking from a worldly point of view, the result is the same to the wife whether the man is crippled or dead. I commend my suggestion to the careful consideration of the Committee. Then I have a third amendment which I will read, "In assessing compensation, whether under this Act or independently hereof, there shall be no abatement of the amount for which the employer or his insurer is liable by reason of the fact that, in consequence of the accident in respect of which the claim has arisen, money has accrued due to the claimant from any other source." Now, I will briefly explain what that means: It has been settled by decisions in England under the Fatal Accidents Act, sometimes called Lord Campbell's Act, of which our Deaths by Accidents Compensation Act of 1880 is a reproduction, that in assessing compensation for the death of a husband or son, as the case may be, the Court is entitled to deduct any money which may have come to his dependants in consequence of his having insured his life. For example, this is a case which occurred in New Zealand: A man is killed in a tunnel; his life was insured for £100, which his wife got after his death. That £100 was deducted from the amount awarded as compensation. It has been decided twice in New Zealand that this principle is applicable to the Workers' Compensation for Accidents Act.

14. *The Chairman.*] It would be better for the man not to be insured, because he pays the insurance himself in that case?—Yes. It is a matter of opinion, but I think it is obviously against public policy to discourage life insurance, and where a man is prudent enough to insure his life I think it is only fair that his dependants should have that money to the good independently of the benefit conferred by the Workers' Compensation Act. That clause cannot increase the cost of the premiums, and I think it is the fairest thing in the world to adopt it.

15. Would that apply, say, to the Druids' Society, where they give £100 at death?—Certainly it would. I suggest that my clause should go in after paragraph (10) of clause 5. I think I have covered all the ground I have mapped out. I put the amendments before the Committee for consideration, and repeat, after making allowance for possible improvements, that I think this Bill, if passed into law, will place the law on a more satisfactory footing and be a great improvement on anything we have had before.

16. *Mr. Barber.*] You said the introduction of this Act would necessarily increase the premiums?—I give that as my opinion. I cannot speak from expert knowledge.

17. There is a clause with regard to hazardous trades. Do you think the definition of those trades will be some ground for the insurance companies charging a higher premium on those particular trades?—I think not. The schedule about hazardous trades is simply declaratory of the existing law as settled by successive decisions.

18. But it is establishing that these trades are hazardous trades?—I venture to say, if you compared the schedule with the decisions of the Court, every one of those terms would be covered by the decisions. What is a hazardous occupation has been established by repeated decisions. There is only one thing that is new—that is, limiting the height of a fall to 12 ft.

19. Say a girl is working a sewing-machine, if she works it with a treadle it is not hazardous, but if the machine is driven by electricity she is working at a hazardous trade?—It does not follow that because a trade is not included in the category of hazardous trades it is therefore excluded, because paragraph (*a*) of subsection (2) of section 3 says, "In and for the purposes of any trade or business carried on by the employer." That covers a very wide range of trades not included in the words "hazardous trades."

20. I am afraid the term "hazardous trades" will result in the insurance companies demanding additional premiums?—I do not think so. I think you will find all these have been covered by existing decisions. This is only declaratory of the existing law. I think the 12 ft. limit is a mistake. Of course, the Minister may have some knowledge on that point that I have not.

21. *Hon. Mr. Millar.*] The reason why that is put in is that, according to medical authorities, the chance of accident up to 12 ft. is small, and in nine cases out of ten there is little or no injury by a fall; but if a person fell only 12 ft. 6 in. you might be seriously injured. Every inch above 12 ft. is considered for some reason to be dangerous?—I would defer to medical authorities on a question like that. The decisions have gone far enough to mark out very clearly what is a hazardous occupation, and having carefully considered the schedule I would say without hesitation that it is simply declaratory of the existing law. The Act, moreover, is not limited to these hazardous occupations in the schedule.

22. *The Chairman.*] The whole tendency of this definition of hazardous trades, as already recognised, will not be to increase the premiums by themselves?—No. We have State insurance, and the outside companies cannot increase the premiums without driving business into the State Department. I think the tendency on the whole will be to increase the premiums, but not on account of Schedule I. The Second Schedule, I think, embodies a very good idea. It fixes the liability for special injuries.

23. *Hon. Mr. Millar.*] You are quite satisfied that under this Act the worker will be very much better off than he is at the present time?—Unhesitatingly I answer in the affirmative. I have already said that the measure in my opinion is a great advance on the existing legislation. It makes for greater simplicity, which is very desirable. It limits the possibility of litigation with its consequent expense, and it embodies the law, as it were, in a kind of code which is fairly intelligible to every intelligent person.

24. Then, if there is no material increase in the premiums required to obtain these benefits, you are of opinion that the Bill should be passed?—Certainly. I do not think there should be any material increase in the premiums.

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