1911.

NEW ZEALAND.

LABOUR BILLS COMMITTEE:

WORKERS' COMPENSATION AMENDMENT BILL.

(MR. ARNOLD, CHAIRMAN.)

Report brought up on Tuesday, the 17th October, 1911, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

FRIDAY, THE 4TH DAY OF AUGUST, 1911.

Ordered, "That a Committee be appointed, consisting of ten members, to whom shall be referred Bills more particularly referring to labour; three to be a quorum: the Committee to consist of Mr. Arnold, Mr. Bollard, Mr. Ell, Mr. Fraser, Mr. Glover, Mr. Hardy, Mr. Luke, Mr. McLaren, Mr. Poole, and the mover."—(Hon. Mr. MILLAR.)

TUESDAY, THE 22ND DAY OF AUGUST, 1911.

Ordered, "That the Workers' Compensation Amendment Bill be referred to the Labour Bills Committee."—(Hon. Mr. MILLAR.)

REPORT.

THE Labour Bills Committee, to whom was referred the Workers' Compensation Amendment Bill, have the honour to report that they have carefully considered the same, and have taken voluminous evidence thereon, and therefore beg to recommend that the Bill as amended be allowed to proceed.

J. F. ARNOLD,
Chairman.

17th October, 1911.

MINUTES OF EVIDENCE.

WEDNESDAY, 30TH AUGUST, 1911.

WILLIAM THOMAS YOUNG examined. (No. 1.)

1. *The Chairman:* Whom do you represent?—I am president of the Wellington Trades and Labour Council and representative of the council here.

2. The Committee will be glad if you will keep within the four corners of the amendments proposed by this Bill, as the Committee fear that if the whole question of compensation to workers is opened up there will be no legislation passed this session for want of the necessary time?—Yes.

3. Your council have considered this Bill?—Yes, they have considered the Bill in detail, and arrived at certain conclusions, which I am instructed to place before the Committee.

4. So that you represent their views this morning?—Yes.

5. Do you represent the Trades and Labour Councils of other parts of the Dominion?—I have no authority to represent the other councils, but presumably the views I express here on the Bill will be the views of the Trades Councils Federation of Labour.

6. Will you make your statement?—The first question is clause 2 of the Bill. This provides that "In addition to the compensation payable under this section there shall be payable a sum equal to the reasonable expenses incurred in respect of the medical or surgical attendance (including first aid) on the worker in respect of his injury, but not exceeding one pound." First of all, on that particular point I would like to draw the Committee's attention to the Bill of last year, which contains word for word identically the same clause with this exception, that it is £10 instead of £1. It is perfectly clear to us that the limitation to £1 for medical expenses is only playing with a very important question. As a matter of fact, it would hardly pay for the first visit of the medical attendant; therefore we are opposed to such a limitation, and think that where a worker is incapacitated in the course of his employment and is laid on one side for a given period—especially if he be a breadwinner—he is more entitled to full wages and the cost of his medical attendance than he would be under the ordinary circumstances of life, inasmuch as he has all the ordinary expenses of his home to maintain in addition to the medical expenses incurred as the result of the injury. Therefore what I want to place before the Committee on this point is the resolution arrived at by the Labour Conference at Christchurch this year, and that is to this effect: "That every worker should receive full wages from the date of his injury up to the day he was able to follow his ordinary occupation, and that all medical expenses incurred as the result of such injury be paid by the employer." That is, as I just stated, the resolution of the conference representing organized labour of the country. The Bill itself is an improvement on the existing law, but it is so slight and so inconsequential as to be almost not noticeable. I do not think I have anything further to say on that point, except to again reiterate that £1—a maximum of £1—for medical expenses is only playing, and materially playing, with a very large subject; if it was right in the Bill of last year to have a maximum of £10, surely it must be right to have the same amount specified in the Bill of this year, if not more. In regard to clause 3, this proposes to amend section 6 of the principal Act: "Providing that if the average weekly earnings calculated in accordance with this section would exceed five pounds, then, in calculating the average weekly earnings for the purposes of this Act, account may, in the discretion of the Court, be taken of any periods during which the worker has been unable to work because of the intermittent nature of the employment, if, in the opinion of the Court, it was impracticable that the worker should be employed at other remunerative work during such absence." The latter part of the clause, we think, nullifies the whole clause. Now, this might probably be inserted with the object of meeting perhaps a case such as that of the shearer, who probably during the shearing season earns £5 or more than £5 per week according to the number of sheep he would put through during the course of the week. The Act provides that the average weekly earnings shall be calculated for the preceding twelve months to the date of accident. Therefore, under the present law, if a shearer met with an accident and at the time of the accident was earning more than £5 per week, he would be out of court, and could not claim. This evidently proposes to overcome that difficulty. During the course of the year a shearer may be unemployed for some considerable time, and perhaps he is not able to secure employment; under the Bill it is left to the discretion of the Court—that is, the Arbitration Court—to decide whether it was impracticable or not that the worker should be employed at any remunerative work during such absence. We suggest that those words in lines 25, 26, and 27 should be struck out, so that the clause will be absolutely plain and do what it is intended to do.

Mr. Fraser: Will the Chairman read section 6 of the principal Act? We should then understand the remarks of the witness better.

The Chairman: Section 6, subsection (1), the Workers' Compensation Act, 1908: "For the purposes of this Act the term 'average weekly earnings' means the average weekly earnings received by a worker while at work during the twelve months preceding the accident if he has been so long employed by the same employer, and if not, then for any less period during which he has been in the employment of the same employer; but in calculating such average no account shall be taken of any periods during which the worker has been absent from work."

Witness: We suggest that the words in the proviso of subsection (1), clause 3, of the Bill—"if, in the opinion of the Court, it was impracticable that the worker should be employed at other remunerative work during such absence"—be struck out; if that is done the clause will clearly do what it is intended it should do. All outside of the particular portion of clause 3 that we suggest should be struck out we are in agreement with.

7. *Mr. McLaren.*] You mean subclause (2)?—Yes. With regard to (1A), we discussed that at some length and came to a conclusion on it. There might be instances where that clause would possibly inflict an injury in an isolated case, but we cannot deal with isolated cases in such matters.

What we wish to do is to benefit the workers generally, and we see in the clause a benefit in that direction, therefore we are in agreement with it and are quite prepared to support its adoption. Clause 4 says, "Section eleven of the principal Act is hereby amended by omitting from subsection five thereof the words 'in any harbour thereof within the meaning of the Shipping and Seamen Act, 1908, or within the marginal or other waters,' and substituting the words 'within the outer boundary of the territorial waters.'"

The Chairman: Subsection (5) of section 11 of the principal Act reads—"For the purposes of this Act an accident shall be deemed to happen in New Zealand if it happens in any harbour thereof within the meaning of the Shipping and Seamen Act, 1908, or within the marginal or other waters of New Zealand, and shall be deemed to happen out of New Zealand if it happens elsewhere."

8. *Mr. Luke.*] How many miles is that?—That is the three-miles limit off the coast—territorial waters. The Act at present is confined within the marginal or other waters of New Zealand. The Bill specifies within the territorial waters of New Zealand. The words in the Bill are evidently put in to meet cases of accident that occur on board ship within the territorial waters.

9. *Mr. Fraser.*] Within the three-mile limit?—Yes; that is what it is done for, and we are in agreement with the clause. Clause 5 of the Bill says, "Section fifteen of the principal Act is hereby amended by omitting the words 'or killed,' and substituting the words 'unless the injury results in death or serious and permanent disablement.'" We are in agreement with this clause, for the reason that the existing law confines the matter to the case of death, and the amendment proposes that it shall operate in the case of death or serious and permanent disablement. Clause 6: This propeses to amend section 18 of the principal Act by repealing subsection (3) and substituting what is in the Bill. Subsection (3) of section 18 is repealed, and the following substituted: "Any such agreement as is mentioned in the last preceding subsection shall, if made in writing and approved by a Magistrate or an Inspector of Factories (but not otherwise), be binding on the parties thereto, and any such agreement entered into by the representative of a deceased worker shall, if so made and approved (but not otherwise), be binding on the dependants of that worker." "(3A.) A Magistrate or an Inspector of Factories shall not refuse his approval to an agreement under this section if he is satisfied that the terms of the agreement are on the whole as favourable to the worker or to his representatives or dependants as are the provisions of this Act." We are in agreement with this, with this one exception—that the power proposed to be conferred upon an Inspector of Factories should be struck out, so that the matter shall be left entirely to the Magistrate. We are also in agreement with paragraph (*b*) with the same exception, that the words "or Inspector" in the 33rd line be struck out for the same reason.

10. That is consequential?—Yes.

11. *Mr. Ell.*] You have not given any reason?—This is a matter where an agreement is entered into between an employer or the representative of the worker in the matter of compensation. The agreement is not to hold good under the Bill unless it is approved by a Magistrate or an Inspector of Factories. We consider this practically a judicial function and one that should not be placed in the hands of an Inspector of Factories. We declare, rightly or wrongly, that such a power of approving or disapproving such an agreement should be entirely confined to the Magistrate. Section 7: "Section twenty-two of the principal Act is hereby amended by inserting the following subsection: '(1A.) Any money payable under this Act in respect of the expenses of the medical or surgical attendance on an injured worker may be recovered by action in the Magistrate's Court in accordance with this Act at the suit of that worker, or at the suit of any person by whom the said expenses or any of them have been incurred, or at the suit of any person entitled to receive any payment in respect of the said attendance.'" We are in agreement with that.

12. *Mr. Fraser.*] Does that differ from the existing law?—There is no provision in the existing law for a matter of this kind, and we take it that this clause purposes to meet the deficiency. Clause 8: "Section twenty-seven of the principal Act is hereby amended by omitting from subsection two thereof the words 'by any other person,' and substituting therefor the words 'other person.'" We do not quite understand what the intention here is. We are inclined to think that it is merely a grammatical alteration, because it simply strikes out the words "by any other person" and substitutes the words "other person," and so far as we can see it comes to about the same thing. We think it is merely a grammatical alteration.

13. Do you mind reading the clause in the principal Act?—It is section 27, subsection (2): "Every such action or application for a review may be brought or made by or against the worker entitled to the compensation, and against or by the employer or any other person liable to pay that compensation, or to indemnify any other person against it, whether by way of insurance or otherwise."

14. If you strike that out and substitute "other person," how would it run?—It would then read "and against or by the employer or other person."

15. That is quite a different thing. It is not "by," you know?—We did not see any material difference in it. We thought it was merely a grammatical alteration.

16. Just now it is "every such action may be brought or made by or against the worker entitled to the compensation, and against or by the employer or any other person"?—Yes.

17. The alteration is that you strike out "by any other person," and substitute the words "other person." It has quite a different meaning. Striking out the word "by" makes a great difference. Clause 9 reads, "The Second Schedule to the principal Act is hereby amended by omitting the words '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,' and substituting therefor the words 'For the purposes of this Schedule the expression "loss of" includes "permanent loss of the use of."'" This is a technical alteration. I understand that the lawyers invariably do their best to pull the law to pieces. They have done so on this particular point. The amendment here is to overcome the difficulty, and we are in agreement with it. That is all I have to say in regard to the Bill, except one point more. It is not provided for in the Bill. I understand, Mr. Chairman, we are to confine ourselves to the Bill, but probably I might be at liberty to place this suggestion before the Committee for their consideration. It was unanimously carried at the Christchurch Labour Conference this year, "That the Act be amended to provide for country workers an

ambulance chest and all appliances necessary to render first aid, and to further provide for medical attendance." There are many outlandish places where there is great difficulty in an injured worker receiving medical attendance; there are no medical appliances, and the result is that in some cases the injured worker meets his death through the want of proper medical appliances. You can take Stewart Island for example. There are no medical men on Stewart Island; if a man is injured there he has to wait a considerable time before he can get medical attention. The running of vessels from the Bluff is very infrequent, and there is often a long lapse of time before aid can be rendered. We think that some provision should be made in the Act for an ambulance chest and all appliances necessary to render first aid in such cases. That is all I have to say in connection with the Bill.

GEORGE FREDERICK REYLING examined. (No. 2.)

1. *The Chairman.*] What is your official position?—Secretary of the Wellington Trades and Labour Council and president of the Painters' Federation.

2. And you represent the same interest as Mr. Young?—Yes, and the Painters' Federation of New Zealand in addition.

3. Have the painters considered this Bill?—Yes. In fact, nearly all the unions in New Zealand have had copies of it, and sent their replies to us.

4. Have the painters instructed you to appear for them?—Yes, as president of the federation.

5. What have you to say in connection with it?—I just desire to corroborate what Mr. Young has said, and have nothing to add.

6. You have no statement to make on the main Bill?—I did have a little, but I do not wish to give it now, as the Committee wished evidence to be confined to amendments contained in this session's Bill.

M. J. REARDON examined. (No. 3.)

1. *The Chairman.*] Whom do you appear for?—The New Zealand Slaughtermen's Federation.

2. You have been instructed to appear on their behalf?—Yes. At a conference held here in June of last year they instructed me to appear before the Labour Bills Committee to ask for amendments in the Workers' Compensation Act that we have found to be necessary.

3. Of course, they did not have this Bill before them?—That is so, but one of the principal proposals in the Bill is due to representations that we then made to the Minister of Labour.

4. *Mr. Luke.*] Which one is that, Mr. Reardon?—That is clause 3 of the Bill. We found by experience that this limitation of £5 has a very serious effect in this industry. As members of the Committee are aware, the slaughtermen earn very big wages for a very short period in each season. They earn up to £6, £10, or even £12 a week for a few weeks, while during that period they are deprived of any benefits under the Act. As is well known, it is an industry where the men are liable to accident through cuts, and the accidents are made more severe by reason of the liability to blood-poisoning. The suggestion that was put forward by the conference of slaughtermen, and which I would like the Committee to insert in the Bill in lieu of the clause that now appears, is to amend the subsection by inserting the words "providing that the limitation of five pounds be not applied to manual labourers." That appears to us to cover the position satisfactorily, because I do not think there are any manual labourers in New Zealand who earn £5 a week for any length of time. I want to suggest this in substitution of the provisions proposed by the Minister, because we have to consult the Court, and the Court takes into consideration the period during which the worker is employed. In every dispute we have to consult the Court, whereas if you insert the proviso suggested by me you do away with the complicated clause which has been suggested by the Minister.

5. *Mr. Fraser.*] May not a man be a manual labourer at one time and a slaughterman at another time?—What we are endeavouring to do is to provide that every manual labourer who is liable to accident shall be covered, but that at the same time men who earn big salaries—managers, for instance—shall not be covered except up to the limit of the Act.

6. *The Chairman.*] A man who is receiving a salary which averages more than £5 per week shall not be covered to a larger extent than the £5, but the man who is receiving more—perhaps a slaughterman who makes £1 10s. a day for six or eight weeks—should be provided for?—Yes.

7. Is that what you call a manual worker?—Yes. That is distinct from clerical work. The clause works out very unsatisfactorily in our case even as it is, because at this time of the year the men who are slaughtering in the employ of large companies are only earning about £1 per week. Well, when the computation is made over the whole twelve months it brings the average down to a very small amount, whereas during the busy season and the hot weather they would be entitled to very much more compensation.

8. *Mr. Luke.*] You mean that an accident would be more likely to occur during the time when the men are employed during the rush times?—Yes, and the limitation should not be made to operate at this period. At the present time of the year they are less liable to accidents than during the summer-time, and there are not more than about two hundred men altogether at work, whereas in the summer-time they number perhaps eight hundred.

9. *Mr. Poole.*] What do you average a slaughterman's wages at all the year round?—It would not work out under the most favourable circumstances at more than £3 per week.

10. *Mr. Luke.*] How long does the work last?—As a rule, about three months, but after two months its quietens down.

11. Is there much difference in the seasons between Auckland and the Bluff?—In the Auckland District it is early, and depends upon the spring. In the South Island it is dependent on the winter feed. When the season is finished at Auckland it is commencing in Canterbury, and when finishing in Canterbury it is commencing in Southland.

12. *Mr. Fraser.*] You hold that so far as manual workers are concerned the average could never come to over £5 a week?—No, his average would never come to that, but his position is that during a certain period of the year—take December at the local works—it is almost certain he would earn over £5 a week, and compensation is based on the average earnings of the men

during the period of employment. If the period is too short to get a fair estimate, then they base it on what some other worker has earned in that employment for twelve months.

13. *Mr. Luke.*] Say a man is injured just at the commencement or after a week or two of the beginning of the busy season, is the compensation based on his earnings in front of him or what is behind him?—If the employers say, "We base his average on the weeks during which he has been employed," then the man will probably find that he is outside the Act altogether. If, on the other hand, it is based on the average amount a man has earned who has been employed since December of the previous year, then the winter months pull his average down.

14. *Mr. Fraser.*] I do not see how you can improve it by the provision you made reference to: how is it going to benefit them if the limitation of £5 be not applied to manual workers?—Their average would be based on their earnings without any limit such as is contained in the present Act.

15. Supposing a man has been at work for a fortnight—I am taking the Act as it is now—what is the amount he can claim under the Act if he had an accident?—If you employ a man for a fortnight and he earned £6, under the Act he could not claim anything at all. But if you accept my suggestion he would get £3 per week then while he was ill. He would get one-half of what he had earned even if he were earning £6 a week.

16. What you contend is that it is not fair to average the whole of the earnings of the previous year, because this is the period during which a man hopes to make extra money, and therefore the compensation should be calculated during that particular period rather than at the other period?—Yes, that is so. I am rather sorry, Mr. Chairman, you limited me to the Bill immediately before the Committee, because there are other very important points that have actually cropped up in this industry. For instance, the question whether the State should not be given the exclusive right to cover employers. Our experience is that where a company does not take its own risk there is more money spent in legal proceedings than the claim amounts to. The insurance companies are more inclined to fight a case than the employers are.

17. *Mr. Luke.*] Do I understand that you think the State should be the only vehicle that should deal with insurance?—That is so—that there should be no competition outside. We submit that the Act is a humanitarian Act, and should not be used by private companies for money-making. During the last year a man employed by the Wellington Meat Export Company had his little finger slightly cut: blood-poisoning set in, and he lost his finger. He asked me what he was entitled to under the schedule, and I put a claim in for £41. A fortnight after he wrote to me that the company had offered him £28 in full settlement, and as he was hard up he had to accept it. I submit that that insurance company deliberately robbed that man. They took advantage of the man's misfortune. I am quite satisfied, if the Committee were to examine into the matter, they would find that it would not amount to a greater risk to the State than it is at present, because the Gear Company—another meat company here—takes its own risks, and finds that it pays better than to insure with insurance companies. The Canterbury Meat Company, a very extensive company operating as far as Burnside in the South Island, not only takes its own risks, but it covers all the contractors in connection with its works.

18. That has a large capital: you could not do that with small companies?—We say that if companies like these find it pays, then the State should take all the risks required, and our experience is that the State is less disposed to go into litigation. They are more disposed to settle matters than to go to law, and that is the proper position. Another point we would like the Committee to agree to is that the compensation should be payable from the first day instead of the seventh day. In our trade an injury does not generally last more than fourteen days. If a man loses ten or twelve days in the busy season it is a very serious loss to him. This will be more apparent in a trade of this sort, where we depend entirely upon a season, than where a man's earnings are £2 or £3 a week all the year round. If our men, as they do in many instances, lose the best part of their season, then, of course, their recovery financially is almost impossible. The members of this organization are mostly travellers. It is a seasonal trade, and they have to follow the sheds round. The majority have to travel to Australia—to South Australia, New South Wales, Victoria, and Queensland. Now, some of these men have their families in Australia, although some have their families here. Those who have families in Australia, if a serious or fatal accident happens, are in this position: that their families are deprived of the benefits of the Act.

19. *The Chairman.*] I do not think we can open up the question of domicile?—I should like the Committee to take this point into consideration, because these men are very seriously affected by it.

20. The Committee understand, I think, with regard to the question of domicile, that it is a very important point in connection with the workers; but they have decided to remain within the four corners of the Bill so far as possible. What I fear is that, in connection with the additional time the Committee will have to give if we open up the whole matter of compensation—the evidence having to be printed and placed before members of Parliament—the debate will cover everything, and in all probability the Bill will not pass this session?—The view I take of the matter is that, if the Bill is going to be amended at all, essential features could be placed before the Committee, and they would be the best judges, and the Bill might be of more value.

Mr. Fraser: I think there is no harm in stating succinctly what are the salient points the witness's organization would like in the Bill, providing it did not take too long.

Witness: On the question of domicile I would like to refer to a case we have before us at the present time. Three men were killed in an accident at Nydia Bay, Pelorus Sound. Two of the men are stated to have knocked off work for the day. This is the statement of the employers, and which we have to go to Court to disprove. Having knocked off work for the day, they were not entitled to compensation under the Act, and as it was 3 o'clock in the afternoon we have to go to considerable trouble to prove something different. The third man could not be proved to have knocked off work, because he was working the engine; but as his dependants are living in Tasmania they could not get any compensation. Here we have three fatal accidents, and the employers hold that the dependants are not entitled to compensation in any one case. Clearly,

if the present premiums cover the risk of men during the hours of work, then without any extra cost they should cover the men during the twenty-four hours. The question of domicile is so clear that I shall be surprised if any member of the House does not agree with the abolition of the domicile clause.

21. *Mr. Fraser.*] Do I understand that you think compensation should be payable although an accident occurs after a man has ceased to work?—We consider the greater risk is during the hours of work. Then we suggest that without any greater expense the worker could be covered during the twenty-four hours. This point was suggested to me by the employer in whose employ these people were. He said that before the Workers' Compensation Act came into vogue cover was taken over the whole twenty-four hours.

22. *Mr. Bollard.*] The men paid something towards the premiums then?—That is so, but now it is only during the period of work, and you have to establish that the man was actually working. Every other man in the mill was at work in the case I have mentioned, but the employers say these two men were not.

23. *Mr. Fraser.*] What do you think is the better of the two—cover during the whole of the twenty-four hours or only during the time the man is at work?—There is another point—it arose in connection with a statement I made a few moments ago about a man accepting £28. This man lost his little finger below the second joint. It is quite useless, and there is nothing there but an ugly lump of overgrown flesh. The insurance company argued that because the last joint is still there it is not a total loss of the finger. The schedule says that where a hand is wholly or permanently useless it shall be regarded as a total loss; but as it does not say that a finger is a total loss, we have to go to law because the whole of the finger right up has not entirely disappeared. The schedule refers to an eye, hand, or a foot, but it does not make any reference to a finger.

24. *The Chairman.*] But the words to be substituted amend that?—It does not include a finger. I should say you should substitute there "any member mentioned in the schedule."

25. I think you will find that the words "eye, hand, and foot" are to be omitted, and it practically includes what you mean, Mr. Reardon?—Those are all the important points which have cropped up.

PATRICK J. O'REGAN examined. (No. 4.)

1. *The Chairman.*] Whom do you represent?—I am solicitor for the New Zealand Federation of Labour. The point to which I desire to make special reference is the £5-a-week limitation, to which, I can gather, reference has been made by Mr. Reardon. Having regard to the fact that the Committee has decided to consider only amendments within the limits of the Bill before it, I take leave to say that that is the most important amendment I can suggest—I mean the modification of that limitation. I may be permitted to give briefly the rationale of the limitation, as I understand it. Under the English Act of 1897 the word "workman" was used in the popular or ordinary sense—that is to say, the benefits of the Act were practically limited to "manual workers," and there was no limitation of this kind. The consequence was that if a manual worker did receive more than £250 per annum he was still within the benefits of the Act. By the English Act of 1906 the scheme of compensation was considerably extended, and, inasmuch as it was then made to cover clerical and other workers, many of whom might be receiving salaries in excess of £250 a year, this limitation was imposed; but the rights of manual workers were still preserved. I would quote the definition of "workman" from section 13 of the English Act: "'Workman' does not include any person employed otherwise than by way of manual labour"—mark these words—"whose remuneration exceeds £250 per year . . . but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral, or in writing." Now, you will see the reason for the limitation imposed by the English Act and followed by our Act. Our Act provides that any person whose remuneration, calculated in accordance with the Act, exceeds £5 is not entitled to receive compensation, but there is no such saving provision as that which has been expressly retained in the English Act in order to preserve the rights of manual workers; and if you will read section 6 of our Act you will find that the hardship is accentuated, because it is there provided that "average weekly earnings" mean the earnings while at work—that is to say, in computing the average weekly earnings you must exclude from the computation periods of idleness. So long as the £5 limit is not exceeded, that is in the interest of the worker, of course, because it enhances the amount of his compensation. But it will often happen in practice that by that very method of computation the earnings will exceed £5 a week, and consequently deprive the worker of the benefits of the statute. This, Mr. Chairman, in my opinion, constitutes a grievance which ought to be redressed for several reasons. One reason which I would emphasize is the desirability of having, as far as possible, uniform legislation in a matter of this kind as between the different parts of the British Empire. On a strict reading of section 53 of the Act of 1908 you will find that it is necessary, in order to enable reciprocal relations to be established between two countries, that there must be practical similarity in the scheme of compensation. Another reason I would advance in favour of this modification is that it cannot increase the premiums under the Act. If you take the opinion of insurance experts, they will tell you that there is much less risk in the higher-paid branches of labour, and that, so far as they are concerned, they have no objection whatever to the change I suggest. I will give you two illustrations of the hardship of this limitation in practice—two cases which have come under my notice. Perhaps it is not necessary to mention names, but I will give the illustration. A is the master of a small coasting steamer of 19 tons. He worked as one of the crew, and took his meals with them—was in the strictest sense a manual worker. His monetary salary was £20 per calendar month, or £4 12s. and a fraction per week. In accordance with the rule previously established by the Court of Arbitration, the food obtained on board the vessel had to be taken into account. I might say that the usual allowance is 10s. per week for a seaman and 15s. for an officer. Having regard to the fact that the

man took the same food as the seamen and sat at the same table, Mr. Justice Sim agreed with my contention that he should rank as a seaman—that 10s. a week should be added for board and lodging. With the addition of this amount his wages exceeded £5. In assisting to unload his vessel he sustained what is technically known as bilateral optic atrophy—both optic nerves were ruptured. He experienced temporary blindness at the time, but recovered sufficiently to enable him to go on with his work. He ultimately became completely blind. In consequence of the limitation alluded to he was precluded from receiving any compensation whatever. Mr. Justice Ruegg, in his work on the English Act, says that obviously one of the reasons for imposing the limitation is that a person in receipt of £250 a year should provide for himself. As a commentary on that I would point out that this man, prior to obtaining the employment in which he was injured, was tallying on the wharves in Wellington. He was absolutely a poor man. He had been only eight months in the employment when he met with this accident, and he is now absolutely destitute and dependent on the kindness of friends. Had our Act contained the same provision as the English Act this man could have recovered compensation. The second case that has come under my notice is that of a miner who lost his arm in the Waihi Mine. On account of his wife being a confirmed invalid, he was an extremely poor man. He worked for a few months, however, as a mining-contractor. You will find that mining-contractors are workers under section 57 of the Act. His earnings in consequence of the strict method of computation provided by section 6 of the Act exceeded £5. He was unable to recover any compensation. These are two cases that have come under my notice in practice, Mr. Chairman. They illustrate in the strongest manner the hardship which is inevitable under the present limitation. I would point out that the method of computation provided by section 6 of the Act was designed expressly to enhance the benefits of the Workers' Compensation Act to the worker before there was any limitation at all. In other words, the limitation was not in contemplation when the Act of 1900 was amended to provide that average weekly earnings could be computed only for the period of actual employment. In consequence of what I might call the afterthought to which the limitation is due, what was originally intended as a benefit to the worker now proves the very opposite. The amendment I suggest is that our Act should be brought into line with the English Act, and that will make it unnecessary to include clause 3 in the Bill at all.

2. You accept the wording of the English Act?—Yes.

3. *Hon. Mr. Millar.*] There are two different sections in the English Act dealing with that?—The section to which I draw the attention of the Committee is the definition of "workman" in the English Act.

4. A maximum of £2 10s. has been suggested here. That would cover the whole thing. But there are two different sections in the English Act. Do you know what it would mean in the way of increased premiums?—I have spoken to many insurance people, and they say that it would not mean any increase at all.

5. I have been informed by insurance people that this Bill of mine means 10 per cent. increase?—I have purposely gone to the insurance people to discuss the matter with them, and I can certainly say my view is supported by those I have seen.

6. Last year they said it would mean an increase of £1, but this year they could not do it; there were a thousand accidents last year?—I am expressing my own personal opinion now, but I would rather see the amendment I have referred to adopted even if all the others were dropped. I will just briefly refer to other clauses in the Bill. Clause 4 is, no doubt, a necessary amendment, because "territorial waters" is a better term than "marginal waters." Clause 5 means that the plea of serious and wilful misconduct will not be available where a worker is killed or totally incapacitated. That will bring our Act into agreement with the English Act. Clause 6 proposes to give the same power to an Inspector of Factories that a Magistrate now has—that is, of approving agreements made between infants and employers. I see no objection to offer to that.

7. This goes a little further. This is intended to meet a case wherever a private agreement is come to to take a lump sum in lieu of compensation, and provides that before it becomes law it shall be ratified by a Magistrate. An insurance agent cannot then say to a woman, as may be said now, "Well, here's £50; take that and we are square"?—If that is so, then I would suggest that a schedule be added to the Bill prescribing a short and concise form in which the Magistrate or Inspector can indicate his approval; otherwise the Magistrate or Inspector may require a lengthy and expensive document. The Magistrate is not now satisfied simply by indicating his approval; there is a very lengthy formal document which he signs.

8. *Mr. Fraser.*] Suppose the Magistrate says, "I disapprove," and indicates the direction and wants to see the document, surely you must give him that power?—Yes, of course; but if he disapproves he simply refuses to sign. He will not sign until such time as the agreement does meet with his approval. If you make it a general rule that all agreements must go before a Magistrate, it is desirable to have the matter concluded as expeditiously as possible. Clause 7 seems to be a necessary machinery amendment. I have no comment to make on that. Clause 8: "Section twenty-seven of the principal Act is hereby amended by omitting from subsection two thereof the words 'by any other person,' and substituting therefor the words 'other person.'" That enables a claimant to sue the insurer instead of the employer if he wishes. Clause 9 removes the grievance mentioned by Mr. Reardon. It has been judicially settled that the words in the last paragraph must be strictly construed. The paragraph says "an eye, hand, or foot," &c. That does not include a finger or toe. The new clause meets the difficulty, in my opinion. I will, Mr. Chairman, with your indulgence, refer to two points outside the limits of the Act. The first has regard to section 21 of the principal Act. It has not been decided, but there has been an expression of opinion by Mr. Justice Sim. I will quote the clause—section 21, subsection (1): "In the case of an accident causing the death of a worker, proceedings for the recovery of compensation shall be taken by the representative of the deceased worker on behalf of the dependants." (2.) "If there is no such representative, or if no such proceedings are taken by him within three months after the death of the worker, the proceedings may be taken by the dependants of the worker, or by any one or more of them on behalf of all of them." That is a case that happened

in practice—a case of my own: A is killed instantly by a fall of earth. His widow under the Act is entitled to £500 and funeral expenses. Although the employer is quite willing to settle, the insurance company insists on having an award of the Court. As the Arbitration Court was to sit within a few weeks in Wellington, I at once issued the writ and got the case set down for hearing. The award was duly made. After it had been made counsel for the insurance company directed the attention of the Court to section 21, and argued that, in order to have a legal status under this section, the widow should apply for letters of administration or wait until the three months had expired. Mr. Justice Sim agreed, but held that it was too late to raise the objection. Surely, when the liability is admitted, the widow should not be compelled to take out letters of administration. In the majority of cases the worker leaves no estate except the compensation, and the Legislature never intended that she should apply for administration or wait three months.

9. *Hon. Mr. Millar.*] I thought it was not compulsory to take probate out under £50?—Payment can be made without probate where the estate does not exceed £100. In consequence of this provision, which is quite new—Mr. Justice Sim did express that opinion—the claimant must either apply for administration or wait three months before suing. I suggest that an amendment be made dispensing with administration. There is one other point I would bring under the notice of the Committee: Under the Act of 1900 every case under the Workers' Compensation Act was an industrial dispute under the Industrial Conciliation and Arbitration Act. The effect of that was that the procedure under the Industrial Conciliation and Arbitration Act was applicable to cases under this Act. You will remember, Mr. Chairman, that it is specially provided in the Industrial Conciliation and Arbitration Act that the ordinary rules of evidence can be waived by the Court—that the Court can receive evidence that is not strictly legal. That has been altered by the Act of 1908, or, at any rate, by the regulations made thereunder. If you read the regulations you will find that the procedure under the Act is to all intents and purposes similar to that of the Supreme Court. The result is that the law of evidence as applicable to a case in the Supreme Court is equally applicable to a case under this Act. It is an established rule of evidence that statements made by a dying man as to the cause of his death are not admissible in evidence except in cases of homicide. Where a man has been killed by the wrongful act of another the law presumes that when in fear of death he will not make an untrue statement; and, consequently, if he alleges that he is dying through the wrongful act of another person, his statement, if made when the proponent had no reasonable hope of living, is admissible as evidence. Now, it frequently happens—and such a case has happened in my practice—that a man in the course of his employment receives a very slight injury—perhaps an abrasion of the finger or leg. He thinks nothing of it at the time, and consequently makes no complaint; but when he goes home he tells his wife that he met with this slight injury. Ultimately, in consequence of the abrasion, blood-poisoning supervenes and death results. In an action for the recovery of compensation the onus of proving that death resulted from injury in the course of the man's employment is on the widow, and any statement made by her husband as to the cause of death is not now admissible in evidence. That is a hardship that I respectfully submit ought to be removed. I do not suggest that the statement should be conclusive proof, but that it should be admissible in evidence for what it is worth; and such an amendment in the law I think is desirable, having regard to the fact that actions under this Act are no longer governed by the procedure under the Industrial Conciliation and Arbitration Act.

WILLIAM THOMAS YOUNG recalled. (No. 1.)

1. *Mr. McLaren.*] What ground of objection have you to the agreement being confirmed by an Inspector of Factories under clause 6 of the Bill?—The main ground of objection is that the Act we have to deal with is a very complicated one indeed, as instanced by the expert who has just gone out. The matter is practically one that might be designated as a judicial function; that is to say, the matter of an agreement entered into by a worker with an employer or an insurance company is practically a legal document, and it requires legal investigation, from our point of view, to see that the rights of the worker are in no way jeopardized by the agreement that is entered into. Inspectors of Factories are not, as a general rule, men possessed of legal knowledge, especially so far as this Act is concerned. In some places the Inspector of Factories is a policeman, who invariably knows very little about the law, and he does not trouble himself very much to know anything about it. I have been very keenly interested while listening to the expert evidence given by Mr. O'Regan, but I think an aspect of his evidence has conclusively established the reason why we should object to a function of this kind being handed over to Inspectors of Factories.

2. *The Chairman.*] You noticed that he did not object to the Inspector of Factories?—Yes, but his remarks bore that out, because where any solicitor acts for a worker and the agreement is presented to and indorsed by an Inspector of Factories, the other side may upset the agreement in a Court of law. We do not object to the Inspector of Factories because he is an Inspector of Factories—as a rule those associated with the Labour Department are very good men—but this is a matter on which we think the trained legal mind should be brought to bear, and that is why we object to a power of this kind being handed over to an Inspector of Factories or any other person who does not possess a trained legal mind.

3. *Mr. McLaren.*] You suggested the deletion of portion of clause 3 of the Bill. Would it meet the view of your council if the suggestion of Mr. Reardon, which seemed to be backed up by Mr. O'Regan, were adopted, that provision be made that the limitation proposed should not be made to apply to manual workers?—If the definition of "manual worker" will cover the case that Mr. O'Regan quoted—which I know of myself very well; I know the man; and will cover all ships' officers and engineers, I am satisfied that it will meet all we require. What we want to do is something in the direction that will get away from this £5 limitation. I think Mr. O'Regan quoted the English Act, and so far as I could follow him in quoting it I think that will cover the whole difficulty if a similar clause is inserted in the New Zealand Act.

WEDNESDAY, 6TH SEPTEMBER, 1911.

WILLIAM PRYOR examined. (No. 5.)

1. *The Chairman.*] You represent the employers?—The New Zealand Employers' Federation.

2. Has your federation considered this Bill?—Yes; it has been considered by the federations throughout the Dominion.

3. And you voice their opinions?—I am speaking now on behalf of twenty thousand employers of labour connected with our federation.

4. Employers who come under the Workers' Compensation Act?—Yes, every employer does except domestic employers. Before discussing the Bill, Mr. Chairman, with your permission I would like to mention a matter which has been discussed by my Board. Year after year when we get the printed reports of evidence given before the Committees when matters affecting the interests of employers and workers have been considered we find that statements have been made—well, I do not want to say untruthful statements—but statements which we feel, had we been present and known had been made, could have been easily refuted; and I am instructed to urge upon this Committee to give permission for a representative of the Employers' Federation to be present at all times while evidence is being given on Bills of the kind that I have indicated. Of course we realize that a like concession should be given to a representative of the workers.

5. I might say that the matter has been mentioned this morning, and the Committee intend considering that point immediately after the evidence has been taken this morning?—Thank you. It does not require anything more from me except to say this: that in the opinion of my Board and myself it would make more for the getting at the real facts of the case.

6. The Committee will consider that?—With regard to the Workers' Compensation Bill before us, I am instructed to say that, while the federation has to admit that, from a humanitarian or sentimental point of view, a number of the clauses in the Bill appeal to employers of labour as well as to others, and that while we cannot see that any section of itself would mean a large increase in premiums, the employers have been forced to look at the whole effect of the Bill and to ask what it means. In connection with section 2 my federation feels that the Act as it is provides sufficient accommodation for injured workers. They fear also that the clause providing for £1 medical expenses will lead to a great deal of malingering. What I mean is that workers who receive slight accidents which would not necessarily keep them off work for the time necessary to qualify for compensation, would do their best to be off work for that time so as to secure the £1 medical fee as well as the compensation that might be payable under those circumstances. Then, unfortunately—and I want it to be clearly understood I am not making a charge against the medical men of this Dominion—we cannot shut our eyes to the fact that there are those who it is feared would take advantage of this clause to secure the fee prescribed. This means, in our opinion, that the small accidents which do not now carry compensation would be made to carry compensation by one means or another if this clause became law, and would in itself mean an increase in compensation payable of many thousand pounds a year, and in the amount which would have to be paid in premiums under the provisions of the Workers' Compensation Act. With regard to section 3, we understand that this has been put in for the protection of workers such as slaughtermen, shearers, and others. We look upon it as the introduction of a very dangerous principle. It reads, "Provided that if the average weekly earnings calculated in accordance with this section would exceed five pounds, then, in calculating the average weekly earnings for the purposes of this Act, account may, in the discretion of the Court, be taken of any periods during which the worker has been unable to work because of the intermittent nature of the employment, if, in the opinion of the Court, it was impracticable that the worker should be employed at other remunerative work during such absence." It is altering the calculation of the weekly earnings with regard to intermittent workers. As I say, it introduces a very dangerous principle, and you know that very often we have found that a clause like this means the insertion of the thin end of the wedge to make the principle general before very long. And it seems to me there is this objection with regard especially to slaughtermen, shearers, and harvesters: a very large proportion of these men work for a considerable portion of the year at similar occupations in Australia, and come over here after their work in Australia is done. I should judge that altogether a number of these men find work at a very high rate of pay for close on eight months in the year.

7. Where?—Both in Australia and New Zealand. They get the season on rather earlier in Australia, and come over here and take advantage of the season from one end of the Dominion to the other. It is well known also that these men earn anything from £6 to £10 a week while engaged in this employment.

8. Is that in New Zealand?—That is, taking wherever he is occupied. Supposing a worker for eight months averages £8 a week—and I believe there are those who do; I had the opportunity last season of examining the books of one of our large freezing-works, and found that the slaughtermen—the good men—were earning large wages, quite a large proportion earning over £7 a week—supposing one of these men working in Australia and then working here earns an average of £8 a week for eight months, that would be over £5 a week for the twelve months prescribed by the Act. At the tail end of the season he might meet with an accident. So far as New Zealand is concerned we could find out what his earnings were, but it is quite conceivable that that man would absolutely hide from the New Zealand authorities his earnings in Australia, and it would be almost impossible to ascertain what they were.

9. Has the Court ever decided to take into consideration the Australian wages?—This would make it do so. There is reciprocity in some parts of Australia. The reason for the insertion of this clause, we understand, is an application made by the Slaughtermen's Federation of New Zealand for alteration on these lines. We call it the "slaughtermen's clause," at any rate. Another well-known fact is that many of the men who follow this occupation live on their earnings

over that period, and do not look for work between the seasons. With regard to subsection (2) of section 3, we realize that this is another proviso that means the payment of increased premiums—that is, the principle of paying one who has been promoted on the basis of the wages he may have been receiving only for a week or two, even though they may be very considerably higher than he received for the rest of the year. Section 5, which proposes to amend section 16 of the Workers' Compensation Act, is very strenuously objected to by my federation. Section 15 of the principal Act reads, "No compensation shall be payable in respect of any accident which is attributable to the serious and wilful misconduct of the worker injured or killed." Section 5 of the Bill proposes to amend that clause by omitting the words "or killed," and adding the words "unless the injury results in death or serious permanent disablement." So that if the Act is amended as proposed it will mean that no compensation shall be payable in respect of any accident which is attributable to the serious and wilful misconduct of the worker injured unless the injury results in death or permanent disablement. Now I know it might be said that the defence of serious and wilful misconduct is rarely if ever successful. It is almost an impossibility to prove it, and I think a still greater impossibility to persuade the Court to refuse workers compensation on this plea. But what we say is that the clause at present in the Act acts as a great deterrent to carelessness and wilful misconduct on the part of workers in our factories. It is submitted that the workers are not being seriously prejudiced by the Act as it is at present, and that, seeing that section 15 has undoubtedly that deterrent effect, it is in the interests alike of the employers and the workers that the proposed alteration should not be made. In section 7 (1A) we would like it made quite clear that no further responsibility is placed on the employers by this subsection than is actually provided for in the Act. Some considerable fear is expressed that this subsection, taken in conjunction with the proposed alteration in section 2, might land employers in very serious liabilities. Section 9 comes under the category of clauses which appeal to one from the humanitarian or sentimental point of view, as I said previously, and the objection is that we do not know to what extent it is going to increase our liability under the Act. But I want to impress the Committee seriously with this aspect of the whole case: that, no matter how desirable it may be that some of these provisions should be made, the Bill as a whole will impose such tremendous liabilities on the employers of the Dominion that it is absolutely impossible for us to agree to it. We have sought the very best advice of those who are acknowledged as experts in insurance in New Zealand. We have asked them to go through the Bill carefully for us, and to tell us what the increased premiums will amount to if this Bill becomes law; we have asked particularly that the estimate should not be an extravagant one, but should rather err on the conservative side; and we are told that this Bill, taken on what I might term its face value—that is, without reckoning some sections which might mean more than appears on the surface—means an increase of 15 per cent. in the premiums that will be payable under the Workers' Compensation Act. Now, I want the Committee to consider for a moment what that means. The returns from the Official Year-book, 1910, page 601, say that the premium income of the accident insurance companies of the Dominion amounted in 1909 to £223,916, and 15 per cent. on £220,000 means £33,000 a year extra premiums we are going to be asked to pay under this Bill.

10. *Mr. McLaren.*] What is the amount for 1910?—I have not got the figures, but I understand they are something like the same. We say it is absolutely not possible for the employers of the Dominion to pay this amount, and that when these concessions to the workers mean such a serious increase as that—we say it advisedly—they should not be considered by this Committee or by Parliament for one moment. But the whole position is worse than that. The Workers' Compensation Act of 1908 imposed upon the employers an increase of at least 10 per cent. in premiums—that is, £22,000—and we are told that even that increase is not sufficient to recoup the insurance companies for the extra payments they have had to make under the Act. So that, even if the increase in this Bill should happen not to be so great as I have said, I think it is beyond doubt that, taking the extra cost to the employers under the Act of 1908 and the extra cost under this Bill, it would mean that the employers of the Dominion will be called upon to pay extra premiums for these concessions given to the workers amounting to at least £50,000 per annum.

11. *Mr. Fraser.*] In excess of what?—What had to be paid previous to 1908. And no one can say that the Act of 1908 was not a humane measure and did not give increased protection to the workers of the Dominion, or that it was not such a law as imposed sufficient liability on the employers of the Dominion. We ask the Committee to look into these matters very seriously, because there is no doubt that the employers of labour in New Zealand are not in a position to submit to the extra tax imposed, and will be compelled, if the Bill is proceeded with in Parliament, to do their utmost to prevent its becoming law.

12. You have not heard what was said the other day. May I ask what is your view of certain statements which were made? In clause 3 you will see the last two and a half lines say, "if in the opinion of the Court it was impracticable that the worker should be employed at other remunerative work during such absence." It was suggested that those words should be struck out. What difference would it make?—It would mean exactly what I said in my opening remarks, that the insertion of this proviso means the insertion of the thin end of the wedge to make it law that the average wages would be calculated on the time that was worked, not on the real average wages earned during the preceding twelve months, and must mean a large increase in premiums.

13. It was alleged that in the event of a man being employed for, say, £5 or £6 a week, for a period, and then having to take a lower rate of wage, or being unable to obtain employment, it would be unfair if the compensation given to him, in the event of an accident occurring during the time he was earning the higher rate, were averaged on the time he was unemployed and was therefore unable to reap the harvest?—I should imagine a man earning £5 does not come under the Act, and that would stop him, would it not?

14. Supposing it was immediately below that?—It would increase the compensation, and increasing the compensation is going to increase our premiums. I think it would need an expert in insurance to estimate what that would amount to. I apprehend that that would mean perhaps another £20,000 per year.

15. What would be the effect of eliminating the words I mentioned from the end of section 3: would it make it any worse for the employer, and, if so, by how much?—That can only be answered by insurance experts. We have said that this is the introduction of a very dangerous principle, and what you tell me now shows that we have been justified in our opinions. Taking out those words practically means making the principle general in its application.

16. I think this only serves to prove what I said before, how much better it would have been if one of the employers' representatives and a representative of the employees sat here the other day when the witnesses were giving their evidence?—I feel that I ought to have been here when the employees were giving their evidence.

17. In clause 6 there was an objection to the words "Inspector of Factories"?—We are not raising any objection to that.

18. They wish those words to be struck out: have you any objection to that?—No, they can have it as they like. We are prepared to go before the Magistrate.

19. There was a suggestion that the limitation of £5 in the earnings should not apply to manual workers?—Even though they were earning £5 or £6 per week.

20. Yes, that is the suggestion?—I think we might cover everybody if we are going to cover that. But how is it possible to cover that? The thing is so ridiculous as to carry its own refutation.

21. Another suggestion was that the State Insurance Department alone should be permitted to insure employees against accidents. That is to say, the State Insurance Department should have a monopoly?—Of course, we are utterly opposed to that.

22. The reason given was that private companies always beat down the workers: what is your experience as to that?—My experience as an employer of labour in Dunedin extending over nearly twenty years, and as one who employed at times seventy, eighty, to a hundred and twenty men in labouring-work involving blasting-operations, where there were broken legs and other accidents of that kind, is that I never once had any difficulty with the insurance companies. There have been complaints, and of course every one who has an accident feels that he has a grievance, whether rightly or not; but it appears to me that it is not desirable that any legislation should be brought in to prevent fair and legitimate competition, even competition with the State. The State requires competition just as much as a corporation requires competition. I am convinced of this, with all due respect to Mr. Richardson and his Department, that if the State alone had the whole of the insurance business in its hands the premiums would be higher than they are to-day. There would be no check on the premiums, not because the Government officials desire to make the rates higher, but because they might be compelled by the powers that be to bring in more revenue. In any case, whatever is done in that way, nothing should be done to prevent the carrying on of legitimate business in this or in any other line.

23. Have you had any experience in regard to this point: Does the State Insurance Department examine as closely into all claims, or less closely, than the private companies; or are the private companies more particular in examining all claims?—I should rather think the examination is just as close in each case. I should say the State Department would be neglecting its duty if it did not examine very closely into every claim put before it.

24. I will bring before you an instance given by Mr. O'Regan. The master of a small vessel who takes his meals with the crew and lives with them, earns £4 11s. a week, and is allowed 10s. for food, which would bring him over the £5 limit. He works just as one of the crew, and yet it was claimed that as he earned over £5 he could not therefore claim compensation for an accident?—That is the case in New Plymouth.

25. I do not know the particular case, but it was given as a sort of example of what might occur?—That might be very hard lines. If this is the case I refer to, what I remember of it was that his living or food was calculated at 10s. a week. It could have been quite reasonably put at a higher amount, and that would not have made it look so bad. Evidence given in the Arbitration Court yesterday with regard to the providoring of seamen showed that it cost £1 5s. per week per man. If any one had an accident while employed by that company the food would probably be reckoned at 10s., as in the case referred to. You must have some limit.

26. *Mr. McLaren.*] You say that the provisions in clauses 3 and 9 would be likely to considerably increase the burden on the employers. Have you looked into the provisions of the English Act?—I know them generally, but I have not got a copy.

27. With regard to the plea that may be raised for wilful misconduct, do you know that the provision in this Bill is the same as in the English Act of 1906?—I understand that that is so.

28. As a matter of fact, this is the language: "If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed."?—I would like to make this statement with regard to that: We are advised that the condition of things in Great Britain is that the best companies are going out of the accident insurance business because of the liabilities entailed under the Workers' Compensation Act, and we are very much afraid that this Bill might prove the turning-point in this Dominion, and before very long there might only be the State Insurance Department or weak companies left to take our business. Our point is that you are putting too great a strain upon the resources of the employers in going further in workers' compensation than at the present time.

29. That provision has been in the English Act since 1906?—Yes.

30. It was presented to the Committee that the English Act only applies the limitation of £5 as the average earnings in the case of other than manual workers, and that there was no

limitation with regard to manual workers. It was suggested that this Bill should be altered so as to exclude manual workers?—Do they provide that only the time worked shall be reckoned, or do they take it over the whole year?

31. Do you think the provision in the English Act a fair one?—I have said that many of these provisions, from a humanitarian point of view, appear to be very fair ones.

32. You admit that many companies have been carrying on the business during the last five years?—I say they are going out of the business owing to the strain on them.

33. Have you any proof as to the number of companies which have gone out of the business?—No, but I think you will probably be able to get it from some of the insurance witnesses.

34. With regard to the average earnings of men who would be affected by the £5 limit under clause 3 of the Bill—that is, the shearers, slaughtermen, and harvesters—that is the class you referred to?—Yes.

35. Do you suggest that those men average £8 a week?—I said I should not be at all surprised if many of them did, from what I know of their earnings here.

36. Have you any exact data with regard to their earnings throughout, both here and elsewhere?—I said the difficulties under this clause were such that it would be impossible to prove what those men were earning in Australia, but I should judge from what many of the men were earning here that their earnings in Australia would be similar to what they earned here.

37. It is a rough estimate of your own—£8 a week?—I said so.

38. *Hon. Mr. Millar.*] I believe you have given evidence that the Bill would mean an increase in premiums of 15 per cent.?—Yes.

39. I cannot see for what reason this Bill would do that, because the insurance people told me the Bill of last year meant no increase at all?—I think you must have got them at a very soft moment.

40. They told me they could stand £1 then without any increase at all, but the £10 they could not stand without an increase of about 30 per cent.?—Well, they must answer for their sins.

[*Vide* letter from Mr. Pryor correcting figures quoted in appendix.]

J. H. RICHARDSON examined. (No. 6.)

1. *The Chairman.*] You are?—Commissioner of the Government Insurance Department.

2. You have considered this Bill?—Yes.

3. And you are prepared to make a statement with regard to its application to your Department?—Yes. I should like to premise what I have to say with regard to the Bill by mentioning that I express no opinion with regard to the questions of policy involved in the Bill. I only wish to point out in what respect the Bill might be improved from a working point of view; and, of course, I shall be glad to answer questions with regard to the effect of the proposed increased benefits on the rates of premium. The most important change is contained in section 2, which makes the employer liable for medical or surgical expenses up to £1 in addition to the usual compensation. Under the present law no compensation is payable unless the incapacity lasts for seven days or more, and I think it should be made quite clear that this limitation also applies as respects the proposed medical expenses of £1. If the amendment applies to all accidents, whether compensation is payable or not, there will be a multitude of small claims for medical expenses arising, perhaps, from trivial accidents which merely cause absence from work while the the injury is being attended to. The Department pays about a thousand claims every year. The proposed medical expenses (£1), if limited to accidents which disable the worker for not less than seven days, will therefore add at least £1000 to the outgo and increase the rates of premium by about 10 per cent., or slightly more—say, 12½ per cent.; but if medical expenses are payable for all accidents, however short the duration of the incapacity, and whether the worker is entitled to compensation or not, the rates will have to be increased by considerably more, so as to meet the increased number of claims and the extra expenses of administration. I might mention that I have had calculations made in the office to see if we could arrive approximately at the actual addition necessary if medical expenses for all accidents were paid for at the rate of £1, whether the worker was entitled to compensation or not, and we have come to the conclusion that it would require from 20 per cent. to 25 per cent. extra on the premiums if all accidents were included. As I have said before, it would take from 10 per cent. to 12½ per cent. if the only accidents included were those where the worker is entitled to compensation. With regard to subsection (1) of section 3, this alteration is apparently for the purpose of reducing the wages of such classes of labour as shearers. While at work shearers, as a rule, earn over £5 a week, and are therefore excluded from the benefits of the Act, although their average earnings throughout the year may be considerably less than this amount. The section involves a reference to the Court in each case to ascertain how the average weekly earnings are to be computed. On the whole, I believe it would be better to definitely include manual labour under the Act independently of the £5 wage-limit, as is done in the English Act (see section 13, definition of "Worker"), and fix the maximum weekly compensation at £2 10s. This arrangement would be more simple, and, although it would probably give the workman a larger claim, would be preferable to the delay and expense of an application to the Court. Under the English Act, section 13, "workman" is defined in this way—"'Workman' does not include any person employed otherwise than by way of manual labour whose remuneration exceeds £250 a year, or a person whose employment is of a casual nature, and who is employed otherwise than for the purposes of the employers' trade or business, or a member of a police force, or an out-worker, or a member of the employer's family dwelling in his house; but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing." In my opinion it would be a decided advantage to definitely include all those people who are engaged in manual labour once and for all, limiting the compensation to £2 10s.

per week. This would avoid all references to the Court, and the insurance companies would know exactly where they were. Section 6: This provides that an agreement made between an employer and a worker in regard to the settlement of any claim for compensation, or any question in respect to compensation, shall not be binding unless approved by a Magistrate or Inspector of Factories. I think this will cause delay in settling claims, but there would not be so much objection to the amendment if it were confined to lump sums paid in lieu of or in commutation of the weekly compensation. I would strongly urge that the clause be amended in this way, for as it now stands apparently no question, however trivial, could be finally settled unless with the concurrence of a Magistrate or Inspector of Factories. It seems to me that the cases which have caused trouble have been those where the man has been very seriously injured —where he has been mutilated and lost an arm or a foot. I cannot see any advantage in the clause to the worker who is able to return to his employment as well after the accident as he was before the accident.

4. *Mr. McLaren.*] It is proposed to alter that?—So far as the Department is concerned, we should offer no objection to that if the clause is only to apply to lump sums.

5. *Hon. Mr. Millar.*] What is taking place now is, when a man meets with a serious injury which sometimes results in death, the agent of the insurance company goes out and offers £150 or £200 as compensation, when the law would probably give £250 or more, and the offer is accepted. This provision is simply intended to see that the worker or his relatives shall get justice?—Yes. The only other matters to which I would like to draw attention have reference to sections 25 and 48 of the Workers' Compensation Act, 1908. I think some amendment should be made so that, in the event of the death of a worker after an accident, some reasonable limitation between the date of the accident and the dependants' claim should be made. In both cases the claim of the dependants can be made within six months of the date of the worker's death, apparently quite irrespective of the time that may have elapsed between the date of the accident and the worker's death. As a matter of fact, I have a claim of this kind now under consideration where the father of the deceased alleges that his son met with an accident some seven or eight months before his death, and that death was accelerated by the accident. No mention of the accident was made either by the worker or the employer, and it is, of course, much more difficult to collect information at the present time. At present there is no limit, and death might be attributed to an accident which occurred ten years previously, and a claim be made for compensation. I would suggest that provision should be retained that actions by dependants or others interested must be commenced within six months of the date of death, subject to the condition that no action shall be maintainable unless (*a*) where there had been no admission of liability by the employer, death occurs within two years from the date of the accident; or (*b*) death occurs within two years from the date of the last admission of liability by the employer. It is an accidental flaw in the old Act. I have nothing more to say.

6. With regard to clause 2, providing for £1 for medical expenses: compensation has not been payable under the existing law until after seven days?—Yes. It is not payable unless the incapacity lasts for seven days or more.

7. It says "in addition to the compensation." It is only where compensation is payable. This £1 is only paid for medical attendance where a man receives compensation?—We considered the matter carefully in the office, and thought the clause might be read in several ways. If what you say is the intention I think it should be made a little clearer.

8. Where a man cuts or otherwise injures himself it is to pay for first aid, which is often very necessary, and minimizes the extent of the injury; but it was intended to be only in addition to the compensation payable. That was the instruction I gave to the Law Office, and the clause seemed to me to be all right?—Would it be a difficult thing to add a proviso that no amount should be payable unless compensation is due? I think such a proviso should be added.

9. That was our intention. Coming to clause 3: You have had a fairly large experience in the insurance business: in your opinion, how would it affect the premiums if we adopted the English clause in this respect in its entirety?—Personally, I think it would be rather slight. I think the number of workers earning over £5 a week cannot be very great, and we should simply get the premiums on the whole of the wages instead of on the wages of those earning less than £5. I do not think the extra premium would be serious.

10. It only applies to manual labour?—I am decidedly of opinion that the English Act should be adopted, because it would lead to simplicity in dealing with claims.

11. And it will mean but slight or no increase in premiums?—No, I do not think so. I do not think it will involve any material increase in premium to employers, for if there is any doubt as to whether or not the men come under the Act, to be settled by the Court, the full premium would probably be charged in any case.

12. Clause 6 we will have amended in the direction you suggest, because that is all the Government desire—simply to protect those who may not have the ability to look after themselves. Some of the agents of insurance companies deliberately endeavour—which is the principle, probably, from a business point of view—to take advantage of people, which could not be done if proper advice was available. We would prefer to see the settlement made quietly without any trouble to anybody, and I think you will agree that people ought to be protected when the insurance companies have taken premiums for risks up to £400, and take advantage of the ignorance of people to settle the matter for perhaps £150?—There should be some provision for that.

13. *Mr. Fraser.*] Mr. Pryor stated that if the Bill as a whole were passed it would mean an increase of 15 per cent. in the present premium: what is your opinion in that respect, assuming, of course, that section 2 is made quite clear in the way you desire?—I think, as I said before, it will mean an increase of from 10 to 12½ per cent. I do not think it will be any more. We can fairly well get at it by the number of accidents we have had. I think it will be found that in every case of accident it will mean medical attendance, and there are about a thousand a year in our office. We have about twenty cases a week, and I think that will practically cover it.

14. *The Chairman.*] Do you think this provision of £1 per week will cause an extra number of claims to be put in?—I think it might to some extent, but we might give it a fair trial, with from 10 to 12½ per cent. extra premiums. It is bound, I think, to a slight extent to bring in a few.

15. But not to any great extent?—I do not think so.

16. Is it likely to increase malingering?—I think it would a little, but not materially.

17. *Hon. Mr. Millar.*] Have you many cases disputed?—Only a few. We only go to Court where it is a barefaced case or where the claimant is not entitled to compensation. We try to settle these matters out of Court if possible, as we do not think it pays any company to go to Court.

CHARLES ALFRED EWEN examined. (No. 7.)

1. *The Chairman.*] You are?—I am speaking as chairman of the Accident Underwriters' Association of New Zealand. I have not consulted the whole of the members of the association, but only the committee, and I have written just a few notes with a view to stating where the Amendment Act is likely to increase the rates of premium. We have come to the conclusion that it will mean an increase in premiums of 15 per cent. to 20 per cent.

2. Irrespective of this Act?—We would like to get them up 10 per cent. irrespective of this Act. With regard to clause 2 of the Bill, we think that in every case where a man receives an injury, however slight, he will seek medical aid; and there are medical men in New Zealand who will take care that the worker is laid up for more than seven days, so that he may get his £1 for medical attendance. Including the Government Department, there are twenty-two companies transacting accident business in New Zealand, and we have averaged the number of claims made last year (for the twelve months ending 31st December), and, although we cannot get the exact figures of each company, we find that there have been 600 claims for each company upon an average: this would mean £13,000 in medical fees on the actual claims the companies would have to pay. There are a great many claims made now where we ask for no medical certificate. We are quite prepared to settle a claim between the employer and the employee, so that medical certificates are not required by the company. We really think that medical men are quite capable of taking care of themselves, and that it is not necessary therefore to put the clause in the Act. In reference to section 3, this as printed appears to give compensation to workers earning over £5 a week, and workers under the Act are not only manual workers, but clerical workers, and there is no limit. I do not know whether it is intended to put any limit in. If the amount is limited to £2 10s. per week, the increased claims would not be very numerous, but, of course, if a man receiving £8 a week is to receive half wages as compensation for an accident, there must be an increase in the premium. Slaughtermen, for instance, get large wages, and therefore there must be an increase in connection with freezing companies. Clause 5 provides for additional benefits, and that is another reason why we should have to increase the rates. With regard to clause 6, at present under the Act the agreement only applies to infants or workers under age, and apparently this brings in all workers. I do not know that this affects us with regard to rates. Clause 9 we certainly think will necessitate a slight increase in rates.

3. *Hon. Mr. Millar.*] As chairman of the Underwriters' Association, you said it would require an increase of 10 per cent. to cover the existing risk: can you give us any figures with regard to the premiums collected by the twenty companies?—No, we have no means of ascertaining that. In England the companies have to give a return under the Employers' Indemnity Act and to separate the premiums; but here in New Zealand we do not, and the returns to the New Zealand Government include personal accident premiums.

4. What means has this Committee of ascertaining your reason for increasing the premiums if it cannot get the total premiums and claims?—I could apply to the companies to supply them if necessary.

5. It seems to point to the necessity for an amendment in connection with the returns, so that the workers' compensation shall be kept absolutely separate. We want to know whether in our legislation we are unduly putting a burden on the employers they cannot very well bear, while at the same time we are desirous of giving the fullest protection to our workers. By what means are we going to check the figures?—I could apply to the companies for the figures, and I could give you my own figures.

6. If you can give us the total premiums and number of claims it would assist us. It would not be unduly prying into your business. We do not want by legislation to unduly put a burden on an industry it cannot bear, and the only basis we could take is the number of accidents on which compensation is paid each year?—I can give you my figures—the total premiums and total losses under the Workers' Compensation Act. You want a comparison?

7. We do not want the details: we only want something approximately to give us some idea of the position?—The companies will probably willingly supply them, because they would prove that the rates are too low.

8. Do you consider that if we adopt the English clause your risk will be minimized to a certain extent, because under the English Act it does not apply to clerical workers at all?—That is so, but is the compensation to be limited to £2 10s. per week?

9. Yes; that is, we do not want to go beyond £250 a year. Make the limit £250 and the maximum compensation per week £2 10s.?—If you keep them all in, yes. From the employer's point of view I think they would rather have it limited to manual labour; but from the insurance company's point of view we would rather get them all in.

10. The only point I want to know from you is whether, if we adopted that, by reducing the number of hands insured by the employer we would not reduce the number he will have to pay on?—From our point of view we should like to see all workers, as defined in the present Act, brought in, because we would get a larger income.

11. Section 5 of the principal Act, you say, means an increase of premium: have you in the course of your own experience ever brought up as a defence that the accident was caused by the wilful misconduct of the worker?—I could not say.

12. Can you tell me in how many cases that plea has been put in?—There were several cases here in Wellington where it was alleged that the accident was caused by the wilful misconduct of the worker.

13. How many cases of the kind have gone to Court?—Not many.

14. I understand the difficulty of proving it makes it too risky to take it into Court at all. I ask you as manager of your company, how often have you used that as a defence?—Once or twice cases have been tried on that ground, but I have had no experience of that kind.

15. What is your reading of the original Act: do you literally read that a man has to lose the whole joint of his finger before you are called upon to pay for the joint?—Yes, that is according to legal advice.

16. If a man has lost the half of a joint, of what earthly use is the remainder of that particular joint?—Take the thumb: if we had part of the joint lost it would be 15 per cent.

17. You pay for the top joint?—Yes.

18. If you take the half-joint the company will not pay for it?—I have not had any experience of cases of that kind.

19. Some companies have been actually straining the law to get out of their liability?—We always pay when the joint is actually lost. I speak only for myself.

20. It is quite apparent, whether the joint is totally disabled or not, if after the joint is taken off it must be feasible that the half-joint is of no use. The joint might be actually left, but it is no service?—I think that is the custom now.

21. If that is the custom now it cannot increase the premium?—Section 9 means more than that.

22. No, that is all that section 9 says, "permanently and wholly useless"?—There again it is a case for the medical man.

23. *Mr. Fraser.*] Did I understand you to say that you would not object, so far as manual workers are concerned, if they were earning more than £5 a week you would allow them to get compensation providing that it did not exceed £2 10s.?—I said we had no objection to raise if the workers, as defined by the present Act, all came in.

24. You said the limit of £5 would not be insisted on if the compensation were not more than £2 10s.?—I said it would not increase the premium to a great extent if it were not more than £2 10s.

25. You are speaking for the associated companies?—Yes.

26. Do you mean that if the wording of the English Act were adopted, and there was no limit of £5 for manual workers, but with this limitation of compensation to £2 10s., you would not object to the clause?—I do not think that particular clause would affect the premiums to a great extent.

27. When you answered Mr. Millar just now on the question of negligence, did you restrict your answer to the operations of your own company, or were you speaking then for the associated companies?—No, my own company.

28. Have you known any cases where any of the other companies have used that as a plea for non-payment?—I only know that two cases were tried in Wellington about two years ago in connection with the erection of the Destructor, where a scaffolding fell down and injured two men. There, I think, it was proved that the accident was due to negligence.

29. Are there many cases where men come to serious damage through carelessness and do not apply for compensation?—I do not think so.

30. Where it is manifest that there was negligence on their own part?—They will apply for compensation.

31. Whether it is manifest or not?—Yes.

H. N. LIARDET examined. (No. 8.)

1. *The Chairman.*] You represent?—The Ocean Accident and Guarantee Corporation (Limited).

2. You are general manager for New Zealand?—Yes, the New Zealand branch. With regard to the figures Mr. Millar was mentioning just now, I may be able to give you some information, because I had them drawn up in the office yesterday. Taking the average for four years from 1907, the amount we paid for claims during that time amounted to £63,128, or an average of £15,782 per year. We paid on an average during the four years 1,778 claims per year.

3. *Hon. Mr. Millar.*] What was the total amount you got?—I received £27,804 as the average per year for four years. With respect to this amendment increasing the liabilities of the insurance companies or employers as per clause 2 of the Bill, we also have to add to the number of claims mentioned above, the number of claims on which no compensation was paid. A man receives a slight injury, and has first of all to go to a medical man. The injury may not be serious enough for him to make a claim, but we would be liable to the medical man for his fee. Our experience is this—and I suppose we have a larger experience than any other company represented here to-day—that where an injury is suffered a claim is always made. In some instances we pay what is called "first aid"; in other instances we are not asked for it; but once this amendment comes into force there will be no question at all as to who should pay it or the amount they will have to pay. We shall have a charge on every claim and every case which a doctor has to attend. We shall be charged £1 in every case without any mistake at all. That is my opinion. I dare say you gentlemen will remember when the amendment was proposed that the maximum should be £10, and I dare say you have recollection of a letter which appeared in the newspapers at the time which showed the way the wind was blowing.

4. The general manager of your company, Mr. Montefiore, told me it would not cost anything at all?—I cannot understand that, because it is quite contrary to our experience. In estimating what the loss is going to be with regard to my own corporation I must add to the 1,778 claims we have paid during the year a certain proportion—perhaps a fourth of this number—for cases where we have not had to pay anything on minor injuries, but which would have to be attended by a medical man, so that I estimate our increased expenses on the bare claims paid and premiums received will be 11 per cent., or 13 per cent. if we add the minor cases requiring medical attention. With regard to section 3, that is going to cost the employer and the indemnifier—the corporation—more money. The gentlemen who have gone before me have evidently not had very much experience of freezing-works and slaughterers, and that class of men, who must of necessity be good workmen and be paid high wages or they would not be employed. A slaughterer must get through so-many sheep or cattle or pigs a day or he is not wanted there. So with shearers, who earn big wages, and harvesters, but only for the season: and it does not seem quite a fair adjustment that the average earnings should be reckoned on what they earn during a certain period of the year only. I had an experience where a man in Christchurch was earning an average of £7 12s. a week.

5. *Mr. Fraser.*] Could he claim if earning over £5?—When we put it in that way the men wanted to put it in another way. I said, if he is earning that amount per week he is outside the pale of the Compensation Act. We settled the matter. I was informed that the men in freezing-works earn up to £8 a week, but it is only for a certain part of the season: take Borthwick's and other large freezing companies, where there is a closed season. At other times these men are earning good money. There, I think, it is going to be a hardship to the employer. With regard to subsection (2) of clause 3, I suppose there is nothing very dangerous in it. With reference to section 5, there again it seems a question in the minds of the gentlemen who have given evidence as to whether there are many cases of misconduct—accidents arising out of gross negligence which should be defined as misconduct. I do not know how misconduct could otherwise be defined. We have had several cases—one particularly which comes to my memory just now. A man loading a steamer — a ganger — called one of the men from the side of the ship, and as he came over he and another man started to wrestle and fight. The consequence was that a box of butter fell and broke one of the men's legs. Compensation was claimed, and I resisted the claim, and it was proved beyond doubt that the men were skylarking, and the accident was due to wilful misconduct—instead of working the men were playing. The case did not go to the Court. I was served with a writ, but the case was withdrawn.

6. *Hon. Mr. Millar*]. That case would not have come under this clause in any case, because it did not result in death or permanent disablement?—It might have resulted in permanent disablement, because it was a compound fracture of the ankle. With regard to clause 6, I do not know whether it is going to make very much difference to us. We never to my knowledge coerced a widow or unintelligent man to accept compensation less than what they were entitled to by the Act. We never do it. My experience proves to me, on the other hand, that the injured people, or the dependants of a man who is deceased, are not given time to accept any compromise from a company, because as soon as the accident occurs and before the man is dead there are three or four solicitors about him. They do not give you any chance whatever. In the old days—I have had eighteen years' experience of accident insurance—the solicitors never interfered with one at all. If the man were alive he had his friends with him, and we threshed the matter out and settled it. Now, the first thing you hear of is a letter from the man's solicitor stating that so-and-so has met with an accident or death, and demanding compensation. Of course, that is due to the progress of the country, and you cannot combat that. I would not like to think that any of the companies in New Zealand would take advantage of the unfortunate position in which the dependants of injured people are put. It would not pay them to do so, because they would not get any business. The whole thing would kill itself in a year or two, as these things soon get about, and people would not insure with them. It would be rather a death-knell to the company doing it.

7. Then the clause cannot do any harm?—Of course, we have a very large business, and although the worker may seem not to be the man we are looking to at the present time, from an underwriter's point of view, you want to get the employer on your side as well, because he has a lot of insurance business to give you. I heard Mr. Millar ask the chairman of the Underwriters' Association a question just now on severed joints. As nearly as possible we adhere to the Act, and I think that is our Bible—our business guide. The insurance companies do not make the laws, but have to obey them, and so long as we give a generous interpretation to the law no one can say that further legislation should be passed. My office is a good deal like a hospital. We keep a surgeon on the premises, and it has never come under my notice yet that we have ever tried to get out of a claim for half a joint. But to say that because a man gets a small point of a joint cut off we are going to pay for the whole joint—well, we are not. I do not think we ever quibble about paying for a joint when it has been not totally but partially cut off. I am perfectly certain that our company or any other well-conducted insurance company never quibbles about that sort of thing.

8. The figures you gave us showed that the average claims per annum for four years amounted to £15,700?—Yes.

9. And the average premiums for the same periods amounted to £27,800?—Yes.

10. £27,000 as against £15,000 leaves a balance of £12,000 in premiums collected than claims paid?—Yes.

11. That is about 60 per cent.?—I will admit 60 per cent.

12. It would be fair to say you pay 35 per cent. for working-expenses?—You must put more than that down. You are picking out a line which is most expensive in our business. No company, or hardly a company, in New Zealand has made a profit out of workers' compensation

business for four or five years, and in England the advice of my directors is this: that the increases in the liabilities in connection with the employers' liability, as it is called at Home, and the decrease in the rates has made it such that there is hardly any profit to be expected in it until some alteration has been made. I suppose we handle the largest amount of business—I believe we are the largest accident company in the world—and so our figures must be relied on. They say there is very little margin of profit, so that it is a question whether it is worth while going on.

13. Are the risks as great in this country in accident assurance as they are in the Old Country?—Yes, the is much more hazardous work out here.

14. But there are greater liabilities in England—the annuity for permanent disablement goes on for ever: there is no limit of time?—That is so.

15. There is here. Can you give the percentage of charges in England?—No, I could not.

16. The most hazardous risk in England, if I remember aright, is about 10 per cent. That is the highest premium paid. What increase did you put on the premiums two years ago?—10 per cent.

17. Has your company—and, if so, how often—raised the defence that the accident was due to the wilful misconduct of the worker?—On more than one occasion.

18. During how long?—Several times during the last four years. I have known three or four cases, I suppose.

19. How many times have you proved it?—Those cases have never gone into Court: we have always settled them out of Court.

20. So that practically you have never raised that defence in a Court?—No. We never go to Court if we can possibly help it.

21. Now, you spoke about the claim for a joint. There is a finger now [diagram produced]. Do you think it is a fair thing if part of a joint is permanently gone, and the joint is of no earthly use and results in permanent disablement, it should not be paid for? How would you read our Act?—I would not pay for the lower joint. I maintain that the joint left is of great value.

22. That is a case that is going into Court now?—I do not say it is an improvement

23. You say that, so far as your company is concerned, you know of none of your agents having gone into the country where an accident has happened and negotiated and got an agreement signed for the payment of a lump sum much below what your company was liable for?—No, I do not know of any agent who would dare do it. As a matter of fact, our agents do not settle claims at all. That is done from the head office.

24. You have never agreed to a settlement effected by your agents at much below what the law provides for?—No.

25. If the man was entitled to £400 you have not paid less?—No, absolutely no.

26. Does the clause referring to the medical fee of £1 affect you to any large extent?—I reckon it will interfere with us, or add to our liability, about £2,000 a year.

27. Did you not say you keep a medical man in your office?—Yes, but people do not come to our medical man. Accidents take place all over the country. We pay our medical man a retaining fee. He gets half a guinea at the present time for every case examined outside the office.

28. So far as the Wellington office is concerned, this clause is not likely to affect you much, because if you give him £1 per case you will not require to pay him a retaining fee?—We must. We would have no one else. He is one of our staff, and has been with us for years.

29. If he is one of your staff is it necessary to pay him any fees at all?—Yes, he would not be retained if we did not.

30. *Mr. Fraser.*] Then, your opinion is that the change provided for in section 2 will necessarily increase the premiums by 12½ per cent.?—Yes, it is.

31. You agree with Mr. Richardson on that point?—Yes, so far as my figures are concerned. We are keeping all the different classes of insurance separate.

32. You did not answer Mr. Millar's question as to what ratio of expense you would have, because it is left now as if there was a profit of £12,100. What portion of that £12,100 would represent profit, approximately?—I understood Mr. Millar to say that was treading on rather delicate ground. I will answer it in this way: that any company would consider themselves very fortunate indeed if they made 10 per cent. profit.

33. *Mr. Hardy.*] Your predecessor and yourself are not keen on this business?—No.

34. Is it because it is unprofitable?—It it not profitable.

35. Yet the figures given here show that there is a profit of £12,000, or a balance of £12,000?—Yes, but look at the commission we have to pay and the upkeep of a huge corporation in New Zealand.

36. And it is in consequence of the expenses running away with so much apparent profit that you are not keen on the business?—Yes; and added to that the Act is amended nearly every three years.

37. Are you really in earnest when you say that your company is not keen on the business?—Yes.

38. And you fear that if there are any more restrictions imposed you might be inclined to do without it?—I will tell you this much: My general manager was out from London last February, and it was questioned then whether or not the New Zealand branch should be closed.

39. There is a general understanding between the companies as to rates, is there not?—Yes.

40. But the New Zealand Government office does not fall in with that?—We are bound by the tariff as to New Zealand, the same as elsewhere.

41. Does that apply to the Government office as well as your own?—Yes. I understand the Government office is not a member of the association, but it always adheres to the tariff.

42. If there is a case of the companies charging too much the Government office is also in it as well as you are?—I suppose so. We have a tariff, and I always adhere to that.

43. *Mr. Glover.*] Did I understand you to say that your company has never coerced or at any time offered a person less than he was entitled to?—Mr. Millar asked me whether any of my agents had ever compromised a claim. Well, I say this: it is not our practice—we do not do that sort of thing. If the law says the man is to get £400 there is "no bones" about it—he gets the £400; but if there is a question as to whether we are liable or not, you cannot blame the company for contesting the payment of the £400.

44. Would it surprise you to learn that some reputable companies have got people to take a less sum than they were entitled to?—I have heard of it, but should be surprised to know it.

45. As regards the £12,000 balance, you contribute a great portion of that to the expense of carrying on your business. Would not the ramifications of your business lead to a certain amount being set aside?—No, that is dealing with the workers' compensation department of our business, which is most expensive. We have to pay, in the first instance, a very much higher commission for getting the business. I do not know why, but it is the custom to pay up to 25 per cent. to get the business.

46. *Mr. McLaren.*] In your experience of the business, have the workers, when they come to settle with the companies, got a full knowledge of the value of their claims they are making?—My experience is this: that the average claimant is very well equipped with intelligence, and has a good idea of the Workers' Compensation Act of New Zealand. We never have a man asking asking for less than he is entitled to—never. If he is not accompanied by a lawyer's advice, he has found out somewhere that he is entitled to have his wages or so-much as a lump sum.

47. Are they generally advised by the officers of their union?—Yes, I believe so. With Mr. Young, the secretary of the Seamen's Union, we have always had pleasant relations. I think the secretaries of the unions would bear out my statement that no quibbling is made when once we arrive at a decision as to what the law says—we pay it.

48. You would not be in a position to contradict me if I stated that I got in several cases £30 or £40 more than what the claimant was asked to receive by the company?—In some cases, with your help, they might have got more than the claim, but not with the Ocean Accident Company.

49. With regard to the clause about the permanent loss of a member, I had one case when business secretary of a union where a man got his finger cut. The finger was stiff, and he was advised that he would never be able to bend it. Would you consider that finger lost?—We find that where fingers are very stiff and legs are very sore, that it only requires a plaster costing a few pounds to put the thing right. With a little massage the finger would be all right. We take the Act as our guide. The Act does not say that because a finger is stiff you should compensate the owner for the total loss of it. We do not do that.

50. In this case the medical officer of the company admitted that the finger was disabled or permanently disabled in the sense that it could never be bent. Would you recognize that as a loss of a finger?—No. There is nothing in the Act to say so.

51. *Hon. Mr. Millar.*] You practically said there is no philanthropy in the business; you stick to the strict letter of the law, and give what the person is entitled to and no more?—I will not say no more.

52. You said that you took the Act as a guide?—Yes.

53. You said that, so far as the profits are concerned, they have come down almost to the vanishing-point?—Yes.

54. Is that because of this Act or on account of competition? How many companies have started here?—I am only talking for four years back.

55. I can name the South British Company, which was a purely marine underwriting office, which has taken up the business profitably?—Profitably, have they?

56. I presume they are not working for nothing; and I think there are at least four branches of English companies which have started in the business during the last four years. Now, if there was nothing in the business, is it at all likely that keen business men in England who are looking all over the world for fields for investment would not see whether they could not do a profitable business in New Zealand before starting out here?—Yes; all sorts of companies were started many years ago.

57. I am only speaking of recent years. From the accident-insurance point of view that proves that there is a profitable field in New Zealand?—I doubt it very much. At any rate, the New Zealand balance-sheets for last year are available to you.

58. You will also admit that these same balance-sheets are available to the companies in London?—Yes, I said my general manager was considering whether it would not be better to close the New Zealand branch altogether.

59. You see there are other companies ready to come here to replace the Ocean Accident Company?—There is an old adage which says "Fools rush in where angels fear to tread." My experience is that some of the managers say they wish they had never seen the accident business. The fire men coming in are losing all the time, for the reason that they do not know where they can make little savings.

60. Are you aware that the New Zealand Insurance Company fifteen years ago made a profit of £9,000 per annum on their accident business?—Fifteen years ago we were sending Home thousands of pounds, but there is no profit to-day.

61. Is that not owing to the English companies doing business here?—No, the Acts are responsible. You remember my predecessor stated that 10 per cent. would cover the whole loss, but do you know that in the old days where we paid £5 for a joint we now have to pay £40 or £50. It is the schedule of the Act which is the cause of the trouble

62. It is not the lawyers' casts? You cannot deny the statement made by your predecessor that the increased amounts coming under the schedule would be saved by the legal costs paid?—Whoever said it had not the experience of what that schedule meant. You get the whole of the insurance men before you, and I guarantee they will corroborate what I say. Mr. Montefiore was a very experienced expert in insurance business, but I believe he spoke without the book when he said that.

J. H. RICHARDSON recalled. (No. 9.)

18. *Hon. Mr. Millar.*] You have heard the statement made by Mr. Liardet in reply to Mr. Hardy, in which it was asked whether the State Accident Insurance Department was part of the combination of insurance companies: Is the State Department a member of the association or not?—No, it is not.

19. You fix the rate yourself without consultation with the association at all?—The position is this: the maximum rates are fixed by Order in Council—by the Government—and I cannot alter them. I have power to reduce them to meet competition, but beyond that I am absolutely tied down by the Order in Council. Of course, it would be useless to say that these matters do not form the subject of discussion between the companies doing business and ourselves, but the maximum rates are fixed by Order in Council, and any arrangement I may come to with the companies must be restricted to that. Apart from that if any rate is not reasonable I would not be a party to it. We keep our experience very carefully tabulated. We keep an account of the wages paid and the losses in each trade, and we can always arrive at a ratio between the losses and the wages. Then, all we have to do is to load that with the expenses; and if I found that any rate proposed by the companies did not fit in with that I could not agree with it. I cannot, however, exceed the maximum rates.

20. You have to fix the premiums within the maximum?—Yes.

21. *Mr. Fraser.*] You gave it in evidence that you considered the alteration affected by clause 2, if it became law, would necessitate an increase in the premiums by 12½ per cent.?—Yes.

22. Could you raise your present premiums by 12½ per cent., and yet keep within your maximum?—I might have to get another Order in Council. When we increased the premiums before by 10 per cent. to meet the provisions of a previous amendment we had to get an Order in Council to enable us to do it.

23. If the Bill in its present form becomes law, is it probable that you would have to apply for increased rates?—Do you mean on current policies?

24. Yes?—Of course, the premiums have to be increased to cover the new liability. I could not say exactly at present what we would do with regard to current policies. We might tell the people that we would cover the risk by increasing the premiums *pro rata* for the remainder of the term, leaving the extra amount to be collected on such expiry.

25. If the clause amending section 22 of the Act becomes law, would you have to apply to the Government to enable you to increase the rates?—Yes. I could not otherwise charge the necessary extra premium.

26. You would have to charge an extra premium to save you from loss?—Yes.

27. *Mr. Hardy.*] You spoke of the Government fixing the maximum rates. Are you working below the rates?—In some cases we are, especially in the building trades, which are cut to an unprofitable degree, and therefore I keep out of the building trades as much as possible. If the business comes to us we take it, and it not I do not chase it.

28. You would chase after all the good business?—Yes, naturally.

29. And leave the poor companies the bad business?—We do not chase it.

30. What do you mean by "current policies"?—Those that are running.

31. Consequently the current policies must be the early policies?—Yes.

32. And in the event of this legislation passing the current policies would be affected?—Yes, they would have to pay the extra premiums if the assured wished the extra liability to be covered.

33. In agents' commission do you pay up to 25 per cent.?—No, nothing like that.

34. What is the largest sum?—I do not think we pay more than 15 per cent.

35. Is there any additional expenses paid to the men beyond the 15 per cent.?—No.

36. I suppose you sometimes have cases where the men applying for compensation are to all intents and purposes malingerers?—I suppose we do have some cases occasionally.

37. Have you had cases of loss of sight where it has returned?—After the claim has been settled?

38. Yes?—I cannot say that. Of course, if we had a man who had injured his eyes we should have him examined by an eye specialist.

39. You do not know of any man who has lost his sight and afterwards regained it?—No. I do not think there is much malingering. There is some, but not much.

40. Your Department has never paid in any case where a man lost his sight and it was restored afterwards?—No.

41. *Hon. Mr. Millar.*] You have given a good deal of study to clause 3, about the £5-weekly earnings, and you suggest that the English Act would be preferable?—Yes.

42. If clause 2, providing for £1 medical attendance, were struck out, and clause 3 was made to incorporate the English Act to provide that all manual labour should be paid a maximum of £2 10s. a week, would that increase the premium?—I do not think it would materially increase them.

43. *Mr. Hardy.*] Do you really fix the rates, or do the underwriters fix them?—They generally discuss such matters with me, but I am governed by the Order in Council, and cannot exceed the rates fixed therein. We are guided by our actual experience. I think we keep our statistics more carefully than any company does, because we have a complete actuarial staff, which the other companies have not got, and, subject to the Order in Council, the rates are raised or lowered according to our actual experience of the cost.

APPENDIX.

Canterbury Trades and Labour Council,
Trades Hall, Christchurch, 6th September, 1911.

SIR,—

I am directed by the above Council to forward you the following amendments we desire to see made in proposed Workers' Compensation Amendment, and also in the present Workers' Compensation Act.

In proposed amendment: That "one pound" be struck out, and "ten pounds" inserted. The rest of the proposed amendments we agree with.

In the present Act: That section 2, "relative" be amended by adding the words "neices and nephews." In support of this, we had a case of great hardship occur here a few weeks ago, when a single man was killed, who had been supporting his neices and nephews. Under the present Act the cause of action died with the man, and the young children were left to the mercy of charity. We trust you will use your influence to have this amendment made.

That section 62 (3) be amended so as to provide that where any injury or damage is suffered by a worker by reason of the negligence of any person in the service of the employer, who has any superintendence intrusted to him, the worker injured to be able to recover damages to the full extent of the injuries received. In support of this amendment, we contend that when a employer places a man in charge whose duty it is to give orders or instructions as to how any work is to be carried out the employer should take the full responsibility of any negligent acts on the part of that person. We had a case here a few weeks ago when a serious accident happened whereby one man was killed and two seriously injured, one of them losing his left leg. It was proved at the inquest that gross negligence was the cause of the accident, and yet the employer claims that the negligence was on the part of a fellow-servant, who was in charge of the job, and thus the amount that can be claimed if that plea is sustained is only £500, while the extent of the man's injuries cannot be assessed at less than £1,000. We trust you will see the justice of this amendment and use your influence to have the same inserted in the Act.

I am, &c.,
JAMES YOUNG,
Secretary, Canterbury Trades and Labour Council.

J. F. Arnold, Esq., M.P., Chairman, Labour Bills Committee, Wellington.

Accident Underwriters' Association of New Zealand,
Wellington, 14th September, 1911.

DEAR SIR,—

Workers' Compensation Amendment Act, 1911.

In accordance with your request, I have now obtained from the twenty-one companies forming the New Zealand Accident Underwriters' Association particulars of the amount of premiums received for risks in connection with the Workers' Compensation Act for the twelve months ending 31st December, 1910, together with the amount of claims paid during the same period, and I hand you statement herewith (No. 1).

I also hand you a synopsis (No. 2) of the statements prepared by accident insurance companies for the year ending 31st December, 1910, in accordance with the Accident Insurance Companies Act, 1908. The synopsis has been compiled with the object of showing the ratio of losses and expenses. You will observe that on the whole business of the companies the loss ratio for 1910 amounted to 48·78 per cent. and the expense ratio to 36·53 per cent. In the statement relating to workers' compensation only you will see that the loss ratio amounted to 52·48 per cent. This class of accident underwriting is less profitable and more costly to manage than the other branches of the business. It is impossible, however, to calculate exactly the expense ratio for the different branches, and I have taken the expense ratio as 36·53 per cent. This added to the loss ratio, 52·48 per cent., gives the cost of underwriting under the Workers' Compensation Act for the year ending 31st December, 1910, as 89 per cent. The margin of 11 per cent. is so small that it is obviously necessary to increase the rates should the scope of the Compensation Act be widened, and the benefits increased.

From the figures obtained from a company transacting a considerable amount of accident business, we learn that the average number of claims for the year ending 31st December, 1910, amounted to 600 per company. Had clause 2 of the Amendment Act been in force last year nearly the whole of the margin of 11 per cent. would have been absorbed by medical fees and first aid. Apart from this, the margin of 11 per cent. is so slender that no reserve can be built up to provide for disasters in mining and shipping risks. No business is sound unless it is conducted on a profitable basis; the underwriters are therefore justified in seeking to obtain an increase in rates, particularly with regard to some of the industrial risks, such as builders and cognate trades. These are at present covered at an unprofitable rate. Irrespective of any fresh legislation, the rates should at once be increased by 10 per cent. to place the business on a sound footing.

I trust these figures will supply you with the information you require. I regret the delay in sending them in. This is due to the fact that I have had to obtain them from all parts of the Dominion.

I have, &c.,
CHAS. A. EWEN, Chairman.

Hon. J. A. Millar, Wellington.

No. 1.

Accident Insurance Companies transacting Business in New Zealand.

STATEMENT OF PREMIUMS RECEIVED AND CLAIMS PAID UNDER WORKERS' COMPENSATION ACT FOR TWELVE MONTHS FROM 1ST JANUARY, 1910, TO 31ST DECEMBER, 1910.

	£
Total premiums received	153,959
Total claims paid	80,795
	Per Cent.
Loss ratio	52·48
Expense ratio	36·53
Total	89·01

NOTE.—The London and Lancashire have not supplied their figures, but, as their business is very small, the ratio would not be affected.

No. 2.

Accident Underwriters' Association of New Zealand.

Wellington, 12th September, 1911.

EXTRACTS FROM STATEMENTS LAID ON TABLE OF HOUSE OF REPRESENTATIVES, WELLINGTON, BY THE ACCIDENT INSURANCE COMPANIES FOR THE YEAR ENDING 31ST DECEMBER, 1910.

Company.	Premiums.	Claims.	Commission.	Salaries.	Expenses.	Profit.	Loss.	Ratio per Cent. Losses.	Expenses.	Profit.	Loss.
	£	£	£	£	£	£	£				
Alliance	250	..	29	46	65	106	..	..	56·80	33·20	..
Commercial Union	13,677	5,889	2,380	745	1,424	3,239	..	43·06	33·26	23·68	..
Government	21,363	12,522	2,362	3,151	907	2,221	..	58·61	30·99	10·40	..
Guardian	1,928	645	386	306	431	..	40	33·45	65·62	..	2·07
London and Lancashire	4,946	1,726	883	400	362	1,573	..	34·59	33·29	31·82	..
Liverpool, London, and Globe	2,312	999	485	524	280	24	..	43·21	55·76	1·03	..
Norwich and London	8,992	5,367	2,308	1,037	643	..	353	59·57	44·36	..	3·93
National	7,385	2,330	710	1,006	795	2,544	..	31·55	34·00	34·45	..
New Zealand	70,805	36,725	6,411	9,856	6,476	11,335	..	51·87	32·12	16·01	..
Ocean	31,593	17,792	3,802	5,633	4,554	..	2,183	56·36	50·61	..	6·93
Phœnix	3,539	1,229	943	220	533	614	..	34·73	47·93	17·34	..
Queensland	5,325	2,755	654	901	615	400	..	61·74	40·75	7·51	..
Royal Exchange	2,355	256	363	408	782	346	..	10·87	65·94	23·19	..
Royal	9,476	2,989	1,486	676	693	3,633	..	31·53	30·15	38·34	..
South British	35,016	17,520	4,668	1,908	4,907	6,013	..	50·03	32·79	17·18	..
Standard	9,335	2,767	772	1,176	908	3,712	..	29·64	30·59	39·77	..
Union	1,794	1,020	271	..	137	346	..	56.86	23·66	19·28	..
United	1,253	320	133	200	228	402	..	24·94	43·72	31·34	..
Yorkshire	1,084	560	207	..	300	17	..	51·66	46·77	1·57	..
	232,458	113,400	31,455	28,395	25,062	36,727	2,581	48·78	36·53	14·69	..

Farmers' Co-operative Insurance Company, Northern Insurance Company, Victoria Insurance Company—No returns yet available; but would not affect the ratio.

New Zealand Employers' Federation,
Secretary's Office, Woodward Street, Wellington, 22nd September, 1911.

SIR,—

Refering to the evidence I gave before your Committee on the 6th instant, in connection with the Workers' Compensation Bill, I have to request you to be good enough to allow me to amend my statement regarding the probable cost of the provisions of the Bill to employers of Labour.

I based my estimate on the information contained in the Year-book, but was unaware at the time that these figures included the amount paid for premiums on personal accident business. I have since secured the actual figures for premiums paid on Workers' Compensation business, and desire to amend my evidence on that point in accordance therewith.

The premiums paid for the year ended 31st December, 1910, amounted to £153,959—say, roughly, £154,000. Ten per cent. on that amount is £15,400; twelve and a half per cent. on that amount is £19,250. So that my statement requires to be amended to say that the extra cost to employers if the Bill became law would be from £15,000 to £20,000 per annum.

Thanking you in anticipation of your kind permission to have this letter published in connection with my evidence.

Yours faithfully,
WILLIAM PRYOR, Secretary.

The Chairman, Labour Bills Committee, Parliament Buildings, City.

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