

WORKERS' COMPENSATION BILL.

MEMORANDUM.

THIS Bill repeals and re-enacts the Workers' Compensation for Accidents Act, 1908, with a number of modifications, of which the following are the most important:—

1. *Scope of the Bill.*—The claim to compensation is extended to all classes of employees who are engaged in the trade or business of their employer, whatever the nature of that trade or business may be. The only persons excepted are employees whose average remuneration exceeds £5 per week. Servants of the Crown and of local and public authorities, and bodies corporate of every description, are also included. Persons engaged in hazardous employments (as defined in a Schedule) are also included, although they are not engaged in the trade or business of their employer.

2. No employer is liable to pay compensation to any relative (as defined in this Bill) who is employed by him. Claims of this sort (made against insurance companies) are the source of much trouble, and do not deserve to be encouraged.

3. *Compensation on Death.*—In the case of total dependency the maximum is increased from £400 to £500. Funeral and medical expenses not exceeding £20 are in every case to be added to the compensation payable.

4. *Compensation for Incapacity.*—The lump sum in lieu of weekly payments is fixed at the present value of the weekly payments that would be received. (The present law contains no definite provision.) Compensation for partial incapacity is fixed at half the loss of wages, just as compensation for total incapacity is and has been half the total wages. Weekly payments are in every case limited to six years. At present all workers permanently incapacitated eventually receive the same aggregate amount, regardless of the amount of their wages, because the same maximum is fixed for all. The new provision makes the total compensation vary with the wages received by the worker at the time of the accident. The maximum sum is raised from £300 to £500.

Certain specific injuries (stated in a Schedule) have fixed rates of compensation allotted to them, as amounting either to total disablement or to some definite proportion of total disablement. This provision will avoid any dispute as to the amount of compensation in these cases, and will also secure substantial compensation for serious injury, even though the immediate result of the injury is a comparatively small loss of wages. The earning-power of a clerk, for example, may be little reduced by the loss of a leg, but he will nevertheless obtain substantial compensation.

Additional compensation is awarded to workers permanently injured while under twenty-one years of age, for the present earning-power of such workers does not represent their real loss.

5. *Industrial Diseases.*—Compensation is given for certain diseases incurred in the course of a worker's employment. This is in accordance with the English Act of 1906.

6. *Seamen.*—The benefits of the Act are extended to all seamen engaged in New Zealand ships, whether the accident happens in New Zealand waters or not.

7. *Magistrates' Courts.*—Exclusive jurisdiction in compensation cases is given to the Court of Arbitration, the limited power of Magistrates being taken away. The provisions of the present law on this subject are unsatisfactory, and, indeed, unworkable.

8. *Contracting.*—The present law as to the liability of a principal to the workers employed by a contractor is modified to some extent. The principal is made liable if two conditions are fulfilled:—

- (a.) The work to be done must be directly a part of the principal's own trade or business, or must be hazardous work done under a contract worth at least £20; and
- b.) The accident must happen on premises owned, occupied, or controlled by the principal.

9. *Declaration of Liability*.—In case of injuries which do not presently cause any incapacity, but which may do so in the future, provision is made for obtaining a declaration of liability, on which compensation may be afterwards assessed.

10. *Costs*.—Provisions are made for the limitation of legal costs in proceedings for compensation.

11. *Contracting out of the Act*.—Schemes of insurance between an employer and his workers in lieu of the benefits of the Act are abolished.

12. *Employers' Liability Act*.—This Act is repealed on the ground that it is now superfluous and a cause of complexity and unnecessary litigation. Under the Bill a worker has two remedies:—

- (a) If he can prove personal negligence on the part of his master, he can sue at common law for damages:
- (b) Whether the master is negligent or not, the servant can sue for compensation under this Act.

But he cannot sue his employer for damages merely because of the negligence of a fellow servant.

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