

The National Insurance Act 1911 : being a treatise on the scheme of national health insurance and insurance against unemployment created by that Act, with the incorporated enactments, full explanatory notes, tables, and examples / by Orme Clarke.

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THE LAW OF

NATIONAL INSURANCE

ORME CLARKE

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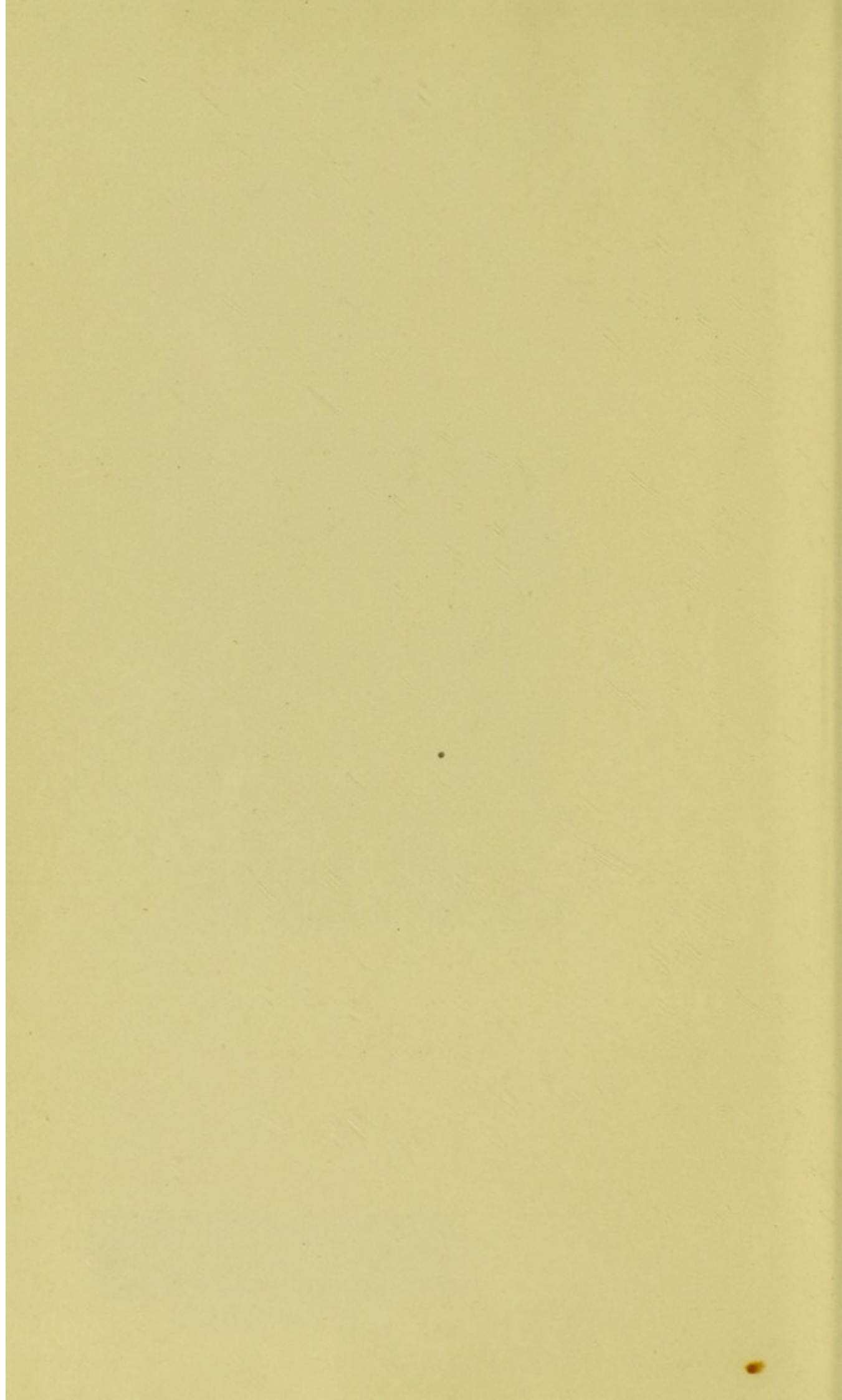
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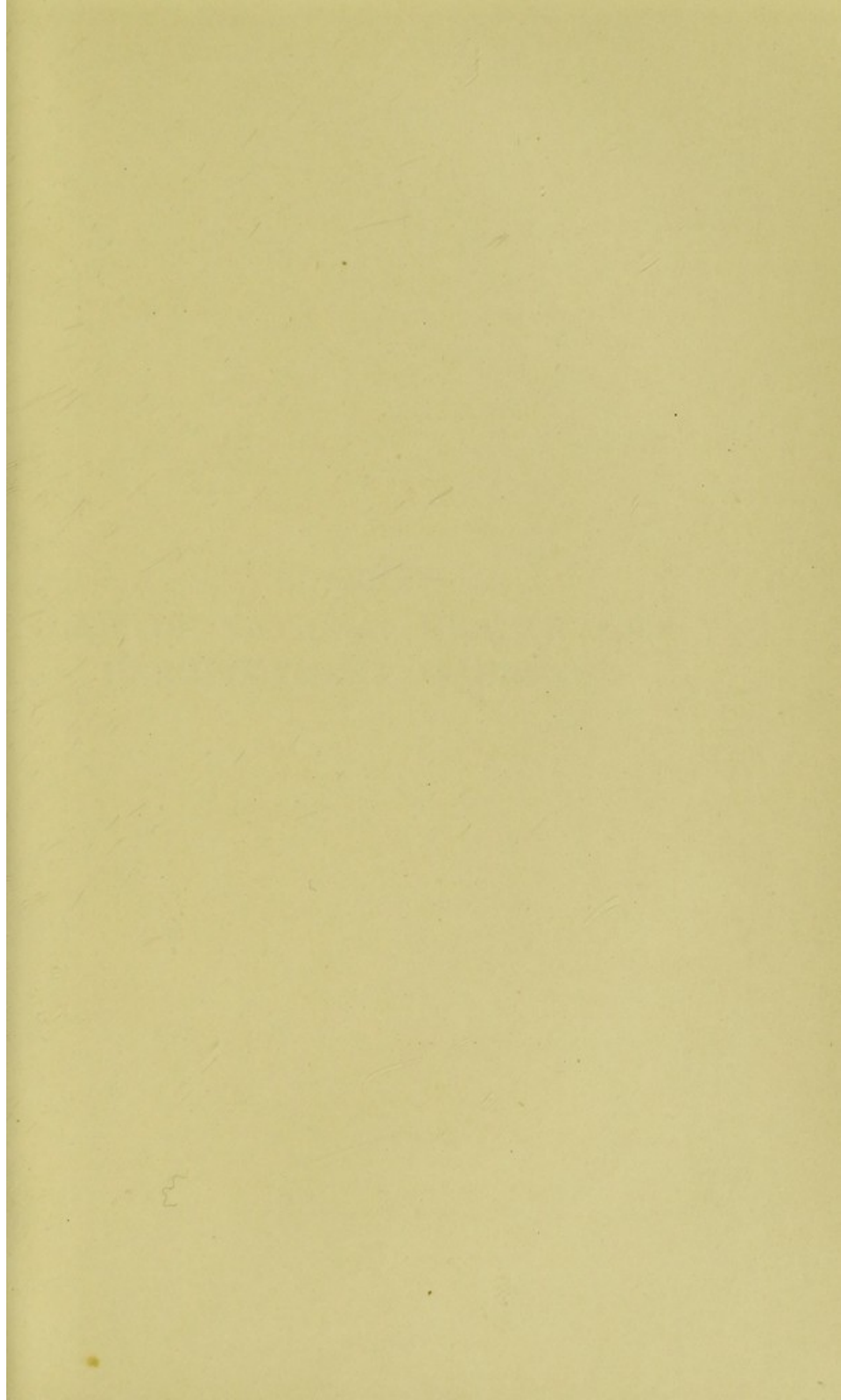


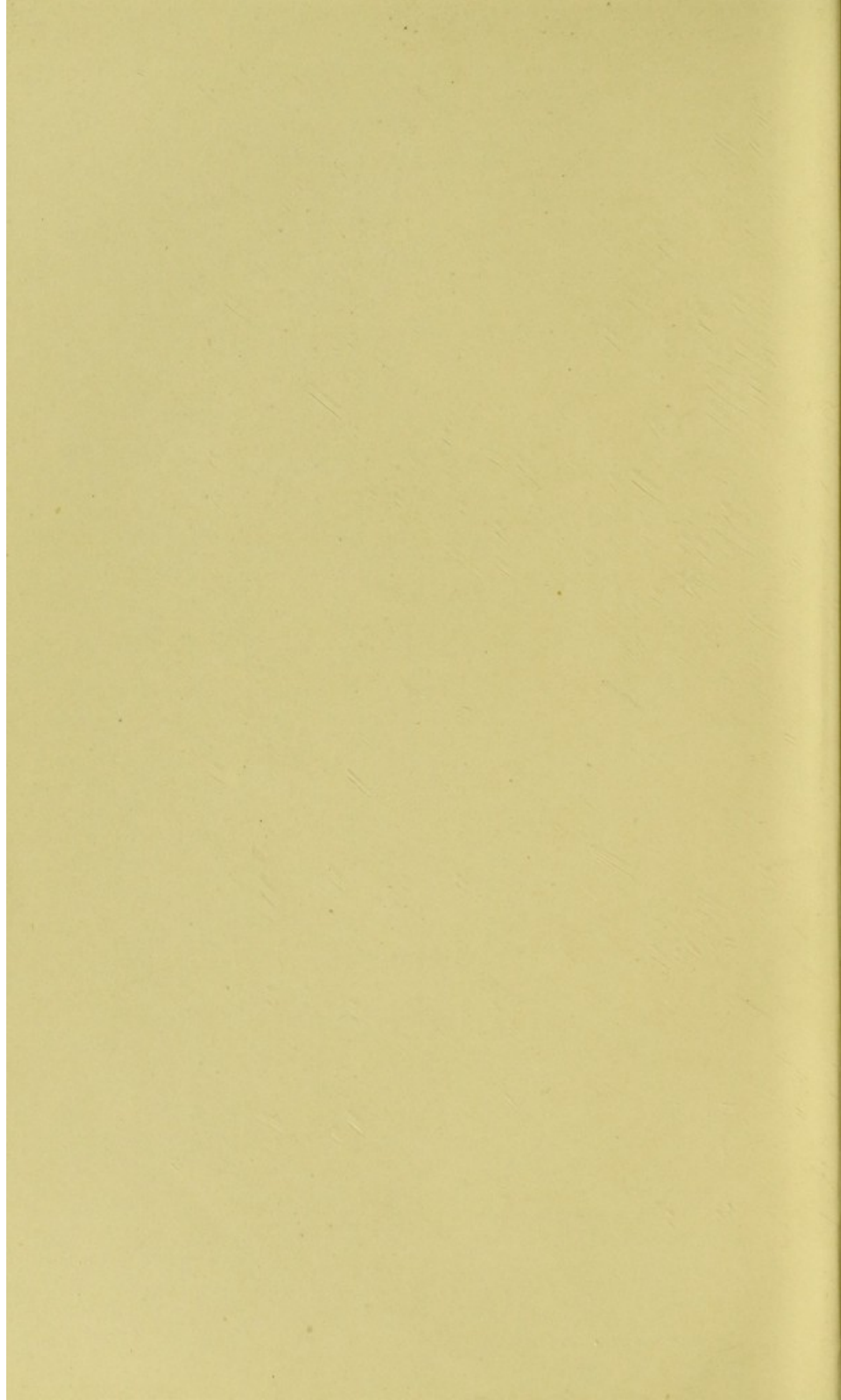
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CLARKE'S
LAW OF NATIONAL HEALTH AND
UNEMPLOYMENT INSURANCE

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THE NATIONAL INSURANCE ACT 1911

BEING A TREATISE ON THE SCHEME OF NATIONAL HEALTH
INSURANCE AND INSURANCE AGAINST UNEMPLOYMENT
CREATED BY THAT ACT, WITH THE INCORPORATED
ENACTMENTS, FULL EXPLANATORY NOTES
TABLES AND EXAMPLES

BY

ORME CLARKE

OF THE INNER TEMPLE AND WESTERN CIRCUIT
BARRISTER-AT-LAW

WITH AN INTRODUCTION

BY

SIR JOHN SIMON, K.C.V.O., M.P.

SOLICITOR-GENERAL

"The beauty of laws for human creatures is their adaptability
to new stitchings" THE EGOIST, chap. xviii.

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PREFACE.

It is always considered graceful in an author to apologise for intruding a book on the public. The apology is always insincere, though it is frequently owing. In this case the author feels that less apology than usual is owing, because the character of the enactment which it has been his endeavour to elucidate, is such that its provisions must necessarily be of intimate, and, it may be hoped, of pleasant interest to nearly all the inhabitants of the United Kingdom.

The Act deals with novel principles, its scope is amazingly wide, and its details are extremely complicated. The aim of the author has been to endeavour to give a clear and accurate exposition of those principles, together with an elucidation of the details. The method adopted is familiar and well-tried. An introduction is followed by a print of the Act, and beneath each of the sections a full explanatory note will be found. The usual Table of Cases and Statutes are inserted in the beginning, and such portions of the Interpretation Act, 1889, as are material are printed at the end of the book.

The license usually accorded to an author when writing a preface may perhaps be an excuse for drawing attention to one or two features of the book.

The Introductory Summary has been specially written with a view to giving the readers of the general public

a brief, but clear, exposition of the provisions of the Act, with references in every case to the section in which those provisions are to be found. All the important sections are followed by a special note, which endeavours to give a summary of the object and effect of the particular section, and a very free use has been made of examples. It is, perhaps, not too much to hope that those who are not accustomed to legal phraseology will find this of use, and that those who are familiar with that phraseology may find that it saves them trouble.

The task of writing this book has not been an easy one. The feelings of the author may perhaps best be expressed by saying that he hopes—*olim meminisse juvabit*. The Bill was practically redrafted in Committee, where over twenty new clauses were added. On Report, hundreds of amendments were made, and eight new clauses were added. The House of Lords made its mark upon the Bill, and again added a new clause ; and finally a “drafting amendment” was made by the Commons on the consideration of the Lords’ amendments to the Bill. Any one who has had experience of writing a book in these circumstances will understand the force of the statement that the final numbering of the sections was not definitely known to the author until December 24.

In conclusion, the author can only express a hope that his book may be found of some use by the public, and particularly by those persons whose duty it will be to administer the Act. He will be only too grateful if mistakes are pointed out to him. They inevitably exist.

The author desires to express his thanks to the many friends whom he has plagued with questions on the Act. To Mr. Colin Smith, of 1, Brick Court, his special thanks are due for assistance that has been unflagging and invaluable. His knowledge of the Act is thorough, and he has constantly placed that knowledge at the

author's disposal. He has not only prepared the Table of Cases and Statutes, and the index, and read the proofs, but has carefully read through the whole of the manuscript with the result that the author is indebted to him for many valuable criticisms and suggestions.

ORME CLARKE.

4, BRICK COURT, TEMPLE,
25th Dec., 1911.

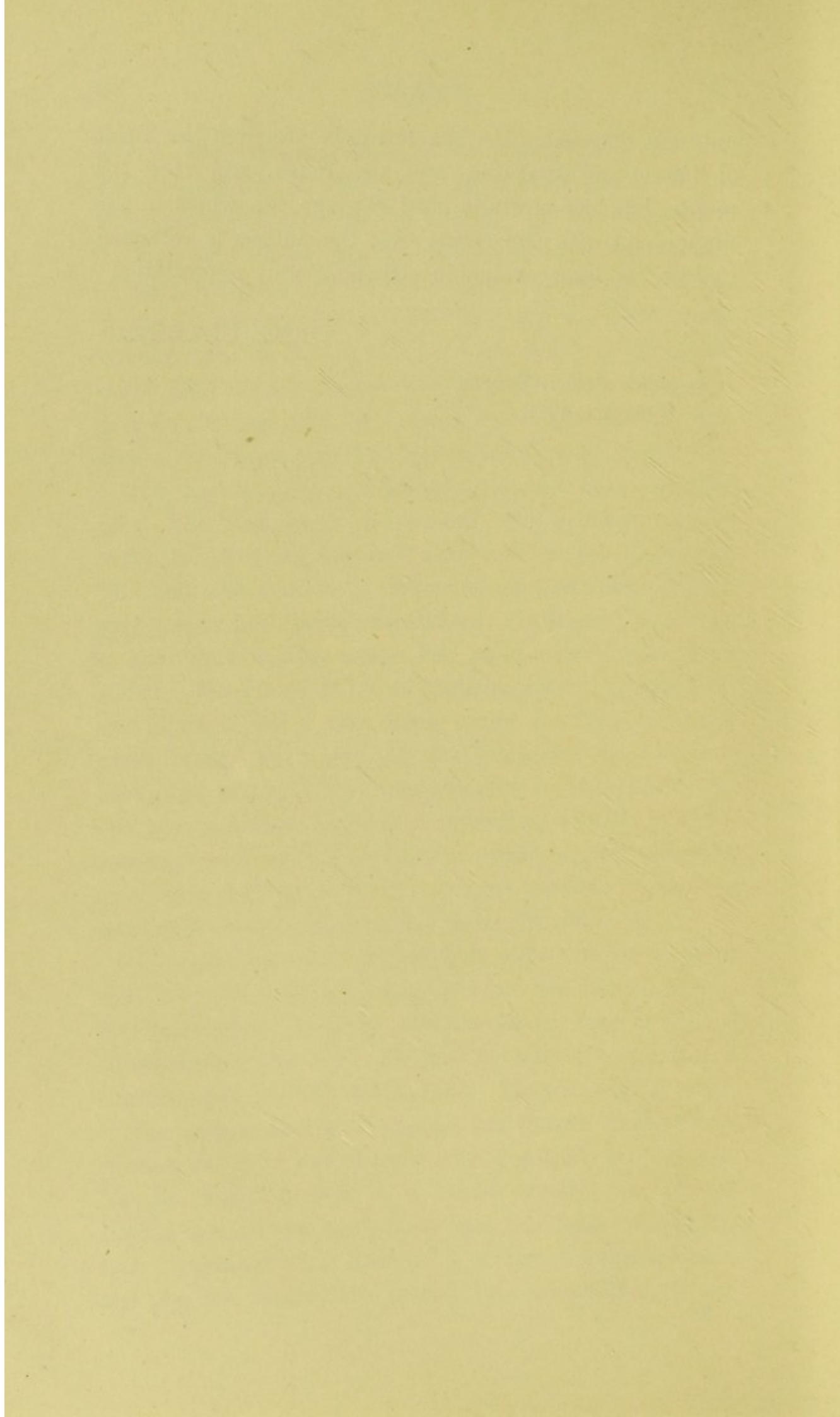


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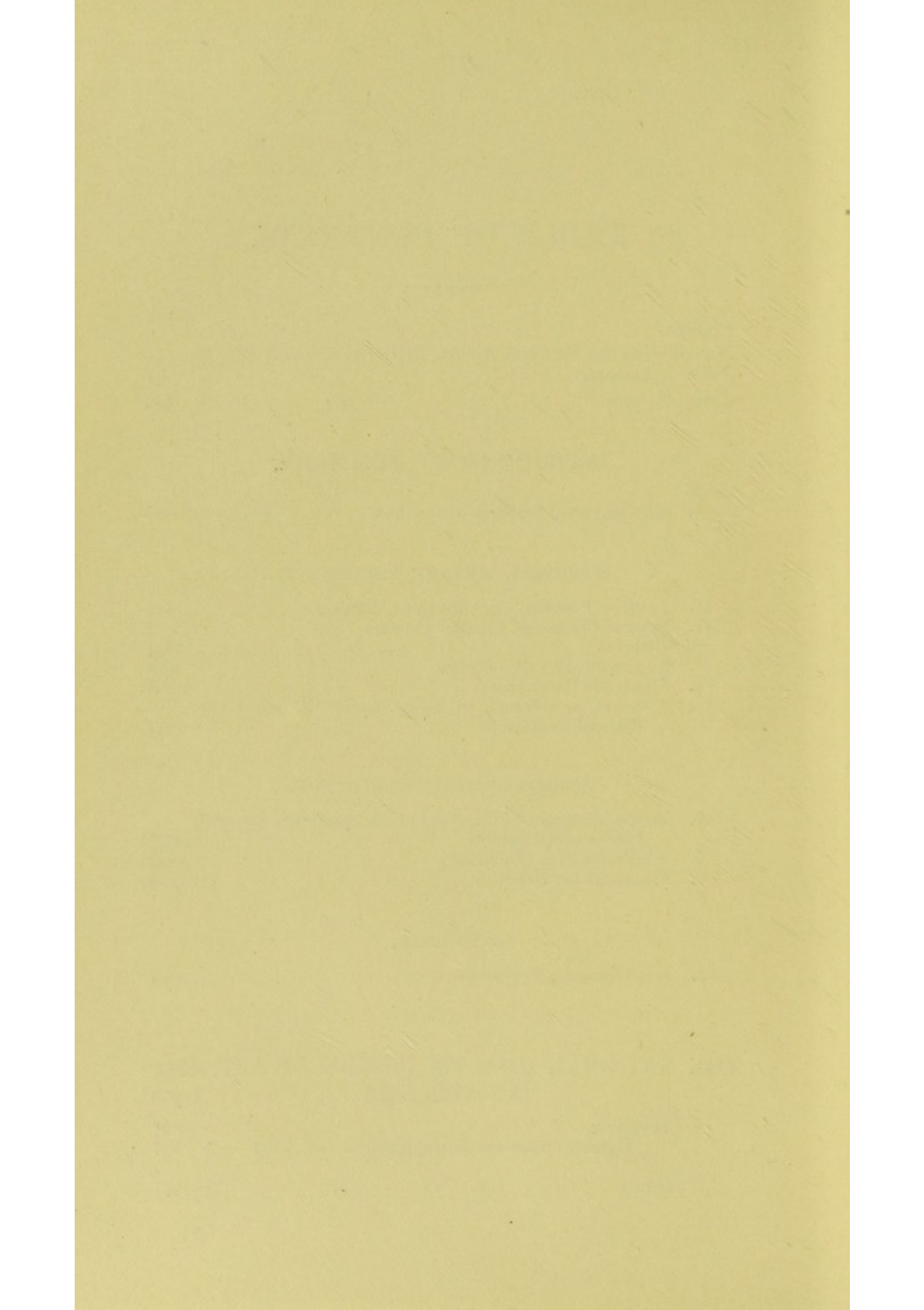
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INTRODUCTION.

It is with much pleasure that I comply with the request of my friend Mr. Orme Clarke to write a few words by way of preface to his treatise on the National Insurance Act. This piece of legislation touches so many interests at so many points that a clear and detailed exposition of its provisions will be everywhere welcomed. And there is a special reason why careful explanation is wanted. Most Acts of Parliament, even though they closely affect the daily lives of masses of people, can be, and are, discussed with intelligence without any very precise knowledge of their minute provisions. Many excellent speeches have been made, for example, about the Workmen's Compensation Act or the Old Age Pensions Act, by persons who have never studied their clauses, but it is the simple truth that no one can express a well-founded opinion on the National Insurance Act without devoting a quite inordinate amount of time and trouble to studying it—not less time and trouble, let us say, than a lady would spend in choosing a new dress, or a man in selecting a new motor car. It is easy enough to say that we are in favour of “the principle” of National Insurance; and indeed those who really understand what the necessary principles of National Insurance are, are thereby committed to much which they may otherwise be tempted to repudiate. But, after all, the essence of a scheme such as this

lies in its details, and as a guide to those details Mr. Clarke's book will, I am convinced, prove useful to many.

This book has nothing to do with the controversies of the moment, but I may perhaps be permitted to use this preface (without thereby tainting the undefiled fount of learning which follows) to point out one substantial reason why the whole Act should come into law at one and the same moment. At the time of the second reading of the Bill, it was in some quarters strongly urged that Part II., dealing with Unemployed Insurance, should be postponed, and that we should in the first instance confine ourselves to Part I. On the third reading of the Bill, its critics in terms suggested that Part II. should take precedence of Part I. But there is an overwhelming reason of practical convenience why Unemployment Insurance and Sickness Insurance should, if possible, come into force at the same time. It is a necessary condition for receiving Unemployment Benefit that the unemployed man should be "capable of work"; on the other hand, it is a necessary condition of the receipt of Sickness Benefit that the sick man should be "incapable of work." If therefore one half of the scheme came into force without the other, there would be a strong temptation for unjustified claims to be made upon the fund first set up. If (as was demanded on the second reading) Sickness Insurance is set up in priority to Unemployment Insurance, the man who is out of work from purely economic causes will be under an inducement to represent himself as ill. If, on the other hand (as was urged on the third reading of the Bill), Unemployment Insurance is to be set up in advance of Sickness Insurance, then the man

who loses work through ill-health will find it to his advantage to declare that he is perfectly well. The two halves of the Scheme ought to work side by side, and, though it is true that Part II. at present only applies to certain groups of trades, it is desirable to draw a sharp distinction from the first between the conditions to which the different benefits attach.

No criticism of the National Insurance Scheme has been more widely repeated than the suggestion that more time should have been found for its consideration before it was passed into law. In point of fact, few modern Acts of Parliament have occupied more time in discussion, and certainly no modern Act of Parliament has been more widely discussed. True it is that there will be many improvements to be effected. We have already amended the Old Age Pensions Act once, and may have to do so further. Amendments of the National Insurance Act are quite certain, as soon as we know where the shoe pinches ; but before you can know where the shoe pinches, you have to make up your mind *to begin to wear it*.

JOHN SIMON.

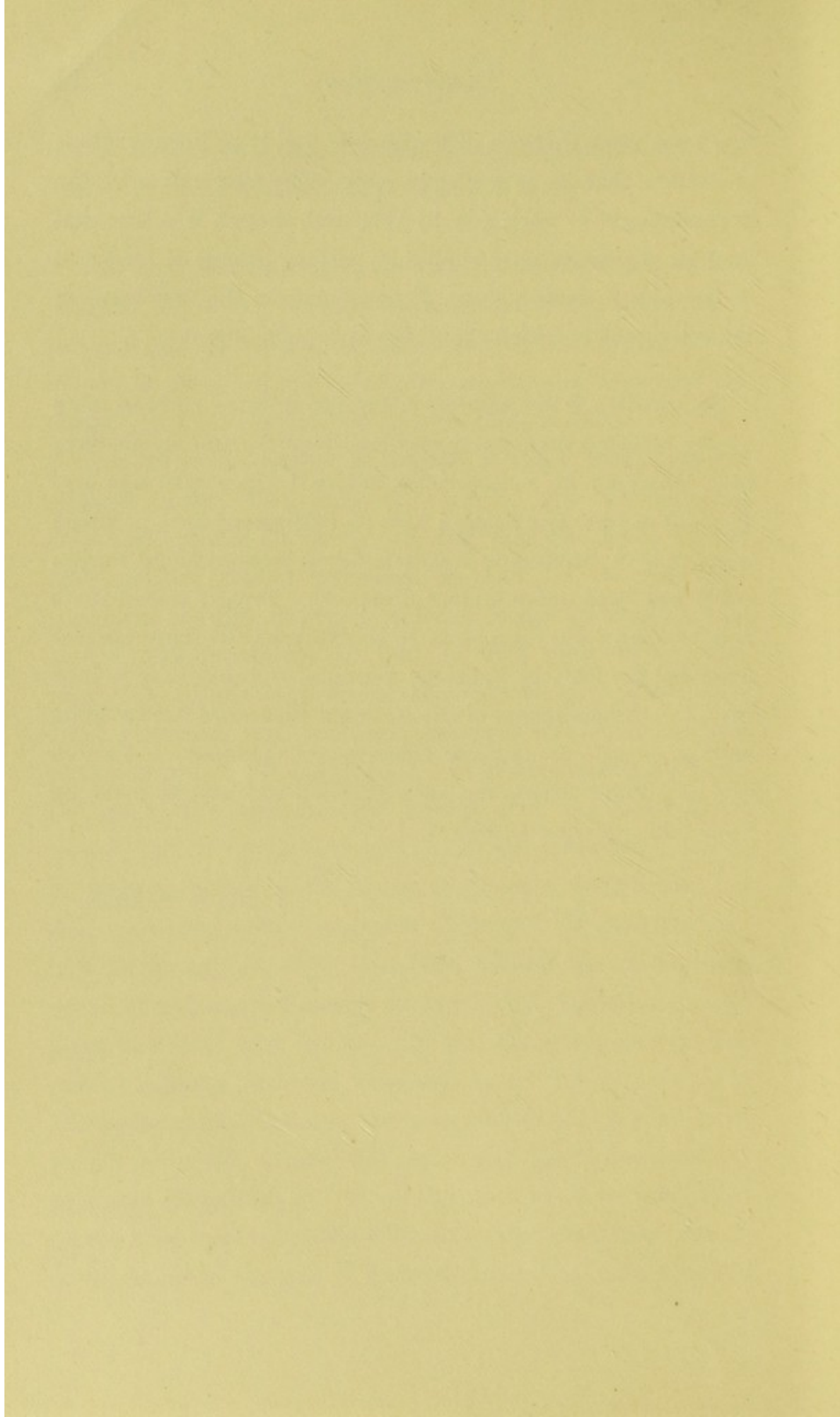


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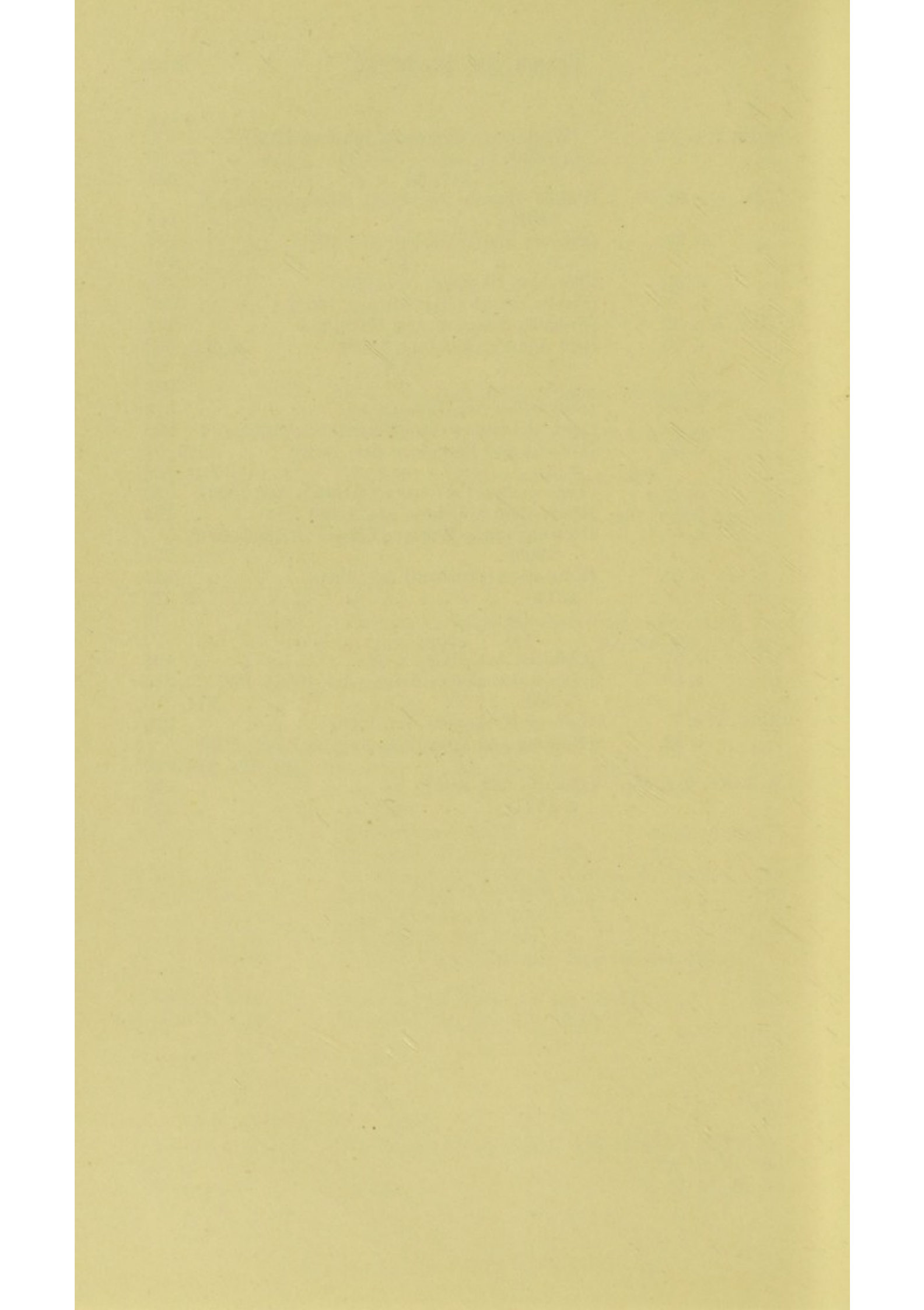


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INTRODUCTORY SUMMARY.

CHAPTER I.

PRINCIPAL FEATURES OF THE ACT.

THE National Insurance Act, 1911, received the Royal Assent on December 16, 1911, and, unless postponed by Order in Council, will come into operation on July 15, 1912.

It is perhaps the most novel and far-reaching measure that has ever been passed by Parliament. It is novel in that it applies principles of compulsion which it has hitherto been believed it would be impossible to apply to the British people. It is far-reaching in that it is almost impossible to conceive of any person who will not be more or less affected by its operation.

The Act is divided into three Parts: the first Part deals with Health Insurance, the second Part with Unemployment Insurance, and the third Part contains certain miscellaneous provisions.

From the lawyer's point of view, the first two Parts of the Act are two quite distinct measures. From the point of view of social legislation, the first two Parts have, of course, a very considerable bearing upon each other.

The most striking features of the National Health Insurance scheme brought into operation by Part I. of the Act are—

- (1) That it applies to the whole industrial population of the United Kingdom, including the Army and Navy and the Mercantile Marine.

- (2) That insurance under its provisions will be made compulsory for all employed persons.
- (3) That the administrative machinery is largely in the hands of the insured.
- (4) That the rates of contribution and of benefits are the same for all employed persons irrespective of their age, provided that they enter into Insurance within twelve months of the commencement of the Act, viz. July 15, 1912.
- (5) That the cost of the scheme of Insurance is divided among Employers, Employees, and the State, but that there is no State guarantee of the solvency of the Insurance Fund.
- (6) That it does not affect the incidence of the existing liability of Employers for accidents, provisions being made that benefits under the scheme will not be paid to persons who are rendered incapable of work by such accidents.
- (7) That it is designed to be the complement of the Old Age Pensions Act, in that the greater part of the benefits payable under its provisions will not be given after the insured person has reached the age of 70.
- (8) That it makes special provision for women at the time of their confinement.
- (9) That it makes a special attempt to deal with Consumption.
- (10) That it provides for the preservation of the existing organizations for promoting thrift.
- (11) That, besides compulsory insurance, it makes provision for voluntary insurance, on such terms that voluntary contributors to the scheme will be admitted on as favourable terms as employed persons, provided that they enter into insurance within the first six months after the commencement of the Act and are under 45 years of age.
- (12) That it opens the door to an international scheme of insurance by admitting transfers to and from foreign

countries with whom special arrangements have been made.

Special authorities are created to administer Part I. of the Act. These authorities are known as the Insurance Commissioners and separate bodies of Commissioners are established for England, Scotland, Ireland, and Wales.

Comparisons will naturally be instituted between the scheme introduced by this Act and the other great State National Insurance scheme which is in operation in Germany. It is not within the scope of this work to attempt to deal at any length with the differences between the two schemes. A few salient points of difference may, however, be noted.

The German scheme is wider in its scope even than the British scheme, in that it deals not only with sickness and invalidity Insurance but also with the provision of pensions for the aged. The natural consequence is that the German rates of contribution are considerably higher than the British rates. Again, in Germany, instead of having the same rates of contribution and benefit, the industrial population is divided into various classes according to the rate of wages that they earn. In Germany there is separate machinery for sickness and invalidity, and the State makes no contribution to the former. Another feature differentiating the British scheme from the German scheme is the extent to which, under the British scheme, the administrative machinery is in the hands of the insured. Most of these differences tend towards making the British scheme much the simpler of the two. The truth of this assertion is shown by the fact that 115 sections are apparently sufficient for the British scheme, whereas (*absit omen*) the latest revision of the German Insurance Law contains, it is reported, some 3800 articles.

The principal feature of the scheme for Insurance against Unemployment is that, unlike the scheme for Insurance against Sickness, it is not universal, but is confined in its operation to workmen in certain trades. The Unemployment scheme is perhaps more experimental in its nature; indeed, no scheme so large has ever before been instituted in any country to deal with the problem of unemployment. Power is taken in

the Act to extend the scheme to other trades, and, should the scheme be a success, this will doubtless be done.

The principal points of resemblance between the Health Insurance scheme and the Unemployment scheme are that similar methods will be adopted for the collection of contributions, and that the incidence of the cost of the scheme will fall upon the same parties, viz. the State, Employers, and Workmen. As in the case of the Health Insurance scheme there is no State guarantee of the solvency of the Unemployment Fund.

No special authority is created for dealing with the Unemployment scheme, and the place of the Insurance Commissioners under Part I. of the Act will virtually be taken by the Board of Trade.

CHAPTER II.

INSURED PERSONS—CONTRIBUTIONS—ARREARS.

THE persons to whom the National Scheme of Health Insurance introduced by this Act will apply are (1) all persons employed within the meaning of the Act who are known as “employed contributors”; (2) all persons possessing certain qualifications and who elect to become insured under the Act, who are known as “voluntary contributors.” Persons who are insured under the Act whether as employed or voluntary contributors are known throughout the Act as “insured persons.” Sec. 1 (1).

Employed Contributors.—The provisions of the Act apply compulsorily to all employed contributors. The persons composing this class are to be ascertained by reference to sec. 1 and the First Schedule of the Act.

Broadly speaking, those persons will include all persons, whether British subjects or aliens, male or female, married or single, between the ages of sixteen and sixty-five who are engaged in manual labour under a contract of service, whatever their income may be, and all such persons engaged in work other than manual labour whose incomes do not exceed £160. Casual labour is also included where it is for the purpose of the employers' trade or business or for the purpose of a game or recreation. But persons who, by the terms of their service, already substantially enjoy the benefits of the Act (*e.g.* certain persons employed by the Crown or Local or other Public Authorities and certain Teachers) are excluded. Persons whose employment is not the principal means of their livelihood are also excluded, as is the employment of a wife by a husband and *vice versâ*. Sec. 1 (2) and the First Schedule.

Special provision is made for the naval and military forces of the Crown. Sec. 46.

The magnitude of the field covered by the Act may be gauged by the fact that the actuarial report [Cd. 5983] estimates the number of employed contributors for the years 1912-13 at 13,089,000.

The Crown.—Part I. of the Act is expressed to apply to the Crown. Sec. 53.

Exemptions.—Employed persons who have a pension or income of £26 and upwards not dependent upon their personal exertion, or who are dependent upon other persons for their livelihood, may be exempted. Sec. 2.

The employer will still have to pay his own contribution if he employs an exempted person. Sec. 4 (4).

Certain married women (sec. 44 (8)), Irish migratory labourers (sec. 81 (3)), and inmates of charitable homes and reformatories (sec. 51) may also be exempted.

Voluntary Contributors.—The qualifications necessary in order to entitle a person to become a Voluntary contributor will be found in sec. 1 (3). Those qualifications are that a person must be engaged in a regular occupation on the earnings from which he is mainly dependent, and must not have an income of over £160 per annum. The number of persons who will become voluntary contributors in 1912-13 is estimated at 829,000.

Methods of Insurance.—Two methods of Insurance are open both to voluntary and employed contributors. They may either become members of Approved Societies or they may become what is known in the Act as deposit contributors. Persons who are entitled to be insured may make application for membership to such Societies at any time after the passing of the Act. The Societies will have discretion in accepting or refusing applications for membership in accordance with their existing rules, provided that no application may be rejected on the ground of the age of the applicant. Sec. 30. The effect of Sec. 55 (which equalizes the age of insured persons who

become members of Approved Societies) is such that there should be little or no inducement to any Society to attempt to exclude any members on the score of age. Members of Approved Societies will be entitled to transfer from one Society to another, or from one branch of a Society to another branch, and transfer values will be paid to the new Society or branch which the member joins. These transfer values will be paid whether the member leaves a Society voluntarily or by expulsion. Sec. 31. Members who leave the United Kingdom for good will not lose the value of their contributions, but will in certain cases be allowed to transfer to Societies in foreign countries or in British possessions, and in certain cases may remain members of their Society independently of the Act, a certain portion of their transfer value being paid out of the Insurance Fund to the Society. Secs. 32 and 33. There is provision in the Act making it an offence to become a member of more than one Approved Society for the purposes of the Act. Sec. 34.

There will be considerable advantage in becoming a member of an Approved Society in that reserve values will be credited in respect of insured persons who, owing to their age, need them. Members of Approved Societies will enjoy the protection of insurance in the true sense of the term, whereas persons who do not join Approved Societies will not.

Deposit Contributors.—Persons who do not become members of Approved Societies will be insured in a Fund called the Post Office Fund, and will be known as deposit contributors. Insurance in that Fund is not insurance in the true sense of the term, in that the benefits payable out of the Fund cannot exceed the value of the contributions which the member has paid into the Fund, together with the State contribution. Once a person has exhausted the sum of money standing to his credit in that Fund he can receive no more benefits until his account is once more replenished. Sec. 42.

Provisions are made for transfers from Approved Societies to the Deposit Insurance, and *vice versâ*, by sec. 43.

Contributions of Employed Contributors.—Contributions payable in respect of Employed contributors will be found in the

Second Schedule to the Act. These contributions are payable in respect of each week that the contributor is employed, and the full contribution must be paid in the first instance by the employer. Ultimately, the contribution will be paid partly by the employer, and partly by the employee, inasmuch as the employer will be entitled to deduct from the employee's wages the part of the contribution which he has paid upon the employee's behalf. The ordinary employed rate for England, Scotland, and Wales is 7*d.* a week in the case of men, payable as to 3*d.* by the employer, and 4*d.* by the employee, and 6*d.* a week in the case of women, payable in equal shares by employer and employee. The apportionment of these contributions as between employers and employees is varied in the case of persons receiving very low wages, and in certain cases the State will pay 1*d.* of the contribution (in addition, of course, to paying its share of the cost of benefits). Sec. 4 and Second Schedule.

These rates are reduced in Ireland owing to the fact that medical benefit is not given to insured persons in Ireland. Sec. 80 (4) and Second Schedule Part II.

These rates of contribution remain the same so long as the contributor remains in insurance. Contributions are not payable after the contributor has attained the age of 70. Sec. 4 (3).

Payment of contributions will be made by affixing stamps to cards in accordance with regulations made by the Commissioners. Sec. 7.

Means of Compulsion.—Stringent provisions are provided in the Act to ensure the due payment of contributions by the employer. If the employer fails or neglects to pay the contributions he will be guilty of an offence punishable with a fine not exceeding £10, and will be liable to pay to the Insurance Commissioners the sums he has not paid. Sec. 69. Further, in the case of a member of an Approved Society, the employer may also be called upon to pay the value of any benefit which the member has lost owing to his failure or neglect to pay the contributions. Sec. 70.

But if the employer fails to pay the contribution, or if the contributor becomes unemployed, there is no obligation upon

the contributor to pay his share of the contribution. The obligation placed by sec. 1 upon employed persons to become insured will, nevertheless, be fulfilled. The terms in which that obligation is expressed are "shall be . . . insured in manner provided in this Part of this Act," and the "manner provided" is that the employer should pay the contributions subject to his right to recover the employee's share by deductions. Sec. 4.

A collusive arrangement between employee and employer not to pay contributions, would, of course, be an offence in an employee, as well as in the employer.

Contributions of Voluntary Contributors.—Voluntary contributors who are under the age of 45, and who enter into insurance within the first six months after the commencement of the Act, will pay the employed rate of contribution.

Persons who have been employed contributors for five years or upwards are also entitled to be insured at the employed rate if they become Voluntary contributors. In all other cases Voluntary contributors will pay rates appropriate to their age at the date of their entry into Insurance. Sec. 5.

Provisions are made for the transfer from voluntary to employed rate of contribution, and *vice versâ*. Sec. 6.

Arrears of Contributions.—Arrears of Contributions will entail reduction of benefits. The amount of that reduction is shown in a table in the Fifth Schedule to the Act. Contributions are deemed to be payable weekly and arrears are calculated on a yearly average of weekly contributions. The effect of this provision and of the table is that a person who gets into arrears of contributions, and then obtains regular employment, will be enabled to decrease the amount of such arrears proportionately to the length of time that he remains in regular employment, thus gradually ascending the scale of benefits according to the table. The table is so framed that arrears amounting to less than four contributions a year on average entail no reduction of benefit. Thus a person can get into arrears of three weekly contributions in one year, seven weekly contributions in two years, eleven

weekly contributions in three years, and so on, without suffering any reduction of benefits.

No account is taken of arrears which accrue due during the following times :—

- (1) When the insured person in question is incapable of work but is disentitled by some provision of the Act from receiving Sickness benefit or Disablement benefit.
- (2) In the case of a woman who is herself an insured person and herself entitled to Maternity benefit during two weeks before and four weeks after her delivery, and, in the case of a posthumous child, during any time after the husband's death.
- (3) During the first twelve months after the commencement of the Act in the case of all employed contributors.
- (4) In the case of widows during the time that they were married. Sec. 44.

Provisions are made enabling insured persons to pay up arrears accrued due during the calendar year current and the previous calendar year. Thus an employed contributor who is temporarily employed will be able, if he is in a position to do so, to keep in benefit by paying his arrears from time to time. He will pay at the employed rate, since by Sec. 79 he still remains an employed contributor. There is no obligation upon him to do so. Sec. 10.

CHAPTER III.

SPECIAL CLASSES OF INSURED PERSONS.

THE Act makes special provision for the following classes of insured persons :—

- (1) Married Women. Sec. 44.
- (2) Aliens. Sec. 45.
- (3) Persons in the Naval and Military Service of the Crown. Sec. 46.
- (4) Persons whose Employers are liable to pay wages during sickness. Sec. 47.
- (5) Persons in the Mercantile Marine. Sec. 48.
- (6) Persons over 65 years of age at the commencement of the Act. Sec. 49.
- (7) Persons engaged in Seasonal trades. Sec. 50.
- (8) Inmates of Charitable Homes, &c. Sec. 51.
- (9) Persons becoming Certificated Teachers. Sec. 52.

Married Women.—The principal provisions with regard to Married Women are that they are suspended from the ordinary benefits on their marriage, unless they continue to be employed, and that they are precluded from becoming ordinary Voluntary contributors while they are married. Provision, however, is made whereby married women who are members of an Approved Society may become special Voluntary contributors on their suspension. They will pay a reduced rate of contribution, viz. 3*d.* a week, and will only be entitled to Medical benefit, and reduced Sickness and Disablement benefit (Fourth Schedule, Part I., Table D). On suspension one-third of their transfer value, which will be specially calculated by the Insurance Commissioners, will be transferred to the Married

Women's Suspense Account, and will form the financial basis for the very favourable terms which are provided for their re-entry into insurance on the death of their husbands. The remaining two-thirds of their transfer value will form the financial basis of the special scheme of Voluntary insurance above referred to, or, if they do not choose to avail themselves of that scheme, will gradually be paid out to them in benefits when they are confined or in distress.

The provisions relating to Married Women are perhaps the most complicated of any of the provisions of the Act; it would be impossible to attempt to deal with them in detail here. Their position may be better appreciated by referring to the Table on p. 152. In order that there should be no danger of married women not understanding their rights, an obligation is expressly laid upon Approved Societies to explain those rights to them. Sec. 44.

Aliens.—Aliens who are employed within the meaning of Part I. of the Act must be insured, and aliens who possess the necessary qualifications may become Voluntary contributors.

Aliens who—

- (1) were on May 4, 1911, members of a Society which becomes an Approved Society, and who have been resident for 5 years in the United Kingdom,
- (2) have been transferred (under sec. 31) in pursuance of arrangements made with the Governments of foreign states,
- (3) are of the age of 16 but who have not yet attained the age of 17,

will be dealt with in the same way as British subjects. Other aliens will only be entitled to reduced benefits, and no part of those benefits will be paid out of the State contribution. Further, no reserve values will be created for them. They may, however, become members of Approved Societies. Sec. 45.

Naval and Military Forces.—During their period of service men in the Navy and Army will pay reduced contributions, and will only be entitled to Maternity benefit, but the ordinary geographical limits within which that benefit may be paid

(sec. 8 (4)) will not apply. Provisions are made so that they may re-enter insurance on their return to civilian life on as favourable terms as if they had been civilians throughout.

Provision is also made for the establishment of a Navy and Army Insurance Fund which will pay benefits to men whose health on leaving either of the services is too bad for them to be able to obtain admission to an Approved Society. The contribution of the Admiralty and Army Council towards that Fund must be such as to ensure its solvency.

These provisions will apply to all persons in the services (except to men who have re-engaged for a pension, who may elect whether or not they should come in under the scheme) whether they are serving abroad or in the United Kingdom. Sec. 46.

Persons whose Employers are liable to pay Wages during Sickness.—The Insurance Commissioners may make special orders, the effect of which will be to apply the special provisions of sec. 47 to persons who are employed in employments where there is a custom that the employer should pay wages while the employee is ill. It will be at the option of the employer whether he and his employees are dealt with under those provisions or not.

If he exercises that option the employed rate will be reduced by 2*d.* (or in the case of women by 1½*d.*). The benefit of the reduction will be shared equally between employer and employed in the case of men; but, in the case of women, the employer's contribution will only be reduced by ½*d.* The employer will be bound to pay full wages during any time that his employee is ill up to six weeks, and, during that period, the employee will not receive Sickness or Disablement benefit. Sec. 47.

Mercantile Marine.—Provisions are made reducing the rate of contribution to 6*d.* (payable as to 2*d.* by the employer and 4*d.* by the seaman) in the case of seamen, &c., serving on foreign-going ships or ships engaged in the regular trade on foreign stations. For the purpose of arrears and for determining the number of contributions to be paid by such seamen

in a given year, four contributions of 4*d.* will be reckoned as the payment of five contributions. This provision will not exempt the employer from paying his own contribution for every week during which the seaman is employed. No payment of Sickness or Disablement benefit will be made to such seamen during the time that his employer is bound by the Merchant Shipping Acts to provide them with medical attendance and maintenance.

Provision is also made for the establishment by the Board of Trade of the Seamen's National Insurance Society, to which all persons serving in the Mercantile Marine will be entitled to belong.

In addition to the ordinary benefits conferred by the Act this Society will provide pensions, preference being given to Masters and Seamen who have served on foreign-going ships over those who have served on coasting and home trade ships.

The employer's contribution will be payable by ship-owners in respect of any aliens (*e.g.* Lascars) whom they may employ, but no benefits will be paid to such aliens. The money derived from this source will be paid to the credit of the Seamen's National Insurance Society, and will thus provide additional funds for the grant of pensions. Sec. 48.

Persons aged 65 and under 70.—Contributions will be payable by employers in respect of persons of the age of 65 or upwards and under the age of 70 at the commencement of this Act who are employed within the meaning of the Act. Such persons will receive such benefits as the Approved Society or the Insurance Committee may determine. The State will not pay two-ninths of the cost of such benefits but will, instead, contribute 2*d.* per week for every weekly contribution made in respect of such person. No reserve values will be credited in respect of such persons. Sec. 49.

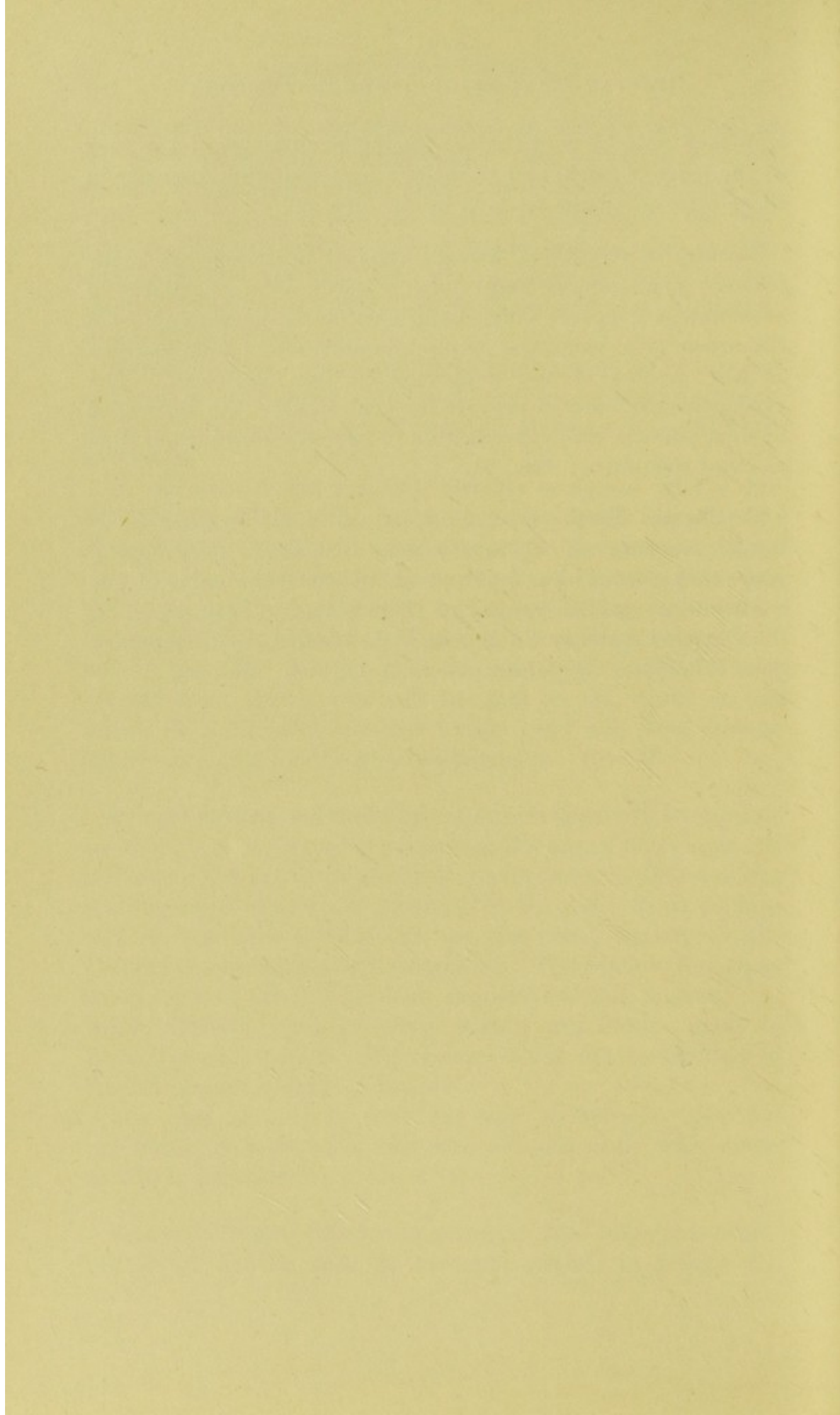
The case of persons over the age of 65 who have not previously been insured and who are not dealt with under sec. 49 is provided for in sec. 4 (4).

Seasonal Trades.—Power is given to the Insurance Commissioners, in the case of seasonal trades, to reduce the

employed rate of contribution during such times of the year as the trade is slack, and to make a corresponding increase in those rates when the trade is busy. Sec. 50.

Inmates of Charitable Homes.—Special provisions are made whereby managers of institutions carried on for charitable or reformatory purposes may obtain certificates exempting from the necessity of becoming employed contributors such persons as are inmates of and supported by the institution. The managers will have to provide for the re-entry into insurance of such persons without reduction of benefits if and when they re-enter insurance. Sec. 51.

Certificated Teachers.—Provisions are made so that certificated teachers who do not become Voluntary contributors, when they cease to be employed, should have the value of the contributions paid in respect of them placed to their credit in the Deferred Annuity Fund, established under the Elementary School Teachers (Superannuation) Act, 1898. Sec. 52.



CHAPTER IV.

BENEFITS.

THE benefits conferred by this Act are set out in Sec. 8 (1), and consist of Medical benefit, Sanatorium benefit, Sickness benefit, Disablement benefit, Maternity benefit. Medical and Sanatorium benefit consist in treatment. Sickness and Disablement benefit consist in periodical payments of money, and Maternity benefit consists in the payment of a lump sum of 30s.

Medical Benefit.—Medical benefit consists in medical treatment and attendance, including the provision of proper and sufficient medicines and such medical and surgical appliances as may be prescribed by regulations made by the Insurance Commissioners.

Medical benefit will be given to all insured persons who are resident in England, Scotland, or Wales, but is not given to insured persons in Ireland. It does not include treatment at a confinement. The right to Medical benefit continues throughout the life of the insured person, and is only suspended if and when that person is in arrears of more than twenty-six contributions a year on an average. It will not be given until January 15, 1913 (viz. six months after the commencement of this Act). Sec. 8.

Medical benefit will be administered by the Insurance Committees, whose duties it will be to make arrangements with the doctors who are to treat the insured persons. Those arrangements must preserve the rights of insured persons to choose their own doctor, and the right of any doctor to refuse

to treat any given person. Insurance Committees will prepare and publish lists of doctors who have agreed to attend and treat insured persons. Any doctor has a right to have his name included on the list, and no doctor's name may be removed from the list except after an inquiry. Persons whose income exceeds a limit to be fixed by the Committee will be required to make their own arrangements for receiving medical attendance and treatment instead of being dealt with under the arrangements made between the Committees and the doctors. Similar arrangements are to be made for the supply of drugs. Sec. 15.

Sanatorium Benefit.—This benefit consists of institutional and home treatment for insured persons suffering from tuberculosis or such other diseases as the Local Government Board with the approval of the Treasury may appoint. Sec. 8 (1) (b).

The treatment may be institutional or given in the patient's own home. Except that Poor Law authorities are completely excluded, any institutions may be made use of, and any persons or Local Authorities may give the treatment, provided that both institutions and persons are approved by the Local Government Board. Insured persons are not entitled to this benefit as a right: they must be recommended by the Insurance Committee before they receive it. Sec. 16.

Insured persons will receive this benefit throughout life, and the benefit will not be suspended until their arrears amount to more than twenty-six weekly contributions a year on average. Sec. 8.

Provision is made in the Act for dealing with a sum of £1,500,000 which is made available by the Finance Act, 1911, for the provision of sanatoria. The cost of these sanatoria will come out of that sum and out of the funds of Local Authorities, &c. Sec. 64.

Insurance Committees have power to extend Sanatorium benefit to the dependants of insured persons. Sec. 17.

Sickness Benefit.—Sickness benefit consists, in the normal case, of a payment of 10s. a week (in the case of women, 7s. 6d. per week) for twenty-six weeks from the fourth day after the insured person has been rendered incapable of work by disease

or disablement. No insured person will be entitled to this benefit unless and until twenty-six weeks have elapsed since the date of entry into the Insurance and at least twenty-six weekly contributions have been paid in respect of him. Sec. 8 (1) (c) and (8).

The right to the benefit will be suspended if the contributor is in arrears of more than thirteen weekly contributions a year on average, and will not be payable after the contributor has reached the age of seventy. Sec. 9 and 8 (3).

Provision is made for the reduction of the rates of benefit in certain cases :—

- (1) In the case of persons under the age of twenty-one and unmarried, unless one or more members of their family are dependent upon them. Sec. 9 (2).
- (2) In the case of persons who enter into Insurance within one year after the commencement of the Act and who are over the age of fifty. Sec. 9 (3).
- (3) In the case of persons of the age of seventeen upwards who enter into Insurance as employed contributors more than a year after the commencement of the Act. Sec. 9 (4).
- (4) In the case of persons who are entitled to compensation or damages under the Workmen's Compensation Act, 1906, the Employers' Liability Act, 1880, or at common law. Sec. 11.
- (5) In the case of persons who are in arrears of their contributions in accordance with the table in the Fifth Schedule. Sec. 10.

Disablement Benefit.—This benefit consists in the payment of 5s. a week, and is payable to any insured person who has been in receipt of Sickness benefit for 26 weeks and who is still incapable of work for so long as he remains incapable up to the age of 70. Provision is made for a recurrence of a disease or a fresh disease which entitle a person to Sickness benefit twice or more within the same 12 months to be deemed to be a continuation of the original disease. No insured person is entitled to Disablement benefit until 104 weeks have elapsed

since his entry into insurance or at least until 104 weekly contributions have been paid by or in respect of him. Sec. 8.

The right to Disablement benefit is suspended if the contributor is in arrears of more than 13 weekly contributions a year on average. Sec. 9.

Maternity Benefit.—This benefit consists in the payment of 30s. in the case of the confinement of the wife of an insured person or of a woman who is herself an insured person. Sec. 8.

The benefit may be administered in cash or otherwise. In certain cases women who are insured persons may receive Maternity and Sickness benefit at one and the same time. Sec. 8.

Provision is made requiring a husband to whom Maternity benefit has been paid to make adequate provision for the care of his wife at the time of her confinement, subject to the punishment of imprisonment for failing so to do. Sec. 19.

Additional Benefits.—Provision is made so that Societies which show surpluses upon valuation should be at liberty to distribute such surpluses in the form of any of the benefits in Part II. of the Fourth Schedule. These additional benefits include (*inter alia*) medical treatment and attendance for the persons dependent upon the labour of a member, an increase in Sickness benefit, payment of pensions in addition to Old Age Pensions, &c. Sec. 8, 37 and the Fourth Schedule.

Extension of Benefit.—When the reserve values created by sec. 55 have been written off, benefits may be extended in such fashion as Parliament may determine. It is anticipated that it will be some 18 or 19 years before this extension of benefits can take place. Sec. 8 (9).

Substitution of Benefits.—Power is given to Approved Societies to submit schemes for substituting any of the additional benefits in Part II. of the Fourth Schedule for Sickness and Disablement benefit. These schemes may apply to all members of the society or to any specified class of members or to such members as may elect to come under the scheme.

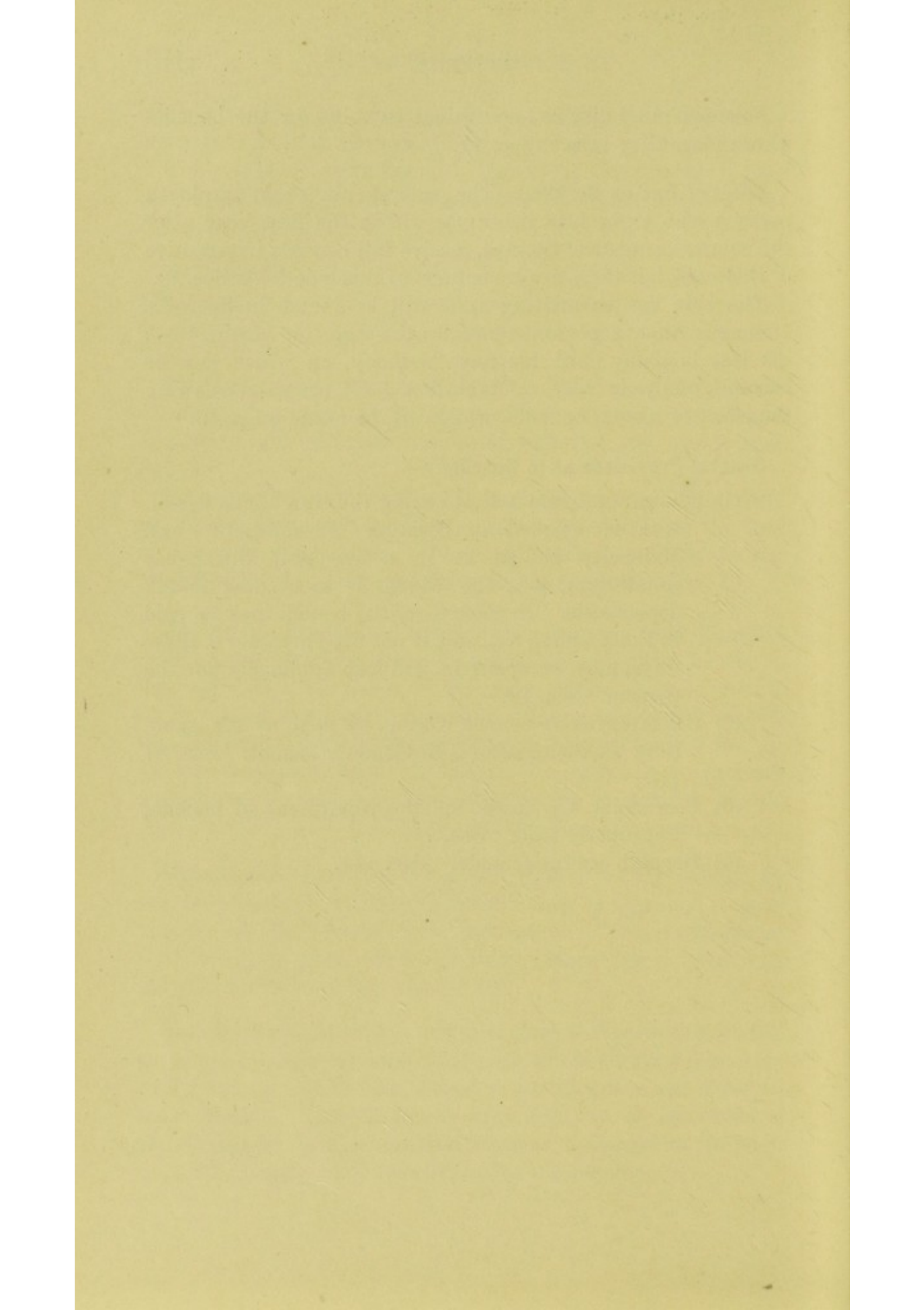
Schemes must give the equivalent in value for the benefits whose place they take. Sec. 13.

Effect of Age on Benefits.—The general rule is that employed persons who enter into insurance within the first year after the commencement of the Act, receive full benefits irrespective of their age, but there are exceptions to this rule (*vide* Sec. 9).

The rule for calculating ages will be found in Sec. 79. It means that a person remains the age he attained on his last birthday until his next birthday, on which day he becomes one year older. A table has been prepared showing the effect of age on benefits, which will be found on p. 40.

General Provisions as to Benefits.—

- (1) The general rule is that during the time that a person who is entitled to Sickness, Disablement, and Maternity benefit is in a hospital, workhouse sanatorium, &c., the benefit is to be paid to his dependants. In some cases the benefit may be paid to the hospital, &c., and, if not used in either of these ways, may be spent in surgical appliances for the person. Sec. 12.
- (2) Unemployment benefit cannot be paid at the same time as Sickness or Disablement benefit. Sec. 87 (4).
- (3) Provisions are made for the repayment of benefits improperly paid. Sec. 71.
- (4) Benefits are inalienable. Sec. 111.



CHAPTER V

ADMINISTRATIVE MACHINERY FOR HEALTH INSURANCE.

THE most important authorities and bodies which will share the administration of this Act are —

1. The Insurance Commissioners.
2. Joint Committee of the Insurance Commissioners.
3. Advisory Committee.
4. Approved Societies.
5. Associations of Approved Societies.
6. County Societies.
7. Insurance Committees.
8. District Insurance Committees.
9. Local Medical Committees.

A short sketch of the respective functions of these authorities and bodies follows :—

The Insurance Commissioners.—As has already been pointed out the administrative scheme of the Act is that the United Kingdom should be divided into its four component parts, and that each of those parts should be administered by a separate central authority. Consequently there are four bodies of Insurance Commissioners, viz. the Insurance Commissioners (whose functions are virtually confined to England), the Scottish Insurance Commissioners, the Irish Insurance Commissioners, and the Welsh Insurance Commissioners. These authorities are respectively established by secs. 57, 80 (1), 81 (1), 82 (1). The three last-mentioned bodies of Commissioners have the same powers and duties in regard to their respective areas as the Insurance Commissioners.

Each such body of Insurance Commissioners is a body which may sue and be sued, and which has an official seal,

which is to be officially and judicially noticed. Sec. 57 (2). Documents purporting to be an order or other instrument issued by the Insurance Commissioners, and to be sealed with the seal of the Commissioners, duly authenticated, are to be received in evidence, and to be deemed such order or instrument unless the contrary be shown. Sec. 57 (4).

Constitution of the Insurance Commissioners.—The Insurance Commissioners are to be appointed by the Treasury, and each body of Commissioners must have at least one member who is a duly qualified medical practitioner.

Powers and Duties of the Insurance Commissioners.—The various bodies of Insurance Commissioners are by far the most powerful and independent body administering the Act. There is hardly any matter connected with the administration of the Act which will not be under their supervision, or subject to their regulation. Further, by sec. 78 they have power, by order, with the consent of the Treasury, to make any appointment and do anything which appears to be necessary or expedient for the establishment of Insurance Committees, or Advisory Committees, or for bringing into operation Part I. of the Act, and to modify the provisions of the Act so far as may appear necessary or expedient for carrying the order into effect. It should be noticed, however, that this power expires on January 1, 1914.

An attempt is made to give a list of the powers and duties of the Commissioners, differentiating between those that can only be exercised by Special Order, those relating to Approved Societies, those relating to Insurance Committees, those relating to insured persons and benefits, and miscellaneous powers and duties.

A. Powers that can only be used by the Insurance Commissioners by Special Orders (for the procedure on making such orders, *vide* sec. 113 and the Ninth Schedule).

- (1) They may include among persons employed within the meaning of the Act the persons engaged in employments specified in Part II. of the First Schedule, who are at present excluded from the compulsory operation of the Act.

- (2) They may provide for reinsurance with themselves of the liability of all approved societies in respect of Maternity benefit.
- (3) They may from time to time specify the classes of employment in which employers are, by custom, liable to pay wages during sickness (sec. 47 (1)), and may from time to time extend the provisions of that section to classes of employment in which no such custom exists, but which apply for such extension.
- (4) They may reduce or increase rates of contribution at different times of the year for persons employed in seasonal trades (sec. 50).
- (5) They may exclude all or certain classes of outworkers from the employments specified in Part I. of the First Schedule of the Act, or may defer the commencement of the Act as respects all outworkers.
- (6) They may except from compulsory insurance share fishermen. First Schedule, Part II., para. (h).

B.—The following powers and duties of the Commissioners may be exercised and performed without recourse to Special Order procedure.

Powers and Duties of the Insurance Commissioners in Relation to Approved Societies.

(1) Their consent must be obtained to the extent to which Sickness or Disablement benefit is reduced in cases where the amount of either of those benefits exceeds two-thirds of the usual rate of wages of an insured person. Sec. 9 (2).

(2) No scheme submitted by a Society for the substitution of any additional benefits for Sickness or Disablement benefit can have any effect until confirmed by the Insurance Commissioners, and they may not confirm any scheme unless they are satisfied (*inter alia*) that there is good reason for the substitution. Sec. 13.

(3) Their approval is necessary in order to make a society an Approved Society, and they may not approve societies

which do not comply with the requirements of the Act (except subject to conditions). Sec. 22.

(4) They may approve schemes for altering the rules of Employers' Superannuation or Provident Funds. Sec. 24.

(5) They must determine the amount of security to be given by Approved Societies, and see that they obtain sufficient security. Sec. 26.

(6) They must see that Approved Societies make proper rules for the government of the societies, and may provide by regulations for the places of meeting of Approved Societies. Sec. 27.

(7) Their consent must be obtained to the secession of a branch from an Approved Society, and they may not give their consent unless that branch complies with the requirements for an Approved Society. Sec. 28.

(8) Their sanction is required for the dissolution of a society or branch. They must be satisfied that proper provision is made for members of a branch which is expelled. Sec. 28.

(9) They may in certain circumstances withdraw their approval from an Approved Society, and if they do so must make provision with respect to the insured members of such a Society. Sec. 29.

(10) They may prescribe the form in which Approved Societies must keep their accounts and may require returns from Approved Societies, &c. Sec. 35.

(11) They may vary the dates of valuation of Approved Societies. Sec. 36.

(12) Their sanction must be obtained to schemes submitted by Approved Societies or branches for the distribution of additional benefits from surplus funds. Sec. 37.

(13) Their consent must be obtained to the refusal of an Approved Society to make good a deficit in a branch due to maladministration. Sec. 38 (1) (a) (proviso).

(14) Their sanction must be obtained to any scheme for making good deficiencies in branches or societies, and they may vary the length of the period within which schemes for making good any deficit may be submitted. Sec. 38.

(15) In certain circumstances they may take over the administration of the affairs of Approved Societies; and, where

they do so, they must take steps as soon as possible to make good deficits in such societies, and within three years must make arrangements for the restoration of self-government to such societies. Sec. 38.

(16) Their consent must be obtained to the formation of Associations of Approved Societies with a Central Financial Committee. Sec. 39.

(17) In certain circumstances they may exempt Employers' Superannuation Funds from the provisions relating to Approved Societies with less than 5000 members. Sec. 39 (7).

(18) Their approval must be obtained to any scheme submitted by the Board of Trade as to the administration to the Seamen's National Insurance Society, and for any scheme prepared by the Committee of Management of that Society for the provision of benefits other than the ordinary benefits. Sec. 48 (7).

(19) They must periodically apportion reserve values among Approved Societies. Sec. 54.

(20) They must make regulations governing the transactions between themselves and Approved Societies with regard to debiting and crediting accounts of the Approved Societies with the appropriate sums. Sec. 56 (1).

(21) They must follow the directions of Approved Societies as to the investment in the proper securities of any sums which may be left with them for investment by Approved Societies, and they must pay to Approved Societies such sums as the societies are themselves permitted to invest. Sec. 56.

(22) They must distribute any sums paid to them after an inquiry as to the causes of excessive sickness amongst the various societies and committees concerned. Sec. 63 (8).

(23) They may grant a certificate authorising the value of the prospective extension of benefits to be brought into account in the valuation of Employers' Superannuation or Provident Funds, if the rearrangements required by the Act prejudicially affect the sums available for the payment of pensions and superannuation allowances. Sec. 73 (2).

Powers and Duties of Insurance Commissioners in relation to Insurance Committees.

(1) They must make regulations in respect to the arrangements made between Insurance Committees and duly qualified medical practitioners and druggists in accordance with the terms of sec. 15, and may authorise other arrangements than those prescribed by that section for the administration of Medical benefit.

(2) The arrangements made by Insurance Committees for the administration of Sanatorium benefit must be made to their satisfaction. Sec. 16.

(3) In default of agreement they must determine apportionments between Insurance Committees after valuations of grouped societies. Sec. 39 (6).

(4) Their consent must be obtained to the sum which Insurance Committees determine should be paid in respect of Medical benefit for deposit contributors. Sec. 42.

(5) They may determine, within certain limits, the number of members of Insurance Committees, appoint certain of the members, and provide by regulation for the manner of election of certain members of such Committees. They may in certain circumstances increase the representatives of Councils of Counties or County Boroughs and of Insured persons on Insurance Committees, and may generally regulate the proceedings of Insurance Committees. Sec. 59.

(6) They may require Insurance Committees to combine with other Insurance Committees. Sec. 59.

(7) They may require by regulation Insurance Committees to prepare and submit schemes for the appointment, &c., of District Insurance Committees, and they may apportion amongst the several District Insurance Committees any of the powers and duties of the Insurance Committees. Sec. 59.

(8) They may prescribe (after consultation with the Local Government Board) the reports, &c., to be made by Insurance Committees under Sec. 60.

(9) They may authorise the repayment of the travelling expenses of members of Insurance Committees, Sec. 61.

(10) Their consent must be obtained to agreements made by Insurance Committees and persons or authorities providing treatment in sanatoria or other institutions. Sec. 64.

Powers and Duties of the Insurance Commissioners in Relation to Contributors and Benefits.

(1) They may grant certificates of exemption from compulsory Insurance, and must make regulations prescribing the conditions upon which certificates of exemption may be granted and providing that applications for such Certificates should be granted by Approved Societies and Insurance Committees. Sec. 2.

(2) They may prescribe the manner in which contributions paid in respect of persons who are employed, but who are not employed within the meaning of Part I. of the Act, are to be dealt with for the benefit of such persons. Sec. 4.

(3) They must prepare a table of voluntary rates of contribution. Sec. 5.

(4) They must prepare tables for use on the change from voluntary to employed rate. Sec. 6.

(5) They may make regulations for the manner in which contributions payable under Part I. of the Act are to be paid and collected. Sec. 7.

(6) They must make regulations prescribing the medical and surgical appliances to be included in Medical benefit. Sec. 8.

(7) They must prepare tables giving the reduced rates of Sickness benefit for persons who enter into Insurance more than a year after the commencement of the Act and whose age is 17 or upwards when they enter into Insurance. Sec. 9 (4).

(8) They must prescribe the manner in which the average amount of arrears is to be calculated. Sec. 10 (7).

(9) They must make regulations for the payment of benefits to Married Women who were deposit contributors before marriage. Sec. 43 (4).

(10) They must make regulations for the formation of
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Associations of deposit contributors, and may take proceedings under sec. 63 on behalf of, and at expense of, such an Association. They must make regulations as to how any sums ordered to be paid to an Insurance Committee after an inquiry as to excessive sickness should be dealt with for the benefit of deposit contributors. Sec. 63.

(11) They must make regulations for the determination of questions arising under sec. 66, and must determine such questions. They may submit certain of these questions for the summary decision of the High Court. Sec. 66.

(12) They may provide that questions as to rates of contribution payable by or in respect of any insured person should in certain cases be decided by the Society. Sec. 66.

(13) They may prescribe the manner in which the disputes between Insured persons and Insurance Committees are to be decided. Sec. 67 (2).

(14) Appeals may be made to the Insurance Commissioners in the case of disputes between insured persons and Societies, &c. Sec. 67.

(15) They must certify as to terms of employment under paragraphs (b) and (c) of the First Schedule.

(16) Their opinion governs the exception in paragraph (g) of the First Schedule.

(17) They may provide by regulations for treating certain persons who are not employers as employers. Third Schedule (6).

(18) They may make regulations in the case of outworkers for contributions to be paid according to work done instead of according to time. Third Schedule (10).

(19) They must make regulations as to the benefits of married women who do not become voluntary contributors.

Miscellaneous Powers and Duties of the Insurance Commissioners.

(1) They must appoint an Advisory Committee as soon as may be. Sect. 57.

(2) They may remove from the lists any duly qualified

medical practitioners whose continuance on the list they consider, after inquiry, would be prejudicial to the efficiency of the medical service of the insured, and they have a similar power with regard to the exclusion and removal of chemists and druggists. Sect. 15.

(3) They may retain and apply for research the whole or any part of the sums paid by Parliament for Sanatorium benefit, and must make regulations in regard to any sums so retained. Sec. 16.

(4) They must prepare tables of transfer values. Sect. 31.

(5) They may approve societies in British possessions or in foreign countries which are similar to Approved Societies, and they may make arrangements for transfers from British to such foreign societies. Before approving any such foreign societies, they must be satisfied that they give reciprocal rights. They may make arrangements for the transfer of foreigners to Approved Societies or to the Post Office Fund. Sec. 32.

(6) They must make regulations for the transfer of emigrants who remain members of Approved Societies. Sec. 33.

(7) They must prepare tables showing the reserve values to be transferred from the Married Women's Suspense Account on the employment of widows. Sec. 44.

(8) They must meet any deficiencies in the Married Women's Suspense Account out of sums retained by them in respect of the reserve values. Sec. 44.

(9) They must prescribe the manner in which transfer value is to be calculated for the purpose of sec. 44, prescribing adjustments in the sums paid to the Married Women's Suspense Account where a married woman is in arrears.

(10) They may not retain, for the purpose of writing off reserve values, any part of the contributions paid in respect of certain aliens. Sec. 45.

(11) They must retain 1*d.* from each weekly contribution of Seamen, Marines, &c., under sec. 46 (2) and (3), and they must prescribe the manner in which applications for benefits from the Navy and Army Insurance Fund are to be made. Sec. 45 (3) (*h*).

(12) They may not retain, for the purpose of writing off reserve values, any part of the contributions of employed contributors between the ages of 65 and 70 at the date of the commencement of the Act. Sec. 49 (3).

(13) They must control and manage the National Health Insurance Fund, and invest any moneys available in the appropriate securities. Sec. 54.

(14) They must prepare tables of reserve values and retain certain sums from contributions for the purpose of writing off such reserve values. Sec. 55.

(15) They may institute an inquiry into the cause of excessive sickness. Sec. 63.

(16) They must prepare tables showing the average expectation of sickness, to be used in connection with the inquiries as to the causes of excessive sickness. Sec. 63 (4).

(17) They must make regulations as to the procedure on inquiry as to excessive sickness. Sec. 63.

(18) They must regulate the procedure to be adopted in the case of any dispute under sec. 67, and may authorise to decide any appeal or disputes submitted to them under that section.

(19) Welsh Commissioners are to exercise the powers of the Local Government Board with reference to the distribution of any sums available for the provision of Sanatoria in Wales. Sec. 82 (3).

Joint Committee of the Several Bodies of Insurance Commissioners.—A Joint Committee of the several bodies of Commissioners is to be constituted in accordance with regulations to be made by the Treasury as soon as may be after the passing of this Act, in order to make necessary financial adjustments. The Committee is to consist of members selected from each such body, and the Chairman is not, by reason of his office, to be deemed to be incapable of being elected to or voting in the House of Commons.

The Joint Committee must, by regulations, deal with the valuation of Societies which have amongst their members persons resident in England, Scotland, Ireland, and Wales, or any two or three of such parts of the United Kingdom, so that members resident in each such part of the United

Kingdom should be treated as if they formed a separate society. Provision is made for regulations made by the Treasury to be laid before Parliament as soon as may be after it is made. Sec. 83.

The function of the Joint Committee will presumably be to make the various adjustments rendered necessary by the fact that four separate bodies of Commissioners exist within the United Kingdom.

Advisory Committee.—Provision is made for the appointment, by each body of Insurance Commissioners, of an Advisory Committee for the purpose of giving Insurance Commissioners advice and assistance in connection with making and altering of regulations. The Advisory Committee is to consist of representatives of Associations of Employers and of Approved Societies and of duly qualified medical practitioners. Other persons may also be appointed members of the Committee, and at least two of such persons must be women.

Approved Societies.—An Approved Society is any society, that is to say, any body of persons, corporate or unincorporate (not being a branch of another such body), registered or established under an Act of Parliament, or if not so registered or established, having a constitution of such a character as may be prescribed, which is approved by the Insurance Commissioners under sec. 23 for the purpose of transacting insurance business under Part I. of the Act. The conditions of approval of such societies are such that all Friendly Societies, Collecting Societies, and Trade Unions, should be able to become Approved Societies. But no society can be approved if it is carried on for a profit, or unless its constitution provides for the absolute control of its affairs to be in the hands of its members, to the exclusion even of honorary members. Special provisions are made enabling Employers' Provident Funds to become Approved Societies. The principal duties of Approved Societies under Part I. of the Act will be :—

- (1) To administer Sickness, Disablement, and Maternity benefit for insured persons, being members of

Approved Societies. For this purpose they must make rules for all the matters referred to in and subject to the conditions set out in sec. 14 (2). These rules may be enforced by Societies by fines or suspension from benefit.

- (2) Societies must make or adapt their existing rules so as to provide proper provision for the government of the Society and of its branches. These rules must be made to the satisfaction of the Insurance Commissioners. Sec. 27.
- (3) Security must be given by an Approved Society against the malversation of funds by its officers, unless the only funds coming into the hands of the Society are such funds as are required for reimbursing to the Society sums previously expended by the Society. Sec. 26.
- (4) Approved Societies must keep accounts of their transactions under Part I. of the Act, quite separate from the accounts of any other business which they may do. The form in which these accounts are to be kept will be prescribed by the Insurance Commissioners. Approved Societies must also make such returns as the Insurance Commissioners may prescribe. Sec. 35.
- (5) Approved Societies must submit to have their assets and their liabilities valued every three years, or at such other times as the Insurance Commissioners may appoint. Sec. 36. Surpluses or deficits shown by such valuation must be dealt with in the manner set out in secs. 37 and 38.

Power is given to Approved Societies to subscribe to hospitals, &c., sec. 21.

Approved Societies may demand inquiries as to the causes of excessive sickness. Sec. 63.

A very important provision for existing Friendly Societies is that contained in sec. 72.

By that section an obligation is imposed upon every registered Friendly Society, which provides benefits similar to any of those conferred by Part I. of the Act, whether it

becomes an Approved Society or not, to submit a scheme for continuing, abolishing, reducing or altering any of those benefits, and for continuing, abolishing or reducing the contributions of their members who become insured persons, and for dealing with the funds that upon actuarial valuation are thereby set free.

Such funds may be dealt with in any of the manners set out in sec. 72 (a) to (c). These latter provisions are so drafted that the funds set free may be utilised for the benefit not only of members who become insured persons, but also for the benefit of any members existing at the time of the passing of the Act, who do not become insured persons. This provision comes into operation at once on the passing of the Act. It will, of course, not affect Trade Unions and collecting societies.

By sec. 73 a similar obligation to that imposed upon Approved Societies by sec. 72 is laid upon Employers' Superannuation and Provident Funds.

Elaborate powers are given to Societies for the purpose of enabling them to transact business under the Act. Sec. 24. Provisions are made that Societies which are established under any Act should still be subject to the provisions of those Acts, except so far as may be inconsistent with this Act. Sec. 76.

Dissolution of Approved Societies.—A Society can only dissolve itself with the consent of the Insurance Commissioners, and that consent will not be obtained unless the society makes provision for its members. There is similar provision with regard to the secessions of a branch of an approved society. Sec. 28.

Provisions are made enabling Approved Societies to admit insured persons as members independently of the Act. Sec. 34.

Associations and Groups of Societies.—In order to insure their financial stability, small Societies (that is to say societies with less than 5000 members) will be required

to form associations for the purpose of valuation, or if they do not form themselves into associations, they will be grouped, according to the locality in which they carry on business, for the same purpose. Sec. 39. Such societies will either establish a Central Financial Committee for the Association or the place of that Central Financial Committee will be taken, in the case of grouped societies, by the appropriate Insurance Committee. Certain Employers' Provident Funds may be exempted by the Insurance Commissioners from this obligation. Sec. 39 (7).

County Societies.—Provisions are made enabling County Councils in Scotland and Ireland where, having regard to the number of employed contributors resident in the county who are not members of an Approved Society, they think it desirable to do so, to establish an Approved Society for the county under the council. Sec. 80 (10) (a). Sec. 81 (7) (a). Societies so established are known as county societies. A scheme must be prepared, in accordance with the provisions of those sections for their establishment, and must be approved by the appropriate body of Insurance Commissioners. In all other respects a county society will resemble an ordinary Approved Society.

Insurance Committees.—Insurance Committees will be constituted for every county and county borough. The number and method of selection of the members will be found in sec. 58. The numbers, but not the method of selection, differ in Scotland and Ireland, sec. 80 (6), sec. 81 (8). Insurance Committees are entrusted with the very important duty of administering Sanatorium and Medical benefit for all insured persons. They will also administer Sickness, Disablement, and Maternity benefit in the case of deposit contributors. In order to carry out these functions the duties of Insurance Committees will be :—

- (1) To make rules similar to those which Approved Societies will have to make with regard to the administration of Sickness, Disablement, and Maternity benefit in the case of deposit contributors, sec. 14 (2). Such rules

will be subject to the approval of the Insurance Commissioners. If any such rules relate to anything to be done by, to, or through, the Post Office, the consent of the Postmaster-General must first be obtained.

- (2) Insurance Committees must make arrangements for the purpose of administering Medical benefit with duly qualified medical practitioners, and with druggists, in accordance with the regulations made by the Insurance Commissioners. Sec. 15.
- (3) For the purpose of administering Sanatorium benefit, Insurance Committees must make arrangements, to the satisfaction of the Insurance Commissioners, for providing institutional treatment for insured persons, or for similar treatment otherwise than in an institution, in the manner approved by the Local Government Board. Sec. 16.
- (4) Any Insurance Committee for any county or county borough may, if it thinks fit, extend Sanatorium benefit to the dependants of the insured persons resident in the county. Sec. 17.
- (5) Insurance Committees will constitute the Central Financial Committee for Societies with less than 5000 members who have not formed an Association for the purpose of valuation. Sec. 39.
- (6) Insurance Committees may group adjoining areas for the purpose of District Insurance Committees. Sec. 59 (4).
- (7) Insurance Committees must make such reports as to the health of insured persons within the county or county borough as the Insurance Commissioners, after consultation with the Local Government Board, may prescribe. Sec. 60.
- (8) Insurance Committees are to make such provision for giving lectures and for the publication of information on questions relating to health as they think necessary or desirable. Sec. 60.
- (9) Insurance Committees must consult Local Medical Committees, where such Committees have been

formed, on all general questions affecting the administration of Medical benefit. Sec. 61.

(10) Insurance Committees may demand an inquiry into the causes of excessive sickness. Sec. 62.

(11) Insurance Committees must keep a special register of any certificates granted for the purpose of protection against distress and execution. Sec. 67.

District Insurance Committees.—District Insurance Committees are to be appointed by Insurance Committees as required by the regulations of the Insurance Commissioners. Sec. 59 (4).

A separate District Insurance Committee must be appointed for each Borough (including the City of London and a Metropolitan Borough within the County) having a population of not less than 10,000, and for each Urban District within the County with a population of not less than 20,000. Provision is also made for the grouping of any adjoining areas with Boroughs or Urban Districts outside London for the purpose of the appointment of a District Insurance Committee.

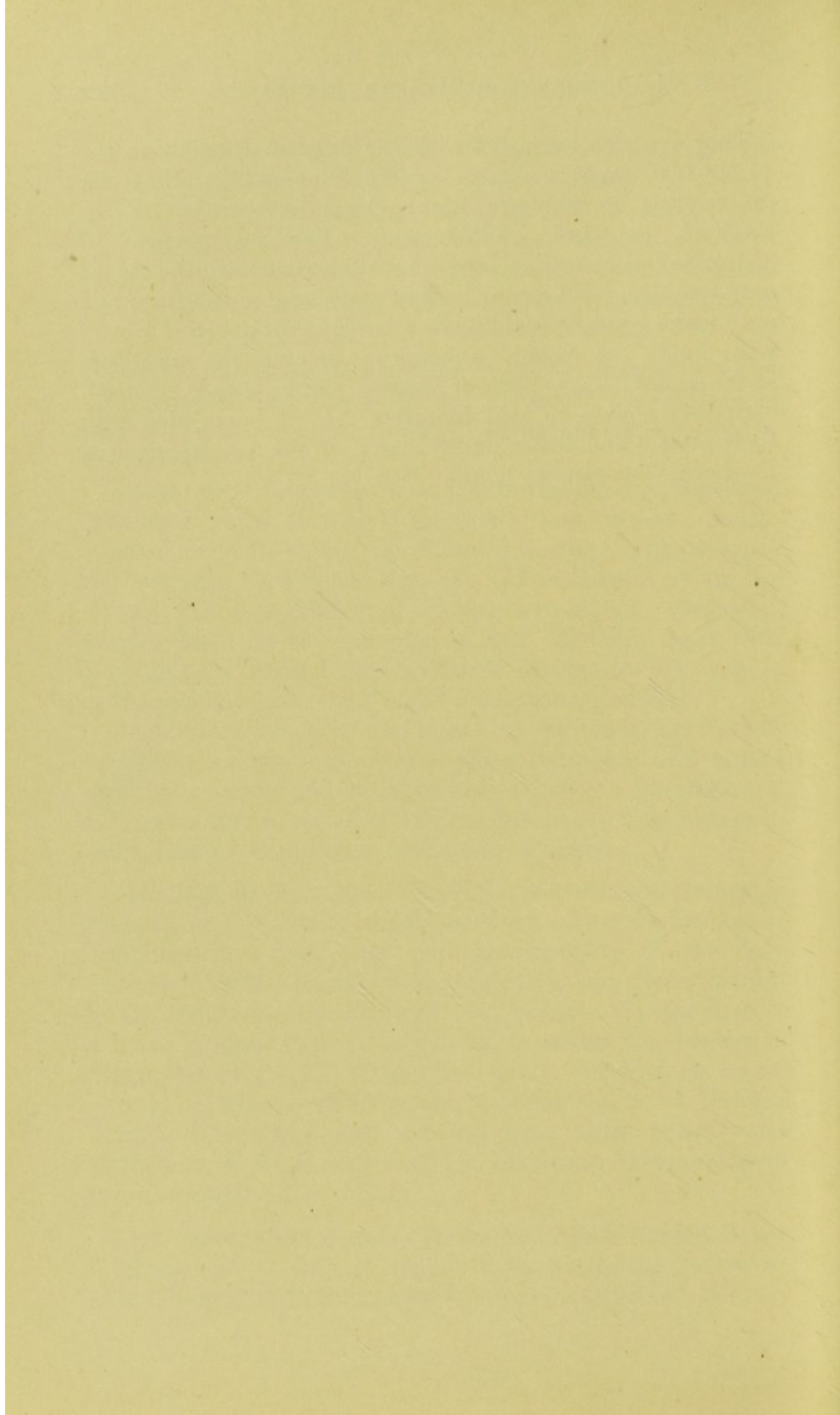
Regulations made by the Insurance Commissioners are to apportion among the several District Insurance Committees any of the powers and duties of the Insurance Committee and to regulate the relations of District Insurance Committees to the Insurance Committees and to one another.

Local Medical Committee.—Provision is made for the recognition of Local Medical Committees which satisfy the Insurance Commissioners that they are representative of the duly qualified medical practitioners resident in any given County, by the Insurance Committee of the County. The function of a Local Medical Committee will be to advise the Insurance Committee or District Committee, as the case may be, on all general questions affecting the administration of Medical benefit. They may also exercise such other powers and perform such other duties as the Insurance Commissioners may determine. Sec. 62.

Local Government Board.—To the Local Government Board is entrusted the duty of appointing a competent person to hold inquiries as to the causes of excessive sickness. Sec. 63.

They are also entrusted with the duty of distributing the £1,500,000, made available by the Finance Act, 1911, for the erection of sanatoria, among local authorities, &c., in England, Scotland, and Ireland. For the purpose of facilitating co-operation between local authorities, the Board may establish joint committees of such local authorities, and may make orders providing in what proportions and out of what funds, the money necessary for erecting the sanatoria, so far as not defrayed out of grants, is to be found. Sec. 64.

Special powers to hold inquiries, &c., in connection with their powers and duties under Part I. of the Act are given to the Local Government Board. Sec. 77.



CHAPTER VI.

FINANCIAL PROVISIONS OF NATIONAL HEALTH INSURANCE.

Sources of Income.—The general rule throughout Part I. of the Act is that the funds for providing the benefits conferred by the Act and for defraying the administration of those benefits are to be derived, as to seven-ninths (or, in the case of women, three-fourths) thereof, from contributions made by or in respect of contributors by themselves or their employers, and, as to the remaining two-ninths (or, in the case of women, one-fourth) thereof, from moneys provided by Parliament. Sec. 3.

Exceptions will be found to this general rule in sec. 4, sec. 15 (8), sec. 16 (2), sec. 17, sec. 45, sec. 46, sec. 49.

A further exception to the rule will be found in the fact that the cost of the salaries of the various bodies of Insurance Commissioners is to be provided wholly out of moneys provided by Parliament. Sec. 57 (3), sec. 80 (1), sec. 81 (1), sec. 82 (1).

National Health Insurance Fund.—A national Health Insurance Fund is established for England, Scotland, Ireland, and Wales, into which the whole income arising under Part I. of the Act will be paid. Sec. 54, sec. 80 (2), sec. 81 (2), and sec. 82 (2).

Investment of Funds.—Provision is made for the investment of funds by the Insurance Commissioners and for the investment of a certain amount of funds by Approved Societies themselves. Secs. 54 and 56.

Reserve Values.—Provision is made for the creation by the

Insurance Commissioners of reserve values in order to provide for the fact that the older persons who come into the scheme will pay the same rate of contribution and receive the same benefit as the younger members. The Insurance Commissioners must deduct $1\frac{5}{8}d.$ from each weekly contribution paid by or in respect of members of Approved Societies in order to provide for the writing off of the reserve values so created. Sec. 55.

Income of Insurance Committees.—Provision is made for the income of Insurance Committees by sec. 61.

Reinsurance.—Power is given to the Insurance Commissioners to make special order providing for the reinsurance with them of the liabilities of all Approved Societies in respect of maternity benefit. Sec. 20.

Provision is made for permitting branches to reinsure with the society their liabilities in respect of benefits. Sec. 40 (2).

Accounts and Valuations. Surplus and Deficits.—Provisions are made requiring Approved Societies to keep their accounts in a form to be prescribed by the Insurance Commissioners and to submit to valuation from time to time. The accounts of administration expenses must be kept separately. Secs. 35 and 36.

Provisions are made for dealing with any surplus that may be shown by a society or branch after valuation by way of distribution in the form of additional benefits. Sec. 37.

Provisions are also made for dealing with any deficit that may be shown by a society or branch after such valuation. Methods by which such deficit is to be extinguished are indicated. Sec. 38.

Provisions are made permitting Approved Societies which are not societies with branches, but whose members consist both of men and women, that the men's and women's funds should be kept separate for the purpose of valuations, surpluses, and deficiencies. Sec. 41.

Provisions requiring small societies to form themselves into an association or to be grouped for the purpose of valuation, surplus, and deficiency will be found in sec. 39.

Miscellaneous provisions with respect to societies with branches in connection with valuations, &c., will be found in sec. 40.

Actuarial Calculations.—It is not within the scope of this work to attempt to deal at length with the actuarial calculations upon which the Bill is based. Those who desire to make themselves acquainted with these calculations should refer in general to the report of the actuaries of May 20, 1911 [Cd. 5681], and their further report of November 28, 1911 [Cd. 5983]. Reference may also be made to the actuarial reports dealing with Married Women, with Naval and Military Forces [Cd. 5809] of July 26, 1911, and [Cd. 5943] of November 6, 1911, and with the Mercantile Marine of October 27, 1911 [Cd. 5942].

With regard to the health insurance scheme in general the following figures may be of interest :—

It is estimated that the total number of persons who will be insured under the Act will be 14,118,000.

Of those persons it is estimated that 13,036,000 will become members of Approved Societies, and that of those numbers 9,204,000 will be men, and 3,832,000 will be women.

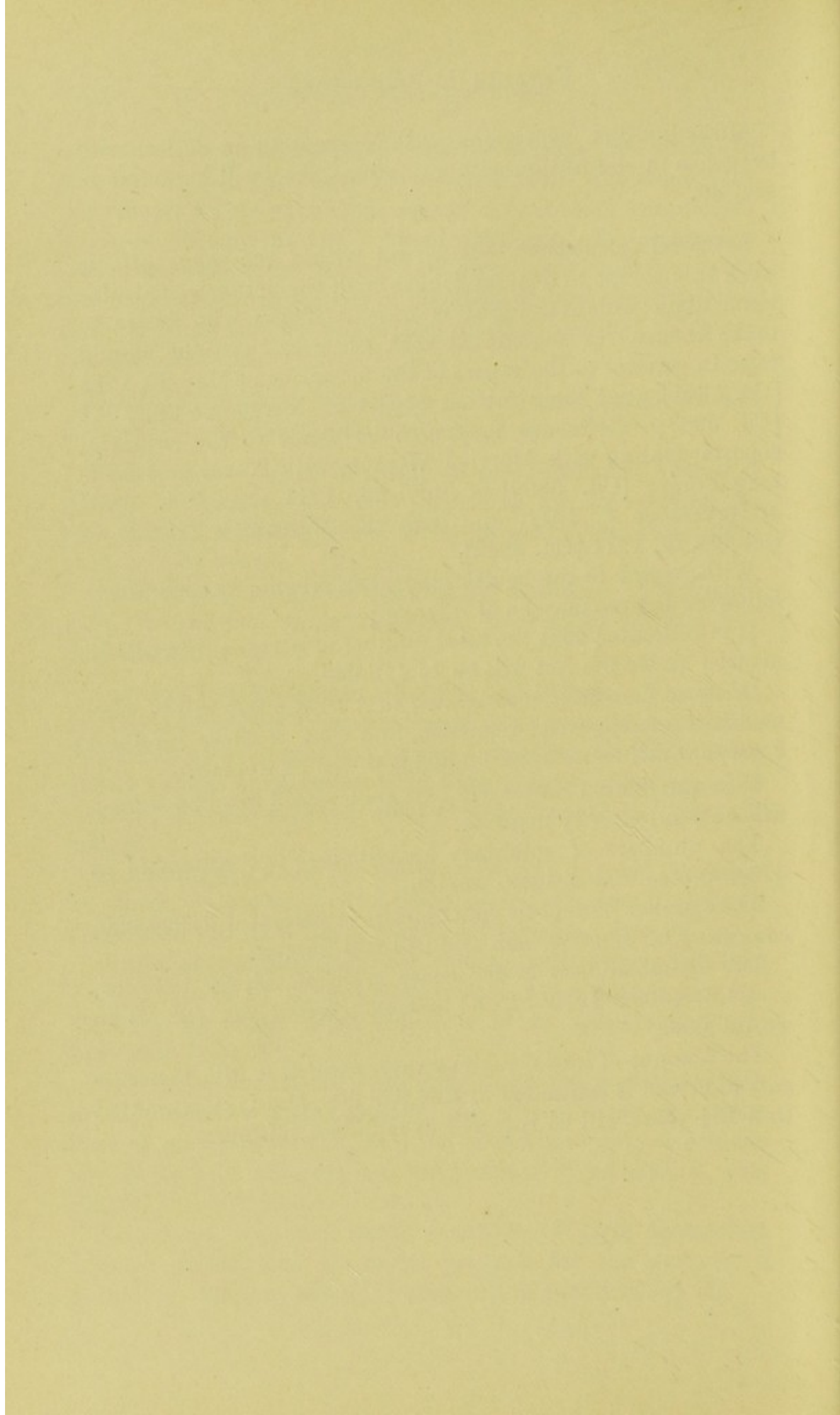
It is anticipated that 8,579,000 men, and 3,628,000 women will be compulsorily insured.

The numbers of voluntary contributors are estimated at 625,000 men and 204,000 women.

The number of deposit contributors is estimated at 882,000, consisting of 638,000 men and 244,000 women.

The estimated cost to the State is estimated, for 1912-13, at £1,600,000; 1913-14, £4,050,000; rising in 1922-23 to £5,780,000.

The amount of initial reserve values which it will be necessary to create is estimated at £66,642,900, and it is estimated that $18\frac{1}{4}$ years will be required to liquidate this sum.



CHAPTER VII.

THE ACT IN RELATION TO LOCAL AUTHORITIES AND THE MEDICAL PROFESSION.

Excessive Sickness.—The provisions of the Act relating to excessive sickness, sec. 63, are of very considerable importance to Local Authorities. Put quite briefly, the effect of the provisions of that section is that the Insurance Commissioners, Approved Societies, or Insurance Committees, may apply to the Local Government Board for an inquiry as to the causes of any excessive sickness in any locality. The Insurance Commissioners will prepare a table of normal sickness rates, and any sickness which exceeds 10 per cent. of those rates will be good ground for an application for an inquiry. If, as a result of that inquiry, it is found that the excessive sickness is due to the fact that a Local Authority has failed or neglected to perform any duties imposed upon it by any of the Acts relating to the health of workers in factories, workshops, mines, quarries, or other industries, or relating to public health, or the housing of the working classes, or to the insanitary conditions in any locality, or to an insufficient or contaminated water supply for which the Local Authority is responsible, any extra expenditure which may have been incurred by reason of the excessive sickness may be ordered to be paid by the Local Authority in default. The result of this provision should be to give a great stimulus to Local Authorities properly to perform their various duties in so far as the performance of those duties may have an effect on health. Where the inquiry is held in respect of bad housing or insanitary conditions a Local Authority may obtain repayment from owners of property to whose acts or defaults any excess expenditure may be due. (The provisions of this

section also apply to employers of labour, owners, lessees and occupiers of property, and to water companies.)

Financial Provisions.—In two instances the Act does not provide that the whole expense of providing benefits should be met by the contributions of insured persons and by the moneys provided by Parliament. These two instances relate to Medical benefit and Sanatorium benefit (if and when the latter benefit is extended, as it may be in the discretion of the Insurance Committee, to the dependants of insured persons). The sums so far as they are derived from moneys provided by Parliament and the contributions of insured persons are 1s. 4d. in respect of each insured person in the case of Sanatorium benefit and, in the case of Medical benefit, such sum as may be agreed between Insurance Committees and Approved Societies (in the case of members of Approved Societies), or, in default of agreement, as may be determined by the Insurance Commissioners, and such sum as may be determined by the Insurance Commissioners in respect of the deposit contributors.

But should these sums not be sufficient to provide the requisite Medical attendance or the extension of Sanatorium benefit, half the excess cost in each case will, if an agreement be made to that effect and the sanction of the Treasury obtained, be borne by the Councils of Boroughs and of Counties. Secs. 15 and 17.

Power is given to Borough, Urban, and Rural District Councils to contribute to the sums payable by County Councils towards the excess expenditure on Medical or Sanatorium benefit so far as such excess is properly attributable to the Borough or District. Such sums are to be paid in the case of a Borough Council out of the Borough Fund or rate, and in the case of an Urban or Rural District Council as part of the general expenses incurred by the Council in the execution of the Public Health Act.

A County Council may not raise any sum on account of any expenditure incurred by them under the Act within any Borough or Rural District, the Council of which has agreed to contribute towards such excess expenditure. Sec. 22.

Local Authorities may subscribe, out of the rates, to the general purposes of the Insurance Committee. Sec. 61 (3).

Administration of Sanatorium benefit.—Local Authorities other than Poor Law authorities may with the approval of the Local Government Board agree with Insurance Committees to provide institutional or home treatment. Local Authorities may provide the former treatment for persons who reside outside their area. Sec. 16.

Provision of Sanatoria.—A sum of £1,500,000 is made available by the Finance Act, 1911, for the erection of Sanatoria, and Local Authorities may receive grants out of this sum. No obligation is placed upon Local Authorities to build sanatoria, but unless they do so they will not receive any grant. Sec. 64.

The Medical Profession and the Act.—Considering the important part which the medical profession must of necessity play in the working of any scheme of National Health Insurance, it may be of historical interest to place on record the principal points of the statement issued to all Members of Parliament by the British Medical Association, and to indicate briefly the passages in the Act which deal with those points. The summary of the demands contained in the statement is taken from *The Times* newspaper of July 12, 1911, p. 7, and is as follows :—

- (1) An income limit of £2 a week for all persons entitled to Medical benefit.
- (2) Free choice of doctor by the patient subject to the consent of the doctor to act.
- (3) Medical and Maternity benefits to be administered by local Health Committees.*
- (4) The method of remuneration of medical practitioners adopted by each local Health Committee to be according to the preference of the majority of the medical profession of the district of that Committee.
- (5) Medical remuneration to be what the profession consider adequate, having due regard to the duties to be performed and other conditions of service.

* Local Health Committees now appear in the Act under the name of Insurance Committees.

- (6) Adequate medical representation amongst the Insurance Commissioners, in the Central Advisory Committee, and in the local Health Committee, and statutory recognition of a local medical committee representative of the profession in the district of each local Health Committee.

As to the first point, no income limit is fixed by the Act, but by sec. 15 (3) provision is made for regulations of the Insurance Commissioners to authorise Insurance Committees to require any person whose income exceeds a limit to be fixed by the Committee, to make his own arrangements for receiving medical attendance and treatment (including medicines and appliances). In this connection it may be pointed out that there is no existing legal machinery for finding out the incomes of any persons whose income is less than £160 a year, that figure being the limit below which incomes are not assessable to income tax.

As to the second point, it is dealt with in the Act in sec. 15 (2) (c) and (d). Reference may be made to p. 95, where the subject is discussed.

As to the third point, Medical benefit *is* to be administered by Insurance Committees, but the administration of Maternity benefit is in the hands of Approved Societies as regards their members. Sec. 14 (1).

As to the fourth point, no special method of remuneration is prescribed by the Act.

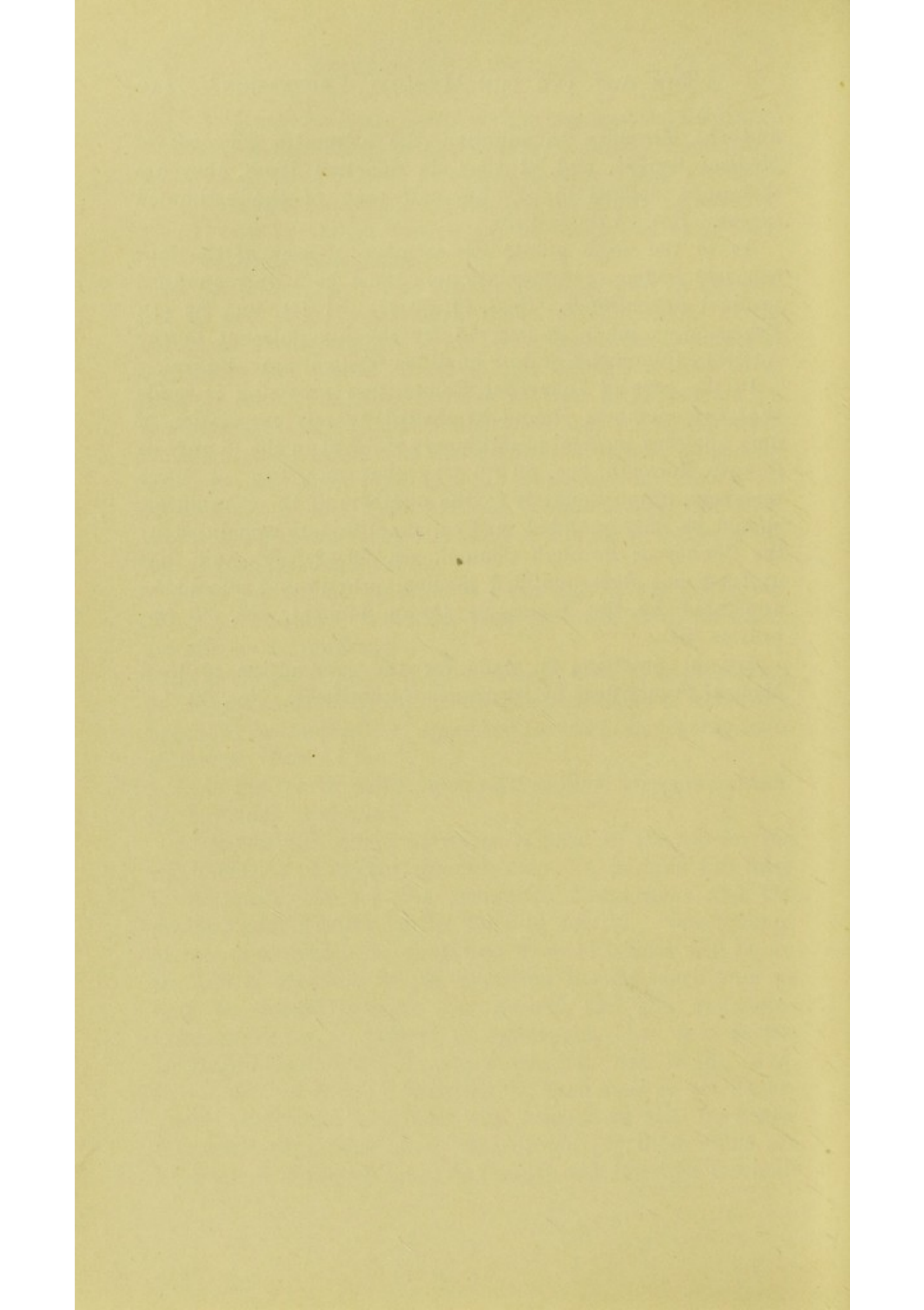
As to the fifth point, no figure is fixed by the Act for the remuneration of medical practitioners. A bargain will have to be made between the Insurance Committees and the medical practitioners on the lines of sec. 15. The amount of money available for providing Medical benefit will be, in the case of members of an Approved Society, such sum as may be agreed between the society and the Insurance Committees, or, in default of agreement, such sum as the Insurance Commissioners may determine. Sec. 15 (6). And, in the case of deposit contributors, such sum as the Insurance Committees may, with the consent of the Insurance Commissioners, determine. Sec. 42 (d). If these sums are insufficient, power is given to County and Borough Councils

and the Treasury to sanction the estimates for cost of Medical benefit, and, if they do sanction them, they are thereupon obliged to pay one-half each of the estimated excess. Sec. 15 (7) and (8).

As to the sixth point, one member of each of the four separate bodies of Commissioners must be a duly qualified medical practitioner. Secs. 57, 80 (1), 81 (1), and 82 (1). Provision is made in Sec. 58 for the appointment to the Advisory Committee of duly qualified medical practitioners.

In the case of Insurance Committees provision is made that two members should be elected by any association of duly qualified medical practitioners resident in the County or County Borough, sec. 59 (2) (c); that one, two, or three members, proportionately to the numbers of the Committee, should be duly qualified medical practitioners appointed by the County or Borough Council, sec. 59 (2) (d); and that at least one duly qualified medical practitioner should be appointed by the Insurance Commissioners, sec. 59 (2), proviso (ii).

Special provision is made for the recognition of local Medical Committees by Insurance Committees. Sec. 62.



CHAPTER VIII.

INSURANCE AGAINST UNEMPLOYMENT.

Workmen and Insured Trades. Benefits.

THE scheme of Insurance against unemployment created by Part II. of the Act rests, as does the scheme of Insurance created by Part I. of the Act, upon the principle of compulsion. But it contains one very important provision for the encouragement of Voluntary Insurance against unemployment.

Workmen.—The persons who are compulsorily insured under this scheme are workmen within the meaning of the Act who are occupied in one or other of the Insured Trades set out in the Sixth Schedule. Those workmen will consist of all persons occupied wholly or mainly by way of manual labour, skilled or unskilled, in Building Constructional Works, Shipbuilding, Mechanical Engineering, Construction of Vehicles, Iron Founding, and Saw Milling in connection with, or of a kind commonly done in connection with, any of the other Insured Trades.

Apprentices and persons under the age of 16 are excluded. Workmen employed by the Crown are included, unless they are serving in an established capacity in the permanent service of the Crown, *i.e.* pensionable workmen. The Board of Trade may also exclude workmen not employed by the Crown but who work under similar conditions to those enjoyed by workmen in the established service. Sec. 107.

The only exception to the compulsory provisions of the scheme is that contributions by or in respect of workmen whose principal occupation is not in an Insured Trade, and who only work occasionally in an Insured Trade in a district

which is rural in character, need not be paid, unless both employer and workman agree to pay them. Sec. 97.

Contributions.—The contributions will consist of a sum of 5*d.* a week, which will be paid as to one half by employers, and as to the other half by the workman. As in the case of the contributions of employed contributors under Part I. of the Act the employer will pay the whole contribution in the first instance, but he will be entitled to deduct from the contributor's wages the part of that contribution which he has paid upon the contributor's behalf. Where the period of unemployment is over two days a full contribution is payable; where the employment is less than two days and more than one day the contribution is reduced to 4*d.* (2*d.* by the workman, 2*d.* by the employer); and where the period of employment is one day or less the contribution is reduced to 2*d.* (1*d.* by the workman and 1*d.* by the employer). If the employer fails to pay the workman's contribution, there is an obligation on the workman to pay that contribution, a provision which may be contrasted with the provisions of Part I. of the Act, where, in similar circumstances, no such obligation exists. The method of collecting the workman's and employer's contributions will be the same as that adopted in Part I. of the Act for the collection of employed contributors, that is to say, workmen will have cards issued to them, and the contribution will be paid by affixing a stamp to that card. If any person who is responsible for the custody of a book or card loses it, he will have to repay to the Unemployment Fund any sum which that Fund has paid by way of award to the finder of the card. Sec. 85 and the Eighth Schedule.

Stringent provisions are inserted to secure the payment of contributions. Failure to do so renders the employer or workman liable to a fine not exceeding £10, and to pay to the Unemployment Fund a sum equal to three times the amount that he has refused or neglected to pay (not exceeding £5). Sec. 101.

The State will contribute to the Unemployment Fund one-third of the total contribution from workmen and employers.

This will make the State's contribution equal to $1\frac{2}{3}d.$ a week per workman. As in the case of the Health Insurance Scheme, there is no State guarantee of solvency of the Unemployment Fund. The State is also responsible for the cost of administration subject to an appropriation in aid of that cost from the Unemployment Fund (not exceeding 10 per cent. of the income of the Unemployment Fund). Sec. 5 (6).

One of the most interesting features of the Act is the way in which provisions are made so that the rates of contribution for short periods of employment afford considerable inducement to an employer to employ regular rather than casual labour.

The first of these provisions is that where an employer has employed the same workman continuously throughout a period of twelve months, that employer may be refunded by the Board of Trade out of the Unemployment Fund one-third of his own contributions in respect of that workman. Sec. 94.

The second of these provisions is that where, during a period of depression, an employer, instead of reducing his staff, keeps his men on and systematically works short time and pays both his own and the workman's contribution out of his own pocket, the employer may be refunded those contributions out of the Unemployment Fund. Sec. 96.

The third of these provisions is that, in the case of workmen already in the service of an employer, or subsequently engaged through a Labour Exchange, the Labour Exchange may relieve the employer of all his duties under Part II. of the Act. Where an arrangement of this kind has been made, both employers and workmen will be entitled to treat varying periods of employment by different employers as continuous employment with one employer, even though the employment has, in fact, been discontinuous. The saving effected by an employer who is in the habit of employing a large amount of casual labour will be considerable when it is borne in mind that $2\frac{1}{2}d.$ covers the employer's contribution for the whole of a week, but that no reduction is made in the rate of contribution for a less period than a week, unless the period be one or two days; and in the case of an employer who

employs different workmen for one or two days during any given week, the amount of the contribution will be as high as 6*d.* per week.

The combined result of all these provisions will be that the burden imposed by Part II. of the Act will be felt least by an employer who employs the same man continuously. But an employer who is unable to do this will make a considerable saving by making an arrangement, such as is above indicated, with the Labour Exchange. The most expensive thing that an employer could do would be to engage different men for short periods of the day throughout the week. Labour organised in this manner would cost the employer 1*d.* for each different workman, however short the time during which he was employed.

Another provision which may be noticed as conducing to continuous employment is that by which a workman who has attained sixty years of age may obtain a refund from the Unemployment Fund of all his own contributions, less any sums that have been paid to him by way of Unemployment benefit. Compound interest will be paid on the contributions at the rate of 2½ per cent. per annum.

A workman who worked in an Insured Trade from the age of 18 to the age of 60, and who never came on the Fund, would be entitled at the end of that time to a sum of about £36.

Provision is also made so that if he does not cease to work at his Insured Trade he will still continue to be entitled to Unemployment benefit. Sec. 95.

Benefits—Unemployment benefit consists in a sum of 7*s.* a week, payable after the first week after the workman has become unemployed if and where the workman fulfils the statutory conditions for, and is not disqualified from, the receipt of that benefit.

The statutory conditions are (*a*) that the workman has been employed in an Insured Trade during twenty-six separate weeks in the preceding five years; (*b*) that he has made application for Unemployment benefit in the manner prescribed by the Board of Trade and proves that since the

date of the application he has been continuously unemployed. The expression "continuously unemployed" is given a special meaning in the Act, viz. that two periods of unemployment of not less than two days each, separated by a period of not more than two days, or two periods of unemployment of not less than one week each, separated by an interval of not more than six weeks, shall be treated as a continuous period of unemployment; (c) that he is capable of work and unable to obtain suitable employment; (d) that he has not exhausted his right to Unemployment benefit under Part II. of the Act. Sec. 86.

Offers of work (a) in a situation vacant in consequence of a trade dispute or at lower wages than the workman habitually obtained, or would have obtained, had he continued to work in the district where he was last ordinarily working, or (b) work in any other district at a rate of wages lower than the standard rate of the district will not be considered suitable, and a workman will not forfeit his right to Unemployment benefit by declining such offers.

A workman will be disqualified from receiving Unemployment benefit (a) if he has lost his work through a stoppage of work which was due to a trade dispute at the factory, workshop, or other premises where he worked, (b) if he loses his work owing to misconduct, (c) if he goes to prison or to a workhouse, (d) if he is in receipt of Sickness or Disablement benefit under Part I. of the Act. Sec. 87.

The section prescribing these disqualifications is so worded as to include sympathetic strikes and lock-outs. The test as to whether the stoppage of work causes a workman to be disqualified is geographical in the sense that it is confined to stoppage of work at the factory or workshop where the workman is working; in other words a workman will be disqualified for receiving Unemployment benefit if a strike takes place at the factory where he is actually working, but not if the factory shuts down owing to a strike in some other place, *e.g.* a man working in a ship-building yard will not be disqualified if the ship-building yard has to stop work owing to a railway strike, but he will be disqualified if the employer locks out his men in sympathy with a trade dispute at some other

ship-building yard. For the purpose of this disqualification provision is made that, where in any given factory different branches of work which are commonly carried on as separate businesses are being carried on in the factory as separate departments, each of those departments is to be deemed a separate factory. The result of this provision will be that a man who is employed in one department of the factory will not be disqualified if the factory closes down owing to a trade dispute in some other department.

Period of Unemployment during which Benefit is payable.—No benefit will be paid for the first week after a workman has become unemployed. There are two other very important rules which regulate the length of time during which a workman is entitled to receive Unemployment benefit. The first rule is that no workman can obtain more than fifteen weeks' benefit in any given twelve months. The second rule is that a workman is only entitled to one week's benefit for every five weekly contributions that he has paid. In order that these two rules should not press too hardly at the beginning of the operation of this scheme, provision is made to add five weeks' contributions for every year up to five years that a workman has worked in any of the Insured Trades before the commencement of the Act. Those workmen who have been employed in the Insured Trades before the commencement of the Act will start with a credit balance of contributions in hand before they have actually paid any contributions. Seventh Schedule.

Insured Trades.—As has been said above, the Insured Trades consist of (a) the construction, alteration, repair, decoration, or demolition of Buildings; (b) the construction of works, such as Railroads, Docks, Canals, Bridges, etc.; (c) the construction, alteration, repair, or decoration of Ships; (d) Mechanical Engineering, including the manufacture of Ordnance and Fire Arms; (e) the construction of Vehicles; (f) Iron Founding; (g) and certain kinds of Saw Milling.

CHAPTER IX.

ADMINISTRATIVE MACHINERY INSURANCE AGAINST UNEMPLOYMENT.

THE scheme of insurance against unemployment created by the Act will be under the supervision of the Board of Trade. All the regulations which the Act directs to be made and all the matters which the Act directs to be prescribed will be made or prescribed by the Board of Trade. In many cases the powers of the Board of Trade can only be made use of with the consent of the Treasury, who will thus also have a considerable share in the administration of Part II. of the Act. Existing associations of workmen or, in other words, Trade Unions, will also play a very important part in the administration of the benefit.

Powers and Duties of the Board of Trade.—The Board of Trade are given various powers to vary rates of contribution and benefits, &c. These powers are as follows:—

- (1) They may make rules prescribing the rates and periods of Unemployment benefit, but so as not to increase the rate of benefit above 8s. per week or rates at below 6s. per week, or to increase the period of Unemployment benefit above 15 weeks or to alter the proportion which the period of benefit bears to the number of contributions paid. This power is to be exercised by rules confirmed by a special order. Seventh Schedule.
- (2) Every seven years the Board may, if the Unemployment Fund appears to it to be insufficient or more than sufficient to discharge the liabilities imposed upon the Fund, revise the rates of contribution; and

if the rates of contribution are excessive or deficient as respects any particular Insured Trade the Board may prescribe different rates of contribution for the different Trades. This power can only be used to raise rates by 1*d.* in excess of the rates in the Eighth Schedule. The Treasury must give their sanction to the revision, and the revision must be made by special order. Sec. 102.

- (3) Power is also given to the Board in an emergency, to make temporary modifications in the rates of contribution or in the rates or periods of Unemployment benefit. This power can only be made use of by the Board, on the direction of the Treasury, when:—

- (a) The Unemployment Fund is in debt to the Consolidated Fund.
- (b) When it appears to the Treasury that the Unemployment Fund is insolvent.
- (c) The modifications must be such as the Treasury may consider necessary to secure the solvency of the Unemployment Fund.

The Board need not have recourse to a special order for the exercise of this power, and, indeed, special order procedure would not be suitable for its exercise, since the power is designed for use in circumstances where it is essential that there should be no delay. Sec. 93.

- (4) The Board of Trade may, with the consent of the Treasury, extend the provisions of Part II. of the Act to workmen in trades other than Insured Trades, either without modification or subject to modification of rates of contribution or rates or periods of benefit. This power must be exercised by making a special order, and the order cannot be made if the person holding the inquiry reports that the order should not be made, or if the Treasury are of opinion that the order would increase the contribution from the State to the Unemployment Fund to a sum exceeding £1,000,000 per annum before the expiration of three years. The rates of

contribution mentioned in the order may not exceed the rates specified in the Eighth Schedule, and must be imposed equally as between employers and workmen. Sec. 103.

The following powers and duties of the Board of Trade may be exercised without recourse to Special Order procedure.

(1) To make regulations in regard to the manner in which contributions are to be paid and collected. Sec. 85 (5).

(2) To appoint such Insurance Officers and other officers and inspectors, &c., as the Board may, with the sanction of the Treasury, determine Sec. 89 (2).

(3) To determine the districts and the Trades or groups of Trades for which panels of persons are to be constituted for the purpose of Courts of Referees. Sec. 90 (2).

(4) To provide by regulations for reference to the Referees, for consideration and advice, questions as to the administration of Part II. of the Act and for holding meetings of the Referees for this purpose. Sec. 90 (4).

(5) With the sanction of the Treasury to pay Chairmen and other members of Courts of Referees, remuneration travelling and other allowances (including compensation for loss of time). Sec. 90 (5).

(6) To make regulations and to prescribe in the following cases :—

- (a) By regulation to permit certain workmen employed partly in an Insured Trade and partly not to be treated as wholly employed in an Insured Trade.
- (b) By regulation to give to employers and workmen an opportunity of obtaining a decision by the Umpire in respect of their liability to pay contributions.
- (c) To prescribe the evidence required as to the fulfilment of the conditions and qualifications for receiving or continuing to receive Unemployment benefit. For this purpose they may require the attendance of workmen at such offices or places and at such times as they may appoint.
- (d) To prescribe the manner of making and the procedure as to claims for Unemployment benefit or for the continuance thereof.

- (e) To make regulations with regard to the payment of contributions in benefit while the settlement of any claim is pending.
- (f) By regulation to provide in certain cases for the treatment of persons who are not actually the employer as the employer.
- (g) By regulations to provide (with the concurrence of the Postmaster General) for the making of claims and payment of Unemployment benefit through the Post Office. Sec. 91.

All regulations under this section must be laid before both Houses of Parliament.

(7) To control and manage the Unemployment Fund and pay over moneys of the Fund available for investment to the National Debt Commissioners from time to time. Sec. 92.

(8) To refund a part of the contributions paid by the employer during the year in respect of workmen whom he has continuously employed, and to reduce the period for which a refund may be made subject to a proportionate reduction of the number of contributions required. Sec. 94.

(9) To repay in certain circumstances part of the contributions paid to the fund by workmen. Sec. 95.

(10) To make regulations providing for the refund of contributions paid by employers in respect of workmen working short time. Sec. 96.

(11) To prescribe the cases and conditions in which the Board will make arrangements with employers for performing the duties of employers under the Act in respect of workmen engaged through Labour Exchanges, and to make regulations in connection therewith. Sec. 99.

(12) To give directions to Insurance Officers as to the payments to be made from the Unemployment Fund with regard to the instructions of workmen. Sec. 100 (1).

(13) To institute or to consent to the institution of proceedings under sec. 101 (offences and proceedings for recovery of contribution).

(14) To recover by civil proceedings as debts due to the Crown any sums due to the Unemployment Fund. Sec. 101.

(15) To make arrangements with Associations of workmen

in an Insured Trade who pay unemployment benefit so that such Associations should administer the benefit given by the Act. Sec. 105.

(16) To make repayment to *any* Association for the purpose of providing unemployment benefit. This power can only be exercised with the consent of the Treasury. Sec. 106 (1).

(17) To exempt from the operation of Part II. of the Act workmen who have claims to pensions, &c. Sec. 107 (4).

(18) In certain circumstances to arrange with Government Departments for carrying out by Government officials of the duties of Inspectors under Part II. of the Act. Sec. 112.

The Treasury.—The Treasury have a considerable measure of control over the administration of Part II. of the Act. Their powers and duties are as follows :—

- (1) To determine the manner and times at which the contribution provided by Parliament towards the Unemployment Funds is to be made. Sec. 85 (6).
- (2) Their consent is required as to the number of Insurance Officers to be appointed by the Board of Trade. Sec. 89 (1).
- (3) The Salaries of such Officers and of members of Courts of Referees and of other officers, &c., are to be determined by them. Further, their sanction is required as to the amount of the Board of Trade's expenses in administering the Act. Sec. 89 (2).
- (4) They must make regulations as to the sum from the income account of the Unemployment Fund, which is to be applied as an appropriation in aid of the moneys provided by Parliament for the administrative expenses of the Board of Trade under Part II. of the Act. Sec. 89 (2).
- (5) They must direct the manner in which the accounts of the Unemployment Fund are to be audited, and they must make regulations for the investment of moneys forming part of the Unemployment Fund, Sec. 92.
- (6) They have power to make advances up to £3,000,000 out of the Consolidated Fund out of the security to

the Unemployment Fund, if and when that Fund is insolvent. Sec. 93.

- (7) Their consent and direction must be obtained to any order made by the Board of Trade modifying rates of contribution if and when the Board of Trade exercise their emergency power under sec. 93.
- (8) Their sanction is required to any special order made by the Board of Trade revising rates of contribution. Sec. 102.
- (9) Their consent is required to any special order made by the Board of Trade extending the provisions of Part II. of the Act to Trades other than Insured Trades. The Treasury may not consent to such order if the order would, in their opinion, increase the contribution to the Unemployment Fund out of the moneys provided by Parliament to a sum exceeding £1,000,000 per year before the expiration of three years from the making of the order. Sec. 103.
- (10) Their consent is required before the Board of Trade may make repayments to Associations who pay unemployment benefits to persons, whether workmen in Insured Trades or not. Sec. 106.

Labour Exchanges.—It is anticipated that the Labour Exchanges will provide the machinery for dealing directly with the workmen. In all probability claims for Unemployment benefit will be made at the Labour Exchanges, and will be decided in the manner provided by sec. 88 by Insurance Officers stationed at the various Labour Exchanges throughout the country. The close connection between Labour Exchanges and the object of Part II. of the Act would appear to make this course particularly suitable.

Associations of Workmen.—One of the most important provisions in Part II. of the Act is the provision which permits the Board of Trade virtually to hand over the administration of Unemployment benefit to Associations of Workmen, that is to say, in the great majority of cases, to Trades Unions. The arrangements made by the Board of Trade will be that the Board will cease to pay Unemployment benefit to workmen who

prove that they are members of an Association which has agreed to undertake the administration of Unemployment benefit. The workmen will then look to the Association for the payment of any unemployment benefit to which they may be entitled. At the end of a given period the Board of Trade will settle up accounts with the Association, and will repay to the Association out of the Unemployment Fund three-quarters of the amount which the Association has paid out in unemployment benefit to workmen. But the amount so repaid cannot exceed the amount the workman would have received in Unemployment benefit from the Unemployment Fund if no such arrangement had been made. A simple calculation will show that it will not be to the advantage of any Association to enter into an arrangement of this kind with the Board of Trade unless the unemployment benefit which they are prepared to give is at least as much as 9s. 4d. per week. The effect of making such an arrangement on an Association should be, that the Association will be enabled to retain a hold over their members, and, if the Association can afford to pay substantially more than 7s. per week in unemployment benefit, that fact will form a considerable inducement to other workmen to become members of the Association. It is estimated [Cd. 5991] that the membership of Trade Unions in the Insured Trades at the end of 1909 was 462,000, of whom about 350,000 belonged to Unions providing unemployment benefits. It will be interesting to see whether this provision will have the effect of increasing that membership. Sec. 105.

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CHAPTER X.

FINANCIAL PROVISIONS OF INSURANCE AGAINST UNEMPLOYMENT.

Unemployment Fund.—All the contributions payable under Part II. of the Act by employers and workmen and out of moneys provided by Parliament are to be paid into a Fund called the Unemployment Fund, which is to be under the control and management of the Board of Trade. All claims for Unemployment benefit, and any other payments which are to be made under Part II. of the Act, are payable out of that Fund. Sec. 92 (1).

Provisions are made for the auditing of the accounts of the Unemployment Fund by the Comptroller and Auditor-General in such manner as the Treasury may direct, and for the investment of any sums available by the National Debt Commissioners in the securities which are for the time being authorised as investments for Savings Banks moneys. Sec. 92 (2) and (3).

Provision is made for an account of these securities to be presented to Parliament by the National Debt Commissioners annually. Sec. 92 (4).

Advances from the Treasury.—Power is given to the Treasury to advance sums to the Unemployment Fund from time to time, should the fund so require, up to £3,000,000, and power is given to the Treasury for that purpose to issue Exchequer Bonds or Treasury Bills. Sec. 93.

Exchequer Bonds or Treasury Bills so issued may not be paid off by money in the hands of the National Debt Commissioners. Sec. 93 (7).

Expenses of Administration.—The expenses of administration are in the first instances to be borne by the State, but there is provision that the Treasury should be refunded out of the Unemployment Fund as a grant in aid of such expenses a sum not exceeding 10 per cent. to the Income of the Unemployment Fund. Sec. 89 (2).

Actuarial Calculations.—It is not within the scope of this work to attempt to go deeply into the Actuarial calculations which form the basis of the scheme for Insurance against Unemployment. But the matter is of such importance and of such general interest that a few words may usefully be said on the subject. Reference should be made by those who wish to study the matter in detailed fashion to the reports of the Actuaries, No. 162 of May 16, 1911, and [Cd. 5980].

The general effect of those Actuarial calculations is that the total number of Insured workmen is estimated at 2,511,500.

The average contribution from the workmen is estimated at 9s. 2d. per annum, from the employer at 7s. 10d. per annum, and from the State 6s. 1 $\frac{1}{3}$ d. per annum. The total of these contributions is 23s. 1 $\frac{1}{3}$ d. Expenses of administration are estimated at 2s. 3 $\frac{2}{3}$ d., viz. 10 per cent., leaving 20s. 9 $\frac{2}{3}$ d. available to pay the benefits.

The cost of giving Unemployment benefit is estimated at about 20s. per workman per annum, leaving a margin of about 10d. per workman per annum. The total funds available will, therefore, work out at £2,909,573 17s. 8d., and of that sum the State will contribute £698,438 17s. 8d., the employers £941,812 10s. 0d., and the workmen £1,269,322 10s. 0d.

CHAPTER XI.

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Sec. 80 deals with the special provisions applicable to Scotland, and sec. 81 is a similar section with regard to Ireland.

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Short Title and Commencement.—The short Title to the Act is the National Insurance Act, 1911, and it is expressed to

come into operation on the 15th day of July, 1911, provided that His Majesty in Council may substitute a subsequent date, not later than the 1st of January, 1913, as respects the provisions relating to Health Insurance, and not later than 1st of October, 1912, as respects the provisions relating to Unemployment Insurance. Sec. 115.

THE [illegible] OF [illegible]

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NATIONAL INSURANCE ACT, 1911.

[1 & 2 Geo. 5, c. 55.]

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NATIONAL INSURANCE ACT, 1911.

[1 & 2 Geo. 5, chapter 55.]

An Act to provide for Insurance against Loss of Health and for the Prevention and Cure of Sickness and for Insurance against Unemployment, and for purposes incidental thereto. [16th December 1911.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

NATIONAL HEALTH INSURANCE.

Insured Persons.

1.—(1) Subject to the provisions of this Act, all persons of the age of sixteen and upwards who are employed within the meaning of this Part of this Act shall be, and any such persons who are not so employed but who possess the qualifications herein-after mentioned may be, insured in manner provided in this Part of this Act, and all persons so insured (in this Act called “insured persons”) shall be entitled in the manner and subject to the conditions provided in this Act to the benefits in respect of health insurance and prevention of sickness conferred by this Part of this Act. **Sect. 1.**

Insured
persons.

Sect. 1. (2) The persons employed within the meaning of this Part of this Act (in this Act referred to as "employed contributors") shall include all persons of either sex, whether British subjects or not, who are engaged in any of the employments specified in Part I. of the First Schedule to this Act, not being employments specified in Part II. of that schedule :

Provided that the Insurance Commissioners herein-after constituted may, with the approval of the Treasury, by a special order made in manner herein-after provided, provide for including amongst the persons employed within the meaning of this Part of this Act any persons engaged in any of the excepted employments specified in Part II. of the said schedule either unconditionally or subject to such conditions as may be specified in the order.

(3) The persons not employed within the meaning of this Part of this Act who are entitled to be insured persons include all persons who either—

- (a) are engaged in some regular occupation and are wholly or mainly dependent for their livelihood on the earnings derived by them from that occupation ; or
- (b) have been insured persons for a period of five years or upwards ;

and the persons possessing such qualifications who become or continue to be insured persons are in this Act referred to as voluntary contributors: Provided always that no person whose total income from all sources exceeds one hundred and sixty pounds a year shall be entitled to be a voluntary contributor unless he has been insured under this Part of this Act for a period of five years or upwards.

(4) Except as herein-after provided, nothing in this section shall require or authorise a person of the age of

sixty-five or upwards not previously insured under this Part of this Act to become so insured. Sect. 1.

Object of the Section.—This section defines the persons to whom this part of the Act applies. These persons are called in the Act by the generic name of “insured persons” and are divided into two classes, viz.—

(1) that for which insurance is compulsory, called throughout Part I. of the Act “employed contributors.”

(2) that for which insurance is optional, called throughout Part I. of the Act “voluntary contributors.”

Both these classes will be entitled, subject to the provisions of the Act, to the benefits which the Act is to confer.

Employed Contributors.—This class consists of persons employed within the meaning of this Part of this Act and is defined by reference to subsec. (2) of this section and to Parts I. and II. of the First Schedule to the Act. The combined effect of these provisions is to *include* in this class all persons between the ages of sixteen and sixty-five of either sex, married or single, British subjects or aliens, who are employed in any of the employments specified in Part I. of the First Schedule to the Act, but to *exclude* all persons employed in the employments specified in Part II. of the said First Schedule. (Persons over sixty-five, *Vide* secs. 4 & 49.)

Broadly speaking the persons **included** consist of—

- (1) All persons employed under a contract of service or of apprenticeship in the United Kingdom (with the exception of persons employed under a contract of apprenticeship without money payment); including by sec. 46 most of the men of the Naval and Military Forces of the Crown.
- (2) The master and members of the crew of most British ships;
- (3) Persons employed as out workers unless excluded by special order made by the Insurance Commissioners, or by para. (j) of Part II. of the First Schedule.
- (4) Persons employed in the United Kingdom in plying for hire with vehicles or vessels of which they are bailees and for the use of which they make payment to the owners.

The persons **excluded** consist of—

- (1) Servants of the Crown and of public and local authorities, and certain classes of teachers, who are already provided for, either by the terms of their employment, or by already existing superannuation Acts, and certain men of the Naval and Military Forces;
- (2) Clerks or salaried officials in the service of railway or other statutory companies, who are already provided for by existing superannuation funds;
- (3) Certain classes of agents;
- (4) Certain persons who receive no money payment for their services;

Sect. 1.
 EMPLOYED
 CONTRIBU-
 TORS.

- (5) Persons whose employment is of a casual nature and not for the purposes of the employer's trade or business or for the purposes of any game or recreation;
- (6) Persons employed otherwise than by way of manual labour and at a remuneration exceeding £160 a year;
- (7) Persons whose employment is of a subsidiary nature and is not their principal means of livelihood (this class of employment is only to be excluded by special order of the Insurance Commissioners);
- (8) Certain women outworkers, wives of insured persons;
- (9) Share fishermen, if excluded by special order of the Insurance Commissioners;
- (10) Wives employed by their husbands and *vice versa*.
- (11) Persons who hold, or in respect of whom are held, certificates of exemption (*vide* sec. 2, *infra*, p. 27; sec. 44 (8), *infra*, p. 149, and sec. 51 (1), *infra*, p. 192).

Power of Insurance Commissioners to enlarge the Class of Employed Contributors.—The Insurance Commissioners have power to include, by special order, amongst the class of employed contributors, any persons employed in the employments mentioned in Part II. of the First Schedule. For the procedure, etc., on the making of special orders by the Commissioners, *vide* sec. 113, *infra*, p. 319, and the Ninth Schedule, *infra*, p. 335.

Insurance Commissioners.—There are separate Commissioners for England, Scotland, Ireland and Wales (*vide* secs. 80, 81, 82, pp. 241, 249 and 258 respectively). Where matters expressed are to be prescribed, or where regulations are to be made under this Part of the Act, such matters are to be prescribed and the regulations are to be made by the Insurance Commissioners (*vide* sec. 64, *infra*, p. 259). By sec. 83, *infra*, p. 259, provision is made for the appointment of a joint committee of the several bodies of Commissioners.

The above lists serve to give a rough summary of the persons who are included amongst and excluded from the class known as employed contributors.

In order to arrive at that class with certainty, a detailed examination of the First Schedule is necessary. That Schedule is here printed for convenience.

FIRST SCHEDULE

PART I.

EMPLOYMENTS WITHIN THE MEANING OF PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

- (a) Employment in the United Kingdom under any contract of service or apprenticeship, written or oral, whether expressed or

implied, and whether the employed person is paid by the employer or some other person, and whether under one or more employers, and whether paid by time or by the piece or partly by time and partly by the piece, or otherwise, or, except in the case of a contract of apprenticeship, without any money payment.

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(b) Employment under such a contract as aforesaid as master or a member of the crew of any ship registered in the United Kingdom or of any other British ship or vessel of which the owner, or, if there is more than one owner, the managing owner or manager, resides or has his principal place of business in the United Kingdom.

(c) Employment as an outworker (that is to say, a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials for the purposes of the trade or business of the last-mentioned person), unless excluded by a special order made by the Insurance Commissioners, and any such order may exclude outworkers engaged in work of any class, or outworkers of any class or description specified in the order, or may defer the commencement of this Act as respects all outworkers, and the person who gave out the articles or materials shall, in relation to the person to whom he gave them out, be deemed to be the employer.

(d) Employment in the United Kingdom in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under any contract of bailment (or in Scotland any contract of letting to hire) in consideration of the payment of a fixed sum, or a share in the earnings or otherwise, in which case the owner shall, for the purposes of Part I. of this Act, be deemed to be the employer.

PART II.

EXCEPTIONS.

(a) Employment in the naval or military service of the Crown, including service in Officers' Training Corps, except as otherwise provided in Part I. of this Act.

(b) Employment under the Crown or any local or other public authority where the Insurance Commissioners certify that the terms of the employment are such as to secure provision in respect of sickness and disablement on the whole not less favourable than the corresponding benefits conferred by Part I. of this Act.

(c) Employment as a clerk or other salaried official in the service of a railway or other statutory company, or of a joint committee of two or more such companies, where the Insurance Commissioners certify that the terms of employment, including his rights in such superannuation fund as is herein-after mentioned, are such as to secure provision in respect of sickness and disablement, on the

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(*d*) Employment as a teacher to whom the Elementary School Teachers Superannuation Act, 1898, or a scheme under section fourteen of the Education (Scotland) Act, 1908, or the National School Teachers (Ireland) Act, 1879, applies, or, in the event of any similar enactment being hereafter passed as respects teachers or any class of teachers (other than teachers in public elementary schools), as a teacher to whom such enactment applies.

(*e*) Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some other occupation, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.

(*f*) Employment in respect of which no wages or other money payment is made where the employer is the occupier of an agricultural holding and the employed person is employed thereon, for where the person employed is the child of, or is maintained by, the employer.

(*g*) Employment otherwise than by way of manual labour and at a rate of remuneration exceeding in value one hundred and sixty pounds a year, or in cases where such employment involves part-time service only, at a rate of remuneration which in the opinion of the Insurance Commissioners, is equivalent to a rate of remuneration exceeding one hundred and sixty pounds a year for whole-time service.

(*h*) Employment of a casual nature otherwise than for the purposes of the employer's trade or business, and otherwise than for the purposes of any game or recreation where the persons employed are engaged or paid through a club, and in such case the club shall be deemed to be the employer.

(*i*) Employment of any class which may be specified in a special order as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood.

(*j*) Employment as an outworker where the person so employed is the wife of an insured person and is not wholly or mainly dependent for her livelihood on her earnings in such employment.

(*k*) Employment as a member of the crew of a fishing vessel where the members of such crew are remunerated by shares in the profits or the gross earnings of the working of such vessel in accordance with any custom or practice prevailing at any port if a special order is made for the purpose by the Insurance Commissioners, and

the particular custom or practice prevailing at the port is one to which the order applies.

(l) Employment in the service of the husband or wife of the employed person.

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Contract of Service, Employer.—It is interesting to compare the use of these words in the Schedule now under consideration with the same words as used in sec. 13 of the Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58). In that Act "' Workman' . . . 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"; "' Employer' includes any body of persons corporate or unincorporate, and the legal personal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person."

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SCHEDULE,
PART I.,
PARA. (a).

The Act now under consideration contains no definition of the word "employer," but the following provisions of this Part of the Act provide, in certain cases, for ascertaining who is the employer for the purposes of this Part of the Act of a given employee.

(1) Employment as an outworker (First Schedule, Part I., para. (c)), "the person who gave out the articles or materials shall in relation to the person to whom he gave them out be deemed to be the employer."

(2) Employment under a contract of bailment of a vehicle or vessel (First Schedule, Part I., para. (d)). The owner of the vehicle or vessel is to be deemed the employer.

(3) Where persons are employed in an employment of a casual nature for the purposes of any game or recreation, and such persons are engaged or paid through a club, the club is to be deemed to be the employer (First Schedule, Part II., para. (h)).

(4) "Where a contributor is employed by more than one employer in any calendar week, the first person employing him in that week or such other employer or employers as may be prescribed shall be deemed to be the employer. . . ." (Third Schedule, para. (5)). This provision should obviate many difficulties arising through persons being employed under concurrent contracts of service to two different employers.

(5) When employed contributors work under the general control or management of some person other than their immediate employer, the regulations of the Insurance Commissioners may provide that such person shall be treated as the employer (Third Schedule, para. (6)).

(6) Men of the Fleet Reserve, the Army Reserve, or the Territorial Force, whilst called out for training, are to be deemed to be in the employment of the Crown (sec. 46 (8)).

Sect. 1. (7) In the case of a person employed in the private service of the Crown, the head of the Department of the Royal Household in which he is employed shall be deemed to be his employer (sec. 53).
 ———
CONTRACT OF SERVICE, EMPLOYER. Apart from these provisions, the question as to who is the employer is left at large and must be gathered from the terms of paragraph (a) of the First Schedule.

The following observations are intended to be read subject to the aforesaid provisions and subject to anything which may be prescribed, or any regulations that may be made, under those provisions.

The meaning of the words "contract of service" affords the clue to the difficulties which still may arise. In order to ascertain whether a person is employed under a contract of service, the question is whether there exists between him and some other person the relation of master and servant, for only in that event will there be a contract of service. Once the existence of this relation has been ascertained, it is clear that the person who contracts to serve will be the employee, and the person whom he contracts to serve will be the employer.

It is convenient to point out here the distinction made and illustrated by Cozens-Hardy, M.R., in a case dealing with the words "contract of service" as used in the Workmen's Compensation Act, 1906 (*Simmons v. Heath Laundry Company*, [1910] 1 K. B. 543, at p. 548), between a contract of service and a contract for services. "An usher in a private school, or a teacher in a provided or non-provided school, or a nursery governess would, under ordinary circumstances, be entitled to claim the benefit of the Act. On the other hand, it would, I think, be absurd to hold that a skilled music master who gives lessons to a pupil, either in his own house or in the pupil's house, is to be regarded as the 'workman' and the pupil as the 'employer.' In such a case there may be a contract for services, but there is not a contract of service. In any particular case it will be for the arbitrator, after considering all the circumstances, to decide whether the injured professional person is or is not a 'workman.' This is not a question of law, but a question of fact, and, unless the arbitrator has misdirected himself, this court ought not to interfere."

As has been said above, a contract of service involves the relation of master and servant; this relation must be carefully distinguished from that which arises when a person employs an independent contractor to do work for him. In such a case the relation of master and servant cannot arise, inasmuch as the words "servant" and "independent contractor" are mutually exclusive.

It is not within the scope of the present work to enter into this subject in great detail, but the following observations may be found of use as a guide to the requisites for creating the relation in question.

When a person has, with regard to another person, all the following powers and liabilities, viz.—

- (1) Power of control;
- (2) Power to select and appoint;
- (3) Power to dismiss;
- (4) Liability to pay wages or other remuneration;

there is no doubt that the relation between those two persons is that of master and servant. Difficulties only arise when some, but not all, of these factors are present.

(1) *The power of control.* This is the most important factor in determining whether the relation between two persons is that of master and servant; indeed it has been said that that relation cannot exist without the power of control (*cf. per* Sir Frederick Pollock (The Law of Torts, 7th ed., p. 77), "The relation of master and servant exists only between persons of whom the one has the order and control of the work done by the other. A master is one who not only prescribes to the workman the end of his work, but directs, or at any moment may direct, the means also, or, as it has been put (*per* Crompton, J., in *Sadler v. Henlock* (1855), 4 E. & B. 570, at p. 578; 24 L. J. Q. B. 138, at p. 141), 'retains the power of controlling the work'; and he who does work on those terms is in law a servant. . . . An independent contractor is one who undertakes to produce a given result, but so that in the actual execution of the work he is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand." To this may be added that the power of control must arise out of contract (*cf. per* Grove, J., in *Turner v. G.E.R. Co.* (1875), 33 L. T. 431, at p. 433, "it is not only that the control must exist and be retained, but also there must be the correlative submission on the part of the servant to the control of the master." This power of control is the test whereby a servant may be distinguished from an independent contractor. The *locus classicus* on the subject is perhaps to be found in Lord Justice Bramwell's evidence before the First Committee of the House of Commons on Employers' Liability (Minutes of Evidence on Employers' Liability, Parliamentary Papers, 1876, vol. x., 58) where he says, "To my mind the distinction between the cases where a man is, and where he is not, liable for the negligence of another person, may be defined in this way. If there is a contract between them, so that the person doing the work or doing the act complained of has a right to say to the employer, 'I will agree to do this but I shall do it after my own fashion; I shall begin the wall at this end and not at the other'; then the relation of master and servant does not exist and the employer is not liable. But if the employer has a right to say to the person employed, 'You shall do it in this way, that is to say, not only shall you do it by virtue of your agreement with me, but you shall do it as I direct you to do it,' then the law of master and servant applies and the master is responsible."

Vide also *per* Fletcher Moulton, L.J., in *Simmons v. Heath Laundry Co.*, *supra*, at p. 550, "the greater the amount of direct control exercised over the person rendering the services by the person contracting for them the stronger the grounds for holding it to be a contract of service, and similarly the greater the degree of independence of such control the greater the probability that the services rendered are of the nature of professional services, and that the contract is not one of service."

It is submitted that these words are equally applicable in differentiating between a servant and an independent contractor.

The power of control also serves to differentiate a contract of service from one of agency. A person may well be styled an "agent" and yet be the servant of the person who employs him, while at the same time certain agents, by reason of the wide discretion they may have in the manner, time, and place of performance of their duties, may not be servants of their employer at all.

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Sect. 1. The words used in para. (e) of the Second Part of the Schedule which put among the excepted employments

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“(e) Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some other occupation, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.”

would seem to indicate that it was the intention of the Act to include within the employments referred to in para. (a) of the First Part of the Schedule such employment as an agent as does not come within the meaning of the excepted words. But it is submitted that, inasmuch as any employment, to be within the meaning of para. (a) of the First Part of the Schedule, must be under a contract of service, and that such a contract involves the relation of master and servant, an agent who is not at the same time a servant is not employed within the meaning of this part of the Act.

Care must also be taken to distinguish between contracts of service and partnership. This is often a difficult question, as many persons are employed on terms that they get a share of the profits of the business. “In *Cox v. Hickman* (1860), 8 H. L. C. 268, it was decided that the ground of liability as a partner is the relation of principal and agent between the parties concerned, of which relation sharing the profits is cogent and often conclusive evidence. But sharing profits is only evidence, and must be considered in conjunction with the conduct of the parties and their intention as collected from the terms and scope of their agreement in its entirety” (Sir John Macdonell on “The Law of Master and Servant,” 2nd edit., p. 44). For the rules determining whether or not a partnership does or does not exist, *vide* The Partnership Act, 1890 (53 & 54 Vict. c. 39), s. 2.

Reference may also be made to the following cases:—

Ellis v. Joseph Ellis & Co., [1905] 1 K. B. 324, in which it was held that a member of a partnership formed for the purpose of working a mine, who worked in the mine as a working foreman, and received wages out of the profits of the business, was not entitled to compensation from the surviving partners under the Workmen's Compensation Act, 1897. At p. 328, Collins, M.R., says, “Such a partner cannot put himself in the position of not being a partner when he is one, or of being a workman, when that position would involve that he would be both employer and employee.”

Sharpe v. Carswell (1910), S. C. 391, in which it is suggested that *Ellis v. Ellis* (*supra*) might have been decided differently in Scotland.

Power to select and appoint.—The fact that a person has selected or appointed another person is only *prima facie* evidence that the relation of master and servant exists between them. Indeed it might be said to be very slight evidence, since there are very many cases in which an employer has nothing whatever to do with either the selection or appointment of his employees. Where the selection or appointment is made by an agent of the employer it is

tantamount to selection or appointment by the employer himself (*cf. Laughter v. Pointer* (1826), 5 B. & C. 547, at p. 554).

Power of dismissal.—As a general rule this power is in the master but, as in the cases of selection and appointment, it is frequently delegated by the master to agents who of course do not thereupon become masters themselves (*cf. Stone v. Cartwright* (1795), 6 T. R. 411). Further, when a person makes a contract with an independent contractor reserving to himself the right to dismiss any of the contractor's servants, he does not thereby create the relation of master and servant between himself and those servants (*cf. Reedie v. I. and N. W. Rly. Co.* (1849), 4 Ex. 244, at p. 258).

Liability to pay wages.—The fact that a person looks to another for the payment of wages is *prima facie* evidence that their relation to one another is that of master and servant. But this test again is far from being conclusive at common law (*cf. Willett v. Boote* (1860), 6 H. & N. 26), and besides it must be borne in mind that in the Schedule now under consideration employment is included "under any contract of service . . . whether paid by the employer or some other person." Further it is quite possible, and indeed it frequently happens, that servants are not paid any wages at all, *e.g.*, waiters who depend entirely upon customer's tips for their remuneration, but who are none the less servants of the hotel-keeper (*cf. Laughter v. Pointer, supra*, p. 555). The mere fact of making a payment is not sufficient to make a person the servant of another (*vide Conlon v. Glasgow Corporation* (1899), 1 F. 869, where it was held that spare men who waited every morning on the chance of being given a job, and who received 1s. remuneration from the Corporation for so waiting, were not in the service of the Corporation).

The following cases may also be referred to:—

Jones v. Liverpool Corporation (1885), 14 Q. B. D. 890, where the plaintiff contracted with the Corporation to supply by the day a driver and horse to drive and draw a watering cart belonging to the Corporation. The driver was employed and paid by the plaintiff, and was not otherwise under the direction or control of the Corporation than that their inspector directed him what streets to water. *Held*, that the driver was not the servant of the Corporation.

Hall and Wife v. Lees and Others, [1904] 2 K. B. 602. An association for the supply of duly qualified nurses whom they appointed, and to whom they paid salaries, and for whose services they made charges to persons on whose application the nurses were supplied, provided a nurse for the female plaintiff. It was held that, upon the true construction of the documents in relation to the supply of nurses, the nurse so provided was the servant of the plaintiff and not of the Association.

Chisholm v. Walker & Co. (1908), 46 S. L. R. 24. A man was employed by a timber merchant to bring his horse and carry timber from a ship to a store, he being at liberty to work or not as he chose. *Held*, that he was an independent contractor.

Waites v. Franco-British Exhibition (Incorporated) (1909), 25 T. L. R. 441. A lecturer engaged to give lectures at a weekly salary was held not to be under a contract of service.

Walker v. Crystal Palace Football Club, Ltd., [1910] 1 K. B. 87. A professional footballer was held to be under a contract of service with the club for whom he played.

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Sect. 1. *Murphy v. Enniscorthy Board of Guardians* (1908), 42 Ir. L. T. 246. A dispensary medical officer, employed by the guardians at a salary of £120 a year, was held not to be under a contract of service with the guardians.

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Servants lent.—It often happens that a servant in the employment of A is lent, or let on hire, by A to B, and the question arises in whose employment the servant is. This case is expressly provided for in the definition clause of the Workmen's Compensation Act (*supra*), but is left at large in the Act now under consideration. It is submitted that the true answer in such a case is that the servant is, and remains, in the employment of A unless, and until, he enters into a fresh contract of service with B. The existence of a fresh contract will be a question of fact to be decided in each case (*cf.* on this point *Wild v. Waygood*, [1892] 1 Q. B. 783; *Donovan v. Laing*, [1893] 1 Q. B. 629).

Contracts of bailment.—These are cases where a person is entrusted with the property of another, by the use of which he makes money which is to be shared with that other person. In such cases the amount of control the owner of the property has over the bailee decides whether the contract is one of service or not (*cf.* *Doggett v. Waterloo Taxi-Cab Co., Ltd.*, [1910] 2 K. B. 336, and *Smith v. The General Motor Cab Co., Ltd.*, [1911] A. C. 188).

It must be borne in mind that certain classes of such contracts of bailment, viz. those relating to vehicles and vessels, are expressly made employments within the meaning of this Part of the Act by para. (d) of Part I. of the First Schedule, and the owner is to be deemed to be the employer. But a person who took out, say, a barrel organ, on the terms that he shared his takings with the owner, would probably be held not to be under a contract of service with that owner.

To sum up.—For a person to be employed within the meaning of this Part of this Act there must be a contract of service express or implied in existence in respect of him. The existence of such a contract is a question of fact, and the employer, except so far as the provisions of this Part of the Act may vary the rule (for which *vide supra*), is the person whom the employee is found to have contracted to serve.

Meaning of "contract of service" in Part II. of the Act.—The expression "contract of service" occurs in the definition of the word "workman" in sec. 107 of this Act. It has, in that section, the same meaning as it has in Part I. of this Act, and the foregoing observations are applicable.

Meaning of "employer" in Part II. of the Act.—The foregoing observations are also applicable for the purpose of ascertaining who is the employer under Part II. of the Act, with the exception of the references to Part I. of the Act on p. 9. In determining who is the employer under Part II. of the Act, reference should be made to the regulations to be made by the Board of Trade under sec. 91 (1) (f) (*infra*, p. 282), and to sec. 98 (*infra*, p. 294).

United Kingdom. This expression means Great Britain and Ireland, but does not include the Channel Islands, or the Isle of Man.

FIRST
SCHEDULE,
PART I.,
PARA. (b).

"Employment under such a Contract as aforesaid as Master or Member of the Crew, etc."—"Contract as aforesaid,"

viz.: such contracts of service or apprenticeship as are referred to in para. (a) of Part I. of the First Schedule.

The word "master" is defined in the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 742, "'Master' includes every person except a pilot having command or charge of any ship."

It is submitted that the word has the same meaning in this Act. (There is express provision to this effect in sec. 48 (10), *infra*, p. 185, so far as expressions used in the Merchant Shipping Acts are used in that section.)

The word "crew" is not defined in the Merchant Shipping Acts, but is used several times in those Acts, *e.g.* secs. 117 to 122, 253, 305, 306, etc., of the Merchant Shipping Act, 1894. The word "crew" is clearly wider than the word "seaman" as defined in sec. 742 of the Merchant Shipping Act, 1894, viz. "'seaman' includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship." *Quære* whether the definition of the word "seaman" in sec. 49 (2) of the Merchant Shipping Act, 1906 (6 Ed. 7, c. 47), viz. "The expression 'seaman' includes not only seaman as defined by the principal Act, but also apprentices to the sea-service," does not cover the meaning of the word "crew" in the Schedule now under consideration? Reference may also be made to *Anglo-Argentine Live Stock and Produce Agency v. Temperley Shipping Co.*, [1899] 2 Q. B. 403, where cattlemen in charge of live stock on board a ship were held not to be part of the crew within the meaning of rule XI. of the York-Antwerp Rules, 1890, *vide esp. per* Bigham, J., at p. 412, "In my opinion they were not part of the crew at all; they were not under the command of the master; they were not in the service of the ship-owners; they did not sign the ship's articles; nor were they in any way engaged in the navigation of the vessel." It is suggested that these words, in interrogative form, will afford a test as to the meaning of the expression "member of the crew."

"Any Ship registered in the United Kingdom or any other British Ship or Vessel, etc."—These words are the same as those used in sec. 7 of the Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58).

A ship is not to be deemed a British ship unless owned by one or other of the persons set out in sec. 1 of the Merchant Shipping Act, 1894 (*ubi supra*), and those persons are—

- (1) Natural-born British subjects;
- (2) Persons naturalised by or in pursuance of an Act of Parliament of the United Kingdom, or by or in pursuance of an Act or Ordinance of the proper legislative authority in a British possession;
- (3) Persons made denizens by letters of denization;
- (4) Bodies corporate established under and subject to the laws of some part of His Majesty's dominions and having their principal place of business in those dominions.

[NOTE.—A British-owned ship is, apparently, still a British ship, even if she is not registered under the Merchant Shipping Act, and even if she is registered in, and carries the flag of a foreign country (*Chartered Mercantile Bank of India v. Netherlands India Steam Navigation Co.* (1883), 10 Q. B. D. 521, *per* Brett, L.J., at pp. 534 *et seq.*.)]

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"EMPLOY-
MENT UNDER
SUCH A CON-
TRACT AS
AFORESAID AS
MASTER OR
MEMBER OF
THE CREW,
ETC."

- Sect. 1.** By sec. 2 of that Act every British ship must, unless exempted from registry, be registered, and, if not so registered, is not to be recognised as a British ship. By sec. 3 of that Act the following ships are exempted from registration, viz.:
- “ANY SHIP REGISTERED IN THE UNITED KINGDOM OR ANY OTHER BRITISH SHIP OR VESSEL, ETC.”
- (1) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British possession within which the managing owners of the ships are resident:
 - (2) Ships not exceeding thirty tons burden and not having a whole or fixed deck and employed solely in fishing or trading coastwise on the shores of Newfoundland, or parts adjacent thereto, or in the Gulf of St. Lawrence or on such portion of the coasts of Canada as lie bordering on that gulf.

Sec. 4 sets out the ports at which there are to be registrars of British ships. These ports include any port within the United Kingdom and a number of ports in various British colonies and possessions. The words in the Schedule, “any other British ship or vessel . . . principal place” are added in order to bring within the scope of the Act persons employed upon British ships that are within the exemptions of sec. 3, and on British ships that are registered at ports other than those in the United Kingdom, provided that, in both cases, their owner, or (if there is more than one owner) the managing owner or manager, resides, or has his principal place of business in the United Kingdom.

Ship or Vessel.—The Workmen’s Compensation Act, 1906 (*ubi supra*), provides by sec. 13 that these words should have the same meaning as they have in the Merchant Shipping Act, 1894 (*ubi supra*); there is no such provision in this Act, but it is submitted that, inasmuch as this Act only deals with ships registered in the United Kingdom, and certain other British ships or vessels, and, in order to find what such ships or vessels are, reference must be made to the Merchant Shipping Act, the definitions of these words contained in the Merchant Shipping Act are imported, by implication, into this Act. Those definitions will be found in sec. 742, and are as follows:—

“‘Vessel’ includes any ship or boat or any other description of vessel used in navigation.”

“‘Ship’ includes every description of vessel used in navigation not propelled by oars.”

Under the Workmen’s Compensation Act, 1906, questions arise as to whether persons employed on pleasure vessels, etc., on inland waters, etc., are workmen within the meaning of the Act; but no such question can arise under this Act, as such persons will be covered by the general expression employment in the United Kingdom. Under this Act the meaning of the words “ship or vessel” is only important in relation to the question as to what employments outside the territorial limits of the United Kingdom are within the Act. In this connection the following decisions may be referred to:—

Gapp v. Bond (1887), 19 Q. B. D. 200, where a dumb barge propelled with oars was held to be a vessel.

The Mac (1882), 7 P. D. 126, in which a hopper barge not furnished with any means of propulsion was held to be a vessel used in navigation.

The Gas Float Whitton, No. 2, [1897] A. C. 337, in which a gas float shaped like a boat, but neither intended nor fitted to be navigated, was held not to be a vessel.

Resides.—"Residence" is a question of fact; it has a variety of meanings, according to the statute in which it is used (*per Erle, C.J., Naef v. Mutter* (1862), 31 L. J. C. P. 359). It is an ambiguous word, and may receive a different meaning according to the position in which it is found (*per Cotton, L.J., Re Bowie, Ex parte Breull* (1880), 50 L. J. Ch. 386; 16 Ch. D. 484). *Cf. also per Bayley, J., in R. v. Inhabitants of North Currey* (1825), 4 B. & C. 959. "Then the question is, what is the meaning of the word 'resides'? I take it that that word, when there is nothing to show that it is used in a more extensive sense, denotes the place where an individual eats, drinks, sleeps, or where his family eat, drink, and sleep."

A person may have more than one residence in more than one country; the mere fact that he resides at one place does not prove that he does not also reside somewhere else.

A question arises as to whether employment, as master or member of the crew, on a ship owned by a corporation established under, and subject to, the laws of some part of His Majesty's dominions, and having its *principal* place of business in those dominions, but at the same time carrying on business within the United Kingdom (*e.g.* a New Zealand Company, with its principal place of business in Auckland and an office in London), can be said to be employment within the meaning of this Act. Such a ship is clearly a British ship, and the only question is whether its owners reside, or have their principal place of business, in the United Kingdom. There are numerous decisions to the effect that, in the case of a corporation, carrying on business is tantamount to residence (*Newby v. Van Oppen* (1872), L. R. 7 Q. B. 293; *Haggin v. Comptoir d'Escompte de Paris* (1889), 23 Q. B. D. 519; *Badcock v. Cumberland Gap Park*, [1893] 1 Ch. 363; *La Bourgogne*, [1899] A. C. 431; *Dunlop Pneumatic Tyre Company v. Actien Gesellschaft für Motor und Motorfahrzeugbau vorm. Cudell & Co.*, [1902] 1 K. B. 342). These decisions all deal with foreign corporations, but from the point of view of British law such corporations as are above referred to are also foreign corporations. On the other hand, there are numerous decisions on the Income Tax Acts which show that, for the purpose of residence under those Acts, a corporation resides where its central management and control are carried on (*vide A.-G. v. Alexander* (1874), L. R. 10 Ex. 20; *De Beers Consolidated Mines, Ltd. v. Howe*, [1906] A. C. 455; *New Zealand Shipping Co. v. Stephens* (1906), 96 L. T. 50).

It is submitted that the sounder view is that employment on ships owned by such corporations is not employment within the meaning of the Schedule. The grounds for this submission are that the line of decisions beginning with *Newby v. Oppen* (*ubi supra*) deals only with the test of residence for the purpose of ascertaining whether a foreign corporation can be sued in this country or not, and that it would appear that the test is different in the case of a taxing Act, or of an Act, like this Act, which, though not strictly a taxing Act, has many features in common with such Acts. This distinction is pointed out by Collins, M.R., in *De Beers Consolidated Mines v. Howe* (C. A.), [1905] 2 K. B. 612,

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at p. 637. "It may be, no doubt, that a residence which would be sufficient for the purpose of service would not be such as to bring a foreign corporation within the operation of a taxing Act," and is approved by Loreburn, L.C., in the same case in the House of Lords ([1906] A. C. 455, at pp. 459 and 460).

Principal Place of Business.—This is also a question of fact. Where there is more than one place of business, it would seem the principal place of business is that where the central management and control are established.

FIRST
SCHEDULE,
PART I.,
PARA. (c).

Special Order.—For procedure on making special orders, *vide* sec. 114, *infra*, p. 319, and the Ninth Schedule to the Act, *infra*, p. 335.

FIRST
SCHEDULE,
PART I.,
PARA. (d).

Employment . . . in plying for Hire with any Vehicle or Vessel, etc.—These words are intended to bring within the scope of Part I. of the Act cabdrivers and boatmen who pay a fixed sum, or a share in their earnings, to the owners of the vehicles or boats with which they ply for hire.

The word "vehicle" includes a bicycle (*Ellis v. Nott-Bower* (1896), 13 T. L. R. 35). It is submitted that it means any form of carriage, and would include a bath-chair, *vide* also note, *infra*, p. 263.

Vessel.—It is submitted that this word, as used in this paragraph of the schedule, has a wider meaning than is assigned to the word in the Merchant Shipping Act. It would include any form of vessel, whether used in navigation or not, and the arguments by which a launch plying in inland waters was held not to be a vessel within the meaning of the Merchant Shipping Act, 1854, in *Mayor of Southport v. Morris*, [1893] 1 Q. B. 359, would, it is submitted, be inapplicable in the present case.

FIRST
SCHEDULE,
PART II.,
PARAS. (a)
AND (b).

Naval or Military Service of the Crown.—The Act makes special provision for seamen and marines within the meaning of the Naval Marine Pay and Pensions Act, 1865, and for soldiers of the regular forces in sec. 46 (*infra*, p. 159).

Employment under the Crown or any Local or other Public Authority.—In sec. 53, the Crown is expressly mentioned, and Part I. of the Act (*infra*, p. 195) is made, thereby, to apply to all persons employed by the Crown other than those with respect to whom special provision is made (*e.g.* seamen, marines, and soldiers, by sec. 46, *infra*, p. 159) in like manner as if the employer were a private person.

Employment by a local or other public authority would naturally fall under the employments specified in Part I. of the Schedule; consequently the existence of terms of employment which are certified by the Insurance Commissioners to be such as to secure provision in respect of sickness and disablement on the whole not less favourable than the corresponding benefits conferred by Part I. of the Act, is necessary to except from the operation of Part I. of the Act any persons employed by the Crown or by a local or other public authority. In all other cases employees of the Crown or of local or public authorities are bound to become employed contributors in accordance with the provisions of the Act.

"Local or other Public Authority."—There is no definition of these expressions in this Act.

It is submitted that an authority within the meaning of these words is any authority (as opposed to any individual member or officer of any authority) which could claim the protection of the Public Authorities Protection Act, 1893 (56 & 57 Vict. cap. 61). On the question as to what authorities are within that protection the following cases may be consulted—

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AUTHORITY.”

Fielding v. Morley Corporation, [1899] 1 Ch. 1, *vide per* Lindley, M.R., at p. 4, “Although the language is wide the key to the enactment is that it is intended, as the title shows, to protect public bodies from expense. . . .”

The Ydun, [1899] P. 236. *Vide per* Jeune P. at p. 239, “. . . it is only public authorities that come within the purview of the Act.”

A.-G. v. Company of Proprietors of Margate Pier and Harbour, [1900] 1 Ch. 749, where it was held that a company incorporated by Act of Parliament, not only for the performance of duties of public utility, but also for the purpose of earning profits, is not entitled to the benefit of the Act.

Williams v. Mersey Docks and Harbour Board, [1905] 1 K. B. 804, where it was not disputed that the defendants were a public authority within the meaning of the Act.

Lyles v. Southend-on-Sea Corporation, [1905] 2 K. B. 1.

Certain authorities, *e.g.* County and Borough Councils, Corporations, Urban and Rural District Councils, etc., are, of course, clearly authorities to which the Act applies. The following authorities have also been treated as being public authorities—

A Joint Isolation Hospital District Board, in *Markey and another v. The Tolworth Joint Isolation Hospital District Board*, [1900] 2 Q. B. 454.

A Board of Guardians, in *Sharpington v. Fulham Guardians*, [1904] 2 Ch. 449.

A Vestry, in *Cree and another v. The Vestry of Saint Pancras*, [1899] 1 Q. B. 693.

The Tyne Improvement Commission, in *The Johannesburg*, [1907] P. 65 (*vide esp. per* Barnes, P., at p. 79).

Corresponding Benefits.—The benefits conferred by Part I. of the Act are to be found in sec. 8 (*infra*, p. 45). They consist of “medical benefit” (sec. 8 (1) (a)), “sanatorium benefit” (sec. 8 (1) (b)), “sickness benefit” (sec. 8 (1) (c)), “disablement benefit” (sec. 8 (1) (d)), “maternity benefit” (sec. 8 (1) (e)), and “additional benefits” (sec. 8 (1) (f)). The use of the words “sickness” and “disablement” and “corresponding benefits” in the schedule would seem to indicate that in certifying the Commissioners need only consider whether the terms of employment are not less favourable in securing provision in circumstances where either sickness or disablement benefit would be payable under the Act, and may ignore the other benefits provided by the Act.

This would seem to be the better view, but it may well be argued that the words “provision in respect of sickness and disablement,” are wide enough to cover not only “sickness and disablement benefit,” but also the other benefits conferred by the Act. This argument would rest mainly on the assumption that the intention of the Act must be to place the class of employees now under consideration in at least as favourable a position as persons in other employments. But this latter construction would involve the Commissioners in a difficult speculation as to the value of the chance of obtaining additional benefits.

Sect. 1. Elementary School Teachers' Superannuation Act, 1898

FIRST
SCHEDULE,
PART II.,
PARA. (d).

(61 & 62 Vict. c. 57).—This Act applies to certificated teachers.

By sec. 11. "The expression 'certificated teacher' means a teacher who is recognized under the Education Code as a certificated teacher for elementary schools."

"The expression 'certificate' includes any document issued by the Education Department which recognises a teacher as a certificated teacher."

"The expression 'Education Code' means such minutes of the Education Department as are for the time being in force for the purpose of the Elementary Education Act, 1870."

Sec. 16 provides that the Act shall not extend to Ireland. The Act applies to Scotland subject to the modification noted below.

(NOTE.—For special provisions in respect of certificated teachers who do not become voluntary contributors, *vide* sec. 52 (*infra*, p. 195).)

Education (Scotland) Act, 1908 (8 Ed. 7, c. 63).—By sec. 14, subsec. (4), it is provided that the Scotch Education Department should prepare a superannuation scheme applicable to such teachers as should be prescribed therein, and by subsec. (6) that, upon such scheme taking effect, the Elementary School Teachers' (Superannuation) Act, 1898, should cease to apply to Scotland.

At the time of going to press a scheme was lying before both Houses of Parliament.

National School Teachers (Ireland) Act, 1879 (42 & 43 Vict. c. 74).—Teachers to whom this Act applies are "classed teachers," which expression is defined in sec. 2 as meaning "such principal and assistant teachers of model or ordinary national schools as receive salaries from, and are classed according to the regulations of the Commissioners of Education."

FIRST
SCHEDULE,
PART II.,
PARA. (g).

Employment otherwise than by way of Manual Labour.—

Similar words to these are to be found in the definition of workmen in the Employers and Workmen Act, 1875 (38 & 39 Vict. c. 90, s. 10), the Employers' Liability Act, 1880 (43 & 44 Vict. c. 42, s. 8), the Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37, s. 7), and the Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58, s. 13) and have been the subject of numerous decisions. A difficulty arises because many persons are employed in employments which involve both manual and other forms of labour. Whether or not a person is employed by way of manual labour must always be a question of fact. The principal rule in determining the question is to see "whether manual labour is the chief duty of the employee or only a duty incidental and subsidiary to other more important mental ones" (Ruegg on Employers' Liability, 7th Ed. p. 54). The distinction between manual work and manual labour should also be borne in mind (*per* A. L. Smith, J., in *Cook v. The North Metropolitan Tramways Company* (1887), 18 Q. B. D. 683, at p. 684, "The expression used, it should be noted, is not manual work, but manual labour, for many occupations involve the former but not the latter, such as telegraph clerks, and all persons engaged in writing." And, also at p. 684, "I assent to the opinion of the Master of the Rolls in *Morgan v. London General Omnibus Company* (1884), 13 Q. B. D. 832, that we must look at what was the real substantial business of the plaintiff").

Reference may also be made to *Bagnall v. Levinstein, Ltd.*, [1907] 1 K. B. 531. **Sect. 1.**

The following persons have been held *not* to be employed by way of manual labour—

Conductor of an omnibus, (*Morgan v. London General Omnibus Co.*, *ubi supra*). **EMPLOYMENT OTHERWISE THAN BY WAY OF MANUAL LABOUR.**

Driver of a horse tramcar, (*Cook v. The North Metropolitan Tramways Co.*, *ubi supra*).

Guard of a goods train, (*Hunt v. G. N. Rly. Co.*, [1891] 1 Q. B. 601).

Shop assistant, (*Bound v. Lawrence*, [1892] 1 Q. B. 226).

Hairdresser, (*Reg. (Holywood) v. JJ. of Co. Louth*, [1900] 2 I. R. 714).

Secus in the cases of the following persons—

A potter's printer, (*Grainger v. Aynsley* (1880), 6 Q. B. D. 182).

A person whose duty consisted in driving a trolley, belonging to a wharfinger, and in loading, unloading, and delivering goods to consignees, (*Yarmouth v. France* (1887), 19 Q. B. D. 647).

A seamstress who worked a sewing machine and attended to irons and ironed the materials, (*Maynard v. Robinson* (1903), 19 T. L. R. 492).

Driver of a motor omnibus, (*Smith v. Associated Omnibus Co.*, [1907] 1 K. B. 916).

Professional footballer, (*Walker v. Crystal Palace Football Club, Ltd.*, [1910] 1 K. B. 87).

Employment of a Casual Nature otherwise than for the Purposes of the Employer's Trade or Business.—Similar words to these will be found in the Workmen's Compensation Act, 1906, sec. 13. The word "casual" seems to be used in contradistinction to "regular." It does not follow that employment which is not continuous is casual; it may still be regular though periodic. It is also well to observe, as pointed out by Buckley, L.J., in *Hill v. Begg*, [1908] 2 K. B. 802, at p. 805, that the words are not "who is casually employed," but "whose employment is of a casual nature." The character of the man's employment, and not the tenure, is to be investigated. Employment which is stable, though periodic, is not casual. *Cf.* also *Dewhurst v. Mather*, [1908] 2 K. B. 754.

FIRST
SCHEDULE,
PART II.,
PARA. (h).

"*Trade or business.*"—There is no definition of these words in this Act. They are, however, words which have been frequently used in previous Acts, and are common form in restrictive covenants in leases, and consequently have been the subject of much judicial decision. The words are not synonymous; "business" seems to have a wider signification than "trade."

(1) *Trade*.—"Trade has the technical meaning of buying and selling," *per* Willes, J., in *Harris v. Amery* (1865), 35 L. J. C. P. 89, at p. 92. In that case it was held that farming was not a trade. *Cf.* *Speak v. Powell* (1873), L. R. 9 Ex. 25, where the proprietors of a travelling circus were held not to be carrying on a trade, and *Doe d. Wetherell v. Bird* (1834), 2 A. & E. 161, where, at p. 166, Denman, C.J., says, "Every trade is a business, but every business is not a trade; to answer that description it must be conducted by buying and selling. . . ."

(2) *Business*.—In *Bramwell v. Lacey* (Feb. 24th, 1879), 10 Ch. D.

Sect. 1. 691, at p. 695, Jessel, M.R., said, "The first question is, is this 'a business' or 'in the nature of a business'? I have no doubt it is
 — It is in reality an apothecary's business. The question whether it
 EMPLOYMENT OF A CASUAL NATURE OTHERWISE THAN FOR THE PURPOSES OF THE EMPLOYER'S TRADE OR BUSINESS. is a business carried on for the purpose of profit or not, is not, in my opinion, material. Even if it is not strictly a 'business,' it is, at all events, 'in the nature of a business,' but I am distinctly of opinion that this is a business within the terms and meaning of the covenant." But later in the same year the learned Judge seems to have altered his view, since, in *Smith v. Anderson* (Dec. 19, 1879), 15 Ch. D. 258, he defines business as "anything which occupies the time and attention and labour of a man for the purpose of profit." In *Rolls v. Miller* (1884), 27 Ch. D. 71, at p. 88, Lindley, L.J., said, "The word means almost anything which is an occupation as distinguished from a pleasure—anything which is an occupation or duty which requires attention is a business—I do not think we can get much aid from the dictionary." The better view seems to be that the element of profit or expectation of gain need not be present in order to constitute an occupation or business, (*cf. In re the Incorporated Council of Law Reporting* (1888), 22 Q. B. D. 279). As pointed out by Lindley, L.J. (*ubi supra*), business is really the antithesis of pleasure or pastime. It is suggested that the word means the permanent occupation in which a man is engaged otherwise than for pleasure. The *ratio decidendi* as to whether a person is engaged in an occupation for pleasure is not an easy one to lay down. *In re Wallis* (1885), 14 Q. B. D. 950, would seem to suggest that the test is the intention of the person engaged in the occupation in question, but it is submitted that that intention can really be nothing more than evidence, though it may be very cogent evidence. It would seem that all the circumstances of the case should be taken into consideration.

It should be observed that sec. 13 of the Workmen's Compensation Act, 1906, provides that "the exercise and performance of the powers and duties of a local or other public authority shall for the purposes of this Act be treated as the trade or business of the authority." There is no similar provision in this Act, but it is submitted that those words were inserted in the Workmen's Compensation Act, 1906, *ex abundanti cautela*, and that the exercise and performance of the powers and duties of a local or other public authority would even in the absence of statutory provision, be held to be the exercise of a business.

The following decisions may also be usefully consulted as to the meaning of the word "business."

Carrying on a boys' school held to be a breach of covenant not to carry on any trade or business (*Doe d. Bish v. Keeling* (1813), 1 M. & S. 95).

Carrying on a private lunatic asylum held not to be a trade (*Doe d. Wetherell v. Bird* (1834), 2 A. & E. 161). (*Semble* it would be a business.)

Carrying on of a boarding house held to be a business (*Pidgeon v. Great Yarmouth Water Co.*, [1902] 1 K. B. 310.

Carrying on a theatre held to be a business (*A.-G. v. Playhouse, Ltd.* (1903), 19 T. L. R. 580.

Carrying on a workhouse school held to be a business (*South-West Suburban Water Co. v. Marylebone Guardians*, [1904] 2 K. B. 174).

Determination of Liability to become Insured.—Any question which may arise as to whether a person is liable to be insured under the Act as an employed contributor or not is to be determined by the Insurance Commissioners in accordance with regulations to be made by them for the purpose. An appeal on questions both of law and fact lies from their decision to the County Court, and a further appeal on questions of law only to a judge of the High Court selected by the Lord Chancellor for the purpose. The judge's decision is to be final. Provision is made enabling the Insurance Commissioners to submit any question as to whether a person is employed within the meaning of Part I. of the Act direct to the High Court.

Provision is also made so that decisions may be obtained before the commencement of the Act, so that persons will be able to ascertain beforehand whether they are obliged to become employed contributors or not (*vide* sec. 66, *infra*, p. 224).

Contributions of Employed Contributors.—*Vide infra*, sec. 4, and the Second and Third Schedules.

Means of Compulsion, Offences.—By sec. 69 (2) (*infra*, p. 230) "if any . . . person is guilty of any . . . contravention of or non-compliance with any of the requirements of this Act . . . in respect of which no special penalty is provided, he shall for each offence be liable on summary conviction to a fine not exceeding ten pounds." One of the requirements of this Act is that all persons who are employed within the meaning of sec. (2) should become insured under the Act; hence failure to become so insured is an offence within sec. 69 (2) (*vide* Introduction).

Inspectors appointed under the Act have very wide powers for securing compliance with the Act's requirements (*vide* sec. 112, p. 316 *infra*).

This does not, however, exhaust the means by which the fulfilment of this requirement is ensured. The contribution payable in respect of employed contributors must in the first instance be paid *in toto* by their employers (*vide* sec. 4 (2), *infra*, p. 32), and any failure on the part of an employer to pay both his own and the employed contributor's contributions, also constitutes an offence under sec. 69 (2), and will be visited with the penalty therein prescribed. Thus the employee will find himself insured *volens*.

Exemptions.—These are dealt with in sec. 2 (*infra*, p. 27), (*vide* also 44 (8), *infra*, p. 149; and sec. 51 (1), *infra*, p. 192).

Employed Contributor becoming Voluntary Contributor.—This is dealt with in sec. 6 (*infra*, p. 42).

Employed Contributors. How Insured.—The Act provides for two methods of insurance for employed contributors who are British subjects—

- (1) Insurance through becoming a member of an approved society (sec. 23, *infra*, p. 104). By sec. 30 (*infra*, p. 118), applications for membership may be made by any insured person or any person entitled to become an insured person directly after the passing of the Act and no approved society may reject an application solely on the ground of the age of the applicant. Ages are equalised by the operation of sec. 55, *infra*, p. 199.

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- (2) Insurance by means of deposit in a Post Office Fund. Persons insured in this Fund are known as "deposit contributors" (sec. 42, *infra*, p. 140).

It is assumed that the great majority of employed contributors will become members of approved societies, but those who have not done so within the time to be prescribed by the Insurance Commissioners, or who, having done so, are expelled or have resigned from such societies, and have not joined another society, will be obliged to become deposit contributors (sec. 42).

For the special provisions with regard to aliens, *vide infra*, pp. 26 and 155.

Age of Employed Contributors.—All persons of the age of sixteen and upwards, who are employed within the meaning of this Part of this Act, must be insured. The combined effect of sub-sec. (4) of this section, of sec. 4 (3), *infra*, p. 32, and of sec. 49 (*infra*, p. 190), is that such persons must be insured as employed contributors so long as they are employed and until they reach the age of seventy. Contributions are no longer payable in respect of employed persons after they reach the age of seventy. Persons who are between the ages of sixty-five and seventy at the date of the commencement of the Act, viz. July 15, 1912, are dealt with specially under sec. 49.

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SEC. 1 (3).

Voluntary Contributors.—

- (1) Any male person, between the ages of sixteen and sixty-five, whether married or single, who is not employed within the meaning of this Part of this Act, or

- (2) Any spinster or widow, between the ages of sixteen and sixty-five, who is not employed within the meaning of this Part of this Act,

is entitled to become a voluntary contributor provided that—

- (1) he or she possesses one or other of the qualifications laid down in subsec. (3) (a) and (b), viz. either—

- (a) is engaged in some regular occupation on the earnings from which he or she is wholly or mainly dependent for his or her livelihood, or

- (b) has been an insured person (*i.e.* either an employed or a voluntary contributor) for a period of five years or upwards, and,

- (2) has not an income from all sources exceeding £160 *per annum*.

If at any time a voluntary contributor, who has been an insured person for less than five years—

- (1) no longer has a regular occupation, or,

- (2) if he still has a regular occupation, is no longer wholly or mainly dependent for his livelihood on his earnings from that occupation, or,

- (3) becomes possessed of an income which exceeds £160 *per annum*.

he, *ipso facto*, ceases to be entitled to continue to be a voluntary contributor. There is no provision in the Act allowing such a person to draw from the fund any of the contributions he has already made; *semble* such contributions will go to increasing the fund.

It is immaterial to a voluntary contributor, who has been an

insured person for five years or upwards, whether he ceases to have a regular occupation, or to be wholly or mainly dependent for his livelihood on that occupation, or whether his income exceeds £160 per annum; he can still remain a voluntary contributor.

A voluntary contributor continues to pay contributions up to the age of seventy, but no longer (sec. 5 (2) *infra*). (Married women as voluntary contributors, *vide infra*, p. 147.)

Regular Occupation.—It is submitted that this means an occupation in which the person is and intends to remain continuously engaged. The nature of the employment in such an occupation might well be casual, but the occupation might still be regular: *e.g.* In *Hill v. Beag* (*ubi supra*), a man who earned his living by doing odd jobs was employed by the occupier of a private house to clean windows. His employment was held to be of a casual nature, but it is submitted that his occupation, viz. that of doing odd jobs such as window cleaning, may well have been regular.

“Wholly or Mainly Dependent.”—These words raise a question of fact (*cf. per* Lord Macnaghten in *Hodgson v. The West Stanley Colliery*, [1910] A. C. 229, at p. 236). It is submitted that in deciding any question that may arise under this sub-section, no regard may be had to “class and position in life” or “standard of living in that class.” The only matters to which regard may be had are (i) the sum which the person is actually spending on his livelihood, and (ii) the proportion which his earnings bear to that sum (*cf. per* Lord Halsbury, L.C., in *Davies v. The Main Colliery Co.*, [1900] A. C. 358).

“Period of Five Years or Upwards.”—In the absence of the use of the word “continuous” it is submitted that the period may be made up of intermittent periods aggregating in all five years or upwards.

Quære whether, for the purposes of this section, an employed contributor who, by the operation of sec. 79 (*infra*, p. 240), is deemed, during a period of temporary unemployment, to continue to be an employed contributor, can reckon such periods of temporary unemployment as time during which he was an insured person? It is submitted that he cannot, inasmuch as the provision in sec. 79 is expressed to apply “for the purpose of reckoning the number and rate of contributions,” and not for the purpose of obtaining a qualification for becoming a voluntary contributor. Contrast sec. 5 (1) (b) (*infra*, p. 38), and Note on sec. 6 (*infra*, p. 44).

“Total Income from all Sources.”—These words appear to be taken from sec. 34 of the Finance Act, 1894 (57 & 58 Vict. c. 30). It is submitted that they mean income within the meaning of one of the five Schedules to the Income Tax Act, 1853 (16 & 17 Vict. c. 34, s. 2), and are not synonymous with “means.”

Married Women as Voluntary Contributors.—*Vide* sec. 44 (7): “Except as provided by this section a married woman shall not be entitled to become a voluntary contributor, and if a woman is before marriage a voluntary contributor she shall on marriage not be entitled to continue to be such a contributor.”

And sec. 44 (14): “This section shall apply in the case of a woman whose marriage has been dissolved or annulled, or who has for a period of not less than two years been actually separated from

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or deserted by her husband, as if her husband had died at the date at which such dissolution or annulment took effect, or, as the case may require, at the expiration of such period of two years."

On the marriage of a female voluntary contributor she is suspended from receiving ordinary benefits, and, if she is a member of an approved society, one-third of her transfer value is to be carried to an account known as "The Married Women's Suspense Account." The remaining two-thirds of her transfer value may be utilised, if she so elect, as the basis of a special form of voluntary insurance which is provided for married women by sec. 44 (2). For further details, *vide* sec. 44 and the notes thereunder (*infra*, p. 146).

Contributions of Voluntary Contributors.—*Vide* secs. 3 and 5, *infra*.

Voluntary Contributor becoming Employed Contributor.—This is dealt with in sec. 6 (*infra*, p. 42).

Voluntary Contributor, how Insured.—Voluntary contributors may become members of approved societies (sec. 30, *infra*), or may become Deposit contributors (sec. 42, *infra*).

Aliens.—Aliens who are employed within the meaning of this Part of this Act, must, as has already been seen, become insured as employed contributors. There does not appear to be any provision in this Act disentitling aliens from becoming voluntary contributors. Special provisions as to the insurance of aliens are to be found in sec. 45 (*infra*, p. 155).

By subsec. (4) of that section any alien who—

(1) on the 4th May, 1911, was a member of a society which, or a separate section of which, becomes an approved society, and,

(2) had then been resident in the United Kingdom for five years or upwards,

or who is transferred to an approved society or to the Post Office fund in pursuance of an arrangement made with the Government of any foreign State (under sec. 32 (2), *infra*, p. 120) is not affected by those special provisions. Such an alien will be dealt with in the same manner as a British subject.

Aliens are all persons who are not British subjects.

British subjects include—

(1) Every person born within the British dominions irrespective of the nationality of his father.

(2) Every person born out of the British dominion, whose father or paternal grandfather was born within the British Dominions, provided that his father was a British subject and not in the service of an alien enemy at the time of his birth.

(3) Every person who becomes naturalized under the Naturalization Act, 1870 (33 & 34 Vict. cap. 14), or who receives a grant of letters of denization, the wife of such person, and such of his children as are under twenty-one and residing with him.

(4) Every alien woman who marries a British subject.

On the other hand, a person ceases to be a British subject—

(1) On becoming the sovereign of another State,

(2) If he makes a declaration of alienage under secs. 3 and 4 of the Naturalization Act, 1870.

(3) On becoming naturalized in a foreign country.

(4) If, being a woman, she marries an alien.

(For a more detailed examination of this subject, *vide* Dicey on Conflict of Laws, 2nd ed., pp. 164, *et seq.*)

(NOTE.—A woman who, having been a British subject before marriage, has become an alien by reason of her marriage with an alien, is not to be subject to the provisions of sec. 45, if her husband is dead, or the marriage has been dissolved or annulled, or she has for a period of not less than two years been actually separated from or deserted by her husband, *vide* sec. 45 (3) (*infra*, p. 156)).

“Except as hereinafter provided,” *vide* sec. 49 (*infra*, p. 190) for the provisions dealing with the insurance of persons who are between the ages of sixty-five and seventy at the commencement of this Act. *Vide* also sec. 4 (4).

Age of Insured Persons in Relation to Date of Entry into Insurance, Rate of contribution and Benefits (*vide* Table, *infra*, p. 40).

Sect. 1.

ALIENS.

2.—(1) Where any person employed within the meaning of this Part of this Act proves that he is either—

Sect. 2.

Exemptions.

(a) in receipt of any pension or income of the annual value of twenty-six pounds or upwards not dependent upon his personal exertions; or

(b) ordinarily and mainly dependent for his livelihood upon some other person;

he shall be entitled to a certificate exempting him from the liability to become or to continue to be insured under this Part of this Act.

(2) All claims for exemption shall be made to, and certificates of exemption granted by, the Insurance Commissioners in the prescribed manner and subject to the prescribed conditions, and may be so made and granted before, as well as after, the commencement of this Act: Provided that the regulations of the Insurance Commissioners may provide for claims under this section being made to and certificates granted by approved societies and Insurance Committees herein-after constituted.

Object of the Section.—The object of this section is to exempt from compulsory insurance persons who, though employed within the meaning of this Part of this Act, have private means or a pension of £26 a year, or who as a general rule depend for their living on some other person. Such persons are, presumably,

Sect. 2. sufficiently well provided for not to make it necessary to compel them to become insured.

OBJECT OF THE SECTION. Claims for exemption under this section may be made before or after the commencement of the Act. It should be noticed, however, that by sec. 4 (4) (b) (*infra*, p. 32) the employer of persons who hold certificates of exemption will have to pay the same contributions in respect of them as he would have had to do if they had been insured as employed contributors. It will, therefore, be no advantage to an employer to employ persons who hold exemption certificates.

Person Employed within the Meaning, etc.—*Vide* Note on "Employed Contributors" (*supra*, p. 5).

Ordinarily and Mainly Dependent, etc.—*Cf.* sec. 1 (3) (a) *supra* and Note thereunder (*supra*, p. 25).

Claims for Exemption.—It is submitted that application for an exemption certificate can only be made by the person to whom the certificate is to be granted and not by any other person. The *onus* of proving that he is entitled to the certificate is upon the applicant. The duty of determining claims for exemption certificates is put upon the Insurance Commissioners who, however, may by their regulations delegate this duty to approved societies and local Health Committees. This statutory duty is a duty which the Insurance Commissioners or their delegates owe to the public, and which involves a judicial act on their part. There are no special words ousting the jurisdiction of the Courts, hence it is submitted that, in a proper case, a person who has been refused a certificate of exemption has a remedy by way of *certiorari* and *mandamus*.

CERTIORARI MANDAMUS. By the writ of *certiorari* the High Court can bring up for examination the acts of bodies of inferior jurisdiction, when such bodies have purported to decide, but have not in fact decided the true question put before them, or where they have decided the true question so perversely as to amount to a non-exercise of their jurisdiction (*cf.* *R. v. Woodhouse*, [1906] 2 K. B. 501. *Board of Education v. Rice*, [1910] 2 K. B. 165 (C. A.) and [1911] A. C. 179, *Robertson on Civil Proceedings by and against the Crown* (1908 ed.), p. 127).

The writ of *mandamus* is a writ whereby the Court commands a person to perform some public or quasi-public legal duty which he has refused to perform.

It does not lie to the servants of the Crown unless, in addition to their duty to the Crown, they owe, by statute or otherwise, a duty to the public or any member of the public (*cf.* *Reg. v. Lords Commissioners of the Treasury* (1872), L. R. 7 Q. B. 387, and *Robertson (ubi supra*, p. 111)). It is submitted that the duty of the Commissioners under this section is clearly a duty, the performance of which might, in the event of refusal, be compelled by *mandamus*.

(A full discussion of both the above writs will be found in *Short and Mellor's Practice on the Crown side of the K. B. D.*)

Person Ceasing to be Entitled to Exemption.—There is no provision in the Act dealing with the case of a holder of a certificate of exemption who ceases to have the income, or to be in the state of dependency, which originally entitled him to the certificate, nor is there a time limit to the validity of certificates. But the Insurance Commissioners have power to prescribe conditions upon

which certificates of exemption are granted, and, presumably, these conditions will provide for the case above suggested.

Other Claims for Exemption.—Exemptions may be claimed under sec. 44 (8) (*infra*, p. 149), and sec. 51 (1), (*infra*, p. 192). *Semble* certificates of exemption granted under these sections will be granted by the Insurance Commissioners in the same manner as certificates under this section. *Vide* also sec. 81 (3), (*infra*, p. 250), with regard to certain Irish migratory labourers.

Sect. 2.

PERSON
CEASING TO
BE ENTITLED
TO EXEMP-
TION.

Contributions.

3. Except as otherwise provided by this Act, the funds for providing the benefits conferred by this Part of this Act and defraying the expenses of the administration of those benefits shall be derived as to seven-ninths (or, in the case of women, three-fourths) thereof from contributions made by or in respect of the contributors by themselves or their employers, and as to the remaining two-ninths (or, in the case of women, one quarter) thereof from moneys provided by Parliament.

Sect. 3.

Contribu-
tions by
insured
persons,
employers,
and the
Treasury.

Object and Effect of Section.—This section is one of the most important in the Act in that it determines the sources from which the money necessary to provide the benefits to be conferred by Part I. of the Act and the expenses of the administration of these benefits is to come.

It will be observed that no fixed sum is mentioned and that the section merely lays down the proportions in which the respective sources are to be liable for that money. The State does not guarantee the solvency of the Fund; the amount of its contribution will depend entirely upon the cost of benefits and of administration. If that cost works out at 9*d.* per week per insured person, the State contribution will be $\frac{2}{9}$ of that sum, viz. 2*d.* per week per insured person; if that cost exceeds, or is less than, 9*d.* per week per insured person, the State's contribution will be correspondingly increased or diminished. For a more detailed examination of this subject, *vide* Reports of the Actuaries in relation to the National Insurance Bill [Cd. 5681], and [Cd. 5983].

"Except as otherwise provided."—By sec. 4 (1) (*infra*, p. 31), in the case of employed contributors over the age of twenty-one the rate of whose wages or other remuneration does not exceed 2*s.* a working day, and who are not provided with board lodging by their employer, 1*d.* a week is to be contributed out of moneys provided by Parliament. This will not, however, affect the liability of the State to pay two-ninths of the benefits payable to such persons.

By sec. 15 (8) (*infra*, p. 92). The Treasury, and the councils of counties or county boroughs may each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, in the case of such councils out of the rates, one half of any sums sanctioned by them under sec. 15 (7) to be expended by Insurance

Sect. 3. Committees on medical benefit in the course of the year in excess of the amounts payable to Insurance Committees under that section (*vide* also sec. 22, *infra*, p. 103).

—
“EXCEPT AS
OTHERWISE
PROVIDED.”

By sec. 16 (2) (*infra*, p. 96), the sums available for defraying the expenses of sanatorium treatment in each year are to be, (a) one shilling and threepence in respect of each insured person payable out of the funds out of which benefits are payable, (b) one penny in respect of each such person payable out of moneys provided by Parliament.

By sec. 17 (1) (*infra*, p. 98), where Insurance Committees exercise the power of extending sanatorium benefits to the dependants of insured persons, and the amount available for defraying the expenses of sanatorium benefit is insufficient to meet the estimated expenditure on sanatorium benefit for insured persons and such dependants, the deficit may be met in the same manner as the deficit in respect of medical benefit above set out (*vide*, sec. 17 (2) and (3) (*infra*, p. 99); *vide*, also sec. 22 (*infra*, p. 103)).

By sec. 38 (*infra*, p. 131), a deficiency, shown on valuation in an approved society, or in a branch of an approved society, is to be made good by the members of that society or branch in one or other of the ways indicated in that section. Strictly speaking, this is not an exception, but is inserted here to emphasize the fact that there is no State guarantee.

By sec. 49 (*infra*, p. 190), by which twopence, in respect of each weekly contribution made in respect of employed contributors aged between 65 and 70 at the commencement of this Act, is payable out of moneys provided by Parliament. (*Vide* also special provisions in the case of aliens, sec. 45 (*infra*, p. 155), and provisions for building sanatoria, sec. 64 (*infra*, p. 221).)

Expenses of Administration.—A check is provided on the expenses of administration—

(1) In the case of approved societies, by the provisions of sec. 35 (2) (*infra*, p. 124), “Regulations made under this section” (by the Insurance Commissioners) “shall provide for a separate account being kept showing the amount expended on administration and for limiting the amount which may be carried to that account out of the contributions under this Part of this Act, and for requiring any deficiency in that account (if not otherwise defrayed) to be met forthwith by a special levy.”

(2) In the case of Insurance Committees (in respect to the expenses of administration of benefits for deposit contributors), by the fact that sect. 42 (c) provides that the sum payable towards those expenses is to be prescribed by the Insurance Commissioners.

Expenses of Insurance Commissioners.—By sec. 57 (3) (*infra*, p. 205), the cost of the salaries of the Commissioners and of their officers, etc., and the expenses of the Commissioners in carrying this Part of the Act into effect are to be met out of moneys provided by Parliament. The cost of the Scottish, Irish, and Welsh Commissioners is similarly to be met by moneys provided by Parliament, *vide* secs. 80 (1), 81 (1), and 82 (1), *infra*.

Benefits conferred by this Part of this Act.—*Vide* sec. 8 (*infra*, p. 45).

Contributions made by . . . contributors . . . or their Employers.—*Vide* sec. 4 and the Second Schedule to the Act (*infra*, p. 31).

Destination of Funds.—By sec. 54 (*infra*, p. 196), it is provided that all sums received in respect of contributions under this Part of this Act and all sums paid out of moneys provided by Parliament under this Part of this Act in respect of the benefits thereunder and the expenses of administration of such benefits shall be paid into a fund to be called the National Health Insurance Fund under the control and management of the Insurance Commissioners.

The effect of the provisions of this Part of the Act dealing with Scotland, Ireland, and Wales is to transform the National Health Insurance Fund into what is virtually an English National Health Insurance Fund. By secs. 80 (2), 81 (2), and 82 (2) (*infra*), Scottish, Irish and Welsh National Health Insurance Funds are respectively established. All sums received from contributions under this Part of the Act in respect of insured persons resident in Scotland, Ireland, and Wales respectively, and all sums paid out of moneys provided by Parliament in respect of benefits under this Part of the Act to such persons, and the expenses of administration are to be paid into the Scottish, Irish, and Welsh National Health Insurance Funds respectively. In certain cases (*e.g.* sec. 46 (4) (iii), (*infra*, p. 164), and sec. 48 (6) and (11), (*infra*, p. 183), persons actually resident elsewhere than in England are to be deemed to be resident in England; contributions, etc., in respect of such persons will, accordingly, be paid into the National Health Insurance Fund, and not into the Scottish, Irish, or Welsh National Health Insurance Fund, as the case might otherwise require.

The Scottish, Irish, and Welsh National Health Insurance Funds are under the control and management of Scottish, Irish and Welsh Insurance Commissioners respectively. The provisions of the Act with respect to the National Health Insurance Fund apply, with the necessary modifications, to the Scottish, Irish, and Welsh National Health Insurance Funds.

Sect. 3.

CONTRIBUTIONS MADE
BY . . . CONTRIBUTORS
. . . OR THEIR
EMPLOYERS.

4.—(1) The contributions payable in respect of employed contributors shall be at the rate specified in Part I. of the Second Schedule to this Act (herein-after referred to as the employed rate), and shall comprise contributions by the contributors and contributions by their employers at the rates specified in that Part of that schedule, and shall be payable at weekly or other prescribed intervals :

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Rates and
rules for con-
tributions by
employed
contributors
and their
employers.

Provided that, in the case of an employed contributor of the age of twenty-one or upwards whose remuneration does not include the provision of board and lodging by the employer and the rate of whose remuneration does not exceed two shillings a working day, such part of the contributions payable in respect of him as is specified in the said schedule shall be paid out of moneys provided by Parliament.

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(2) The employer shall, in the first instance, pay both the contributions payable by himself (in this Act referred to as the employer's contributions), and also on behalf of the employed contributor the contributions payable by such contributor, and shall be entitled to recover from the contributor by deduction from his wages or otherwise the amount of the contributions so paid by him on behalf of the contributor, in accordance with the rules set out in the Third Schedule to this Act.

(3) Contributions in respect of employed contributors shall cease to be payable on their attaining the age of seventy.

(4) The employer of a person who though employed within the meaning of this Part of this Act is not insured under this Part of this Act by reason either—

(a) that, not having previously been an insured person, he has become employed within the meaning of this Part of this Act after attaining the age of sixty-five; or

(b) that he has obtained and still holds a certificate of exemption under this Part of this Act;

shall be liable to pay the like contributions as would have been payable as employer's contributions if such person had been an employed contributor, and such contributions shall be carried to such account and dealt with in such manner as may be prescribed by regulations made by the Insurance Commissioners, and those regulations may provide for applying the sums standing to the credit of the account, or any part thereof, for the benefit of any persons in respect of whom contributions have been so paid, in the event of such persons subsequently becoming employed contributors.

Employed Contributors.—*Vide note (supra, p. 5).*

Employed Rate.—The rate of contributions, and the proportions in which that rate is to be paid by employers and employed contributors respectively, are set out in the Second Schedule to the Act, Part I., which for convenience of reference is printed here. (Part II. of that Schedule deals with the rates of employed contributors in Ireland.)

SECOND SCHEDULE.

Sect. 4.

RATES OF CONTRIBUTION UNDER PART I. OF THIS ACT RELATING
TO HEALTH INSURANCE.

PART I.

Employed Rate.

In the case of men	-	-	-	-	-	7d. a week.
" " women	-	-	-	-	-	6d. "

Contributions by Employers and Employed Contributors.

To be paid by the employer	-	-	-	-	3d. a week.
" " contributor	-	-	-	-	{ Men, 4d. "
					{ Women, 3d. "

In the case of employed contributors of either sex of the age of 21 or upwards whose remuneration does not include the provision of board and lodging by their employer, and the rate of whose remuneration does not exceed 2s. 6d. a working day, the following shall be the rates of contribution :—

Where the rate of remuneration does not exceed 1s. 6d. a working day—

					A week.
To be paid by the employer	-	-	-	-	{ For men, 6d.
					{ " women, 5d.
" out of moneys provided by Parliament	-	-	-	-	1d.

Where the rate of remuneration exceeds 1s. 6d. but does not exceed 2s. a working day—

					A week.
To be paid by the employer	-	-	-	-	{ For men, 5d.
					{ " women, 4d.
" " contributor	-	-	-	-	1d.
" out of moneys provided by Parliament	-	-	-	-	1d.

Where the rate of remuneration exceeds 2s. but does not exceed 2s. 6d. a working day—

To be paid by the employer	-	-	-	-	{ For men, 4d.
					{ " women, 3d.
" " contributor	-	-	-	-	3d.

Employer.—*Vide* note (*supra*, p. 9).

Payable at Weekly or other Prescribed Intervals.—

The employer is the person primarily concerned with the date on which the contributions have to be paid, inasmuch as the obligation to pay both his own and the employed contributor's contribution rests upon him in the first instance. The intervals will be prescribed by the Insurance Commissioners under the power given to them by sec. 65 (*infra*, p. 224).

Employer shall Pay in the First Instance.—In the compulsory insurance of employed contributors under this Act the employer is made the primary means of compulsion. Failure on the part of the employer to pay either his own or an employed contributor's contribution is an offence under sec. 69 (2) of the Act (*infra*, p. 230). An employer who fails or neglects to pay such contributions may be visited on summary conviction with a penalty not exceeding £10, and, in addition, may be compelled to pay to the

Sect. 4. Insurance Commissioners a sum equal to the contribution he has failed or neglected to pay.

EMPLOYER SHALL PAY IN THE FIRST INSTANCE. Further by sec. 70 (*infra*, p. 231), where an employer has failed or neglected to pay any contributions which he is liable to pay in respect of a person being a member of an approved society in his employment, and that person has been deprived by reason thereof of any right to benefits, that person is entitled to take proceedings against the employer *for the value of the right* of which he has been so deprived. Proceedings under either sec. 69 or sec. 70 may be taken notwithstanding that proceedings have already been taken under the other section in respect of the same failure or neglect to pay contributions (sec. 70 (2)).

[NOTE.—Where a compulsory levy is made under sec. 38 (1) (b) (i) (*infra*, p. 132), and a society or branch gives notice to any employer, the amount of the compulsory levy must be deducted by the employer from wages in the same way as contributions and all the provisions of Part I. of the Act relating to payment and recovery of contributions apply (sec. 38 (1) (c)).]

Obligation of the Employed Contributor.—*Quære* whether, if an employer fails to pay the whole contribution, there is an obligation on the employed contributor to pay his own contribution? It is submitted that, upon its true construction, the section now under consideration only imposes two obligations, viz. (a) on the employer to pay both his own and the employed contributor's contribution, and (b) on the employed contributor to allow the employer to recover from him by deduction or otherwise that part of the whole contribution which the employer has paid on the contributor's behalf. There is no further obligation on the employed contributor to pay contributions. The argument leading to this conclusion is fortified by the fact that there are no provisions in the Act for the recovery of the contributor's contributions, except by deduction, etc., by the employer, whereas there is elaborate provision (as has been shown above) for the recovery of contributions from the employer.

This section may, in this connection, be contrasted with sec. 85, *infra*, p. 268 (the corresponding section in Part II. of the Act). By subsec. (2) of that section an obligation is clearly cast upon the workman to pay his contribution in the event of the employer failing to do so in the first instance. Similarly, in Part II. failure by a workman to pay contributions is made an offence under sec. 101 (2), *infra*, p. 299 (*cf.* Introduction).

Rules set out in the Third Schedule.—For convenience of reference, the Third Schedule is here printed.

THIRD SCHEDULE.

RULES AS TO PAYMENT AND RECOVERY OF CONTRIBUTIONS PAID BY EMPLOYERS ON BEHALF OF EMPLOYED CONTRIBUTORS UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

(1) A weekly contribution shall be payable for each calendar week during the whole or any part of which an employed contributor has been employed by an employer: Provided that, where one weekly contribution has been paid in respect of an employed

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contributor in any such week, no further contribution shall be payable in respect of him in the same week, and that, where no remuneration has been received and no services rendered by an employed contributor during any such week, or where no services have been rendered by an employed contributor during any such week and the employed contributor has been in receipt of sickness or disablement benefit during the whole or any part of that week, the employer shall not be liable to pay any contribution either on his own behalf or on behalf of the contributor in respect of that week.

(2) The employer shall, except as herein-after provided, be entitled to recover from the employed contributor the amount of any contributions paid by him on behalf of the employed contributor.

(3) Except where the employed contributor does not receive any wages or other pecuniary remuneration from the employer, the amounts so recoverable shall, notwithstanding the provisions of any Act or any contract to the contrary, be recoverable by means of deductions from the wages or other remuneration, and not otherwise; but no such deductions may be made from any wages or remuneration other than such as are paid in respect of the period or part of the period in respect of which the contribution is payable, or in excess of the sum which represents the amount of the contributions for the period (if such period is longer than a week) in respect of which the wages or other remuneration are paid.

(4) Where a contribution paid by the employer on behalf of an employed contributor is recoverable from the contributor but is not recoverable by means of deductions as aforesaid, it shall (without prejudice to any other means of recovery) be recoverable summarily as a civil debt, but no such contribution shall be recoverable unless proceedings for the purpose are instituted within three months from the date when the contribution was payable.

(5) Where the contributor is employed by more than one employer in any calendar week, the first person employing him in that week or such other employer or employers as may be prescribed shall be deemed to be the employer for the purposes of the provisions of Part I. of this Act relating to the payment of contributions and of this schedule.

(6) Regulations of the Insurance Commissioners may provide that in any cases or any classes of cases where employed contributors work under the general control and management of some person other than their immediate employer, such as the owner, agent, or manager of a mine or quarry, or the occupier of a factory or workshop, such person shall, for the purposes of the provisions of Part I. of this Act relating to the payment of contributions and of this schedule, be treated as the employer, and may provide for allowing him to deduct the amount of any contributions (other than employer's contributions) which he may become liable to pay from any sums payable by him to the immediate employer, and for enabling the immediate employer to recover from the employed contributors the like sums and in the like manner as if he were liable to pay the contributions.

(7) Where the contributor is not paid wages or other money payments by his employer or any other person, the employer shall be liable to pay the contributions payable both by himself and the contributor, and shall not be entitled to recover any part thereof from the contributor.

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(8) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages of or otherwise to recover from the contributor the employer's contribution.

(9) Any sum deducted by any employer from wages or other remuneration under this schedule shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

(10) The Insurance Commissioners may, by regulations, provide that in the case of outworkers the contributions to be paid may be determined by reference to the work actually done, instead of by reference to the weeks in which work is done, and any such regulations may apply to all trades or to any specified classes or branches of trades, and may determine the conditions to be complied with by employers who adopt such a system of payment of contributions.

(11) For the purposes of this schedule the expression "calendar week" means the period from midnight on one Sunday to midnight on the following Sunday.

Note on para. (1).—It is submitted that the effect of the last eight lines of this paragraph is, that in cases where a contract of service still subsists between an employer and an employee, and the employee (a) receives no remuneration and renders no services in any week, or (b) renders no services and has been in receipt of sickness or disablement benefit during any week, no contribution is payable either by the employer or by the employed contributor. Thus no contribution will be payable where the employee is away from work ill, notwithstanding that his contract of service subsists, whether he is, or is not, in receipt of remuneration. But when the employee is away from work on a holiday, during which time he receives remuneration, contributions would appear to be payable both by him and by his employer. In cases where the contract of service no longer subsists, the employed contributor becomes unemployed, and different considerations apply (*vide infra*, Note on employed contributors becoming temporarily unemployed).

Note on para. (4), "Contribution not recoverable by deduction."—This will arise in cases where the employed contributor is dependent for his remuneration on some person or persons other than his employer, *e.g.*, a waiter in a hotel, whose remuneration consists of tips. The right to recover the employer's share of the contribution will, of course, not arise until that contribution has actually been paid by the employer. For the case where the employee receives no remuneration at all, *vide para. (7)*. (*Note on para. (3), cf. infra*, p. 270.)

"Recoverable summarily as a civil debt."—*Vide* Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and, for procedure, Stone's Justices' Manual, 43rd ed., pp. 65, 66.

Note on para. (9), "Entrusted."—The employer is, by these words, made the trustee of any contributions deducted by him.

NOTES ON
SECTION 4.**Contributions cease to be Payable at Age of Seventy.—**

A similar provision is made in respect of voluntary contributors by sec. 5 (2), *infra*. At this age a large number of employed contributors will be eligible for Old Age Pensions under the Old Age Pensions Act, 1908 (8 Ed. 7, c. 40). For the statutory provisions which require to be fulfilled for the receipt of an Old Age Pension, *vide* sec. 2 of that Act. It should be noticed that, although contributions cease to be payable at the age of seventy,

all right to benefit does not cease. By sec. 8 (3) (*infra*, p. 52), the right to sickness and disablement benefit ceases at the age of seventy, but the right to medical, sanatorium, and maternity benefit seems to continue throughout life. As to additional benefits, *vide* Note to sec. 8 (3) (*infra*, p. 53).

Mode of Payment of Contribution.—Payment is to be made by means of adhesive stamps affixed to or impressed upon the books or cards or otherwise as laid down by regulations made by the Insurance Commissioners. These regulations may also lay down the manner, times, and conditions in, at, and under which such stamps are to be affixed or payments are otherwise to be made (sec. 7, *infra*, p. 45). Provisions as to the sale and issue of stamps by the Post Office will be found in sec. 108, (*infra*, p. 313).

Employed within the meaning of this Part of this Act.—*Vide* Note on "Employer Contributors" (*supra*, p. 5).

Certificate of Exemption.—*Vide* sec. 2 (*supra*, p. 27).

Persons Employed after Attaining age of 65.—*Cf.* sec. 49 (*infra*, p. 190), which only applies to persons between the ages of 65 and 70 at the commencement of the Act.

Questions as to the Share of Contributions to be paid by Employer and Employee respectively.—Sec. 66 (*infra*, p. 224) provides that such questions should be determined by the Insurance Commissioners in accordance with regulations made by them for the purpose.

Employers' Provident Funds.—*Vide* secs. 25 and 73 (*infra*, pp. 111 and 236). When under any Act or deed establishing such a fund any sum is payable by the employer towards benefits secured by the Act or deed the scheme to be made under sec. 73 may provide for allowing the employer to deduct from any contributions payable by him under the Act or deed towards benefits of a nature similar to those under this Part of the Act an amount not exceeding the amount of the employer's contributions payable by him under this Part of this Act.

Employers' Contributions and Income Tax.—It is submitted that, in estimating income for the purpose of Schedule D. of the income tax, an employer will be entitled to deduct the amount he has paid in contributions on his own behalf in respect of workmen employed for the trade, manufacture, etc., in respect of the profits of which the return is being made (*vide* Income Tax Act, 1842, 5 & 6 Vict. c. 35, sec. 100. Schedule (D) 1st and 2nd Cases, Rule 1).

Employed Contributors Becoming Temporarily Unemployed.—*Vide* sec. 79 (*infra*, p. 240), which provides that—"A person whose normal occupation is employment within the meaning of this Part of this Act shall for the purpose of reckoning the number and rate of contributions be deemed to continue to be an employed contributor, notwithstanding that he is temporarily unemployed, but if such period of unemployment extends beyond twelve months, he shall not continue to be an employed contributor unless the approved society of which he is a member or, if he is not a member of such a society, the committee, is satisfied that his unemployment is due to inability to obtain employment, and is not due to any change in his normal occupation." The effect of this provision is, it is submitted, that an employed

Sect. 4.

CONTRIBUTIONS CEASE
TO BE PAY-
ABLE AT AGE
OF SEVENTY.

Sect. 4. contributor who is temporarily unemployed may continue to pay contributions at the employed rate, for the purpose of avoiding arrears.

EMPLOYED
CONTRIBUTORS BECOM-
ING TEMPO-
RARILY UN-
EMPLOYED.

Contributions in the Case of Seasonal Trades.—By sec. 50, *infra*, p. 192, the Insurance Commissioners may, by special order, reduce the employed rate of contribution during the period when the trade is working short time, and increase the rate by a corresponding amount in the busy season.

Reduced Rates of Contribution in Certain Cases.—Rates of contribution are reduced in the case of the following persons:—

(1) Certain seamen, marines and soldiers, *vide* sec. 46 (2) (i) (*infra*, p. 160).

(2) Persons to whom the provisions of sec. 47 (*infra*, p. 172) apply.

(3) Masters, seamen and apprentices serving on foreign-going ships, or ships engaged in regular trade on foreign stations, *vide* sec. 48 (2) (*infra*, p. 181).

Sect. 5. **5.**—(1) The contributions payable by voluntary contributors shall be at the rate appropriate to their age at the date of their entry into insurance ascertained in accordance with a table to be prepared by the Insurance Commissioners (herein-after referred to as the voluntary rate) and shall be paid by the voluntary contributors at weekly or other prescribed intervals:

Rates and
rules for con-
tributions by
voluntary
contributors.

Provided that—

(a) In the case of a person who enters into insurance within six months after the commencement of this Act, the voluntary rate shall, if he is below the age of forty-five at the date of entering into insurance, be the same as the employed rate, and, if he is of the age of forty-five or upwards, be such rate, ascertained according to a table to be prepared by the Insurance Commissioners, as having regard to his age at that date, will be sufficient to cover seven-ninths, or, in the case of a woman, three-fourths, of the benefits conferred by this Part of this Act.

(b) Where a person, having been an employed contributor for five years or upwards, becomes a voluntary contributor, the rate of contribution

payable by him shall continue to be the employed rate. Sect. 5.

(2) Contributions by voluntary contributors shall cease to be payable on their attaining the age of seventy.

Voluntary Contributors.—*Vide note, supra, p. 24.*

Rate of Contribution.—As has been seen above (sec. 4), the rate for an employed contributor is a flat rate of 7*d.* in the case of men, and 6*d.* in the case of women, per week, which rate does not differ according to the age of the contributor. The same flat rate will also be paid by those voluntary contributors who are below the age of forty-five at the date of entry into insurance *and* who come into insurance within six months after the commencement of this Act (*viz.* July 15, 1912) (sec. 116), and by those voluntary contributors who become such after having been employed contributors for five years or upwards. Voluntary contributors who are over the age of forty-five at the date of entry into insurance, or who, being under that age, do not enter into insurance until after six months from the commencement of this Act, will pay according to a table to be prepared by the Insurance Commissioners, who, in preparing that table, will prescribe such rates as, having regard to the age of the contributor, will provide seven-ninths, or in the case of a woman, three-fourths of the benefits conferred by this Act.

[NOTE.—With regard to the age limits in this section, *vide* sec. 79, *infra*, which provides that “a person shall be deemed according to the law in England, Wales, and Ireland, as well according to the law in Scotland, not to have attained the age of seventeen until the commencement of the seventeenth anniversary of the day of his birth, and similarly with respect to other ages.”]

Employed Rate.—*Vide* Second Schedule (*supra*, p. 33).

Benefits conferred by this Part of this Act.—*Vide* sec. 8, *infra*, p. 45.

Having been an Employed Contributor for Five Years or Upwards.—It is submitted that, in the absence of the word “continuously,” intermittent periods during which a person has been an employed contributor may be aggregated to make up the necessary five years. *Vide* also Note on sec. 6, *infra*, p. 44.

Date of Entry into Insurance.—There is no definition of this expression in the Act. Its precise meaning is, however, of great importance in view of the fact that the rate of contribution or of benefit varies in many cases according to the age of the person at the date of his entry into insurance.

It is submitted that the expression has a different meaning in the case of a person who becomes an employed contributor from that which it has in the case of a person who becomes a voluntary contributor. A person enters into insurance as an employed contributor by the mere fact of becoming employed within the meaning of this Part of this Act, but a voluntary contributor must take some active step in order to become so insured.

In the case of an employed contributor, it is submitted that he enters into insurance on the first day of his employment in the first

TABLE SHOWING EFFECT OF AGE AND DATE OF ENTRY INTO INSURANCE ON
RATE OF CONTRIBUTIONS AND BENEFITS.

CLASS OF CONTRIBUTOR AND AGE AT DATE OF ENTRY INTO INSURANCE.	DATE OF ENTRY INTO INSURANCE.	RATE OF CONTRI- BUTION.	BENEFITS.
1. Employed contributor who has attained age of 16, but not that of 17.	Any date.	Ordinary em- ployed rate.	While under 21 and unmarried, he receives reduced rate of benefit set out in Fourth Schedule, Part I., Table B., <i>except</i> where, being a member of an approved society, he proves that one or more members of his family are wholly or mainly dependent upon him (<i>vide</i> sec. 9 (1)).
2. Employed contributor aged 17 to 65.	Any date <i>within</i> one year from the commencement of this Act, viz. up to and including July 14, 1913.	Ordinary em- ployed rate.	Full benefits unless he is— (1) Under 21 and unmarried, when he receives reduced rate of benefit set out in Fourth Schedule, Part I., Table B., <i>except</i> where, being a member of an approved society, he proves that one or more members of his family are wholly or mainly dependent upon him (<i>vide</i> sec. 9 (1)). (2) Over 50, and has paid less than 500 contributions, when he receives reduced rate of benefit set out in Fourth Schedule, Part I., Table C (<i>vide</i> sec. 9 (3)).
3. Employed contributor over 17 years of age.	Any date <i>after</i> one year from the commencement of this Act, viz. after July 14, 1913.	Ordinary em- ployed rate.	Reduced sickness benefit (other benefits full rate) unless— (1) Time between 17 and date of entry into insurance spent in education, or, (2) Undertakes to pay difference between employed and voluntary rate, or, (3) Pays capital sum sufficient to entitle him to full benefits (<i>vide</i> sec. 9 (4)).

4. Employed contributor aged 65 to 70 at date of commencement of this Act.	Any date until he attains age of 70.	Ordinary employed rate, <i>plus</i> 2 <i>d.</i> a week from the State.	(1) If member of approved society, such benefits as the society may determine. No reserve value credited to society. (2) If deposit contributor, such benefits as the Insurance Committee may determine. (3) In any event two-ninths of cost of benefits and administration not paid by State (<i>vide</i> sec. 49).
5. Employed contributor who has been inmate of and supported by institution for charitable or reformatory purposes for more than six months, managers of which have obtained certificate of exemption under sec. 51.	Any date.	Ordinary employed rate.	(1) If below age of 16 on entering institution, full benefits (subject to sec. 9 (1)) : managers to pay sum sufficient to secure full benefits. (2) If over age of 16 on entering institution and (a) was at that time an insured person and a member of an approved society, full benefits : managers to pay sum equal to value of unpaid contributions, thus securing full benefits ; (b) was <i>not</i> at that time an insured person, dealt with under sec. 9 (4).
6. Voluntary contributor aged 16 to 45.	Any date <i>within</i> six months from the commencement of this Act, viz. up to and including January 14, 1913. Any date.	Ordinary employed rate.	Full benefits, unless under age of 21 and unmarried, when sec. 9 (1) applies (<i>vide supra</i>).
7. Voluntary contributor aged 45 to 65.	Any date.	Voluntary rate appropriate to his age.	Full benefits.
8. Voluntary contributor aged 16 to 45.	Any date <i>after</i> six months from the commencement of this Act, viz. after January 14, 1913.	Voluntary rate appropriate to his age.	Full benefits, unless under age of 21 and unmarried, when sec. 9 (1) applies (<i>vide supra</i>).

NOTE TO ABOVE TABLE.—(1) By sec. 79 (*infra*, p. 240), "A person shall be deemed according to the law in England, Wales, and Ireland, as well as according to the law in Scotland, not to have attained the age of seventeen until the commencement of the seventeenth anniversary of the day of his birth, and similarly with respect to other ages."

(2) It has been assumed that the commencement of the Act will be the July 15, 1912, but *vide* sec. 115 for power to H.M. in Council to substitute any other subsequent date not later than January 1, 1913.

(3) The following special classes are dealt with separately, viz. :—

Married women (sec. 44, *infra*, p. 146). Aliens (sec. 45, *infra*, p. 155).

Employed contributors to whom special order made under sec. 47 applies (*infra*, p. 172). Mercantile marine (sec. 48, *infra*, p. 131).

(4) For persons over the age of 65 who have not previously been insured, and who become employed after attaining that age, *vide* sec. 4 (4) and Note (*supra*, pp. 32, 37).

Naval and military forces (sec. 46, *infra*, p. 159).

Sect. 5. week in respect of which a compulsory contribution is paid by or in respect of him.

—
DATE OF
ENTRY INTO
INSURANCE.

In the case of a voluntary contributor, it is suggested that the expression means the first date on which a person makes application to become a voluntary contributor, provided that the application becomes effective, and that he pays contributions as from that date.

Offence.—Knowingly making a false statement for the purpose of obtaining any benefit or payment or for the purpose of obtaining a reserve value is an offence under sec. 69 (1) (*infra*, p. 230), and a person convicted of the last-mentioned offence will also be dealt with under sec. 55 (5) (*infra*, p. 200).

Questions as to Rates of Contribution.—By sec. 66 (*infra*, p. 224), such questions are to be determined by the Insurance Commissioners in accordance with regulations made by them for the purpose, provided that, in the case of any person who is or is about to become a member of an approved society, the regulations may provide for the question to be determined by the society. These questions will raise the question of the meaning of the expression, “date of entry into insurance.”

Quære whether the Insurance Commissioners have power to lay down the meaning of the expression in those regulations? It is submitted that they have not, and that the regulations made by the Insurance Commissioners under sec. 66 can only indicate the procedure by which such questions are to be determined.

Contribution . . . ceasing to be payable at the Age of Seventy.—A similar provision is made in respect to employed contributors (*vide* note to sec. 4, *supra*, p. 36).

Employed Contributor becoming Voluntary Contributor.—*Vide* sec. 6 (4), and Note (*infra*, p. 44).

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Change from
voluntary
rate to em-
ployed rate
and vice
versâ.

6.—(1) Where an insured person has become a member of an approved society as a voluntary contributor, the rate of contributions payable in respect of him shall, notwithstanding that he becomes employed within the meaning of this Part of this Act, remain the voluntary rate, unless at any time after becoming so employed he gives notice in the prescribed manner of his wish to be transferred to the employed rate.

(2) Where he gives such notice, the rate payable in respect of him shall be the employed rate, but in such case the rate of sickness benefit payable in respect of him shall be such reduced rate as would have been payable had he not previously been insured, subject to such addition as may, according to tables prepared by the Insurance Commissioners, represent the value at that time of the contributions previously paid by him.

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(3) Where he does not give such notice, and until he does so, the contributions payable by his employer in respect of him during any period of employment within the meaning of this Part of this Act shall be the same as if he had been transferred to the employed rate, and the contributions so paid by the employer shall be treated as in part satisfaction of the contributions at the voluntary rate payable by the contributor, and, if the contributor fails to pay the balance, he shall be deemed to be in arrear to that extent.

(4) Where an employed contributor within five years from his entry into insurance ceases to be employed within the meaning of this Part of this Act and becomes a voluntary contributor, he shall be deemed to be in arrear, as from the date when he so became a voluntary contributor, to the amount of the difference between the aggregate contributions paid by or in respect of him since his entry into insurance and the aggregate of the contributions which would have been payable by him had he throughout been a voluntary contributor, and the difference between any reserve value which is credited to the approved society of which he is a member in respect of him and the reserve value (if any) which would have been credited to that society in respect of him had he originally become a voluntary contributor shall be cancelled.

Object and Effect of Section.—This section deals with transfer from voluntary to employed insurance and *vice versa*.

(1) Voluntary Contributor becoming an employed Contributor.—Two courses are open :—

- (a) He may give notice in a manner to be prescribed of his wish to be transferred to the employed rate, whereupon he is to pay that rate, but he will only be entitled to receive the amount of sickness benefit which would have been payable had he not previously been insured, subject to an allowance for the contribution previously paid by him. The amount of this reduced sickness benefit is to be calculated by reference to sec. 9 (*infra*), and to the allowance aforesaid.
- (b) If he does not give the said notice he remains liable to pay his original voluntary rate. Of this voluntary rate, his employer will have to pay the same amount as he would have had to pay if the rate had been the employed rate

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EFFECT OF
SECTION.**

(viz. 3d., *vide* sec. 4, *supra*) and the remainder of the rate will have to be found by the contributor, failing which he will be deemed to be in arrears to that extent.

(2) Employed Contributor becoming Voluntary Contributor.—

(a) *If he ceases to be employed within the meaning of this Part of this Act within five years from the date of his entry into insurance, he is to be treated as if he had been a voluntary contributor from the first, and will be in arrears to the extent of the difference between the aggregate contributions he has actually paid as an employed contributor, and the aggregate contributions he would have had to pay had he been a voluntary contributor from the first, and the difference between his existing reserve value (if any) and the reserve value (if any) his society would have had credited to it, had he originally become a voluntary contributor, will be cancelled (subsec. (4)).*

(b) *If he has been an employed contributor for five years or upwards, the rate of contribution payable by him will continue to be the employed rate (sec. 5 (1) (b)).*

Neither this section nor sec. 5 appear to deal with the case which may arise of an employed contributor becoming a voluntary contributor at a time when he has not been an employed contributor for as many as five years, and when more than five years have elapsed from the date of his entry into insurance—*e.g.* X enters into insurance as a voluntary contributor on January 1, 1914, becomes an employed contributor on January 1, 1916, and on June 30, 1919, ceases to be employed and desires to become a voluntary contributor. Five and a half years will have elapsed since X's entry into insurance, but he will only have been an employed contributor for three and a half years. It would seem clear that, if X on his previous change on January 1, 1916, did not give notice to his employer and continued to pay the voluntary rate, no alteration in rate of contribution or of benefit would be necessary on his change in June, 1919. But if X had given notice and was paying the employed rate immediately before June 30, 1919, there would seem to be no indication in the Act as to how his case should be dealt with. *Quære* whether he reverts to his original voluntary rate?

[NOTE.—*Quære* whether an employed contributor, whose normal occupation is employment who becomes temporarily unemployed, is to be deemed to be an employed contributor during such period of temporary unemployment for the purpose of this section? The provision in sec. 79 (*infra*, p. 240) in respect to such a person is expressed to apply "for the purpose of reckoning the number and rate of contributions." It is submitted, therefore, that the answer to the question is in the affirmative. *Cf.* Note, *supra*, p. 25.

Voluntary Contributor.—*Vide* Note, *supra*, p. 24.

Employed within the Meaning of this Part of the Act.—*Vide* Note, *supra*, p. 5.

Voluntary Rate. Employed Rate.—*Vide supra*, pp. 33, 39.

Reduced Rate of Benefit.—*Vide* sec. 9, *infra*, p. 57.

Arrears.—*Vide* sec. 10, *infra*, p. 64.

Reserve Values.—*Vide* sec. 55, *infra*, p. 199.

7. Subject to the provisions of this Act, the Insurance Commissioners may make regulations providing for any matters incidental to the payment and collection of contributions payable under this Part of this Act, and in particular for—

Sect. 7.

Power to make regulations for the payment of contributions.

- (a) payment of contributions whether by means of adhesive or other stamps affixed to or impressed upon books or cards, or otherwise, and regulating the manner, times, and conditions in, at, and under which such stamps are to be affixed or impressed or payments are otherwise to be made;
- (b) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards belong;
- (c) the issue, sale, custody, production, and delivery up of books or cards and the replacement of books or cards which have been lost, destroyed, or defaced.

Insurance Commissioners.—*Vide* sec. 57 (*infra*, p. 205), and for effect of regulations made by them under the Act *vide* sec. 65 (*infra*, p. 224).

Contributions Payable under this Act include contributions from both voluntary and employed contributors.

Stamps.—*Vide* sec. 108 (*infra*, p. 313).

Benefits.

8.—(1) Subject to the provisions of this Act, the benefits conferred by this Part of this Act upon insured persons are—

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Benefits.

- (a) Medical treatment and attendance, including the provision of proper and sufficient medicines, and such medical and surgical appliances as may be prescribed by regulations to be made by the Insurance Commissioners (in this Act called “medical benefit”);
- (b) Treatment in sanatoria or other institutions or otherwise when suffering from tuberculosis, or

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—

such other diseases as the Local Government Board with the approval of the Treasury may appoint (in this Act called “sanatorium benefit”);

- (c) Periodical payments whilst rendered incapable of work by some specific disease or by bodily or mental disablement, of which notice has been given, commencing from the fourth day after being so rendered incapable of work, and continuing for a period not exceeding twenty-six weeks (in this Act called “sickness benefit”);
- (d) In the case of the disease or disablement continuing after the determination of sickness benefit, periodical payments so long as so rendered incapable of work by the disease or disablement (in this Act called “disablement benefit”);
- (e) Payment in the case of the confinement of the wife or, where the child is a posthumous child, of the widow of an insured person, or of any other woman who is an insured person, of a sum of thirty shillings (in this Act called “maternity benefit”);
- (f) In the case of persons entitled under this Part of this Act to any of the further benefits mentioned in Part II. of the Fourth Schedule to this Act (in this Act called “additional benefits”) such of those benefits as they may be entitled to.

Object of the Section.—This section, which should be read together with the Fourth Schedule, sets out the benefits which insured persons (*i.e.* both voluntary and employed contributors) are to receive under this part of this Act. It lays down (*a*) the conditions under which those benefits will be given, (*b*) the age at which the right to benefits will cease, (*c*) the geographical area within which they will be distributed, and, (*d*) the moment of time at which an insured person is entitled to them. The various benefits are—

- (1) Medical benefit.
- (2) Sanatorium benefit.
- (3) Sickness benefit.
- (4) Disablement benefit.
- (5) Maternity benefit.
- (6) Additional benefits.

Medical Benefit.—This covers not only the visits and attention of a duly qualified medical practitioner, but also the provision of drugs and such medical and surgical appliances as the Insurance Commissioners may, by regulation, prescribe. It does not include the right to treatment or attendance in respect of a confinement. But provision is made by sec. 18 for the payment of the prescribed fee as part of maternity benefit where, in pursuance of rules made under the Midwives Act, 1902, a medical practitioner is summoned in. The administration of medical benefit is to be in the hands of the Insurance Committees (sec. 14 (1)), and elaborate rules for their guidance are set out in sec. 15 (*infra*, p. 87). Medical benefit does not cease at the age of seventy, but *semble* continues, subject to the provisions of the Act, throughout life. The right to this benefit does not accrue during the first six months after the commencement of this Act (*viz.* until January 15, 1913). The right to this benefit is not suspended until the insured person is in arrears of more than twenty-six contributions a year on an average (sec. 10 (1), *infra*, p. 64).

Ireland.—By sec. 81 (9) (*infra*, p. 254), "An insured person in Ireland shall not be entitled to medical benefit . . . and the provisions with respect to medical benefit shall not apply." Presumably this means that a person, wherever he may be insured, is not entitled to medical benefit when he is in Ireland.

Sanatorium Benefit.—This consists of treatment in sanatoria or other institutions or otherwise for insured persons suffering from tuberculosis or such other diseases as the Local Government Board with the approval of the Treasury may appoint. The benefit will be administered, as in the case of medical benefit, by Insurance Committees (sec. 14 (1), *infra*, p. 83). For this purpose Insurance Committees are to make arrangements, to the satisfaction of the Insurance Commissioners, for the treatment of insured persons suffering from tuberculosis or from any other disease which may be appointed :

- (1) in sanatoria or other institutions, with persons or local authorities having the management of sanatoria or other institutions approved by the Local Government Board ;
- (2) *otherwise* than in sanatoria or other institutions, with persons and local authorities other than poor law authorities undertaking such treatment in a manner approved by the Local Government Board (sec. 16 (1) (a) and (b), *infra*, p. 96).

The words in (2) explain the meaning of the words "or otherwise" in the subsection now under consideration.

Sanatoria or other institutions.—Sanatorium is defined in Murray's Dictionary as "An establishment for the reception and medical treatment of invalids; in recent use chiefly either of convalescent patients or of consumptives undergoing the open-air treatment." As regards the words "other institutions," it is submitted that they must be institutions that provide treatment *ejusdem generis* as that provided in sanatoria. Treatment in sanatoria involves the removal of the patient from his home and immediate surroundings, and treatment in some building specially devoted to the reception and cure of persons suffering from disease, and includes a sojourn in such buildings during the period of convalescence. There does not

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BENEFIT.

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 ———
SANATORIUM
BENEFIT.

appear to be in the Act any direct method of compelling an insured person to undergo this form of sanatorium benefit. It would seem that, if compulsion can be applied at all, it must be applied either by the rules of approved societies (which might stipulate, subject to penalty for disobedience, that their members should submit to the Insurance Committees' directions in the matter), or by rules of Insurance Committees to a similar effect, which would bind not only members of approved societies, but also deposit contributors. The power to make such rules exists, it is submitted, under sec. 14 (2) (*infra*, p. 83) in the case of approved societies, and in the next succeeding subsection of sec. 14 in the case of Insurance Committees.

The Insurance Committees have power to defray the expenses of conveyance of an insured person to or from a sanatorium (sec. 16 (4), *infra*, p. 97).

Treatment otherwise.—It is submitted that this form of sanatorium benefit is only intended to differ from the above form of treatment in that the removal of the patient to a sanatorium from his home is not involved. The treatment will be the same, but the place in which the patient will undergo it will be his own home.

Generally.—An insured person is not entitled to sanatorium benefit as of right unless the Insurance Committee has recommended him for such benefit (sec. 16 (3), *infra*). There is consequently no provision post-dating the time when this benefit will first be given. This date is, *semble*, at the discretion of the Insurance Committees.

For provisions relating to payment of sickness and disablement benefit while an insured person is an inmate of a sanatorium, *vide* sec. 12, *infra*, p. 77.

The benefit is not suspended until arrears amount to more than twenty-six weekly contributions a year on an average (sec. 10 (1), *infra*, p. 64).

Sickness Benefit.—This is to be given for twenty-six weeks whilst the insured person is rendered incapable of work by some specific disease or by bodily or mental disablement of which notice has been given. Presumably this notice will have to be given to the appropriate approved society or to the Insurance Committee, as the case may be. This benefit commences to be given from the fourth day after the insured person has been rendered incapable of work. It should be observed that, although the giving of notice is a condition precedent to the receipt of sickness benefit and no benefit can be paid until such notice is given, the subsection is so worded that, on such notice being given, benefit becomes payable from the fourth day after the insured person has been rendered incapable of work, even though that day may be anterior to the date of the notice. In other words, it is possible for the payments of the benefit to be dated back to some time before the date on which the insured person gave the notice. For waiting period for this benefit, *vide* subsec. (8) (b), p. 56.

Incapable of work.—This expression would appear to mean incapable of doing any work at all; and, consequently, a person who, though somewhat incapacitated, is still capable of doing light work will not receive the benefit. Contrast "capable of work," sec. 86 (3) (*infra*, p. 271).

Administration of sickness benefit.—This benefit will be administered in the case of insured persons who are members of approved societies by their societies, and in the case of insured persons who

are deposit contributors, by the appropriate Insurance Committees (*vide* sec. 14, *infra*, p. 83).

Sickness benefit where paid.—For the geographical limits within which sickness benefit is to be paid, *vide* subsec. (4), *infra*.

Period during which Sickness Benefit is to be paid.—In the normal case sickness benefit is to be paid for twenty-six weeks. But this subsection should be read in connection with subsec. (5), the effect of which is to cut down the twenty-six weeks by the number of weeks during which an insured person has been in receipt of sickness benefit if he again becomes entitled to such benefit, whether owing to fresh disease or disablement or to a recurrence of the old disease or disablement, unless a period of twelve months has elapsed since his recovery from his former disease or disablement and he has paid at least fifty weekly contributions. This will in some cases make the insured person eligible for disablement benefit earlier than he otherwise would have been. It is submitted that the provision as to sickness benefit commencing on the fourth day after the insured person has been rendered incapable of work no longer holds good in such a case.

Example: A receives sickness benefit from January 1, 1914, to April 1, 1914 (say, thirteen weeks), when he recovers; on January 1, 1915, he again receives sickness benefit; this latter benefit will only be paid for thirteen weeks, and by April 1, 1915, if still sick, A will only be entitled to receive disablement benefit (*vide* also examples in note on subsec. (5), *infra*).

Suspension of sickness benefit.—The right to this benefit ceases at the age of seventy (subsec. (3)), and is suspended if a contributor is in arrears of more than thirteen weekly contributions a year on an average (sec. 10 (1), *infra*, p. 64).

Disablement Benefit.—This is to be given after an insured person has been in receipt of sickness benefit for twenty-six weeks, provided that, and for so long as, the conditions, which entitle such person to sickness benefit continue.

Administration of disablement benefit.—As in the case of sickness benefit, disablement benefit is to be administered by approved societies in respect to insured persons who are members of approved societies, and by Insurance Committees in respect to insured persons who are deposit contributors.

Time at which disablement benefit commences.—*Vide* note on sickness benefit (*supra*), and subsec. (5), *infra*.

Disablement benefit where paid.—For the geographical limits within which disablement benefit is to be paid *vide* subsec. (4), *infra*.

Disablement benefit when paid.—No insured person is entitled to disablement benefit unless and until 104 weeks have elapsed since his entry of insurance, and at least 104 weekly contributions have been paid by or in respect of him.

Suspension of disablement benefit.—The right to disablement benefit ceases at the age of seventy (sub-sec. (3)), and is suspended if a contributor is in arrears of more than thirteen weekly contributions a year on an average (sec. 10 (1), *infra*, p. 64).

Maternity Benefit.—This consists in the sum of thirty shillings payable in the case of the confinement of the wife or, where the child is a posthumous child, of the widow of an insured person, or of any other woman who is herself an insured person.

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BENEFIT.**

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MATERNITY
BENEFIT.

The principal difficulty raised with regard to this benefit is the difficulty of ascertaining when this benefit is payable. This difficulty is caused by the use of the word "confinement." This word is not a term of art amongst the members of the medical profession—indeed, Stormouth's Manual of Scientific Terms and Quain's Medical Dictionary do not even mention the word—it is really a polite euphemism which has passed into current usage to admit of the discreet allusion to the process of birth and the consequential seclusion imposed on the woman. When a woman is delivered of a child at the natural term, no difficulty arises. The difficulty is to determine what point, if any, is to be fixed upon, during the pregnancy of a woman, and before the natural term is reached, at which the expulsion of the contents of her womb is to be deemed to be a confinement. That expulsion is known to the medical profession by three different terms corresponding with three different periods during which the expulsion may take place. "*Abortion*," which means the expulsion of the ovum before the placenta is formed, *i.e.* during the first three months of pregnancy; "*Miscarriage*," which means expulsion of the foetus between the fourth and the seventh month; "*Premature Labour*," when the expulsion takes place after the seventh month, and before the natural term is reached. Some practitioners refer to expulsion during any of the above periods as "confinement." The choice seems to lie between a meaning of the word which would cover the birth of a viable child — *i.e.* normally the birth of a child during the last two months of pregnancy, and a meaning which would cover any expulsion during pregnancy. If the first meaning is adopted, a suitable definition might be "the process of birth of a viable child," in which the word "viable" would be used as going to the development of the child and not to whether it had, or had not, a separate existence, for it is submitted with confidence that the intention of the Act cannot be to differentiate between still-birth and the birth of a living child.

In support of this definition it may be argued that the words "child" and "delivery" which are hardly applicable to the foetus before it is viable, are used in this Act in connection with the benefit now under discussion (*vide* sec. 8 (6), *infra*, and sec. 18 (1), *infra*, p. 100). The name, too, of the benefit, "maternity" would seem to suggest that a woman, to be entitled to it, must be in a state of maternity—a state which is only consonant with the fact of having given birth to a viable child.

Against this it may be said that where the word "child" is used in the Act, it is nearly always used as part of a convenient expression which does not mean more than confinement resulting from intercourse with a deceased husband, and that the word "delivery" is a purely neutral word. Further, it may be said that the word "maternity" is as applicable to a process as to a state, and that the process in question is spread over the whole period of pregnancy. Lastly, it may well be said that maternity benefit is perhaps even more necessary when expulsion takes place at the earlier stages of pregnancy than if it takes place at the later stages, and that the ultimate loss of health, due to insufficient treatment, is greater in the case of abortion or miscarriage than in the case of premature or timeous labour.

The title to the Act describes it as "an Act to provide for

Insurance against Loss of Health and for the Prevention and Cure of Sickness," and these words may be cited in aid of a wide construction.

On the whole, however, it is submitted that, having regard to the usual popular meaning of the word "confinement," the definition above suggested is correct. The point is not an easy one, and this conclusion is suggested with diffidence.

Maternity benefit is payable to a woman who is an insured person whether her confinement is the result of legitimate or illegitimate intercourse; but in the latter case she will not be entitled to sickness benefit during four weeks after her confinement, unless she is suffering from disease or disablement not connected directly or indirectly with her confinement (*vide* subsec. (6), *infra*).

[NOTE.—It is submitted that maternity benefit could not be given in a case of criminal abortion. It would be against public policy to do so, *cf. Amicable Society v. Bolland and another*, 2 Dow. & Cl. 1, and *Hatch v. Mutual Life*, 21 Am. 541.

Administration of maternity benefit, vide sec. 18, *infra*, p. 100.

Payment of sickness and maternity benefit simultaneously.—Vide subsec. (6) (*infra*, p. 55).

*Geographical area within which maternity benefit is to be paid.—*Maternity benefit is payable—

1. Where the husband is the person entitled to the benefit, to any such husband,
 - (a) While he is resident in the United Kingdom.
 - (b) While he is temporarily resident in the Isle of Man or the Channel Islands.
 - (c) While resident anywhere outside the United Kingdom, if his wife is resident at the time of her confinement in the United Kingdom.
2. Where the woman is the person entitled to the benefit, only to such women as are, at the time of their confinement, resident in the United Kingdom or temporarily resident in the Channel Isles or the Isle of Man (*vide* subsec. 4, *infra*, p. 53).

[NOTE.—For the circumstances in which the husband or the wife are respectively entitled to maternity benefit, *vide* Note on persons entitled to maternity benefit (*infra*).

*Time at which right to maternity benefit commences.—*Maternity benefit is not payable until twenty-six, or, in the case of a voluntary contributor, fifty-two weeks have elapsed since entry into insurance and until at least twenty-six, or, in the case of a voluntary contributor, fifty-two contributions have been paid by, or in respect of, the person claiming to be entitled (subsec. 8 (d)). The right to maternity benefit is not suspended until arrears amount to more than twenty-six weekly contributions a year, on an average (sec. 10 (1)).

*Arrears.—*In calculating arrears of contribution due in respect of a woman who is herself an insured person no account is taken of any arrears accruing during two weeks before and four weeks after confinement, *vide* sec. 10 (4) (b) (*infra*, p. 65).

Persons entitled to Maternity Benefit.—The benefit is treated as a benefit for the woman in the case of—

- (a) Insured unmarried women:

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- (b) Insured widows whose husbands were not insured persons ;
(c) Insured married women whose husbands are not insured persons.

In any other case the benefit is to be treated as a benefit for a woman's husband (*vide* sec. 18, *infra*, p. 100).

By sec. 19 (*infra*, p. 101), a husband to whom maternity benefit has been given or paid who neglects or refuses to make adequate provision for the maintenance and care of his wife during her confinement and four weeks after her delivery is liable, on summary conviction, to one month's imprisonment.

Additional Benefits.—By sec. 37 (*infra*, p. 126), additional benefits will be payable either by an approved society or by a branch of an approved society, which, after valuation, shows a surplus. A scheme is to be prepared for the distribution of such part of that surplus as may be distributed under this Act in benefits mentioned in Part II. of the Fourth Schedule. Additional benefits may also be payable in a case arising under sec. 9 (2).

(2) Subject to the provisions of this Part of this Act, the rates of sickness benefit and disablement benefit to which insured persons are entitled shall be the rates specified in Part I. of the Fourth Schedule to this Act.

Rates of Sickness and Disablement Benefit.—These are set out in Part I. of the Fourth Schedule, which is printed here for convenience.

FOURTH SCHEDULE.

BENEFITS UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

PART I.

Rates of Benefits.

TABLE A.—*Ordinary Rates.*

Sickness benefit: for men, the sum of 10s. a week throughout the whole period of twenty-six weeks; for women, the sum of 7s. 6d. a week throughout the whole period of twenty-six weeks.

Disablement benefit: the sum of 5s. a week for men and women alike.

Unmarried minors.—*Vide* sec. 9 (1) (*infra*, p. 57).

Reduced rates for persons over fifty.—*Vide* sec. 9 (3), *infra*.

Other cases of reduced rates of sickness and disablement benefit.—*Vide* sec. 6 (2), sec. 9 (2) and (4), sec. 10 (Arrears), and sec. 11 (*infra*, pp. 42, 58, 60, 64, and 72 respectively).

(3) In the case of insured persons who have attained the age of seventy, the right to sickness benefit and disablement benefit shall cease.

Seemle, the right to medical, sanatorium, and maternity benefits will continue throughout the life of the insured person. Additional benefits may also be such as to continue throughout life.

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(4) No insured person shall be entitled to any benefit during any period when he is resident either temporarily or permanently outside the United Kingdom ;

Provided that, if a person is temporarily resident in the Isle of Man or the Channel Islands, he shall not, whilst so resident, be disentitled to benefits other than medical benefit, and that, if with the consent of the society or committee by which the benefit is administered a person is temporarily resident outside the United Kingdom elsewhere than in the Isle of Man or the Channel Islands, the society or committee may allow him, whilst so resident, to continue to receive sickness or disablement benefit, and that a person resident out of the United Kingdom shall not be disentitled to maternity benefit in respect of the confinement of his wife, if his wife at the time of her confinement is resident in the United Kingdom.

Effect of the Subsection.—The general rule is that no insured person is entitled to any benefit when he is either temporarily or permanently resident outside the United Kingdom (this expression means Great Britain and Ireland, but does not include the Channel Islands or the Isle of Man). To this general rule there are three exceptions:—

- (1) A person *temporarily resident* in the Isle of Man or the Channel Islands, is not, whilst so resident, disentitled to all benefits except medical benefit.
- (2) A person *temporarily resident* with the consent of the society or committee by which the benefit is administered, outside the British Isles, may, whilst so resident be allowed by the society to *continue* to receive sickness or disablement benefit. It should be noticed that the consent of the society or committee goes to the residence of the person and not to the question whether he is to receive benefits or not. It is submitted that once a society or committee has consented to such temporary residence the word “may” is to be construed as “must.” Any other construction would involve two discretions in the society or committee, which can hardly have been the intention of the section.

The use of the word “continue” implies that the person so resident cannot commence to receive either sickness or disablement benefit for the first time. He must have been in receipt of one or the other at the time when he became so resident for it to be *intra vires* the society or committee to consent to continue paying.

Further, it is submitted, in a case where a person becomes resident as aforesaid while in receipt of sickness benefit and remains

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so resident after sickness benefit has, owing to lapse of time, ceased to be payable, it will be *ultra vires* the society or committee to give him disablement benefit, since in such a case he will not be *continuing* to receive such benefit. In support of this construction the use of the words "continue to receive" may be contrasted with the use of the word "disentitled" in the same subsection. The fact that there is no machinery under the Act for checking claims outside the United Kingdom affords a reason for the above suggested construction.

(3) A person resident outside the United Kingdom is not disentitled to maternity benefit in respect of the confinement of his wife, if his wife at the time of her confinement is resident in the United Kingdom. Such a person may be:—

- (1) The insured husband of an insured married woman.
- (2) The insured husband of a married woman who is not insured.

Resident.—Residence is a question of fact (*vide* Note, *supra*, p. 17).

(5) Where an insured person, having been in receipt of sickness benefit, recovers from the disease or disablement in respect of which he receives such benefit, any subsequent disease or disablement, or a recurrence of the same disease or disablement, shall be deemed to be a continuation of the previous disease or disablement, unless in the meanwhile a period of at least twelve months has elapsed, and at least fifty weekly contributions have been paid by or in respect of him.

Effect of Subsection.—This subsection is of importance in determining when payments for sickness benefit end and payments for disablement benefit begin. Its effect is most clearly shown by two concrete examples.

Example 1.—A receives sickness benefit from April 1, 1913, to Sept. 24, 1913 (25 weeks), when he recovers. On Sept. 13th, 1914, he again becomes incapable of work, whether owing to a fresh disease or disablement, or a recurrence of the same disease or disablement. On that date he will be entitled to one week's sickness benefit, and on Sept. 20 to disablement benefit only.

Example 2.—A receives sickness benefit from Jan. 1, 1914, to June 24, 1914 (25 weeks), when he recovers. On Dec. 1, 1915, he again becomes incapable of work, whether owing to a fresh disease or disablement, or a recurrence of the same disease or disablement. Between June 24, 1914, and Dec. 1, 1915, he has only paid 49 weekly contributions. On Dec. 1 he will be entitled to one week's sickness benefit, and on Dec. 8, to disablement benefit.

[NOTE.—(1) In the above example, in order to avoid confusion, no account is taken of the effect of arrears (*vide* sec. 10, *infra*), or of the effect of subsec. (8), *infra*.

(2) It is submitted, and assumed in the above examples, that the waiting period of four days before receipt of sickness benefit will not apply where the disease or disablement is deemed to be a continuation of the previous disease or disablement.]

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Period of twelve months.—The subsection is governed by the words, "Where an insured person, having been in receipt of sickness benefit, recovers." It is submitted (and assumed in the foregoing examples) that the period is to run from the date of recovery.

(6) Where a woman confined of a child is herself an insured person, and is a married woman, or, if the child is a posthumous child, a widow, she shall be entitled to sickness benefit or disablement benefit (as the case may be) in respect of her confinement in addition to the maternity benefit to which she or her husband may be entitled, but, save as aforesaid, a woman shall not be entitled to sickness benefit or disablement benefit for a period of four weeks after her confinement unless suffering from disease or disablement not connected directly or indirectly with her confinement.

Medical benefit shall not include any right to medical treatment or attendance in respect of a confinement.

Effect of the Subsection.—But for the provisions of this subsection, any woman who was herself an insured person, would have been entitled to sickness or disablement benefit and medical benefit as well as maternity benefit during four weeks after her confinement. The effect of this subsection is to take away any such woman's right to medical treatment or attendance in respect of her confinement, and to confine the privilege of receiving sickness or disablement benefit and maternity benefit simultaneously to married women and widows (in respect of a posthumous child), who are themselves insured persons.

The subsection, however, expressly preserves the right of any insured woman to receive sickness or disablement benefit and medical treatment where the disease or disablement in respect of which she claims those benefits is unconnected with her confinement, even though such claim arises within four weeks of her confinement.

Vide sec. 18 as to payment of fees of a medical practitioner summoned in pursuance of rules under the Midwives Act, 1902.

(7) Where a pension or superannuation allowance is payable by an approved society in whole or in part as an additional benefit under this Part of this Act, or out

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Commencement of this Act.—July 15, 1912, or should necessity arise some subsequent date not later than Jan. 1, 1913. *Vide* sec. 115, *infra*, p. 320.

(8) Notwithstanding anything in this Part of this Act no insured person shall be entitled—

- (a) to medical benefit during the first six months after the commencement of this Act ;
- (b) to sickness benefit, unless and until twenty-six weeks have elapsed since his entry into insurance, and at least twenty-six weekly contributions have been paid by or in respect of him ;
- (c) to disablement benefit, unless and until one hundred and four weeks have elapsed since his entry into insurance, and at least one hundred and four weekly contributions have been paid by or in respect of him ;
- (d) to maternity benefit, unless and until twenty-six, or in the case of a voluntary contributor fifty-two, weeks have elapsed since his entry into insurance, and at least twenty-six, or in the case of a voluntary contributor fifty-two, weekly contributions have been paid by or in respect of him.

Entry into Insurance.— *Vide* Note, *supra*, p. 39.

(9) As soon as the sums credited to approved societies as reserve values in respect of persons who enter into insurance within one year after the commencement of this Act have been written off in manner provided by this Part of this Act, the benefits payable to insured

persons under this Part of this Act shall be extended Sect. 8.
in such manner as Parliament may determine.

Reserve Values.—*Vide* sec. 55, *infra*, p. 199.

NOTE ON SECTION 8 GENERALLY.

Substitution of Benefits, *vide* sec. 13, *infra*, p. 81, for powers of an approved society to substitute any of the additional benefits for sickness and disablement benefit.

Payment of Benefits while Employed Contributor is still Receiving Wages.—Provided that the rate of the sickness or disablement benefit does not exceed two-thirds of the contributor's usual rate of wages or other remuneration (*vide* sec. 9 (2), *infra*, p. 58), there is no provision in the Act which prevents an employed contributor from receiving full sickness or disablement benefit in addition to his wages, if, either by his contract of service or by the kindness of his employer, he remains in receipt of wages while rendered incapable of work by sickness or disablement.

Unemployment Benefit and Sickness or Disablement Benefit.—No person can be in receipt of unemployment benefit at the same time as he is in receipt of sickness or disablement benefit. There is express provision in sec. 87 (4) (*infra*, p. 274), precluding a workman within the meaning of Part. II. of this Act from receiving unemployment benefit while he is in receipt of sickness or disablement benefit or allowance under Part I. of the Act; but that provision would hardly seem to be necessary. To be entitled to the former benefit he must be "capable of work" (sec. 86 (3), *infra*, p. 271), whereas to be entitled to either of the latter benefits he must be "incapable of work." In other words, a person entitled to sickness or disablement benefit could not satisfy the statutory conditions for the receipt of unemployment benefit.

Benefits Inalienable.—*Vide* sec. 111, *infra*, p. 316.

Repayment of Benefits.—*Vide* sec. 71, *infra*, for provisions for the recovery of benefits improperly paid.

9.—(1) In the case of insured persons who are under Sect. 9.
the age of twenty-one years and unmarried, sickness
benefit and disablement benefit shall be at the reduced Reduced
rates specified in Table B. in Part I. of the Fourth rates of
Schedule to this Act : benefit in
certain cases.

Provided that, where any such person being a member of an approved society proves that one or more members of his family are wholly or mainly dependent upon him, the society shall dispense with such reduction.

Insured Persons.—Includes voluntary and employed contributors.

- Sect. 9.** **Sickness Benefit.**—*Vide* sec. 8 (1) (c), and Note, *supra*, p. 48.
 Disablement Benefit.—*Vide* sec. 8 (1) (d), and Note, *supra*, p. 49.
 Reduced Rate.—Table B of Part I. of the Fourth Schedule is here set out for convenience.

TABLE B.—*Reduced Rates in the case of Unmarried Minors.*

Sickness Benefit—for males, the sum of 6s. a week during the first thirteen weeks and the sum of 5s. a week during the second thirteen weeks.
 for females, the sum of 5s. a week for the first thirteen weeks and the sum of 4s. a week for the second thirteen weeks.
 Disablement Benefit—for females, the sum of 4s. a week.

Members of his Family.—There is no definition of these words in the Act. In sec. 13 of the Workmen's Compensation Act, 1906, however, the words "member of a family" are defined as "wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister." It is submitted that the words "members of his family" have the same meaning, in so far as that meaning is applicable to a person under the age of twenty-one.

Wholly or mainly Dependent.—*Vide* Note, *supra*, p. 25.

(2) Where, in the case of any insured persons, the rate of sickness benefit or disablement benefit (as the case may be) exceeds two-thirds of the usual rate of wages or other remuneration earned by such persons, the rate of such benefit may be reduced to such an extent as the society or committee administering the benefit, with the consent of the Insurance Commissioners, determines; but, where such reduction is made, provision shall be made by the society or committee, with the like consent for the grant of one or more additional benefits of a value equivalent to such reduction.

Object of Subsection.—The object of this subsection is to prevent persons from receiving, in the form of sickness or disablement benefit, so large a sum as, in relation to their usual rate of wages or remuneration, would create an inducement to remain longer than necessary on the fund. The society or committee have a discretion as to putting into operation the provisions of this subsection. It is submitted that the subsection goes to *quantum* of benefit only, and does not affect the right of an employed contributor to receive sickness or disablement benefit if, while incapable of work, he is still paid wages.

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Usual rate of Wages, &c.—*Semble*, the usual amount of wages or other remuneration of any given person are the wages or other remuneration which he has habitually received, and are not to be gauged entirely by the amount which he is receiving at the moment at which he becomes entitled to benefit. The use of the expression "rate of wages" should be observed. *Quære* whether, inasmuch as sickness benefit is calculated at a weekly rate, so wages should be similarly calculated; in other words, whether a man, whose rate of wages is say 3s. a day, and who is only employed two or three days a week, would be entitled to say, that his usual *rate* of wages, for the purpose of this section, is 18s. a week, and not 6s. or 9s. a week, as the case may be? It is submitted that he would not be so entitled and that some average of his earnings must be taken.

Grant of one or more Additional Benefits.—It is submitted that the grant of an additional benefit under this subsection can only be to the person or persons whose benefits have suffered reduction under its provisions, and cannot be made to the members of the society in question at large. The drafting of this Act is by no means clear on the point, but the obvious justice of the above construction is, it is submitted, sufficient to make it the right one.

Additional benefits, *vide* sec. 8 (1) f., and Part II. of the Fourth Schedule to the Act, p. 45, *supra*, and p. 323, *infra*.

Value equivalent.—There was no provision for calculating this value, but, *semble*, it is a matter capable of actuarial valuation, and it will be for the Society or Insurance Committee concerned to have this value properly calculated.

(3) The rate of sickness benefit shall be reduced in accordance with Table C. in Part I. of the Fourth Schedule to this Act in the case of any insured person who becomes an employed contributor within one year after the commencement of this Act, and is at the date of so becoming an employed contributor of the age of fifty years or upwards and the number of weekly contributions paid by or in respect of him is at the date of any claim by him for such benefit, less than five hundred.

Effect of Subsection.—The reduced rate of sickness benefits set out in Table C in Part I. of the Fourth Schedule is applicable to any employed contributor who fulfils the three following conditions:—

(1) That he became an employed contributor within one year after the commencement of this Act,

(2) That he was, at the date of becoming an employed contributor, of the age of fifty or upwards,

(3) That he has not, at the date of any claim by him, paid at least 500 weekly contributions.

It will therefore be over nine years and seven months (which is the minimum time it will take to pay 500 contributions) before an insured person, who became an employed contributor

Sect. 9. before July 15, 1913 (*i.e.* within one year after the commencement of this Act, *vide* sec. 116, *infra*, p. 320), and who was over fifty years old when he became an employed contributor, can get full benefits under the Act. The reduced scale is printed here for convenience of reference.

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TABLE C.—*Reduced Rates for Persons over Fifty in certain cases.*

Where the insured person is over 50 and under 60 at the time of becoming an employed contributor—

For men, the sum of 7s. a week throughout the whole period of twenty-six weeks.

For women, the sum of 6s. a week throughout the whole period of twenty-six weeks.

Where the insured person is over 60 at the time of becoming an employed contributor—

For both men and women, the sum of 6s. a week for the first thirteen weeks, and 5s. a week during the second thirteen weeks.

(4) In the case of every person who, not having been previously insured under this Part of this Act, becomes an employed contributor subsequently to the expiration of one year from the commencement of this Act, and is, at the time of so becoming an employed contributor, of the age of seventeen or upwards, the rate of sickness benefit to which he is entitled shall (unless he proves that his time since he attained the age of seventeen has been spent in a school or college, in indentured apprenticeship or otherwise under instruction without wages, or otherwise in the completion of his education, or unless he undertakes himself to pay the difference between the voluntary rate and the employed rate, or pays to the Insurance Commissioners, to be credited to the society, such capital sum as will be sufficient to secure him benefits at the full rate) be such reduced rate as may be fixed in accordance with tables to be prepared by the Insurance Commissioners, but not in any case less than five shillings a week :

Provided that, if at any time subsequently such person would become entitled to sickness benefit at a higher rate if he were treated as having become an employed contributor as from the time when he attained the age of seventeen, or as from the expiration of one year after the commencement of this Act, whichever date may be the

later, and as being in arrear for all contributions which, had he become an employed contributor at that date, would have been payable in respect of him between that date and the date when he actually became an employed contributor, he shall, if he so elects, be entitled to be so treated.

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Effect of Subsection.—The effect of this subsection is to reduce the rate of sickness benefit for any person of the age of seventeen or upwards, who, not having been previously insured, becomes an employed contributor more than a year after July 15, 1912 (the date of the commencement of this Act (*vide* sec. 116, *infra*)), except

(1) Where that person proves that, since he attained the age of sixteen, his time has been spent in education, or in indentured apprenticeship, or

(2) He undertakes to pay the difference between the voluntary and the employed rate, or pays to the Insurance Commissioners such capital sum as will be sufficient to secure him benefits at the full rates.

The reduced rates are to be fixed by the Insurance Commissioners.

“*Of the age of seventeen or upwards.*”—*Vide* sec. 79, *infra*, p. 240, “A person shall be deemed according to the law in England, Wales, and Ireland, as well as according to the law in Scotland, not to have attained the age of seventeen until the commencement of the seventeenth anniversary of the day of his birth, and similarly with respect to other ages.”

Proviso.—The proviso to this subsection is inserted in order to give employed contributors, who would otherwise receive reduced benefits in accordance with the subsection, the opportunity of availing themselves, if it would prove to their advantage to do so, of the provisions whereby arrears are calculated by averaging the number of weekly contributions in arrear over the number of years that have elapsed from the date of entry into insurance. These provisions, as is pointed out (*infra*, p. 69), have the effect of enabling an insured person who has got into arrears to ascend the scale of benefits proportionately to the length of time during which he pays his contributions regularly. The proviso will also in certain cases have the result of enabling an employed contributor to improve his position by taking effective advantage of the provisions of sec. 10 (5), *infra*, with regard to payment of arrears. Examples are given in order to make the matter clear. It must be observed that, inasmuch as the reduced rates of sickness benefit payable under the subsection have not as yet been fixed by the Commissioners, the figures taken in the following examples as the reduced rates are purely hypothetical, and the value of the examples, except so far as they show the working of the Act, is, in consequence, considerably reduced.

First example.—A enters into insurance for the first time as an employed contributor on August 12, 1913 (*i.e.* 4 weeks subsequently to the expiration of one year from the commencement of this Act). A's age at the date of such entry into insurance is 50 years and 3 weeks. The reduced rate of sickness benefit fixed for

Sect. 9. persons over 50 is 6s. 6d. a week, while for persons of under 50 it is 7s. a week. Between August 12, 1913, and Feb. 12, 1915, A has paid his contributions with absolute regularity. On Feb. 12, 1915, he becomes entitled to sickness benefit. He is then entitled, if he so elects, to be treated as having become an employed contributor on July 15, 1913, viz. at a date when he was under the age of 50, and as being in arrear for all contributions which would have been payable, had he in fact become an employed contributor on July 15, 1913. Those arrears will only amount to 4 weekly contributions, viz. the contributions A did not pay between July 15, 1913, and August 12, 1913. On Feb. 12, 1915, A may elect to be treated as having been an employed contributor for $1\frac{1}{2}$ years, and to have entered into insurance before he was 50. His arrears, calculated on an average since July 15, 1913, amount to less than 4 weekly contributions a year. The Table in the Fifth Schedule to the Act (*infra*, p. 69) shows that the fact that A is less than 4 weekly contributions in arrear entails no reduction of benefit. Hence A, if he so elects, is entitled on Feb. 12, 1915, to the rate of benefit applicable to persons of under 50, viz. 7s. a week, instead of to the reduced rate of 6s. 6d. applicable to persons over 50.

Second example.—B enters into insurance for the first time as an employed contributor on July 15, 1916 (*i.e.* 156 weeks subsequently to the expiration of one year from the commencement of this Act). (*Note.*—For this example, for the purpose of clearness and convenience, a year is taken to include exactly 52 weeks.) B's age at the date of his entry into insurance is 43. The maximum reduced rate of sickness benefit fixed for him is 7s. a week. Had B's age been 40, the maximum rate would have been 7s. 6d. a week. Between July 15, 1916, and July 15, 1936, B fails to pay 43 contributions. On July 16, 1936, he becomes entitled to sickness benefit. At that date B is entitled to say that his arrears amount to $156 + 43 = 199$ contributions, *i.e.* 156 in respect of the period from July 15, 1913, to July 15, 1915, and 43 in respect of the subsequent period, and to be treated as having first entered into insurance on July 15, 1913. His arrears calculated on a yearly average since July 15, 1913, will amount to $199 \div 23$ (23 years having elapsed between July 15, 1913, and July 15, 1936) = $8\frac{1}{3}$ contributions. This does not amount to 9 contributions a year on average, and B will therefore be entitled to the rate of benefit appropriate to an insured person who was 40 years of age at the date of entry into insurance, and whose arrears amount to 8 contributions a year on average, which reference to the Table in the Fifth Schedule shows is 5s. a week. But if B does *not* avail himself of the proviso his arrears will only amount to a fraction over 2 contributions a year on average, which entails no reduction of benefit. He will, therefore, be entitled to 7s. a week sickness benefit anyhow, and it will, in this case, *not* be to his advantage to avail himself of the proviso.

Third example.—C enters into insurance for the first time as an employed contributor on Aug. 19, 1913 (*i.e.* 5 weeks after the expiration of one year from the commencement of this Act). His age at the date of entry into insurance is 35 and 2 weeks. The maximum reduced rate of benefit fixed for him is 7s. 6d. a week. Had his age been 35 the maximum reduced rate would have been 8s. a week. Between Aug. 19, 1913, and April 13, 1915 (*viz.* 86 weeks)

C fails to pay 8 contributions. On April 14, 1915, he becomes entitled to sickness benefit. On that date C is entitled to be treated as if he had entered into insurance for the first on July 15, (1913, *i.e.* on the scale of benefit applicable to persons of the age of 35), and as if he was in arrears from that date (*i.e.* in arrears of $5 + 8 = 13$ contributions). His arrears will, therefore, calculated on a yearly average from July 15, 1913, to April 13, 1915, amount to $13 \div 1\frac{3}{4}$ (91 weeks having elapsed between July 15, 1913, and April 13, 1915) = $7\frac{3}{4}$. This does not amount to 8 contributions a year on average, and C will, therefore be entitled to the rate of benefit appropriate to arrears amounting to 7 contributions a year on average which, the Table shows, is 6s. But, if C had *not* elected to be treated under the proviso, he would have been in arrears to the amount of a fraction over 4 and his reduced rate of 7s. 6d. would only have been reduced to 7s. *Primâ facie*, in this case C would not elect to be dealt with under the proviso. But C can go further and, if he chooses, can exercise his rights under sec. 10 (5) and pay off any arrears that have accrued during the calendar year current at the date of payment and the previous calendar year. Assuming that out of the 8 contributions for which he is in arrear during the period from Aug. 19, 1913, to April 13, 1915, 7, were payable in respect of the calendar years 1914 and 1915, C can pay off these arrears, which will cost him $7d. \times 7 = 4s. 1d.$, or, if C is a member of a society which under sec. 10 (6), *infra*, p. 65, excuses such part of arrears as would have been met by the employer's contribution, $7 \times 4 = 2s. 4d.$ C will then be in arrears to the extent of 6 contributions only, which averaged over $1\frac{3}{4}$ years will amount to something less than 4 contributions a year. The Table will show that C will then be entitled to the whole of the benefit at the rate applicable to a person who entered into insurance at the age of 35, *viz.* 8s. a week, which is, *ex hypothesi*, more than he could ever obtain, even if he had no arrears, so long as his maximum rate of benefit remained at 7s. 6d.

But it must be recollected that, if he becomes entitled to sickness benefit within a month of paying off such arrears, he will not become entitled to the advantage he has gained by so doing, until one month has expired from the date when he paid off the arrears. Supposing, therefore, that C wishes to pay off his arrears on April 14, it will be May 14 before he is entitled to the higher rate of sickness benefit.

Fourth example.—D was 16 years of age on July 1st, 1915. He enters into insurance for the first time as an employed contributor on Sept. 29th, 1918. The maximum reduced rate of sickness benefit fixed for him is 9s. 6d. a week. During the next 43 years he only fails to pay his contributions on 12 occasions. On July 1, 1961, he can elect to be treated as having been 46 years in insurance and as being 181 contributions in arrears (*viz.* 169 from July 1, 1915, to Sept. 29, 1918, and 12 from the latter date to July 1, 1961). His arrears will consequently amount to less than 4 contributions a year on average, and he will be entitled to full sickness benefit as if he had entered into insurance at the age of 16, *viz.* 10s. a week instead of 9s. 6d. a week.

[NOTE.—In point of fact D will be entitled to 10s. a week a few days earlier than July 1, 1961 ; but the precise date is a matter of difficult calculation.]

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EFFECT OF
SUBSECTION.

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Reduced
rates of
benefits
where con-
tributions are
in arrear.

10.—(1) Where an insured person being a member of an approved society is in arrear to an amount greater than thirteen weekly contributions a year on the average since his entry into insurance, his right to benefits under this Part of this Act other than medical benefit, sanatorium benefit, and maternity benefit shall be suspended, and, where he is in arrears to an amount greater than twenty-six weekly contributions a year on the average since his entry into insurance, his right to medical benefit, sanatorium benefit, and maternity benefit shall be suspended, and at the expiration of the calendar year next after the date when he becomes suspended from all benefits any sums credited to the society in respect of him, calculated in the prescribed manner, shall, if his right to benefits still continues to be suspended, be carried to such account and dealt with in such manner as may be prescribed for the benefit (except so far as such sums comprise sums in respect of a reserve value) of the society or any other society to which such person may subsequently be transferred:

Provided that, if at any time after suspension from any such benefits he becomes employed within the meaning of this Part of this Act, he shall be entitled to those benefits at such rate, after the lapse of such time and after the payment of such number of contributions, as would have been applicable to his case had he not previously been an insured person, but, if he so elects at any time, the benefits to which he is entitled shall be such as he would be entitled to, were the period from the time of his original entry into insurance taken as a whole.

(2) Where an employed contributor claiming sickness benefit is at the date of such claim in arrears but the arrears are less than as aforesaid, then the rate of sickness benefit shall be reduced to a sum not less than five shillings a week, or the time when sickness benefit commences deferred, proportionately to the amount of arrears in accordance with the table in the Fifth Schedule to this Act.

(3) Where a voluntary contributor is in arrears, he shall be liable to such proportionate reduction of benefits as may be prescribed. Sect. 10.
—

(4) In calculating arrears of contributions, no account shall be taken of any arrears accruing—

- (a) during any period when the person in question has been, or but for this section or any other provision of this Act disentitling a person to such benefit, would have been, in receipt of sickness benefit or disablement benefit; or
- (b) in the case of a woman who, being an insured person, is herself entitled to maternity benefit; during two weeks before and four weeks after her delivery, or in the case of maternity benefit payable in respect of the posthumous child of an insured person, during the period subsequent to the father's death; or
- (c) in the case of an employed contributor, during the first twelve months after the commencement of this Act;

but, save as aforesaid, contributions shall be deemed to be payable in respect of every week from the date of entry into insurance.

(5) Where an insured person has paid any arrears of contributions payable by or in respect of him which accrued during the calendar year current at the date of payment and the previous calendar year, he shall be treated for the purposes of this section as if the arrears so paid had never become due :

Provided that, if such person is at the date of payment or subsequently within one month thereafter becomes incapable of work by reason of disease or disablement, he shall, for the purposes of this section, be deemed to be still in arrear in respect of the amount so paid until after the expiration of one month from the date of such payment.

(6) Any approved society may, if it thinks fit, excuse any part of the arrears which may have accrued due by or in respect of any member who is an employed

Sect. 10. contributor during any period of unemployment not exceeding such part as would have been payable by the employer had the member continued in his last employment, and in such case the amount of the arrears of that member shall be reduced accordingly.

(7) The average amount of arrears for the purposes of this section shall be calculated in such manner as the Insurance Commissioners may prescribe.

Object and Effect of Section.—This section deals entirely with the case of an insured person getting into arrears with his contributions. It will be observed that an *employed* contributor can only get into arrears, (a) if he ceases to be employed and does not keep up his contributions, (b) if his employer fails to pay the necessary contributions. The second case is very carefully guarded against by the provisions of the Act (*vide* sec. 4, and Note thereon, *supra*, p. 33), and is likely to occur extremely rarely. On the other hand, the first case will, in all probability, occur extremely often.

Put briefly the main provisions of the section with reference to employed and voluntary contributors are as follows:—

A. *Provisions apply to BOTH employed and voluntary contributors who are members of an approved society (note, for deposit contributors, vide Note, infra).*

(1) Rights to sickness, disablement, and additional benefits are suspended on arrears being greater than thirteen weekly contributions a year on average since entry into insurance (subsec. (1)).

(2) Rights to medical, sanatorium, and maternity benefits are suspended on arrears being greater than twenty-six weekly contributions a year on average since entry into insurance (subsec. (1)).

(3) Where an insured person has been suspended from all benefits, at the end of the calendar year next after such suspension the sums credited to his society in respect of him are, provided his right to benefits continues to be suspended, to be carried to such account and dealt with as may be prescribed by the Insurance Commissioners for the benefit (except so far as such sums comprise sums in respect of a reserve value) of the society or any other society to which he may subsequently transfer. The reserve value will presumably be cancelled (subsec. (1)).

(4) After suspension from any such benefits an insured person is entitled, if he becomes employed within the meaning of this Part of this Act, to those benefits at such rate, after the lapse of such time, and after the payment of such contributions, as if he had not previously been insured. In other words, he has to start afresh on the terms set out in sec. 9 (4), *supra*, p. 60, and sec. 8 (8) (b) (c) and (d), *supra*, p. 56.

But if at any time it would be more profitable to him to reckon in all the time since his original entry into insurance, he may, if he elects, do so. This will admit of his taking advantage of the process of working up the scale of benefits in the manner more particularly described later on (subsec. (1) *proviso*).

Example.—A, after ten years in insurance, is 140 contributions in arrear, 14 on a yearly average, with the result that he is suspended from sickness and disablement benefit. He then obtains regular employment. He will only be entitled to reduced benefits under sec. 9 (4). At the end of 26 years (if he does not add to his arrears), his average number of contributions in arrear will be less than 4 and he can, if he elects, receive full benefits.

[NOTE.—This provision appears to apply in the case of a person who was originally a voluntary contributor, but there does not seem to be any provision for dealing with the manner in which his arrears are to be calculated in such a case. *Quære* whether, in the example above set out, if A, had been a voluntary contributor during the first ten years of his insurance, payment of contributions at the employed rate during the next succeeding 23 years would extinguish his arrears which accrued due in respect of contributions at the voluntary rate? *Quære* also whether the position is affected by sec. 6, *supra*, p. 42, and whether A, will be deemed to have changed from voluntary to employed rate and to have given notice under that section?]

(5) Arrears accrued due during the current and previous calendar year may be paid up without interest, and as from the date of such payment the insured person is to be treated as if such arrears had never become due; but if he, at or within one month subsequently to that date, is rendered incapable of work by disease or disablement, he is to be deemed in arrear in respect of the sum so paid until after the expiration of a month from the date of such payment (subsec. (5)).

(6) Contributions are to be deemed payable in respect of every week from the date of entry into insurance (subsec. (4)).

(7) Arrears do not run—

(a) when an insured person has been, or but for this section or the provisions of any other section disentitling a person to such benefit would have been in receipt of sickness or disablement benefit;

(b) in the case of a woman who, being an insured person, is herself entitled to maternity benefit during two weeks before and four weeks after her confinement, or in the case of maternity benefit of the posthumous child of an insured person during the period subsequent to the father's death. For the cases in which women who are themselves insured persons are entitled to maternity benefit (*vide* Note on sec. 18, *infra*, p. 101).

[NOTE.—For special provisions as to arrears of a married woman during coverture *vide* sec. 44 (1) and (6) (*infra*, p. 146).]

B. *Provisions applying to employed contributors only.*

(1) Where an employed contributor claiming sickness benefit is, at the date of such claim, in arrears of less than thirteen weeks a year on average since entry into insurance, the rate of sickness benefit is reduced to a sum not less than five shillings a week on the date of commencement of payment of his sickness benefit is deferred, in accordance with the table in the Fifth Schedule (subsec. (2)).

(2) Arrears do not run against an employed contributor during

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—
OBJECT AND
EFFECT OF
SECTION.

Sect. 10. the first twelve months after the commencement of this Act, viz.—from the 15th July, 1912, to the 15th July, 1913.

OBJECT AND
EFFECT OF
SECTION.

[NOTE.—This date may be altered by His Majesty in Council, *vide* sec. 115.]

(3) Any part of the arrears which may have accrued due by, or in respect of any member not exceeding such part as would have been payable by the employer had the member been in employment, may be excused by any approved society (subsec. (6)).

C. Provisions Applying to Voluntary Contributors only.—Where a Voluntary Contributor is in arrears, he is to be liable to such proportionate reduction of benefits as may be prescribed by the Insurance Commissioners (subsec. (3)).

(NOTE.—*Deposit Contributors* are included in the expression “employed contributors,” but it is submitted that none of the provisions of this section apply to deposit contributors in view of the nature of the insurance that is provided for them.)

NOTES ON
SUBSEC. (1). **Insured Person.**—Includes voluntary and employed contributors (*vide supra*, p. 5).

Entry into Insurance.—*Vide supra*, p. 39.

Benefits other than, &c.—This means, sickness, disablement, and additional benefits.

Employed within the meaning of this Part of this Act—*Vide supra*, p. 5.

Suspension.—*Vide* sec. 79 (*infra*, p. 240). “The suspension of a member of an approved society from benefits under this Part of this Act shall not be deemed to deprive the member of his membership; ‘Membership of an approved Society’ means membership for the purposes of this Part of this Act.”

NOTES ON
SUBSEC. (1).

Employed Contributor.—*Vide supra*, p. 5.

Less than as Aforesaid, *i.e.* less than thirteen contributions in a year on an average since his entry into insurance.

Table in Fifth Schedule.—This Table is printed here for convenience of reference.

FIFTH SCHEDULE.

REDUCTION OR POSTPONEMENT OF SICKNESS BENEFIT AND
WHERE CONTRIBUTIONS ARE IN ARREAR.

TABLE.

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TABLE IN
FIFTH
SCHEDULE.

(1)				(2)			
Where the arrears amount to				Rates of Sickness Benefit.			
				Men.		Women.	
				s.	d.	s.	d.
4 contributions a year on average				9	6	7	3
5	"	"	"	9	0	7	0
6	"	"	"	8	6	6	9
7	"	"	"	8	0	6	6
8	"	"	"	7	6	6	3
9	"	"	"	7	0	6	0
10	"	"	"	6	6	5	9
11	"	"	"	6	0	5	6
12	"	"	"	5	6	5	3
13	"	"	"	5	0	5	0
				5s. 0d. commencing 5th day after commencement of illness.			
For both Men and Women.				"	"	6th	" "
				"	"	7th	" "
				"	"	8th	" "
				"	"	9th	" "
				"	"	10th	" "
				"	"	11th	" "
				"	"	12th	" "
				"	"	13th	" "
				"	"	14th	" "

Notes.

Where the insured person is, by virtue of any of the provisions of Part I. of this Act, other than those relating to arrears, entitled to sickness benefit at a rate lower than the full rate, this Table shall have effect as if the entries in the first column were so shifted down that the first entry therein was set opposite the entry in the second column next below the entry specifying the rate of sickness benefit to which the insured person is entitled.

When the rate of sickness benefit during the first thirteen weeks to which the insured person is entitled is, by virtue of any of the provisions of this Act, other than those relating to arrears, less than 5s. a week, this Table shall have effect as if such lower rate were therein substituted for the rate of 5s. a week.

This Table and the provisions of sec. 10 (1) with regard to calculating arrears on an average spread over the number of years since entry into insurance will have the effect of enabling an insured person, who has got into arrears, and who then is entitled to pay his contributions regularly, materially to improve his position. He will be able to ascend the scale of benefit proportionately to the

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 —
TABLE IN
FIFTH
SCHEDULE.

length of time during which he pays regularly after having once got into arrears. In other words, in calculating the average, the divisor will *increase* while the dividend remains constant, with a consequent proportionate *decrease* in the quotient. (For examples *vide supra*, pp. 61, 67.)

"Any provision other than those relating to arrears entitling to sickness benefit at a lower rate than the full rate." These provisions are to be found—

- (a) Under sec. 6 (2), *supra*, p. 42, in the case of a voluntary contributor becoming an employed contributor and giving notice of his wish to be transferred to the employed rate.
- (b) Under sec. 9 (1), *supra*, p. 57. In the case of insured persons under the age of twenty-one and unmarried.
- (c) Under sec. 9 (2), *supra*, p. 58. In cases where the rate of sickness benefit exceeds two-thirds of the usual rate of wages or other remuneration earned by the insured person.
- (d) Under sec. 9 (3), *supra*, p. 59. In the case of insured persons who become employed contributors within one year after the commencement of the Act, and are over fifty years of age, and have not paid at least five hundred weekly contributions.
- (e) Under sec. 9 (4), *supra*, p. 60. In the case of persons over the age of sixteen who, not having been previously insured, become employed contributors subsequently to the expiration of one year after the commencement of this Act.
- (f) Under sec. 11, *infra*, p. 72. In a case where an insured person has recovered compensation or damages under the Workman's Compensation Act, 1906, the Employers' Liability Act, 1880, or at common law in respect of any injury or disease.
- (g) Under a scheme made under sec. 13, *infra*, p. 81.

The effect of the words as to shifting the entries in the first column may readily be understood if it is assumed that the maximum rate of sickness benefit payable in a given case is always to be paid, whenever the person receiving the benefit is less than four weekly contributions a year on an average in arrear, and that, for every such averaged contribution in arrear in excess of three, sixpence is to be deducted from the amount payable in sickness benefit until a sum of five shillings is reached, when the date, on which sickness benefit becomes payable, is postponed by one day for every such averaged contribution in arrear. Similarly, where the maximum rate is under five shillings, the date, on which sickness benefit becomes payable, is postponed by one day for every such averaged contribution in arrear in excess of three, while the sum payable remains at the maximum. The effect of these provisions is to increase very materially the percentage of decrease in benefit for persons whose maximum sickness benefit is under ten shillings in comparison with those who are entitled to the full rate as a maximum. Examples are given for the sake of clarity.

First example.—The maximum sickness benefit which A can get is 7s. 6d. a week. He becomes entitled to sickness benefit at a moment when he is five contributions in arrear on a yearly average. Five contributions is two in excess of three, therefore, applying the method above suggested, A will get two sixpences less than his maximum, viz. 6s. 6d. a week.

Second example.—The maximum sickness benefit which B can

get is 6s. a week. He becomes entitled to sickness benefit at a moment when he is eight contributions in arrear on a yearly average. Eight contributions is five in excess of three, therefore, applying the method above suggested, A will get two sixpences less than his maximum rate (thereby bringing it down to 5s. a week), beginning on the 7th day after notice (viz. three days later than he would have done had he only been two contributions in arrear in excess of three).

Third example.—The maximum sickness benefit which C can get is 4s. 6d. a week. He becomes entitled to sickness benefit at a moment when he is ten contributions in arrear on a yearly average. Ten contributions is seven in excess of three, therefore, applying the method above suggested, C will get 4s. 6d. a week on the 11th day after notice.

[*Note.*—In the case of women substitute threepence for sixpence.]

Notes on Subsec. (3). “*Proportionate.*”—*Semble*, this means proportionate to the number of contributions the voluntary contributor is in arrear. A table similar to that in the Fifth Schedule to the Act will presumably be prepared by the Insurance Commissioners under their power contained in sec. 65, *infra*, p. 224.

Notes on Subsec. (4).—Subsec. (4) (a) applies in the case of an insured person who, and during such period as he, is rendered incapable of work by some specific disease or by bodily or mental disablement of which notice has been given, *vide* sec. 8 (1), (c), (d), but who is disentitled to benefit owing to some other provision in this Act. The other provisions which may disentitle him to sickness or disablement benefit are—

- (1) Sec. 8 (4), *supra*, p. 53, which deals with residence out of the United Kingdom.
- (2) Sec. 8 (6), *supra*, p. 55, reference to which is rendered unnecessary by the provisions of para. (b) of this subsection.
- (3) Sec. 8 (8), (b), (c), *supra*, p. 56, which deals with the period of time to elapse and the number of contributions to be paid by contributors before sickness or disablement benefit are payable.
- (4) Sec. 11, *infra*, p. 72, which deals with insured persons who obtain compensation or damages under the Workmen's Compensation Act, 1906, &c.
- (5) Sec. 14 (2) *infra*, p. 83, where the Act gives power to approved societies to enforce their rules by suspension of benefits. But for this provision the societies would clearly have no power to suspend benefits, hence it is a provision which, if the power conferred by it is made use of, disentitles a person to benefit under the Act. On the other hand, it might give rise to the curious situation of a man, punished by his society by suspension of benefit, gaining thereby an advantage in that his arrears would not count against him. *Sed quære.*
- (6) *Quære* whether sec. 12 (1) is a provision disentitling an insured person from sickness or disablement benefit? This question is discussed, *infra*, p. 78.

Women entitled to maternity benefit.—*Vide* sec. 18 and Note thereon (*infra*, p. 100).

Arrears during the time that a person is an inmate of a institution for charitable or reformatory purposes.—*Vide* sec. 51 (2), *infra*, p. 192.

Date of entry into insurance. (*Vide supra*, p. 39.)

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TABLE IN
FIFTH
SCHEDULE.

Sect. 10. **Note on Subsec. 5.**—It has been submitted (*supra*, p. 34) that

NOTE ON SUB-
SEC. 5.

there is no obligation on the employed contributor to pay contributions when he is unemployed, but the provisions of this subsection permit him to pay up arrears, in order to keep in benefit or to obtain higher benefits than he would otherwise be entitled to. It will be observed that the right given by this section is confined to the payment of arrears, which occurred due during the calendar year *current at the date of payment*, and the previous calendar year. It is submitted that there is nothing to prevent an insured person who is in a position to pay up a portion, but not the whole of his arrears, to allocate his payment to arrears which accrued due during the previous calendar year, in order to preserve his right to pay off arrears which accrued due during the then current calendar year at some future date.

Proviso.—It should be observed that the month, during which a person who has paid up arrears is deemed to be still in arrears, runs from the date of payment and not from the date when he is rendered incapable of work.

Note on Subsec. 6.—The words “had the member continued in his last employment” will give the member the benefit of being excused a larger amount than the normal employer’s contribution, if his last employment was one in which, by the Second Schedule (*infra*, p. 324), the employer was bound to pay more than the normal employer’s contribution. The right of the societies to excuse these arrears can only be exercised in respect of employed contributors.

[NOTE.—Arrears of members of a society chargeable with a compulsory levy, *vide* sec. 38 (1) (d) (*infra*, p. 132).]

Sect. 11. **11.**—(1) Where an insured person has received or

Provisions in
the case of
contributors
entitled to
compensation
or damages.

recovered or is entitled to receive or recover, whether from his employer or any other person, any compensation or damages under the Workmen’s Compensation Act, 1906, or any scheme certified thereunder, or under the Employers’ Liability Act, 1880, or at common law, in respect of any injury or disease, the following provisions shall apply:—

(a) No sickness benefit or disablement benefit shall be paid to such person in respect of that injury or disease in any case where any weekly sum or the weekly value of any lump sum paid or payable by way of compensation or damages is equal to or greater than the benefit otherwise payable to such person, and, where any such weekly sum or the weekly value of any such lump sum is less than the benefit in question, such part only of the benefit shall be paid as, together with the

weekly sum or the weekly value of the lump sum, will be equal to the benefit : Sect. 11.

(b) The weekly value of any such lump sum as aforesaid may be determined by the society or committee by which the sickness and disablement benefits payable to such person are administered, but, if the insured person is aggrieved by such determination, the matter shall be settled in manner provided by this Part of this Act for settling disputes between insured persons and societies or committees.

(c) Where an agreement is made as to the amount of such compensation as aforesaid, and the amount so agreed is less than ten shillings a week, or as to the redemption of a weekly payment by a lump sum, under the Workmen's Compensation Act, 1906, the employer shall, within three days thereafter, or such longer time as may be prescribed, send to the Insurance Commissioners, or to the society or committee concerned, notice in writing of such agreement giving the prescribed particulars thereof, and proviso (d) to paragraph (9) of the Second Schedule of the Workmen's Compensation Act, 1906 (which relates to the powers of registrars of county courts to refuse to record memoranda of agreements and to refer the matter to the judge) shall, in cases where the workman is an insured person, apply to agreements as to the amount of compensation in like manner as to agreements as to the redemption of weekly payments by lump sums.

(2) Where an insured person appears to be entitled to any such compensation or damages as aforesaid and unreasonably refuses or neglects to take proceedings to enforce his claim, it shall be lawful for the society or committee concerned, either—

(a) at its own expense, to take in the name and on behalf of such person such proceedings, in which case any compensation or damages recovered

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shall be held by the society or committee as trustee for the insured person ; or

- (b) to withhold payment of any benefit to which apart from this section such person would be entitled.

In the event of the society or committee concerned taking proceedings as aforesaid, and failing in the proceedings, it shall be responsible for the costs of the proceedings as if it were claiming on its own account.

(3) Nothing in this section shall prevent the society or committee paying to an insured person benefit by way of advance pending the settlement of his claim for compensation or damages, and any advance so made shall, without prejudice to any other method of recovery, be recoverable by deductions from or suspension of any benefits which may subsequently become payable to such person.

Object of the Section.—The object of this section is to relieve the insurance fund of the obligation to pay sickness or disablement benefit in regard to any injury or disease in respect of which the insured person may have received or recovered compensation or damages under the Workmen's Compensation Act, 1906 (6 Edw. 7, c. 58), or any scheme certified thereunder, or under the Employer's Liability Act, 1880 (43 & 44 Vict. c. 42), or at common law, and to give approved societies or Insurance Committees, as the case may be, the right to take proceedings in the name of any such insured person to enforce any claim to such compensation or damages when an insured person unreasonably refuses or neglects to take proceedings himself. Any compensation or damages so recovered are to be held by the society or committee in trust for the insured person.

The relief to the fund is absolute in cases where any weekly sum or the weekly value of any lump sum paid or payable in respect of any such compensation or damages is equal to or greater than the benefit otherwise payable ; it is relative in cases where any such weekly sum or the weekly value of any such lump sum is less than the benefit otherwise payable, since in these latter circumstances it is confined to the amount of such weekly sum or of such weekly value. In other words, the difference between such weekly sum or such weekly value and the benefit otherwise payable is all that need be paid by way of benefit. In order to prevent an employer from settling a claim for compensation by agreement for an inadequate sum, provisions are inserted compelling an employer who settles a claim for compensation for less than 10s. a week, or who redeems a weekly payment under the Workmen's Compensation Act, 1906, by making an agreement to pay a lump sum, to send within three days, particulars of such agreement to the Insurance Commissioners or to the society or Insurance Committee concerned. And, further,

in such a case, the registrar or judge of a county court is given power to refuse to record the memorandum sent to him for registration, if he thinks that he ought not to register it by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means.

Lastly, the section gives power to societies and Insurance Committees to pay benefit to insured persons by way of advance pending the settlement of any such claim they may have for compensation or damages.

"Where any Insured Person . . . receive or recover."

—All the succeeding provisions of the subsection are governed by these words. Their precise meaning is therefore of some importance.

"Recover."—This word has a technical meaning, viz. to recover by action and by the judgment of the Court (*cf. Haines v. Welch* (1868), L. R. 4 C. P. 91, where the word is said often to be used in the larger sense of obtaining in any legal manner). It is submitted that the distinction between the words "receive" and "recover" in this section is that the former means obtaining *without* process of law, whereas the latter means obtaining *by* process of law.

Accordingly, the words "where any insured person has received or recovered" would appear to mean "where any insured person has actually obtained in cash, whether by process of law or not," and the words "where any insured person is entitled to receive or recover" would appear to mean "where any insured person has either obtained an admission of liability or a judgment without any payment of cash."

It would seem that where an insured person has so obtained an admission of liability or a judgment, he will not be entitled to sickness or disablement benefit, even though he does not in fact obtain any cash from the person who has made the admission of liability or against whom he has obtained judgment (*cf. the words used in subsec. (1) (a), "in any case where the weekly sum or the weekly value of any lump sum paid or payable"*).

"Sickness or Disablement Benefit."—Medical, sanatorium, and maternity benefit, and, *semble*, additional benefits, would still be payable.

"That Injury or Disease."—It will be observed that the benefit payable to an insured person to whom this section applies, is only reduced or suspended in respect to any claim for sickness or disablement benefit where that person has been rendered incapable of work by the same injury or disease as that for which he has obtained compensation or damages. Thus an insured person who is in receipt of say 10s. a week, under the Workmen's Compensation Act, and who gets light employment (thus becoming, perforce, an employed contributor) would still be able to claim sickness or disablement benefit up to the maximum in the event of his being rendered unfit by any specific disease or by bodily or mental disablement other than that for which he is already being compensated.

A difficult case arises where an insured person recovering from an injury or disease for which he is in receipt of compensation, contracts some other specific disease, or becomes disabled owing

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to some other injury, which is quite unconnected with the disease or injury for which he is being compensated. He will then be rendered incapable of work within the meaning of sec. 8 (1) (c), by the fresh disease or disablement as well as by the specific disease or injury for which he is being compensated. A concrete example will show the position clearly:—A on January 1 commences to get 10s. a week compensation from his employers in respect of a broken leg; on January 3 he contracts scarlet fever. Can A, on January 7, claim sickness benefit as well as his compensation on the ground that he is rendered incapable of work by scarlet fever, inasmuch as scarlet fever is not the disease or injury in respect of which he is being compensated? It is submitted that he can, for he *is* rendered incapable of work by scarlet fever, and it is not *ad rem* that he is also rendered incapable of work by the fact that he has broken his leg.

Determination of the Weekly Value of a Lump Sum.—

It is submitted that there is an obligation on the society or committee to determine this value; in other words, that the word “may” means “must.” Disputes as to this determination are to be settled in accordance with the provisions of this Part of this Act for settling disputes between insured persons and societies or Committees, viz. in the case of a society, in accordance with the rules of the society, subject to appeal to the Insurance Commissioners; in the case of a Committee, by the Insurance Commissioners (*vide* sec. 67, *infra*, p. 226).

Power of Registrars to refuse to record Memoranda.—

Proviso (d) to paragraph (9) of the Second Schedule to the Workmen's Compensation Act, 1906, is as follows:—

“When it appears to the registrar of the county court, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the judge, who shall, in accordance with the rules of the Court, make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think first.”

Effect of not Registering the Agreement.—*Vide* paragraph (10) of the Second Schedule to the Workmen's Compensation Act, 1906. “An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this Act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependants, if not so registered, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.”

"Where an Insured Person appears to be Entitled," &c.— Sect. 11.

Seem this means "where an insured person has, in the opinion of the society or committee concerned, a good claim for compensation or damages."

"Any Compensation or Damages recovered."—*Quære* whether this means the whole amount of the damages or compensation recovered, or that amount less any sum which the society or committee may have had to pay in costs? *Seem*, the latter, as the society or Committee are expressly made liable for the costs if the proceedings fail, but nothing is said as to costs if they win.

"Any other Method of Recovery."—*Seem*, the advance of benefit under subsec. (2) would create a simple contract debt between the society or Committee and the person to whom the advance was made, and would be recoverable as such.

12.—(1) No payment shall be made on account of Sect. 12.

sickness disablement or maternity benefit to or in respect of any person during any period when the person to or in respect of whom the benefit is payable is an inmate of any workhouse, hospital, asylum, convalescent home, or infirmary, supported by any public authority or out of any public funds or by a charity, or voluntary subscriptions, or of a sanatorium or similar institution approved under this Part of this Act.

Provisions in the case of contributors who are inmates of hospitals, &c.

(2) During such period as aforesaid the sum which would otherwise have been payable on account of any such benefit to or in respect of such person—

- (a) shall be paid to or applied in whole or in part for the relief or maintenance of his dependants (if any) in such manner as the society or committee by which the benefit is administered, after consultation whenever possible with such person, thinks fit; or
- (b) if such person, being a member of an approved society, is an inmate of a sanatorium or similar institution in which he is receiving treatment in accordance with the provisions of this Part of this Act, and has no dependants, shall be paid to the Insurance Committee towards the general purposes thereof; or
- (c) if such person, being a member of an approved society, is an inmate of a hospital, asylum, convalescent home, or infirmary supported by a charity

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or by voluntary subscriptions and has no dependants, shall, if an agreement for the purpose has been made between the society or committee and the hospital, asylum, convalescent home, or infirmary, be paid, in whole or in part, according to such agreement, towards the maintenance of such person in the hospital, asylum, convalescent home, or infirmary :

Provided that—

- (i) any part of such sum which is not so applied as aforesaid may, if the society or committee thinks fit, be applied in the provision of any surgical appliances required for the insured person or otherwise for his benefit; and
- (ii) if such an inmate as aforesaid is a married woman or widow, and the sums so payable or applicable as aforesaid include the sums which would have been payable both on account of sickness or disablement benefit and on account of maternity benefit, no part of the sum which would otherwise be payable on account of maternity benefit shall be paid or applied for the relief or maintenance of her dependants, but such sum may be paid to the hospital, asylum, convalescent home, or infirmary of which she is an inmate as aforesaid in like manner as if she had no dependants.

Object of the Section.—The section provides that when contributors are inmates of workhouses, hospitals, etc., or sanatoria, no payment is to be made on account of sickness, disablement, or maternity benefit to or in respect of any such person. It then proceeds to direct what, in certain cases, is to be done with the money which would otherwise have been payable in such benefits.

Quære whether this section is a provision disentitling an insured person to benefit within the meaning of sec. 10 (4) (a) (*supra*, p. 65)? It is submitted that it is; proviso (i) does not give a right to sickness benefit, &c. Consequently arrears will not accrue.

Maternity Benefit.—This benefit is treated as a benefit to the husband in all cases except in the case of insured women who are not the wives or widows of insured persons (*vide* sec. 18, *infra*, p. 100). The result of this provision, and of the provisions of this section, is that all married women, except insured married women

whose husbands are not insured persons, are deprived of maternity benefit while their husbands are inmates of any of the institutions mentioned in this section. The sum, however, which would otherwise have been payable on account of such benefit will be applied to the relief of the husband's dependants, so that presumably the wife will get the benefit of it, or at any rate of some of it.

When a married woman, in respect of whom maternity benefit is payable, is herself an inmate of any of the said institutions, no payment of maternity benefit will be made to her husband. In the case of a married woman or widow, entitled both to sickness and maternity benefit, who is an inmate of any of the said institutions no part of the sum which would otherwise be payable on account of maternity benefit is to go to her dependants, but that sum may be paid to the institution of which she is an inmate (*vide* proviso to subsec. (2)).

"Supported by any Public Authority," &c.—It is submitted that these words will cover the case of an institution mentioned therein which is supported partly by one and partly by another, or by any other of the sources indicated. The distinction between charity and voluntary subscriptions is not very clear. It would appear the words "voluntary subscriptions" have been inserted *ex abundanti cautela*, possibly in order to cover the case where part of the income of an institution is derived from voluntary contributions made by the inmates.

Hospital.—This word is defined in Murray's Dictionary as:

- (1) A house or hostel for the reception and entertainment of pilgrims, travellers, and strangers; a hospice.
- (2) A charitable institution for the housing and maintenance of the needy; an asylum for the destitute, infirm, or aged.
- (3) A charitable institution for the education and maintenance of the young. Now only in Sc. legal use, and in names of ancient institutions, such as Christ's Hospital, London, and Heriot's Hospital, Edinburgh.
- (4) A house for the corporate lodging of students in a university; a hostel or hall.
- (5) An institution or establishment for the care of the sick or wounded or of those who require medical treatment. (The current sense.)

There are numerous decisions on the word; the two extracts following are, perhaps, the most illuminating.

"Now there is no manner of difference between a college and an hospital, except only in degree; an hospital is for those that are poor and mean and low and sickly; a college is for another sort of indigent persons; but it hath another intent to study in, and breed up persons in the world that have not otherwise to live; but still it is as much within the reason of hospitals." *Per* Holt, C.J. *Philips v. Bury* (1788), 2 T. R. 353.

For the modern interpretation put upon the word hospital, *vide* *per* Channel, B., in *Colchester v. Kewney* (1866), 35 L. J. Ex. at p. 206, "The old authorities tend to shew that an hospital must be incorporated. But they shew something more, for Lord Coke says, in the case of *Sutton's Hospital*, 10 Rep. 1, that there is no legal hospital except where the poor persons benefited are themselves incorporated. It seems, however, tolerably clear that a legal

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Sect. 12. hospital in that sense is not meant when the word hospital is used in this section (38 Geo. 3, c. 5, s. 25, a section exempting hospitals from land tax) . . . It seems rather more reasonable to hold that the word is used in a popular sense only . . . by which we understand rather an institution for the relief of the sick or aged, than for the maintenance and education of children."

HOSPITAL.

It is submitted that the popular sense above indicated is that in which the word is used in this section.

Reference may also be made to *Ormskirk Union v. Chorlton Union*, [1903] 2 K. B. 498.

Statutes in which the word has been defined are—

Idiots Act, 1886 (49 & 50 Vict. c. 25), s. 17.

Lunacy Act, 1890 (53 Vict. c. 5), s. 341.

Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 141.

Sanatorium or similar Institution Approved under this Part of this Act.—*Vide* sec. 15 (1), *infra*, p. 87. *Semble*, these words do not bear a narrower meaning than the words "Sanatoria or other Institutions" used in sec. 15. *Quære* whether these words include a convalescent home. It is submitted that they do.

Dependants.—This expression is defined in sec. 79, *infra*, p. 240. "The expression 'dependants' in relation to any person, includes such person as the approved society or Insurance Committee shall ascertain to be wholly or in part dependent upon his earnings." For the meaning of the words "wholly or in part dependent" *vide* Note, *supra*, p. 24.

Effect of Subsec. 2.—It will be observed that the words are mandatory throughout. It is submitted that the governing provision is to be found in (a) and that the provisions of (b) and (c) and of the proviso are qualifications on that governing provision. The general rule is that, during the period referred to in subsec. (1), the sums otherwise payable by way of benefit are to be paid in whole or in part to dependants, but that

(1) Where a member of an approved society is

(a) an inmate of a sanatorium or similar institution

(b) in which he is receiving treatment according to the provisions of this Part of the Act, and

(c) has no dependants,

the sums aforesaid are to go to the Insurance Committee.

(2) Where a member of an approved society

(a) is an inmate of a hospital, convalescent, home or infirmary supported by charity or by voluntary subscriptions, and

(b) has no dependants, and

(c) if the society or committee has made an agreement with the hospital, convalescent home, or infirmary for the purpose,

the sums aforesaid are to be paid towards the maintenance of such member in the hospital, convalescent home, or infirmary.

(3) Where a married woman or a widow is entitled to sickness benefit in addition to maternity benefit (*vide supra*, p. 55), the sum payable on account of maternity benefit is not in any case to go to her dependants, but may be paid to the hospital, convalescent home, or infirmary of which she is an inmate.

(4) Any sums not so dealt with may, in the discretion of the society or committee, be applied in the provision of surgical appliances for the insured person or otherwise for his benefit.

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"In Whole or in Part."—*Seem*, that where there are dependants some part of the benefit money must go to them, but the question of the amount is left to the discretion of the society or Committee.

"Hospital, Convalescent Home or Infirmary."—It will be noticed that these words are qualified in subsec. (c) by the words supported by charity or by voluntary subscriptions. A question arises whether these words include such an institution which is partly so supported and partly otherwise. It is submitted that they do not, and that, to be within the words, the institution must be wholly supported by charity or voluntary subscriptions. It will further be noticed that the same words, when used in the proviso, are not subject to any qualification, and it is submitted that, in the case dealt with by the proviso, the maternity-benefit money *may* be paid (*seem* at the option of the Society or Insurance Committee concerned) to any such institution of which the woman in question is an inmate. *Sed quare.*

Deposit Contributors.—It will be observed that subsecs. (b) and (c) do not apply to deposit contributors (*infra*, sec. 42), whose benefit money will be dealt with under the general rule, or under proviso (i).

13.—(1) Any approved society may submit to the Insurance Commissioners a scheme for substituting any of the additional benefits for sickness benefit and disablement benefit or either of those benefits or any part thereof, and the scheme may provide as respects the members of the society to whom the scheme applies that any such benefits shall be abolished or the rate thereof reduced or, in the case of sickness benefit, the commencement thereof postponed; and the scheme may contain such incidental and consequential provisions as appear necessary for adapting the other provisions of this Part of this Act to the members to whom the scheme applies.

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benefits in
certain cases.

(2) The scheme shall apply either to all members of the society or to any specified class thereof or to any members of the society who may elect to come under the scheme, according as may be provided by the scheme.

(3) A scheme made under this section shall not have any effect unless and until confirmed by the Insurance Commissioners, and the Insurance Commissioners shall

Sect. 13. not confirm any such scheme unless satisfied that the value of the additional benefits conferred by the scheme is equivalent to the value of the benefits for which they are substituted, and that, in view of the special circumstances of the members or class of members intended to come under the scheme, there is good reason for substituting the additional benefits conferred by the scheme for the benefits for which they are substituted.

(4) Nothing in this section or in any scheme made thereunder shall affect the amount of any reserve value to be credited to a society in respect of a member, and such reserve values shall be calculated as if the scheme had not been made.

Object of Section.—This section enables approved societies to substitute any of the additional benefits for sickness and disablement benefit. It should be observed that it gives no power to substitute anything in the place of sanatorium, medical, or maternity benefit, and that the substituted benefits are confined to those set out in Part II. of Fourth Schedule to the Act (*infra*, p. 329). This power is exercised by drawing up a scheme for the purpose, which does not become operative until it has been confirmed by the Insurance Commissioners.

Such a scheme may deal either with sickness or disablement benefit only, or with both of these benefits, or with any part thereof. These benefits may—

- (1) be abolished, or
- (2) continue to be given at reduced rates, or
- (3) in the case of sickness benefit, the commencement thereof may be postponed (*i.e.* later than the fourth day after the insured person has been rendered incapable of work).

A scheme may apply—

- (1) to all the members of the Society, or
- (2) to any specified class of such members, or
- (3) to such members as may elect to come under the scheme.

A scheme is not to be confirmed by the Insurance Commissioners, unless they are satisfied—

- (1) that the value of the benefits substituted are equivalent to the value of the benefits for which they are substituted.
- (2) that in view of the special circumstances of the members or class of members intended to come under the scheme, there is good reason for making the proposed substitution of benefits.

In subsec. (4) there is special provision that nothing in this section or in the scheme is to affect reserve values.

Members to whom such a Scheme applies.—There is provision, as has already been seen, for making such a scheme as will admit of members choosing whether they will come under it or not.

But there is no express provision enabling societies to make such a scheme as would admit of members afterwards going back to the ordinary benefits conferred by this Part of the Act. *Quære* whether once a member has elected to come under a scheme, he will be bound to remain under the scheme? Transfers of members to whom such a scheme applies, will, presumably, be provided for by the scheme under the power to make incidental and consequential provisions.

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MEMBERS TO
WHOM SUCH
A SCHEME
APPLIES.

Special Circumstances of Members.—This section was inserted largely to meet the demand of persons who do not lose wages or employment on becoming ill and for whom, therefore, other benefits, such as pensions, would be a more suitable form of provision. *Vide* also sec. 47, *infra*, p. 172.

Administration of Benefits.

14.—(1) Sickness benefit, disablement benefit, and maternity benefit shall be administered, in the case of insured persons who are members of an approved society, by and through the society, or a branch thereof, and in other cases by and through the Insurance Committees; medical and sanatorium benefits shall in all cases be administered by and through the Insurance Committees, additional benefits shall be administered by the society or branch of which the persons entitled thereto are members, except where such benefits are in the nature of medical benefits, in which case they shall be administered by and through the Insurance Committees.

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tion of
benefits by
approved
societies or
the Insurance
Committee.

(2) Subject to the provisions of this Part of this Act, an approved society may, with the consent of the Insurance Commissioners, provide for the application of its existing rules or make new rules with regard to the manner and time of paying or distributing, and mode of calculating, benefits, suspension of benefits, notices and proof of disease or disablement, behaviour during disease or disablement, and the visiting of sick or disabled persons, and for the infliction and enforcement of penalties (whether by way of fines or suspension of benefits or otherwise) in the case of any member being an insured person who is guilty of any breach of any such rule, or of any imposition or attempted imposition

Sect. 14. in respect of any benefit under this Part of this Act, and may, from time to time with the like consent, alter or repeal any such rules ; but—

- (a) no fine imposed under any such rule shall exceed ten shillings or, in the case of repeated breaches of rules, twenty shillings ;
- (b) no such rule shall provide for the suspension of any benefit for a period exceeding one year ;
- (c) every such rule relating to the visiting of insured persons by visitors appointed by the society shall provide that women shall not be visited otherwise than by women ;
- (d) every such rule relating to behaviour during disease or disablement shall be in the prescribed form ;
- (e) no such rule shall prescribe any penalty, nor shall any insured person be subject to any penalty, whether by suspension of benefit or otherwise, on account of the refusal by any such person to submit to a surgical operation, or vaccination, or inoculation of any kind, unless such refusal in the case of a surgical operation of a minor character is considered by the society, or on appeal the Insurance Commissioners, unreasonable ;
- (f) no such rule shall provide for inflicting as a penalty for breach of rules or imposition or attempted imposition on the part of an insured person suspension of maternity benefit in respect of the confinement of his wife, where his wife has not herself been guilty of any such breach, imposition, or attempted imposition.

(3) The Insurance Committee shall, subject to the approval of the Insurance Commissioners, make rules in respect of any of the matters mentioned in the last preceding sub-section with regard to the administration of benefits by the committee ;

Provided that no such rule relating to anything to be done by, to, or through the Post Office shall be made without the consent of the Postmaster-General. Sect. 14.

(4) Where, under any such rule as aforesaid, payment of sickness or disablement benefit is suspended on the ground that the disease or disablement has been caused by the misconduct of the person claiming the benefit, such person shall not thereby become entitled to medical benefit.

(5) Where under any Act regulating the constitution of a society which becomes an approved society the rules of the society are required to be registered, any rules approved under this section by the Insurance Commissioners shall forthwith be registered, but till so registered shall have effect as if they had been duly registered.

Object of Section.—The object of the section is—

- (1) to distinguish between the functions of approved societies and Insurance Committees in regard to the administration of benefits, and
- (2) to define the powers of these bodies in respect to making rules for carrying out those functions.

Administrative Functions.—(1) *Approved societies*, or their branches, are charged with the administration of (i) sickness benefit, (ii) disablement benefit, (iii) maternity benefit, and (iv) additional benefits (in so far as such benefits are not in the nature of medical benefits), in the case of their own members. They never have anything to do with the administration of sanatorium or medical benefit.

(2) *Insurance Committees* are charged with the administration of (i) sanatorium, (ii) medical benefit, and (iii) additional benefits (in so far as such benefits are in the nature of medical benefit), in the case of *all* insured persons. They are also charged with the administration of (i) sickness, (ii) disablement, and (iii) maternity benefit in the case of deposit contributors. The provisions subject to which Insurance Committees are to administer medical and sanatorium benefit are to be found in sec. 15, *infra*, p. 87, and sec. 16, *infra*, p. 96, respectively. With regard to maternity benefit, the provisions subject to which it is to be administered by societies or Insurance Committees, as the case may be, will be found in sec. 18, *infra*, p. 100.

[NOTE.—Medical and sanatorium benefit of members of the Seamen's National Insurance Society are to be administered by the society and not by the Insurance Committee.]

Sect. 14. *Rules of approved societies.*—The rules of societies, in so far as they already exist and apply to members who do not become insured under this Part of this Act, are left untouched. With regard to members who are insured persons, they may, with the consent of the Insurance Commissioners, apply their existing rules (so far as these rules do not conflict with the provisions of this section), or make new rules in regard to the following matters:—

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FUNCTIONS.

- (1) Manner and time of paying or distributing benefits;
- (2) Mode of calculating benefits;
- (3) Suspension of benefits;
- (4) Notices and proof of disease and disablement;
- (5) Behaviour during disease or disablement;
- (6) Visiting of sick or disabled persons;
- (7) Infliction and enforcement of penalties in the case of any member who is guilty of any breach of any such rule or of any imposition or attempted imposition in respect of any benefit under this Part of this Act.

With regard to (1). The payments for sickness and disablement benefit are expressed in sec. 8 (1), *supra*, p. 45, to be periodical. Except for this the society have a discretion as to the precise time and manner at or in which payments are to be made.

(2) It is a little difficult to see how the societies can have any discretion as to the mode of calculating benefits. The amount of benefits is fixed under the Act. Perhaps these words may refer to cases where (as, for example, under sec. 9 (2)) societies have got to calculate the value of a benefit, or some part of it, in which case they are to be allowed to choose their own mode of calculating the value.

(3) The cases in which benefit is to be suspended under the Act will be found set out on p. 71, *supra*. In the case of disease or disablement caused by the misconduct of the person claiming the benefit, medical benefit cannot be suspended (subsec. (4)).

(4) The principal cases where notice is required by the Act are: Sec. 6 (1) (*supra*, p. 42), (when the manner in which the notice is to be given is to be prescribed by the Insurance Commissioners); sec. 8 (1) (c), (*supra*, p. 45).

(5) There is no discretion in a society in regard to rules for behaviour during disease or disablement, for by subsec. (2) (d), such rules must be in the form prescribed by the Insurance Commissioners.

(6) By subsec. 2 (c). Every rule relating to visiting insured persons must provide that women are visited by women only.

(7) The power to make rules in respect of penalties are limited by the following provisions:—

- (a) No fine shall exceed ten shillings for an isolated or occasional breach of rules, or, in cases of repeated breaches of rules, twenty shillings (subsec. 2 (a));
- (b) No such rule shall provide for suspension of benefits for a period exceeding one year (subsec. 2 (b));

- (γ) No such rule shall prescribe any penalty, whether by way of suspension or otherwise, on account of the refusal by any insured person to submit to a surgical operation or vaccination or inoculation except in the case of an unreasonable refusal to undergo a surgical operation of a minor character (subsec. 2 (e));
- (δ) No such rule shall provide for withholding maternity benefit from the wife of an insured person unless the said wife herself has been guilty of breach of any rule or of attempted imposition (subsec. (2) (f)).

Rules of Insurance Committees.—Insurance Committees are, subject to the approval of the Insurance Commissioners, to make rules in respect of the same matters as those in respect of which the approved societies may make rules, and *semble*, the same restrictions will apply. Besides the approval of the Insurance Commissioners the Insurance Committees will have to obtain the consent of the Postmaster-General to any rule relating to anything to be done by, to, or through the Post Office.

Insured Persons includes voluntary and employed contributors (sec. 1 (1), *supra*, p. 3).

Approved Societies.—*Vide* sec. 23, *infra*, p. 104.

Insurance Committees.—*Vide* sec. 59, *infra*, p. 59.

Imposition or Attempted Imposition.—*Cf.* sec. 69 (1), *infra*, p. 230, which makes a person who, for the purpose of obtaining any benefit under this Part of this Act, either for himself or for any other person, knowingly makes any false statement or false representation, liable, on summary conviction, to imprisonment for a term not exceeding three months with or without hard labour.

Suspension of Benefit.—*Quære* whether arrears accrue during suspension by a society? It is submitted that they do not, if the member, but for the suspension, would have been entitled to benefit, *vide supra*, p. 71.

“Any Penalty . . . whether by Suspension of Benefit or Otherwise.”—It is submitted that no penalty at all can be imposed upon an insured person who refuses to submit to a surgical operation other than a minor surgical operation; and that the words “whether by suspension of benefit or otherwise” are not to be construed as limiting the penalties to which such a person may be subjected for such refusal, to the penalty of suspension or penalties *eiusdem generis*, thus inferentially making it possible for a penalty of a fine to be incurred in a case of such refusal.

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TRATIVE
FUNCTIONS.

15.—(1) Every Insurance Committee shall, for the purpose of administering medical benefit, make arrangements with duly qualified medical practitioners in accordance with regulations made by the Insurance Commissioners.

(2) The regulations made by the Insurance Commissioners shall provide for the arrangements made being subject to the approval of the Insurance Commissioners

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Sect. 15. and being such as to secure that insured persons shall, save as herein-after provided, receive adequate medical attendance and treatment from the medical practitioners with whom arrangements are so made, and shall require the adoption by every Insurance Committee of such system as will secure—

- (a) the preparation and publication of lists of medical practitioners who have agreed to attend and treat insured persons whose medical benefit is administered by the committee ;
- (b) a right on the part of any duly qualified medical practitioner who is desirous of being included in any such list as aforesaid of being so included, but, where the Insurance Commissioners, after such inquiry as may be prescribed, are satisfied that his continuance in the list would be prejudicial to the efficiency of the medical service of the insured, they may remove his name from the list ;
- (c) a right on the part of any insured person of selecting, at such periods as may be prescribed, from the appropriate list the practitioner by whom he wishes to be attended and treated, and, subject to the consent of the practitioner so selected, of being attended and treated by him ;
- (d) the distribution amongst, and so far as practicable under arrangements made by, the several practitioners whose names are on the lists, of the insured persons who after due notice have failed to make any selection, or who have been refused by the practitioner whom they have selected ;
- (e) the provision of medical attendance and treatment on the same terms as to remuneration as those arranged with respect to insured persons, to members of any friendly society which, or a separate section of which, becomes an approved society who were such members at the date of the passing of this Act, and who are not entitled to medical benefit under this Part of this Act by reason either that they are of the age of sixty-five

or upwards at the date of the commencement of this Act, or that being subject to permanent disablement at that date they are not qualified to become insured persons :

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Provided that, if the Insurance Commissioners are satisfied after inquiry that the practitioners included in any list are not such as to secure an adequate medical service in any area, they may dispense with the necessity of the adoption of such system as aforesaid as respects that area, and authorise the Committee to make such other arrangements as the Commissioners may approve ; or the Commissioners may themselves make such arrangements as they think fit, or may suspend the right to medical benefit in respect of any insured persons in the area for such period as they think fit, and pay to each such person a sum equal to the estimated cost of his medical benefit during that period, and, where the Commissioners take any such action themselves, they shall retain and apply for the purpose such part of the sums payable to the Insurance Committee in respect of medical benefit as may be required.

(3) The regulations made by the Insurance Commissioners shall authorise the Insurance Committee by which medical benefit is administered to require any persons whose income exceeds a limit to be fixed by the Committee, and to allow any other persons, in lieu of receiving medical benefit under such arrangements as aforesaid, to make their own arrangements for receiving medical attendance and treatment (including medicines and appliances), and in such case the Committee shall, subject to the regulations, contribute from the funds out of which medical benefit is payable towards the cost of medical attendance and treatment (including medicines and appliances) for such persons sums not exceeding in the aggregate the amounts which the Committee would otherwise have expended in providing medical benefit for them.

(4) The regulations shall provide that, in the case of persons who are entitled to receive medical attendance

Sect. 15. and treatment under any system or through any institution existing at the time of the passing of this Act and approved by the Insurance Committee and the Insurance Commissioners, such medical attendance and treatment may be treated as, or as part of, their medical benefit under this Part of this Act, and may provide for the Committee contributing towards the expenses thereof the whole or any part of the sums which would be contributed in the case of persons who have made their own arrangements as aforesaid, so, however, that such regulations shall secure that no person be deprived of his right, if he so elects, of selecting the duly qualified medical practitioner by whom he wishes to be attended and treated, in accordance with the foregoing provisions of this section.

(5) Every such Committee shall also make provision for the supply of proper and sufficient drugs and medicines and prescribed appliances to insured persons in accordance with regulations made by the Insurance Commissioners, which shall provide for the arrangements made being subject to the approval of the Insurance Commissioners and being such as to enable insured persons to obtain from any persons, firms, or bodies corporate with whom arrangements have been made such drugs, medicines, and appliances if ordered by the medical practitioner by whom they are attended, and shall require the adoption by every Insurance Committee of such a system as will secure—

- (a) The preparation and publication of lists of persons, firms, and bodies corporate who have agreed to supply drugs, medicines, and appliances to insured persons whose medical benefit is administered by the Committee, according to such scale of prices as may be fixed by the Committee;
- (b) A right on the part of any person, firm, or body corporate desirous of being included in any such list as aforesaid of being so included, for the purpose of supplying such drugs, medicines, and appliances as such person, firm, or body corporate

is entitled by law and authorised by the Committee to supply, except in cases where the Insurance Commissioners after inquiry are satisfied that the inclusion or continuance of the person, firm, or body corporate in such list would be prejudicial to the efficiency of the service : Sect. 15.

Provided that—

- (i) If the Insurance Commissioners are satisfied that the scale of prices fixed by the Committee is reasonable, but that the persons, firms, or bodies corporate included in any list are not such as to secure an adequate and convenient supply of drugs, medicines, and appliances in any area, they may dispense with the necessity of the adoption of such system as aforesaid as respects that area and authorise the Committee to make such other arrangements as the Commissioners may approve ;
- (ii) Except as may be provided by regulations made by the Insurance Commissioners, no arrangement shall be made by the Insurance Committee with a medical practitioner under which he is bound or agrees to supply drugs or medicine to any insured persons ;
- (iii) Subject to the regulations made by the last foregoing proviso the regulations shall prohibit arrangements for the dispensing of medicines being made with persons other than persons, firms, or bodies corporate entitled to carry on the business of a chemist and druggist under the provisions of the Pharmacy Act, 1868, as amended by the Poisons and Pharmacy Act, 1908, who undertake that all medicines supplied by them to insured persons shall be dispensed either by or under the direct supervision of a registered pharmacist or by a person who, for three years immediately prior to the passing of this Act, has acted as a dispenser to a duly qualified medical practitioner or a public institution ;

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(iv) Nothing in this Act shall interfere with the rights and privileges conferred by the Apothecaries Act, 1815, upon any person qualified under that Act to act as an assistant to any apothecary in compounding and dispensing medicines.

(6) There shall in each year be paid to the Insurance Committee for each county or county borough out of moneys credited to a society which has members resident in the county or county borough such sum in respect of the medical benefit of such members and the cost of administration thereof as may be agreed between the society and committee or, in default of agreement, may be determined by the Insurance Commissioners.

(7) If in any year the amount payable to an Insurance Committee in respect of all persons for the administration of whose medical benefit it is responsible is insufficient to meet the estimated expenditure thereon, the Committee may, through the Insurance Commissioners, transmit to the Treasury and to the council of the county or county borough an account showing the amount so payable and the estimated expenditure, and the Treasury and the county council or the council of the county borough may, if they think fit and if satisfied that the amounts so payable and the proposed expenditure are reasonable and proper in the circumstances, sanction the expenditure.

(8) The Treasury and the council of the county or county borough sanctioning any such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and in the case of the council of a county or county borough, out of the county fund or borough fund or borough rate, as the case may be, one half of any sums so sanctioned by them and expended by the Insurance Committee on medical benefit in the course of the year in excess of the amounts so payable to the Insurance Committee as aforesaid.

Object and Effect of Section.—As has already been seen, the administration of medical benefit is in the exclusive charge of the

Insurance Committees (sec. 14 (1), *supra*, p. 83). That benefit consists of medical treatment and attendance, including the provision of proper and sufficient medicines and such medical and surgical appliances as may be prescribed by regulations to be made by the Insurance Commissioners (*vide* sec. 8 (1) (a), *supra*, p. 45). This section lays down the manner in which Insurance Committees are to execute their charge, and indicates the main sources of the income which will be at their disposal for this purpose.

The *administration* of the benefit is divided into two parts :—

- (a) the provision of treatment by medical practitioners,
- (b) the provision of medicines, etc.

In both these cases the Insurance Commissioners are to make regulations which shall provide for arrangements being made by Insurance Committees according to the system indicated in this section.

Provision of treatment by medical practitioners.—Arrangements are to be made with such practitioners by the Insurance Committee, subject to the approval of the Insurance Commissioners. These arrangements must be such as to secure that insured persons shall, except in the cases expressly provided for in subsecs. (3) and (4) receive adequate medical attendance and treatment from the medical practitioner with whom the arrangements have been made. Insurance Committees must, in making these arrangements consult any local Medical Committee which has been recognised by the Insurance Commissioners (*vide* sec. 62, *infra*, p. 213).

The main provisions of the system on which the Insurance Committees must proceed are as follows :—

- (a) Preparation and publication of lists of practitioners within certain areas who have agreed to treat insured persons.
- (b) Right of any duly qualified practitioner to be included in such lists.
- (c) Right on the part of any insured person to select his medical practitioner, subject to the consent of that practitioner.
- (d) Distribution of those insured persons not provided for under (c) amongst the practitioners on the lists.
- (e) Provision of medical attendance and treatment to certain members of any friendly society which becomes an approved society on the same terms as are arranged in respect to insured persons.

This system may be dispensed with in any area if the Insurance Commissioners are satisfied that the practitioners included in the list for that area are not such as to secure adequate medical treatment. The Commissioners may then (a) authorise the Insurance Committee to make other arrangements to their approval, or (b) may make arrangements themselves, or (c) may suspend the right to medical benefits to any persons in the area for such period as they may think fit, paying to each person a sum equal to the estimated cost of his medical benefits.

Provisions of medicines, etc.—Arrangements are to be made by the Insurance Committees, subject to the approval of the Insurance Commissioners, such as to enable insured persons, except in the cases expressly provided for in subsecs. (3) and (4), to obtain such drugs, medicines, etc., as may be ordered by the medical practitioner by whom they are attended. The chief points of the system on which this is to be done are as follows :—

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- (a) Preparation and publication of lists of persons, etc., who have agreed to supply drugs, etc., at the prices fixed by the Committee.
(b) Right of any properly qualified person to be included on the list.

This system also may be dispensed with in any area if the Commissioners are satisfied that the persons, etc., on any such list are not such as to secure an adequate and convenient supply of drugs, etc. The Commissioners may then authorise the Insurance Committee to make other arrangements to their approval, except as may be provided by regulations to be made by the Commissioners. No arrangements may be made by which any practitioner is bound to supply drugs, etc.

Arrangements for the supply of drugs, etc., may only be made with persons entitled to carry on the business of chemist and druggist under the Pharmacy Act, 1868, as amended by the Poisons and Pharmacy Act, 1908, and those persons must undertake that the medicines supplied by them to insured persons shall be dispensed either by a registered pharmacist or by a person who, for three years immediately before the passing of this Act, has acted as a dispenser to a duly qualified medical practitioner or to a public institution.

Exceptions.—Regulations of the Insurance Commissioners may provide as follows:—

- (1) Persons whose incomes exceed a limit to be fixed by the Insurance Commissioners may be required by the Insurance Committee to make their own arrangements for receiving medical attendance.
- (2) Any other persons may be allowed by the Insurance Committee to make their own arrangements for receiving medical attendance.
- (3) Persons who are receiving medical attendance under any system or through any institution existing at the time of the passing of this Act and approved both by the Insurance Commissioners and by the Insurance Committee, may also be allowed to continue their existing arrangements provided that the right of such person to choose their own doctor is preserved.

In both the first two cases the Committee is to contribute towards the cost of such persons' medical attendance and treatment, the amount which they would otherwise have expended in providing medical benefit for such persons.

In the last of these cases the Committee may contribute the whole or part of such amount towards the expenses of the system or organisation in question.

Sources of Income—

- (1) A sum of money to cover cost of medical benefit and expenses of administration in respect of insured persons who are members of approved societies in each county or county borough agreed upon between the society and the Insurance Committee, or, in default of agreement, fixed by the Commissioners.
- (2) Where this sum is insufficient to meet the estimated expenditure, the balance is to come, half from the Treasury out of moneys provided by Parliament, and half from the county

or county borough fund or rate, provided that both the Treasury and the council of the county or county borough think fit and are satisfied that the proposed expenditure is reasonable and proper and sanction the expenditure.

In respect of deposit contributors it is provided by sec. 42 (*d*) (*infra*, p. 141) that "such sum as the Insurance Committee may, with the consent of the Insurance Commissioners, determine shall be payable in respect of each deposit contributor for the purposes of the cost of medical benefit."

Further by sec. 61 (2) (*infra*, p. 212), one penny for each member of an approved society is to be paid by his society to the Insurance Committee to meet their administrative expenses under this and the preceding section. *Vide* also sec. 22 (*infra*, p. 103).

Duly qualified Medical Practitioner.—Under the Medical Act, 1858 (21 & 22 Vict. c. 90), s. 34, this expression means a person registered under that Act.

Area.—There is no definition of area in the Act; *semble*, it is left to the Insurance Committees to divide the counties or county boroughs for which they are constituted into suitable areas.

Removal of the Name of a Practitioner from List.—This can only take place where the Commissioners are satisfied after such inquiry as may be prescribed that his *continuance* on the list would be prejudicial to the efficiency of the medical service of the insured. These words would seem to indicate that the Commissioners have no power to refuse to include any duly qualified medical practitioner from the list, and that he can only be removed after publication of the list. Contrast the words with those used in subsec. 5 (*b*).

Distribution of Insured Persons not otherwise provided for.—It would appear that under the provisions of subsec. 2 (*d*), a practitioner might be compelled to accept as a patient an insured person whom he did not wish to have to treat. In this and in the preceding paragraph there are two rights which are contradictory, viz. the right of selection in the patient, and the right of refusal to treat any given patient in the practitioner. Subsec. (*c*) would seem to show that the right of selection is subordinated to the right of refusal, but subsec. 2 (*d*) would seem to show that this is not always so. The words there used are "distribution amongst and so far as practicable, under arrangements made by, the several practitioners, etc." The words "so far as practicable" do not govern "distribution amongst." The following case might arise—

A, B, and C are the practitioners on the list in a given area; D, an insured person in that area, has selected A as his practitioner, but A has refused to have him. Similarly B and C refuse to have him, and A, B, and C are unable to arrange between themselves who is to take D. D would be one of the persons who would have to be distributed, and in the absence of arrangement between A, B, and C, it is submitted that D's right to select would revive, and he would be allocated to A who in fact had previously refused to have him. It is submitted that the exercise by a practitioner of his right to be placed on the list, must carry with it the possibility of the abrogation of his right to refuse to treat any given patient. *Sed quære* whether in such a case the practitioner is not entitled

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Sect. 15. to persist in their refusal to treat the person in question. If so, *quære* whether the Commissioners may use their powers under the proviso and suspend the person's right to medical benefit?

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DISTRIBUTION OF
INSURED
PERSONS NOT
OTHERWISE
PROVIDED
FOR.

Persons entitled to carry on the business of a Chemist and Druggist.—By sec. 1 of the Pharmacy Act, 1868 (31 & 32 Vict. c. 121), the persons entitled to assume or use the titles of chemist and druggist are Pharmaceutical chemists or chemists and druggists within the meaning of the Act (*vide* sec. 3 of the Act). They must be registered under the Act (or under the Pharmacy Act, 1852, (15 & 16 Vict. c. 56)). For firms and bodies corporate, *vide* Poisons and Pharmacy Act, 1908 (8 Ed. 7, c. 55), sec. 3.

(NOTE.—None of these Acts apply to Ireland, but this is not material inasmuch as medical benefit is not given in Ireland, *vide* sec. 81 (9), (*infra*, p. 254).

Sect. 16. **16.**—(1) For the purpose of administering sanatorium benefit, Insurance Committees shall make arrangements, to the satisfaction of the Insurance Commissioners,—

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Administration of sanatorium benefit.

(a) with a view to providing treatment for insured persons suffering from tuberculosis or any other such disease as aforesaid in sanatoria and other institutions, with persons or local authorities (other than poor law authorities) having the management of sanatoria or other institutions approved by the Local Government Board, which treatment it shall be lawful for a local authority to provide as respects insured persons resident outside as well as respects those resident within their area; and

(b) with a view to providing treatment for such persons otherwise than in sanatoria or other institutions, with persons and local authorities (other than poor law authorities) undertaking such treatment in a manner approved by the Local Government Board, which treatment (including the appointment of officers for the purpose) it shall be lawful for a local authority, if so authorised by the Local Government Board, to undertake.

(2) The sums available for defraying the expenses of sanatorium benefit in each year shall be—

(a) one shilling and threepence in respect of each insured person resident in the county or county

borough, payable out of the funds out of which benefits are payable under this Part of this Act;

- (b) one penny in respect of each such person payable out of moneys provided by Parliament;

Provided that the Insurance Commissioners may retain the whole or any part of the sums so payable out of moneys provided by Parliament to be applied, in accordance with regulations made by the Commissioners, for the purposes of research.

(3) An insured person shall not be entitled to sanatorium benefit unless the Insurance Committee recommends the case for such benefit.

(4) An Insurance Committee may, out of the sums available for defraying the expenses of sanatorium treatment, defray in whole or in part the expenses of the conveyance of an insured person to or from any sanatorium or institution to which he may be sent for treatment therein, or may make advances for the purpose.

Object and Effect of Section.—As has already been seen, the administration of sanatorium benefit is, as in the case of medical benefit, in the exclusive charge of the Insurance Committees (*vide* sec. 14 (1), *supra*, p. 83). Sanatorium benefit consists of treatment in sanatoria or other institutions or otherwise when suffering from tuberculosis or such other disease as the Local Government Board may appoint (sec. 8 (1) (b), *supra*, p. 45).

This section indicates the institutions, with the managers of which the Insurance Committees are to make arrangements with a view to providing insured persons entitled to this benefit with treatment. It also indicates the persons and local authorities with whom the Insurance Committees are to make arrangements for providing treatment *otherwise* than in sanatoria or other institutions.

The section also fixes the amount and sources of the income which are to be at the disposal of the Insurance Committees in order to meet the expenses of this benefit.

Finally it provides that Insurance Committees may pay or make advances for the conveyance of insured persons to or from the sanatoria.

Treatment in Institutions.—The words used are very wide. It would appear to be immaterial what person or local authority (other than a Poor Law authority) managed the institution, provided that it had the approval of the Local Government Board. The words "sanatoria or other institutions" (the use of which may be compared with the use of the words "sanatorium or similar institution" in sec. 12 (1), *supra*), should, it is submitted, be construed to mean sanatoria or other institutions *ejusdem generis*. In Murray's Dictionary the word "sanatorium" is defined as "An

Sect. 16. establishment for the reception and medical treatment of invalids ; in recent use chiefly either of convalescent patients or of consumptives undergoing the open-air treatment.”

TREATMENT IN INSTITUTIONS. Local authorities may treat persons residing outside as well as within their area.

Treatment Otherwise.—The persons or authorities with whom the Insurance Committee may make arrangements for this form of sanatorium benefit must undertake the treatment in a manner approved by the Local Government Board. Those persons or authorities are the same as those mentioned in the preceding paragraph.

It would seem that the treatment to which this paragraph refers is treatment at home.

Sanatorium Benefit Generally.—An insured person has no right to sanatorium benefit; it is entirely at the discretion of the Insurance Committee to recommend a person for it or not.

There is no provision in the Act indicating which form of treatment is to be provided in a given instance, *semble*, it would also be in the discretion of the Insurance Committee to decide which form they would provide.

The question as to whether an insured person can be compelled to accept sanatorium benefit is discussed in the note on sanatorium benefit (*supra*, p. 47).

Sources of Income.

(1) One shilling and threepence *per annum* in respect of each insured person resident in the county or county borough payable out of the funds out of which benefits are payable under this Part of this Act, and

(2) One penny in respect of each such person out of moneys provided by Parliament,

provided that out of these latter moneys the Insurance Commissioners may retain the whole or any part for the purposes of research. The moneys so retained will be applied in accordance with regulations made by the Insurance Commissioners. *Semble*, the research will be as to cures for tuberculosis.

It is submitted that the sum of one penny payable out of moneys provided by Parliament is not the only contribution the State is to make towards the cost of this benefit, and that the finance of this benefit, so far as the 1s. 3d. is concerned, is no exception to the general rule laid down in sec. 3 (*supra*, p. 29), viz. that two-ninths of the cost of providing and administering the benefits conferred by this Part of this Act are to be found out of moneys to be provided by Parliament.

Sect. 17. **17.**—(1) The Insurance Committee for any county or county borough may, if it thinks fit, extend sanatorium benefit to the dependants of the insured persons resident in the county, or any part of the county, or in the county borough, or any class of such dependants, and in such case the arrangements to be made by the committee shall include arrangements for the treatment of such

Power to extend sanatorium benefit to dependants.

dependants, and the sums available for sanatorium benefit shall be applicable to the purpose. Sect. 17.

(2) If in any year the amount available for defraying the expenses of sanatorium benefit is insufficient to meet the estimated expenditure on sanatorium benefit for insured persons and such dependants, the Insurance Committee may, through the Insurance Commissioners, transmit to the Treasury and the council of the county or county borough an account showing the estimated expenditure for the purpose and the amount of the sums available for defraying the expenses of sanatorium benefit, and the Treasury and council may if they think fit sanction such expenditure.

(3) The Treasury and the council of the county or county borough sanctioning such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and, in the case of the council of the county or county borough, out of the county fund or borough fund or borough rate, as the case may be, one-half of any sums so sanctioned by them and expended by the Insurance Committee on sanatorium benefit for insured persons and their dependants in the course of the year in excess of the amount available for defraying the expenses of the committee on sanatorium benefit.

Object of Section.—This section gives any Insurance Committees for any county or county borough, power, to be exercised at its discretion, to extend sanatorium benefit:—

- (1) to the dependants of insured persons resident in the county, or part of the county, or in the county borough, or
- (2) to any class of such dependants.

Finance.—The sums applicable for sanatorium benefit are made available for the purpose of this extension of the benefit. For these sums, *vide* sec. 16 (2), *supra*, p. 96.

If those sums are insufficient to meet the estimated expenditure on a sanatorium benefit for insured persons and their dependants, the excess is to be met in the same manner as any excess in the case of the administration of medical benefit (*cf.* sec. 15 (7) and (8), *supra*, p. 92).

By sec. 22 (*infra*, p. 103) there is also power given to councils of boroughs or urban or rural districts to agree to repay to county councils any part of the sum payable by those county councils towards the excess expenditure on sanatorium benefit.

Sect. 17. — **"Resident."**—For the meaning of this word, *vide supra*, p. 17. In this section it is not clear whether the word qualifies "dependants" or "insured persons." It is submitted that it qualifies with the former. This construction would avoid the administrative difficulties which would be caused by Insurance Committees having obligations towards persons resident outside their respective areas.

"Dependants."—This expression is defined by sec. 79, *infra*, p. 240. The expression "dependants" in relation to any person, includes such persons as the approved society or local Health Committee shall ascertain to be wholly or in part dependent upon his earnings. (For note on the word "dependent," *vide supra*, p. 25.)

Sect. 18. — **18.**—(1) Where the mother of the child is herself an insured person, and is not the wife or, in the case of a posthumous child, the widow of an insured person, maternity benefit shall be treated as a benefit for her and shall be administered in cash or otherwise by the approved society of which she is a member, or, if she is not a member of any society, by the Insurance Committee; in any other case, the benefit shall be treated as a benefit for her husband and shall be administered in cash or otherwise by the approved society of which he is a member, or, if he is not a member of any such society, by the Insurance Committee, and shall be payable in respect of a posthumous child as if the husband were still alive:

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tion of
maternity
benefit.

Provided always that the mother shall decide whether she shall be attended by a duly qualified medical practitioner or by a duly certified midwife, and shall have free choice in the selection of such practitioner or midwife, but if, in the case of a midwife being selected, a duly qualified medical practitioner is subsequently summoned in pursuance of the rules made under the Midwives Act, 1902, the prescribed fee shall, subject to regulations made by the Insurance Commissioners, be recoverable as part of the maternity benefit.

(2) In deciding whether or not they shall make an order under the Bastardy Laws Amendment Act, 1872, for the payment of the expenses incidental to the birth of a child, the justices shall not take into consideration the fact that the mother of the child is entitled to receive maternity benefit under this Part of this Act.

Object and Effect of Section.—This section provides for the manner in which maternity benefit is to be administered, viz. in the case of insured persons who are members of an approved society, by the society, and in the case of deposit contributors by the Insurance Committee. The section also, in effect, determines who is to be responsible for paying the benefit.

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(1) Where the mother is herself an insured person, and is *not* the wife or, in the case of a posthumous child, the widow of an insured person, the benefit is to be treated as a benefit for her and is to be administered in cash or otherwise by *her* society or by the Insurance Committee, if she is a deposit contributor. Thus in the following cases the benefit is treated as a benefit for the woman:—

- (a) Insured unmarried women;
- (b) Insured widows whose husbands were not insured persons;
- (c) Insured married women whose husbands are not insured persons.

(2) *In any other case* the benefit is to be treated as a benefit for a woman's husband, and is to be administered in cash or otherwise by *his* society, or by the Insurance Committee, if he is a deposit contributor. Thus in the following cases the benefit is treated as a benefit for the husband:—

- (a) Insured married women whose husbands are insured persons;
- (b) Married women who are *not* insured persons and whose husbands are insured persons.

Proviso:—It should be borne in mind that medical benefit does not include any right to medical treatment or attendance in respect of a confinement (sec. 8 (6), *supra*, p. 55), except in the case provided for in this section.

Duly Qualified Medical Practitioner, *vide supra*, p. 95.

Duly Certified Midwife.—In England these words mean a midwife certified under Midwives Act, 1902 (2 Edw. 7, c. 17). The words do not appear to have any statutory meaning as applied to Scotland or Ireland, but the expression is defined in sec. 80 (16), *infra*, in relation to Scotland, and in sec. 81 (20), *infra*, in relation to Ireland.

Sickness Benefit and Maternity Benefit paid simultaneously, *vide supra*, p. 55.

Bastardy Laws Amendment Act, 1872 (35 & 36 Vict. c. 65).—For the power of justices to make the order referred to in sub-sec. (2), *vide* sec. 4 of that Act.

Reinsurance by Approved Societies of Liability in respect of Maternity Benefit, *vide* sec. 20, *infra*, p. 102.

19. Without prejudice to any other legal liability, where, under the immediately foregoing section, which relates to the administration of maternity benefit, of this Act, maternity benefit is given or paid to the husband, it shall be the duty of the husband to make adequate provision to the best of his power for the maintenance and care of his wife during her confinement, and for a

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Punishment
of husband in
certain cases
of neglect.

Sect. 19. — period of four weeks after her delivery, and if he neglects or refuses to do so he shall be liable upon summary conviction to imprisonment, with or without hard labour, for any term not exceeding one month.

Sect. 20. — **20.** For the purpose of the administration of maternity benefit, the Insurance Commissioners may, if they think fit, by special order provide for the reinsurance with them of the liabilities of all approved societies in respect of maternity benefit, and the order may provide for the method of calculating the premiums to be charged against the several societies in respect of such reinsurances and may contain such other incidental, consequential, and supplemental provisions as may appear necessary for the purpose.

Reinsurance
for the pur-
poses of
maternity
benefit.

Object of Section.—This section enables the Insurance Commissioners to pool the liabilities of all approved societies in respect to maternity benefit. The object of this would seem to be to prevent approved societies with a large number of unmarried members from gaining an advantage at the expense of societies which had a large number of married members, and similarly to equalise matters between societies whose members live in a district where the birth-rate is low, and societies whose members live in districts where that rate is high. The Insurance Commissioners can only use the power given to them by this section by means of a special order.

Procedure on making of Special Orders, *vide* sec. 113 (*infra*, p. 319), and the Ninth Schedule, *infra*, p. 335.

Sect. 21. — **21.** It shall be lawful for an approved society or Insurance Committee to grant such subscriptions or donations as it may think fit to hospitals, dispensaries, and other charitable institutions, or for the support of district nurses, and to appoint nurses for the purpose of visiting and nursing insured persons, and any sums so expended shall be treated as expenditure on such benefits under this Part of this Act as may be prescribed.

Power to
subscribe to
hospitals, &c.

Effect of Section.—This section enables approved societies or Insurance Committees to make such subscriptions or donations as they may think fit to hospitals, dispensaries, or other charitable institutions and for nursing purposes. No particular source of income is pointed to out of which these subscriptions are to come, but the Insurance Commissioners may prescribe the benefits under which such expenditure is to be regarded as having been made.

Hospitals and other Charitable Institutions.—It is submitted that the other charitable institutions must be *ejusdem generis* as hospitals. For the meaning of the word “hospitals,” *vide supra*, p. 79, and of the word “charitable,” *vide infra*, p. 193.

22.—(1) The council of any borough or urban or rural district may agree with the council of the county in which the borough or district is situate to repay to the latter council the whole or any part of the sums payable by that council in accordance with the provisions of this Part of this Act towards the excess expenditure on medical or sanatorium benefit so far as such excess is properly attributable to the borough or district, and any sums payable by the council of the borough or district in pursuance of such an agreement shall be payable, in the case of a borough, out of the borough fund or borough rate, and, in any other case, as part of the general expenses incurred by the council in the execution of the Public Health Acts.

(2) The agreement may provide that the county council shall not raise any sum on account of any expenditure incurred by them under this Part of this Act for the purpose to which the agreement relates within the borough or urban or rural district the council of which has entered into such agreement, during the continuance of such agreement.

Effect of Section.—This is an enabling section, and does not cast any obligation upon any borough or urban or rural district council unless it makes an agreement. Money may still be raised for medical benefit in a borough or urban or rural district notwithstanding that the council has entered into an agreement under this section with regard to sanatorium benefit, and *vice versâ*.

Sums payable by . . . Council . . . towards Excess Expenditure.—

- (1) For excess expenditure on medical benefit, *vide* sec. 15 (7) and (8) (*supra*, p. 92).
- (2) For excess expenditure on sanatorium benefit, *vide* sec. 17 (2) and (3) (*supra*, p. 99).

Approved Societies.

23.—(1) Any society, that is to say, any body of persons corporate or unincorporate (not being a branch of another such body), registered or established under any Act of Parliament, or by Royal Charter, or, if not

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HOSPITALS
AND OTHER
CHARITABLE
INSTITU-
TIONS.

Sect. 22.

Power of
councils of
boroughs and
districts to
contribute to
certain ex-
penditure on
medical and
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benefits.

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Conditions
for the
approval of

Sect. 23. ^{approved societies.} so registered or established, having a constitution of such a character as may be prescribed, which complies with the requirements of this Act relating to approved societies, may be approved by the Insurance Commissioners, and, if so approved, shall be an approved society for the purposes of this Part of this Act :

Provided that, where any society establishes for the purposes of this Part of this Act a separate section consisting of insured persons, whether with or without honorary members not being insured persons, and so constituted as to comply with the requirements of this Act relating to approved societies, such separate section may be approved by the Insurance Commissioners, and, if so approved, shall be an approved society, and the provisions of this Part of this Act relating to the conditions of approval of societies and to approved societies shall apply only to such separate section of the society.

(2) No society shall receive the approval of the Insurance Commissioners unless it satisfies the following conditions:—

- (i) It must not be a society carried on for profit ;
- (ii) Its constitution must provide to the satisfaction of the Insurance Commissioners for its affairs being subject to the absolute control of its members being insured persons or, if the rules of the society so provide, of its members whether insured persons or not, including provision for the election and removal of the committee of management or other governing body of the society, in the case of a society whose affairs are managed by delegates elected by members, by such delegates, and, in other cases, in such manner as will secure absolute control by its members ;
- (iii) If the society has honorary members, its constitution must provide for excluding such honorary members from the right of voting in their capacity of members of the society on all

questions and matters arising under this Part of this Act. Sect. 23.

(3) Applications for approval under this section may be made and approval granted at any time before or after the commencement of this Act, and the Insurance Commissioners may grant approval either unconditionally or subject to the condition of the society taking within such time as the Commissioners may allow such steps as may be necessary to make the society comply with the requirements of this Part of this Act relating to approved societies.

Object and Effect of Section.—It is the intention of the Act that the administrative machinery for working the provisions relating to Health Insurance should, so far as possible, consist of the already existing bodies for promoting thrift, viz., the friendly and provident societies, collecting societies, and trades unions; and, where such existing machinery is inadequate or unsuitable, that fresh machinery of a similar kind should be set up.

This section is one of the most important in the Act, in that it lays down what the nature of the societies, whether already existing or to be formed *ad hoc*, must be, and the conditions which such societies must fulfil, in order to be eligible to take part in the administration of the benefits conferred by this Part of this Act. The societies that are eligible may apply to the Insurance Commissioners for their approval at any time before or after the commencement of this Act, and, on the approval of the Commissioners being given, and not till then, such societies become approved societies within the meaning of the Act. Thenceforward, provided that they continue to comply with the conditions, provisions and requirements of the Act, such societies may take the part allotted to them by the Act in its administration.

A society which may apply for approval is, any body or person, corporate or incorporate (not being a branch of any other such body) registered or established under any Act of Parliament, or by Royal Charter, or, if not so registered or established, having a constitution of such a character as may be prescribed by the Insurance Commissioners.

As a condition precedent to approval, the society must give the security demanded of it by sec. 26 (*infra*, p. 113).

Quære whether a society which carries on business in more than one part of the United Kingdom will have to apply for approval to the body of Commissioners established for each part in which the society carries on business? It would seem that, in the absence of any provision to the contrary, such a society will have to be approved by each body of Commissioners. *Vide note infra*, p. 260.

The Insurance Commissioners are not entitled to approve any society which does not satisfy the following conditions:—

- (1) It must not be a society carried on for profit.
- (2) The Insurance Commissioners must be satisfied that the affairs

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of the society are in the absolute control of its members. These members may be insured persons only, or, if the rules of the society so provide, may include insured and other persons. Where the affairs of the society are managed by delegates elected by members, such delegates must in all cases have power to elect or remove the committee or management or other governing body of the society.

- (3) If the society has honorary members, such members must be excluded by its constitution from voting on any questions or matters arising under this Part of this Act.

The Insurance Commissioners cannot insist upon the second condition in the case of certain superannuation or provident funds (sec. 25, *infra*, p. 111).

This section further lays down that the society must be one which "complies with the requirements of this Act relating to an approved society." Subsec. (3) provides that the Insurance Commissioners may approve a society, either unconditionally, or subject to the condition of the society taking, within such time as the Commissioners may allow, such steps as may be necessary to make the society comply with the requirements of this Act relating to an approved society.

The Insurance Commissioners will still have control over a society which they have approved conditionally or unconditionally by the power which they have under sec. 29 (*infra*, p. 117), which provides that they may withdraw their approval from any approved society which fails to comply with the provisions and requirements of this Act relating to approved societies, or is convicted of any offence under any Act regulating the constitution of the society, or any other Act.

But once a society is approved it remains an approved society, even though it does not continue to comply with the provisions and requirements of this Part of this Act, until the Commissioners withdraw their approval, whereupon the society ceases to be an approved society.

Registered or Established under any Act.—The majority of the existing societies which will be approved will probably be societies registered under the Trades Unions Act, 1871 (34 & 35 Vict. c. 31); the Trades Unions Act (1871) Amendment Act, 1876 (39 & 40 Vict. c. 24); the Friendly Societies Act, 1896 (59 & 60 Vict. c. 25); and the Collecting Societies and Industrial Insurance Act, 1896 (59 & 60 Vict. c. 26).

The only provisions in this Act exempting such societies from the provisions of any Act under which they may be established or registered are to be found in sec. 24, *infra*, p. 109, sec. 28, *infra*, p. 116, and in sec. 35 (3), *infra*, p. 124. The first of these sections only continues in force for one year from the commencement of this Act, but gives very wide powers of overriding the provisions of Acts under which societies may be established or registered, in order to enable such societies to undertake business under this Part of this Act. The second of these sections deals with secessions of branches and the dissolution of a society. The third of these sections substitutes the provisions of this Act relating to accounts, audit, valuation, and returns for such of the provisions of any Act regulating the constitution of the society or branch as deal with the like matters.

There is express provision by sec. 76 (*infra*, p. 238), that "except in so far as may be inconsistent with this Act any business transacted under this Part of this Act by any approved society shall be treated as part of the ordinary business transacted by societies of the class to which that society belongs, and any enactment applying to the society in relation to the transaction of such ordinary business shall apply accordingly in relation to the business transacted by the society under this Part of this Act."

"Established by Royal Charter."—These words were inserted chiefly in order to bring within the section the Royal Provident Society for Free Fishermen (*vide* Parl. Deb. vol. 30, No. 131, col. 76).

"Which complies with the Requirements of this Act, &c."—The expression "Requirements of this Act" (which is also used in subsec. (3) of this section) refers, it is submitted, in this section to such provisions of this Act as can reasonably be complied with by a society before undertaking the transaction of business under this Act. Such provisions will include—

- (1) The establishment or alteration (if necessary) of a society's constitution, so as to comply with the conditions of this section ;
- (2) The passing of rules (if necessary) for the administration of benefits in accordance with sec. 14 (2), *supra*, p. 83 ;
- (3) The passing of rules in order to comply with the requirements of sec. 27 (1) (*infra*, p. 114), sec. 30 (2), (*infra*, p. 118), and to provide for the settlement of disputes under sec. 67 (*infra*, p. 226) ;
- (4) The preparation in the case of an existing registered friendly Society of a scheme in accordance with sec. 72, *infra*, p. 233.

"May be approved by the Insurance Commissioners."—It is submitted that these words give the Insurance Commissioners a discretion as to whether they should, or should not, approve any society which applies for approval. But, if the Insurance Commissioners do not use their discretion and refuse arbitrarily to approve a society, it is submitted that *certiorari* and *mandamus* will lie to quash that refusal and to compel the Commissioners to exercise their discretion properly. (For note on *certiorari* and *mandamus*, *vide supra*, p. 28.)

Separate Section.—It is, presumably, by the establishment of separate sections that large industrial insurance corporations will seek to maintain their connection amongst those persons who become insured under this Part of this Act. The separate section, and not the society, will be approved and will become an "approved society." For provisions as to funds of any society which establishes a separate section, *vide* sec. 35 (4), *infra*, p. 125.

Number of Members of approved Societies.—Any society, however large or however small, may be approved. Small societies will preserve their identity for the purpose of administration, but, for the purpose of valuation, any approved society which has less than five thousand insured persons as members for the purposes of this Act, will have to join an association of such societies, or be grouped with other unassociated societies carrying on business in the same county or county borough (*vide* sec. 39, *infra*, p. 136). Where branches of societies are grouped together in different

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Sect. 23. geographical areas, and these branches have more than five thousand members who are insured persons, such group of branches may be treated, for the purpose of valuation, as if they formed a separate society (*vide* sec. 40 (1), *infra*, p. 139).

NUMBER OF
MEMBERS OF
APPROVED
SOCIETIES.

New Societies.—A new society which desires to become an approved society under this Act need not be registered or established under any Act of Parliament, but may be approved provided that it has a constitution of such a character as may be prescribed by the Insurance Commissioners, and that it complies with the requirements of this Act relating to approved societies.

Inasmuch as some new societies may desire, for other purposes, to register or establish themselves under some Act of Parliament, reference may, perhaps, usefully be made to the principal Acts under which it may be assumed that they will be established or registered. These Acts will probably be the Trade Union Acts (*ubi supra*) and the Friendly Societies Acts (*ubi supra*) and the Companies (Consolidation) Act, 1908 (8 Edw. 7, c. 69). A society, in order to be registered under the former Acts, must be by sec. 16 of the Trades Unions Act (1871) Amendment Act, 1876:—

“Any combination, whether temporary or permanent, for regulating the relations between workman and master, or between workman and workman, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if the Principal Act had not been passed, have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade.”

With regard to the Friendly Societies Act, 1896, approved societies are not societies within the meaning of subsecs. (2), (3) or (4) of sec. 8, but express provision is made by sec. 75 of this Act (*infra*, p. 238) whereby approved societies may be registered under the former Act. In order to be registered under the Friendly Societies Act, the following conditions, laid down in sec. 9, must be fulfilled—

- “(1) No society must be registered under this Act unless it consists of seven persons at least.
- (2) For the purpose of registry, there shall be sent to the Registrar an application of the society, signed by seven members and the secretary, and copies of the rules, together with a list of the names of the secretary and of every trustee or other officer intended to be authorised to sue and be sued on behalf of the society.
- (3) The rules of the society so sent shall, according to the class in which the society is to be registered, contain provisions in respect of the several matters mentioned in the first Schedule to this Act.
- (4) If the list is signed by the secretary and every trustee and other officer named therein, it shall be evidence that the persons so named have been duly appointed.”

It is no part of this work to attempt to draft Memoranda or Articles of Association for societies which establish themselves under the Companies Act, 1908. Suffice it to say that these documents will have to provide for the company not being carried on for a profit, and for the absolute control of the company by its members being insured persons. This latter fact should be borne

in mind by existing large industrial insurance companies who may consider the question of establishing approved societies as subsidiary companies. Such subsidiary companies must be under the unfettered control of the members and could break away from the parent company at any moment. This will not, however, prevent the parent company from making a contract for good consideration with such a subsidiary company whereby the subsidiary company binds itself to maintain its connection with the parent company. Such a society would, it is submitted, if its memorandum were drafted to that end, have power to make such contracts, and such contracts could, it is submitted, be enforced against the society.

Provisions with regard to Existing Funds.—(*Vide* sec. 72, *infra*, p. 233). It will be observed that sec. 72 only deals with registered friendly societies or their branches, which provide benefits similar to any of those conferred by this Act. There are no provisions as to the application of existing funds of other societies.

It should further be observed that existing societies which have members who do not become insured persons under this Act, will, with regard to these persons, continue to carry on business as before. Further, by sec. 34 (*infra*, p. 123) insured persons are not prohibited from becoming members of approved societies apart from this Act, and the right and liabilities of such members in relation to their society, arising otherwise than under this Act, will not be affected by the passing of this Act.

Dissolution of Societies ; Secessions of Branches.—*Vide* sec. 28, *infra*, p. 116.

County Societies.—For the provisions relating to the establishment of county societies in Scotland and Ireland, *vide* sec. 80 (10) and sec. 81 (7) (*infra*, pp. 245, 252).

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24.—(1) It shall be lawful for any body of persons, corporate or unincorporate, established before the passing of this Act which is desirous of transacting insurance business under this Part of this Act, or of making any amendments in its constitution, or administration, or contributions, or benefits, or otherwise which may be necessary or expedient in consequence of the passing of this Act, notwithstanding anything in the provisions of the Acts under which it is established or registered or carried on, or of its memorandum or articles of association, rules, or other instruments governing its constitution or defining its objects, to do all such acts and things (including the establishment of a separate section as aforesaid) as may be necessary for the purpose of enabling the body to undertake the transaction of such business as soon as may be after the passing of this Act and, if the

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(2) Subsections (3) and (4) of section seventy of the Friendly Societies Act, 1896, shall not apply to any resolutions for amalgamation or transfer of engagements when the resolution is made expressly for the purposes of this Part of this Act.

(3) This section shall come into operation on the passing of this Act, and shall not continue in force beyond the expiration of one year from the commencement of this Act, except so far as may be necessary to enable a society which has undertaken the transaction of insurance business under this Part of this Act to continue to transact such business.

Object of Section.—This is an enabling section giving power to any body of persons established before the passing of this Act which is desirous of becoming an approved society to make amendments—

- (1) in its constitution, or
- (2) in its administration, or
- (3) in its contributions, or
- (4) in its benefits,

or to do anything else (including the establishment of a separate section) which may be necessary or expedient in consequence of the passing of this Act, or to enable it to undertake transaction of insurance business under this Act, notwithstanding the provisions of any Act or instrument, etc., under which it is established or carried on.

Further, if the instrument under which the society is established requires an interval to elapse before action is taken, the instrument need not be complied with in that respect.

Such societies are also exempted from the provisions of sec. 70 (3) and (4) of the Friendly Societies Act, 1896, in regard to resolutions for the transfer or amalgamation of engagements, where the resolution is made expressly for the purposes of this Part of this Act.

It is submitted that, except in so far as this section expressly provides, viz. in the case of resolutions for transfer and amalgamation, or in the case of intervals prescribed by the instrument under which the society is established, this section does not operate to do away with any forms under which a society usually carries out any of the matters therein referred to; *e.g.* amendments in the constitution of a society will still have to be made in accordance with the rules; alteration in the rules will still have to be made in the manner prescribed by the rules.

“Desirous of Transacting Insurance Business, &c.”—The only societies which can transact business under this Part of this Act are approved societies (s. 23, *supra*, p. 104), so that it would seem that the only societies to whom this section applies must be societies which are desirous of becoming approved societies. The powers given by this section can be made use of on the passing of this Act, and, consequently, may be made use of by a society before it becomes approved. If a society makes use of these powers and then fails to obtain approval, *quære* what is the validity of the action taken under these powers? It is submitted that, upon the true construction of the section, such action will only be valid if the society in question ultimately becomes approved.

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Alterations in Contributions or Benefits.—In the case of a registered Friendly Society which provides benefits similar to those conferred by this Part of this Act, it is provided by sec. 72 (*infra*, p. 233), that these matters are to be dealt with by a scheme to be submitted to the Registrar of Friendly Societies.

Establishment of a Special Section, *vide supra*, sec. 23 (1), proviso.

Friendly Societies Act, 1896 (59 & 60 Vict. c. 25).

Sec. 71 (3). “A special resolution by a registered friendly society for an amalgamation or transfer of engagements under this Act shall not be valid without—

- (a) the assent thereto of five-sixths in value of the members, given either at the meetings at which the resolution is, according to the provisions of this Act, passed and confirmed, or at one of them, or, if the members were not present thereat, in writing, and
- (b) the written consent of every person receiving or entitled to any relief, annuity, or other benefit from the funds of the society unless the claim of that person is first duly satisfied, or adequate provision is made for satisfying that claim.

(4) Provided that on application of the trustees or committee of a registered Friendly Society desiring to amalgamate or transfer its engagements, and upon notice of that application being published in the *Gazette*, the chief registrar, after hearing the trustees or committee and any other persons whom he considers entitled to be heard upon application, may, with the consent of the Treasury, order that any of the assents, consents, and conditions required by this Act, or by any regulations made under this Act, be dispensed with, and may confirm the amalgamation or transfer.”

Commencement of this Act:—July 15, 1912 (*vide* sec. 115, *infra*, p. 320).

25.—(1) Where a society consists of persons entitled to rights in a superannuation or other provident fund established for the benefit of persons employed by one or more employers, the society may be approved, notwithstanding that the employer is entitled to representation on the committee or other body administering the fund

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Sect. 25. to an extent not exceeding one quarter of the total number of the body, if the employer, in addition to the employer's contributions payable by him under this Part of this Act, is responsible for the solvency of the fund or for the benefits payable thereout, or is liable to pay a substantial part of, or to make substantial contributions to, or substantially to supplement, the benefits payable out of the fund :

Provided that no such society as aforesaid shall be approved unless by its constitution it is prohibited so far as concerns the benefits under this Part of this Act from refusing to allow a member to transfer to another approved society, and from refusing to allow a member who is discharged from or leaves the employment of the employer and is unable to obtain admission to another approved society on account of the state of his health to continue a member, and unless its constitution provides for the election of the members of the committee of management (other than the employer's representatives) by ballot :

Provided also that no such society shall be approved if the employer makes membership of such society a condition of employment.

(2) Where, for the purpose of enabling any such society to become an approved society, it is necessary to make any alteration in the existing rules or constitution of the society which it is not competent for the society under its existing constitution to make, a scheme for the purpose may be submitted for the approval of the Insurance Commissioners.

(3) Where such a scheme has been approved by the Insurance Commissioners, the Act or deed constituting the society shall have effect subject to the provisions of the scheme, but the Insurance Commissioners shall not approve any such scheme unless they are satisfied that the members of the society have been given an opportunity of voting by ballot thereon, and that the scheme makes proper provision for safeguarding existing rights and interests.

Object of the Section.—The object of this section is to permit existing superannuation provident funds, such as are carried on by railway companies and other large employers of labour, to become approved societies, and to give power to make any necessary alteration in the rules or constitution of the fund which it would not otherwise be competent to make.

Conditions of Approval.—These will be the same as for any society desirous of becoming an approved society, except that the condition relating to the control of the society is altered, and the employer may, in this case, be entitled to representation on the committee or other body administering the society, to an extent not exceeding one-quarter of the total number of the members of the society; but the employer is only entitled to have such representation where, in addition to the employer's contribution payable by him—

- (1) He is responsible for the solvency of the fund or for the benefits payable thereunder, *or*
- (2) He is liable to pay a substantial part of, or substantially to supplement the benefits payable out of the fund.

No such society may be approved unless—

- (1) Its constitution provides that the election of a committee of all its representatives, and officers elected by the workmen employed by the employer, shall be by ballot.
- (2) Unless it is prohibited by its constitution, so far as the benefits are concerned under this Part of this Act, (a) from refusing to allow a member to transfer from another approved society, and (b) from refusing to allow a member who is discharged, or who leaves the employment of his employer and is unable to obtain admission to another approved society on account of the state of his health, to continue to be a member.
- (3) The membership of such a society must not be made by the employer a condition of employment.

The approval of such a society will be in the discretion of the Insurance Commissioners, as in the case of any other society.

Employer's Contribution (*vide* sec. 73, *infra*, p. 236).—By that section the employer may be allowed to deduct the contribution payable by the employer, under this Part of the Act, from any sum payable by him, under any Act or deed establishing the fund, towards benefits secured by the Act or deed, provided that these benefits include benefits similar to those conferred by this Act.

Existing Funds.—These are dealt with on the same lines as the existing funds of Friendly Societies (*vide* sec. 73, *infra*, p. 236).

Exemption of Superannuation Funds from Pooling Arrangements.—The Insurance Commissioners may exempt these funds which have less than 5000 members from the provisions of sec. 39 in regard to pooling for valuation purposes (*vide* sec. 39 (7), *infra*, p. 138).

26.—(1) Every approved society and every society desirous of becoming an approved society shall give such security as the Insurance Commissioners may consider

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Security to be given by

Sect. 26. sufficient to provide against any malversation or misappropriation by officers of the society of any funds coming to the hands of the society under this Part of this Act, and in determining the amount of the security to be required the Commissioners shall have regard to the amount of the funds so coming into the hands of the society :

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Provided that no security shall be required from any society which proves to the Insurance Commissioners that the only funds coming into the hands of the society under this Part of this Act are such funds as are required for reimbursing to the society sums previously expended by the society under this Part of this Act.

(2) In the case of an approved society with branches having insured persons among their members, security shall be given in respect of each such branch by the society.

(3) The Insurance Commissioners may from time to time vary the amount of security to be given or maintained by an approved society as may be thought proper, and, where security is given by way of deposit of securities, the society which made the deposit may, with the consent of the Insurance Commissioners, substitute other securities for the securities for the time being deposited.

(4) Any dividends or interest arising from securities deposited by an approved society under this section shall be paid to the society.

Sect. 27. **27.**—(1) Every approved society shall, as respects the administration of the affairs of the society under this Part of this Act, make proper provision by rules to the satisfaction of the Insurance Commissioners for the government of the society, and if a society with branches—

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societies.

- (a) for the government of the society and its branches ;
- (b) for the determination of disputes arising between the society and any branch thereof, or between one such branch and another ;
- (c) for the administration of benefits by the branches as respects insured persons who are members of such branches ;

- (d) for the keeping of proper books of account by the branches in any case where separate accounts are usually kept by those branches ;
- (e) for depriving of or suspending from the right of administering benefits under this Part of this Act any branch which is guilty of maladministration of those benefits, or is convicted of any offence under any Act, and for providing in such a case for their administration by the society or otherwise.

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(2) Every approved society and every branch thereof shall comply with any regulations made by the Insurance Commissioners as to the place in which meetings are to be held, and those regulations may provide for the use for such meetings, with or without payment, of any offices or other buildings under the control of a Government department (including offices or buildings occupied by or in connexion with a labour exchange) or belonging to or under the management of a local authority, but subject to the consent of the Government department or the local authority concerned.

(3) Where under any Act regulating the constitution of an approved society the rules of the society are required to be registered, any rules approved under this section by the Insurance Commissioners shall forthwith be registered, but until so registered shall have effect as if they had been duly registered.

Object of Section.—This section provides that approved societies should make rules to the satisfaction of the Insurance Commissioners for the administration of the affairs of the society under this Part of this Act, and for the government of the society. If the society is a society with branches it must provide in its rules for the matters set out in subsec. (1) (a) to (c). With regard to these latter matters, sec. 67 (1) (c) and (d) provides that the disputes referred to in para. (b) of this subsection should be decided in accordance with the rules of the society with an appeal to the Insurance Commissioners; while with regard to para. (d), *vide* sec. 35 (1) (a) (*infra*, p. 124).

Rules made by the society must be registered if the society is established under, or regulated by any Act and that Act requires the registration of rules. But until such registry has taken place such rules are to be effective.

Sect. 27. For other provisions as to rules, *vide* sec. 14 (2) (*supra*, p. 83), and sec. 24 (*supra*, p. 109).

OBJECT OF SECTION. Subject to the provisions of this Act, existing rules are to remain of effect as if this Act had not been passed (sec. 34, *infra*, p. 123).

This section further gives the Insurance Commissioners control over the place of meeting of approved societies and their branches. This control will be exercised by means of regulation.

Society with Branches.—*Vide* sec. 79 (*infra*, p. 240). “The expression ‘branch’ in relation to a society shall not include any branch of the society which is not itself separately registered.”

Labour exchange, vide infra, p. 296.

Sect. 28. **28.**—(1) No branch of an approved society having insured persons among its members shall be entitled to secede or withdraw from the society without the consent of the Insurance Commissioners; but such consent shall not be given unless the seceding or withdrawing branch complies with the conditions of approval requisite in the case of approved societies, and, on any such consent being given, the branch shall be subject in all respects to the provisions and requirements of this Part of this Act relating to approved societies:

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Provided that such consent shall not be required if the branch makes provision to the satisfaction of the Insurance Commissioners for the transfer to other approved societies or to other branches of the society from which it is seceding or withdrawing of such of its members as are insured persons.

(2) An approved society or a branch thereof shall not be dissolved without the sanction of the Insurance Commissioners, and any such dissolution, so far as it affects members who are insured persons, shall be carried out in the prescribed manner.

(3) No branch of an approved society shall be expelled from the society, unless proper provision is made to the satisfaction of the Insurance Commissioners with respect to any members of the branch who are insured persons.

(4) This section shall have effect notwithstanding anything contained in any Act regulating the constitution of the society.

Object and Effect of Section.—This section deals with (a) secessions from and expulsions by a society of a branch of that

society, and (b) with the dissolution of an approved society or of a branch of any such society.

Secessions.—A branch which desires to secede or withdraw cannot do so without first obtaining the consent of the Insurance Commissioners. The Commissioners are not entitled to give their consent unless the seceding branch complies with the conditions of approval requisite in the case of approved societies. These conditions (*cf. supra*, p. 105) are—

- (1) It must give the security required by sec. 26.
- (2) It must fulfil the conditions set out in sec. 23.
- (3) It must otherwise comply with the requirements of this Act relating to approved societies.

This consent will not, it is submitted, make the branch an approved society. The words in the subsection are, "on any such consent being given the branch shall be subject in all respects to the provisions and requirements of this Part of this Act relating to approved societies." The meaning of these words would seem to be that a branch which has obtained the consent of the Commissioners to secede, and which desires to become an approved society, must proceed to obtain approval, but that a branch which needs no consent, needs no approval. *Sed quære.*

Dissolution.—The Insurance Commissioners are to prescribe the manner in which dissolutions, so far as they affect members who are insured persons, are to be carried out. They must also give their sanction to any dissolution.

Expulsion of a branch.—It will be, presumably, for the society which expels a branch to make provision for the members of the branch who are insured persons.

Branch.—*Vide* sec. 79 (*infra*, p. 240) for the meaning of this word.

29. Where an approved society or a branch of any approved society fails to comply with any of the provisions or requirements of this Part of this Act relating to approved societies, or where such a society or branch or the body of which the society forms a separate section is convicted of any offence under any Act regulating its constitution or under any other Act, the Insurance Commissioners may withdraw their approval, and thereupon the society shall cease to be an approved society and the Insurance Commissioners shall make such provision as they may consider necessary with respect to members of the society who are insured persons.

Object and Effect of Section.—This section lays down the circumstances in which an approved society is to cease to be an approved society. It will be noticed that there is no provision in the Act, the breach of which, *ipso facto*, causes an approved society to cease to be an approved society. There must be a withdrawal of approval by the Insurance Commissioners. As drawn, the section

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OF SECTION.

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Withdrawal
of approval.

Sect. 29. gives power to the Commissioners to withdraw their approval from the whole society in the case of any failure to comply with the provisions and requirements of this Part of this Act relating to approved societies, or of any offence (for which it is convicted) by a single branch of the society. Similarly, the Commissioners may withdraw their approval from an approved society which is a separate section of another body, in the case of the conviction of that body of any offence under any Act of Parliament. For instance, a separate section might have approval withdrawn in a case in which its parent body had been convicted under the Companies Act for an offence totally unconnected with this Act. The construction of the section, however, gives, it is submitted, a discretion to the Commissioners, and presumably the use of that discretion will prevent such things happening.

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OBJECT AND
EFFECT OF
SECTION.

Membership of Approved Societies and Transfer of Members.

Sect. 30. **30.**—(1) Subject to the provisions of this Act, any insured person and any person entitled to become an insured person may apply to an approved society for membership therein.

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Admission of
insured
persons to
membership
in approved
societies.

(2) An approved society shall be entitled, in accordance with its rules, to admit or reject any such applicant, or to expel any of its members being insured persons: Provided that no such application shall be refused solely on the ground of the age of the applicant.

(3) This section shall come into operation on the passing of this Act.

Person entitled to become an Insured Person.—In view of the provisions of subsec. (3), it is submitted that this expression means any person who has reasonable grounds for believing that he will, at the commencement of the Act, viz. July 15, 1912, be, either compelled to become an employed contributor, or qualified to become a voluntary contributor. *Cf. sec. 66, infra, p. 224.*

Approved Society.—Societies may be approved before the commencement of the Act, *vide sec. 23 (3) (supra, p. 105).*

Age.—There should be no advantage to an approved society to endeavour to exclude older persons, owing to the effect of sec. 59, *infra, p. 199.* This section will make all persons equally eligible so far as age is concerned.

Expulsion of Members.—Disputes as to the expulsion of members will be decided in accordance with the provisions of sec. 67 by the society, with right of appeal to the Insurance Commissioners.

31.—(1) If an insured person, being a member of an approved society, ceases to be a member of that society, whether voluntarily or by expulsion, and becomes a member of another approved society, there shall be transferred to such other society in respect of such person a sum representing the liability under this Part of this Act of the first-mentioned society in respect of him (in this Act called “transfer value”) calculated in accordance with tables to be prepared by the Insurance Commissioners:

Sect. 31.

Transfer from one approved society to another.

Provided that such transfer value shall not be so transferred in any case where the first-mentioned society proves that the insured person voluntarily ceased to be a member of that society without the consent of the society, and that that consent was not unreasonably withheld.

(2) This section shall apply to transfers from one branch of an approved society to another branch of the same or any society in like manner as it applies to transfers from one society to another society.

Object of Section.—This section provides that an insured person may leave his approved society and join another approved society without loss of the value of any contributions he has already made to the first approved society. The liability which the first approved society is subject to in respect of the departing member is to be calculated in accordance with tables to be prepared by the Insurance Commissioners, and a sum representing that liability (called in this Act “transfer value”) is to be transferred to the new society which that member may join. Presumably such transfer will be made by debits and credits in the books kept by the Insurance Commissioners (*vide* sec. 56). It will be observed that this section only applies to insured persons who are transferring their membership from one approved society to another, and not to a deposit contributor who ceases to be a deposit contributor and becomes a member of an approved society, or to a member of an approved society who ceases to be a member of an approved society and becomes a deposit contributor. These cases are dealt with under sec. 43 (1), (2), *infra*, p. 144.

Transfer Value of Women on Marriage.—*Vide* sec. 44 (10).

“Sum representing the Liability.”—It should be observed that a transfer value will be a sum of money representing the future liability of the society in respect of the departing member. It will have no reference to what has happened in the past, except in so far as arrears may affect the prospective liability.

Transfers from Societies Showing Deficiency.—*Vide* sec. 38 (1), (i), *infra*, p. 131. “Any insured person who having been a

Sect. 31. member of the society or branch at the date at which the valuation disclosing the deficiency was made is transferred to another society or to another branch of the same or any other society before the deficiency is made good, shall be liable to any levy or reduction of benefits which has been or may be made in respect of such deficiency in like manner in all respects as if he had not ceased to be a member, and if the transfer took place before the scheme imposing the levy or reduction of benefits was sanctioned, such adjustment in the amount of any transfer value paid in respect of him shall be made as the circumstances require."

TRANSFERS
FROM
SOCIETIES
SHOWING
DEFICIENCY.

Sect. 32. **32.**—(1) If an insured person ceases to be permanently resident in the United Kingdom and becomes a member of any society or institution established in a British possession or foreign country, of a kind similar to an approved society, which is approved by the Insurance Commissioners, or of any branch established outside the United Kingdom of an approved society, the transfer value of such person, or, in the case of a deposit contributor, the amount standing to his credit in the Post Office fund, shall be paid to such society or institution or branch ; but no such payment shall be made, unless the Insurance Commissioners are satisfied that the society, institution, or branch in question gives corresponding rights to any of its members becoming resident in the United Kingdom.

Transfers to
foreign and
colonial
societies.

(2) Where an arrangement has been made with the Government of any British possession or with the Government of any foreign State, whereby insured persons may be transferred to a society or institution established in the British possession or foreign State similar to an approved society or the Post Office fund, and members of any such society or institution may be transferred to approved societies or to the Post Office fund, it shall be lawful for the Insurance Commissioners to make such arrangements as may be necessary for any such transfer as aforesaid, and for the determination of the amount to be transferred in any such case, and of the rights to which any person transferred is to be entitled : so, however, that nothing in this section shall affect the rights of a society under this Part of this Act to refuse applications for membership.

Object of Section.—This section deals with the interchange of insured persons, and persons who are members of societies or institutions similar to approved societies in British possessions, or in foreign countries. This interchange is to be based upon reciprocity; emigrants are dealt with under subsec. (1), and immigrants and emigrants under subsec. (2).

Sect. 32.**OBJECT OF SECTION.**

Note on Subsec. (1).—This subsection sets out the only circumstances in which an insured person can take his transfer value, or (in the case of a deposit contributor) the whole amount standing to his credit in the Post Office fund, out of the United Kingdom. In all other circumstances, except those set out in the next section, and in sec. 41 (*g*), an insured person who leaves the United Kingdom for good will lose the benefit of his previous contributions (except that maternity benefit will be paid in respect of his wife if she is, at the time of her confinement, resident in the United Kingdom (sec. 8 (4), *supra*, p. 53)). If he returns he will, unless he has kept up his contributions during the interval, be treated as being in arrears of all contributions not paid during such interval, and be dealt with under sec. 10 (1) and sec. 9 (4), *supra*, pp. 64, 60. The circumstances in which an insured person can take his transfer value, or, in the case of a deposit contributor, the amount standing to his credit in the Post Office fund, out of the United Kingdom, are as follows:—

- (1) The insured person must cease to be permanently resident in the United Kingdom;
- (2) He must become a member of a society or institution established in a British possession or foreign country of a kind similar to an approved society, or of any branch established outside the United Kingdom of an approved society;
- (3) Such foreign societies or institutions must be approved by the Insurance Commissioners;
- (4) The Insurance Commissioners must be satisfied that such societies, or institutions, or branches of approved societies give corresponding rights to any of their members becoming resident in the United Kingdom.

[*Note.*—The subsection is mandatory, and creates, it is submitted, an obligation on the societies to allow the transfer to be made.]

Note on Subsec. (2).—This subsection gives the Insurance Commissioners power to make the necessary arrangements for the transfer of insured persons to or from this country, in cases where reciprocal arrangements have been made with the government of any British possession, or with the government of any foreign state. It will be observed that the transfer of insured persons dealt with under the preceding subsection, is a right which any insured person may, in the proper circumstances, insist upon, but that the powers given by this subsection do not arise unless reciprocal arrangements with the governments of British possessions or of foreign states exist. Where such reciprocal arrangements exist the Insurance Commissioners may make the following arrangements:—

- (1) General arrangements necessary for such transfer;
- (2) For the determination of the amount to be transferred in any such case;

Sect. 32.**OBJECT OF SECTION.**

(3) For the determination of the rights to which any person transferred is to be entitled;

But, in making these arrangements, the Insurance Commissioners may not interfere with the rights of an approved society to refuse applications for membership. It will be recollected that by sec. 30, *supra*, these rights are preserved intact, except that societies may not refuse applications solely on the ground of the age of the applicant.

Quære whether in making use of the powers given by this subsection the Insurance Commissioners will have to make their arrangements conform to the terms of any arrangements that may be made with any of the governments mentioned in the section, or whether these arrangements must be made subject to the arrangements the Commissioners have power to make? *Semble* the former is the better view.

Transfer Value.—*Vide* sec. 31, *supra*.

Sect. 33.

Transfer
values of
emigrants
who remain
members of
approved
societies.

33. If a person who has for not less than five years been a member of an approved society for the purposes of this Part of this Act has ceased permanently to reside in the United Kingdom, and does not join such a society, branch, or institution as is in the last foregoing section mentioned, and the approved society is willing to permit him to remain a member of the society and to become entitled to benefits independently of this Act, the society may, subject to regulations by the Insurance Commissioners, transfer from the account of the society under this Part of this Act to the credit of the society independently of this Act such sum as would have been transferred to the Post Office fund had the member ceased to be a member of the society and become a deposit contributor, and so much of any reserve value which may have been credited to the society in respect of him as would in such a case have been cancelled shall be cancelled.

Object of the Section.—This section is designed to prevent an insured person who leaves the United Kingdom for good, and who has not joined any society, branch or institution, such as is referred to in the preceding section, from losing all the benefit of his previous contributions.

The persons who can take advantage of this section are persons who have been members of approved societies as insured persons (*i.e.* either as voluntary or employed contributors) for not less than five years.

If the society is willing to allow such a person—

(1) to remain a member of the society, and

(2) to become entitled to benefits independently of this Act,

then the society may transfer from their accounts under this Part of this Act to their accounts independently of this Act the sum

that would have been transferred, had the member become a deposit contributor. The reserve value will similarly be cancelled (*cf.* sec. 43 (1) (a)). It will be observed that this section does not allow the member to take any of the value of his contributions out of the United Kingdom. His society retains the money and presumably gives him benefits while he is out of the Kingdom.

Deposit Contributors.—For provisions allowing a deposit contributor who permanently ceases to reside in the United Kingdom to be paid a part of the amount standing to his credit in the Post Office fund, *vide* sec. 42 (g), *infra*, p. 142.

Sect. 33.

—
OBJECT OF
THE SECTION.

34. A person shall not be or attempt to become a member for the purposes of this Part of this Act of more than one approved society at the same time, or, being a deposit contributor, to become at the same time a member for the purposes of this Part of this Act of an approved society, but nothing in this Act shall prevent any person who is a member of an approved society under this Part of this Act becoming a member of the same or any other society independently of this Act, or prevent a deposit contributor becoming a member of any society independently of this Act, or affect the right of an approved society to reject or expel from membership any person not being an insured person, or the rights or liabilities of an approved society or of any member thereof arising otherwise than under this Part of this Act; and, subject to the provisions of this Part of this Act, all rules made by a society which becomes an approved society or any branch thereof shall remain and be of the same force and effect as though this Act had not been passed.

Sect. 34.

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Prohibition
against
double
insurance.

Object of Section.—This section is framed to prevent double insurance under this Act, but to allow insured persons to become members of approved societies independently of this Act. The rights and liabilities of insured persons in respect to approved societies, and the rights and liabilities of such societies in respect to such persons arising otherwise than under this Act, remain unaffected. So long as approved societies make rules for insured persons which comply with the provisions of this Act, their existing rules are to remain and be of the same force as if this Act had not been passed. *Semble* such societies can also alter any of their existing rules from time to time for persons who are members independently of this Act, and can alter any existing rules so far as such rules do not clash with the provisions of this Act, both for such members and for members who are insured under this Act, provided that such alteration is made in the manner which was proper before the passing of this Act.

Sect. 34.**OFFENCE.**

Offence.—Becoming or attempting to become a member of more than one approved society at the same time for the purposes of this Part of this Act is, it is submitted, a contravention of one of the requirements of this Act, and is, therefore, an offence under sec. 69 (2) (*infra*, p. 230), which may be visited on summary conviction with a fine not exceeding £10.

Liability of Societies arising otherwise than under this Part of this Act.—*Vide* note on subsec. (4) of sec. 35, *infra*.

Accounts : Valuations : Surplus and Deficit.

Sect. 35.

Approved societies to keep proper accounts.

35.—(1) Every approved society and every branch of an approved society must—

- (a) Keep its books and accounts under this Part of this Act separate from all other books and accounts of the society or branch, and in such form as may be prescribed by the Insurance Commissioners, and, when required, submit them to audit by auditors to be appointed by the Treasury;
- (b) Submit to have its assets and liabilities under this Part of this Act valued in accordance with the provisions of this Part of this Act;
- (c) In the event of a surplus or deficiency being shown upon any such valuation, comply with the provisions relating to surpluses and deficiencies herein-after contained;
- (d) Render such returns as the Insurance Commissioners may require.

(2) Regulations made under this section shall provide for a separate account being kept showing the amount expended on administration, and for limiting the amount which may be carried to that account out of the contributions under this Part of this Act, and for requiring any deficiency in such account (if not otherwise defrayed) to be met forthwith by a special levy.

(3) The provisions of this Part of this Act relating to accounts audit valuation and returns shall, as respects the transactions of any approved society or branch thereof under this Part of this Act, be substituted for such of the provisions of any Act regulating the

constitution of the society or branch as deal with the like matters. Sect. 35.

(4) In the case of a society or branch transacting other business besides that of insurance business under this Part of this Act, all funds and credits of the society or branch under this Part of this Act shall be as absolutely the security of the members for the purposes of this Part of this Act as if they belonged to a society or branch carrying on no other business than such insurance business, and shall not be liable for any contracts of the society or branch for which they would not have been liable had the business of the society or branch been only that of such insurance, and shall not be applied directly or indirectly for any purposes other than those of insurance business under this Part of this Act.

Where a separate section of a society has been established and such separate section is an approved society under this Part of this Act, the expression "society" in this subsection means the society of which the separate section has been established and not the separate section.

Object of the Section.—This and the next three succeeding sections provides :—

- (1) for the method in which approved societies and their branches are to keep their accounts,
- (2) for the date and basis on which their assets and liabilities are to be valued,
- (3) for the disposal or extinction of any surplus or deficit shown in the branch or society, as the case may be, after such valuation.

Both societies and their branches will have to keep accounts of their transactions under this Part of this Act separate from any transactions which they may have independently of this Act. Similarly, both the society as a whole, and the branch as a separate unit, must submit to a valuation of its assets and liabilities arising under this Part of this Act and must comply with the provisions of this Act relating to surpluses and deficits.

Expenses of Administration.—Subsec. (2) gives power to the Commissioners to lay down the amount which may be expended by an approved society or administration. If more than that amount is expended, the excess (if not otherwise defrayed) is to be met forthwith by a special levy. Some check on expenses is presumably necessary to safeguard the interests of the State which by sec. 3 (*supra*, p. 29) has to find $\frac{2}{5}$ of the cost of administration.

Sect. 35.**SPECIAL
LEVY.**

Special Levy.—There is no provision for such a levy being paid by the employer on behalf of the member as in the case of a compulsory levy made under sec. 37 (1) (b) (i). *Quære* whether the provisions of sec. 38 (1) (d) with regard to members chargeable with a levy, who fall into arrears, apply to special levies under this section? It is submitted that they do.

Note on Subsec. (3).—The effect of this subsection is to release any approved society or branch thereof from any obligations under which it may be, by virtue of the Act under which its constitution is regulated, with regard to accounts, audit, valuation and returns. The provisions of this Act relating to such matters are to be applied in substitution. But for the provision of this subsection, certain approved societies would have had to have dealt with these matters twice over, *vide* sec. 76, *infra*, p. 238. This will affect principally societies which are registered or established under the Trade Union Acts or the Friendly Society Acts. It should be borne in mind, however, that this release only operates in so far as the society in question has transactions under this Part of this Act. Any society which carries on business other than business under this Act will still be under an obligation to comply with the provisions of the Act under which it is registered or established in respect of accounts, audit, valuation and returns of such business.

Note on Subsec. (4).—*Cf.* the words in sec. 34 (*supra*), “nothing in this Act shall . . . affect . . . the liabilities of an approved society . . . arising otherwise than under this Part of this Act.” It is submitted that the combined effect of these words and of the subsection now under consideration is to separate completely the funds of an approved society arising under this Part of this Act, and the funds of that society arising independently of this Act. The members of a society, independently of this Act, will not be able to fall back upon the funds of the society arising under this part of this Act, nor will the members of the society, who are insured persons under this Act, be able to fall back upon the funds of the society arising independently of the Act.

In the case of contracts made with other parties, the funds of an approved society arising under this Act can only be used to meet liabilities resulting from contracts which are directly connected with or for the purpose of transaction under this Part of this Act. But the converse of this proposition would not appear to be necessarily true.

Sect. 36.**Valuations of
approved
societies.**

36.—(1) A valuation of the assets and liabilities arising under this Part of this Act of every approved society and of every branch of an approved society shall be made by a valuer, to be appointed by or with the approval of the Treasury, at the expiration of every three years dating from the commencement of this Act, or at such other times as the Insurance Commissioners appoint; the times so appointed may be at shorter or longer intervals than three years and at regular or irregular intervals, and

may apply to all approved societies or any particular society or societies. Sect. 36.

(2) Every such valuation shall be made on such basis as may be prescribed.

Effect of this Section.—The assets and liabilities of every approved society, and of every branch of an approved society, in so far as they arise under this Act, are to be valued at the end of every third year after the commencement of this Act (*i.e.* on July 15, 1915, July 15, 1918, and so on, *vide* sec. 116, *infra*, p. 320). These dates may be altered in the discretion of the Insurance Commissioners for all approved societies or for any particular society or societies. The basis on which the valuation is to be made is to be prescribed by the Insurance Commissioners.

Valuation of Societies and Branches which have Members Resident in more than one part of the United Kingdom.—

The joint committee of the several bodies of Commissioners will make regulations for the valuation of such societies and branches. The regulations must require that the members resident in each such part should be treated as if they formed a separate society or branch. *Vide* sec. 83 (*infra*, p. 259).

Valuers.—This word is defined in sec. 79, *infra*, p. 240, as “a person possessing actuarial qualifications as may be approved by the Treasury.”

Valuation of Societies in Association or Groups.—*Vide* sec. 39, *infra*, p. 136.

Branch.—This expression means “a separately registered branch,” *vide* sec. 79, *infra*, p. 240. For cases where a branch may be treated as a separate society for the purpose of valuation, and for provisions relating to members who are not members of a branch, *vide* sec. 40, *infra*.

Separation of Men's and Women's Funds.—Sec. 41 gives power to societies not being societies with branches to provide by their rules for the separation of men's and women's funds, and such a society is to be valued as if it consisted of two branches, *viz.* one branch comprising the male members and another branch the female members.

37.—(1) If upon any such valuation a surplus (certified by the valuer to be disposable) is found, the following provisions shall apply :— Sect. 37.
Surplus.

- (a) If the society is not a society with branches, the society may submit to the Insurance Commissioners a scheme for distributing out of such surplus any one or more additional benefits among insured persons who are members thereof for the purposes of this Part of this Act and, upon any such scheme being sanctioned by the Insurance Commissioners, the society may distribute such

Sect. 37.
—

additional benefit or benefits in accordance with the provisions thereof :

- (b) If the society is a society with branches, any surplus in the central fund of the society, including any surplus transferred from the branches to the society under the provisions of this section, shall, subject to the provisions of the next succeeding section of this Act, be applied in the first instance towards making good any deficiency shown by any of its branches ; and the society may distribute the balance of the surplus, after making good deficiencies as aforesaid, amongst such of its branches as have a surplus in proportion to the amounts of such surpluses, and the sum so apportioned to a branch shall be treated as an addition to the disposable surplus of that branch :
- (c) If, on the valuation of a branch of an approved society, a surplus is shown in respect of such branch, there shall be transferred to the central body or other central authority of the society of which it is a branch one-third of the surplus, and the branch may, with the approval of the society, submit to the Insurance Commissioners a scheme for distributing out of the remaining two-thirds of such surplus, together with any such addition as aforesaid, any one or more additional benefits, and, upon any such scheme being sanctioned by the Insurance Commissioners, the branch may distribute such additional benefit or benefits in accordance with the provisions thereof :
- (d) If, at any time after a scheme submitted by a society or branch has been so sanctioned as aforesaid, there is found to be a deficiency in the funds of the society or branch, no additional benefits shall be distributed under the scheme until such deficiency is extinguished and a surplus shown.

(2) A scheme made under this section may prescribe the conditions to be complied with as respects any additional benefit conferred by the scheme, and every such scheme shall, so far as practicable, provide for the reduction, suspension, or deprivation of the additional benefits conferred by the scheme in the case of members who are in arrears, and may make a corresponding reduction in the amount to which such members are to be deemed to be in arrears for the purpose of reckoning the rate of sickness benefit.

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(3) No surplus and no part of any surplus shall be applied for the purpose of paying any benefits payable on death or any benefits other than one or more of the additional benefits specified in Part II. of the Fourth Schedule to this Act.

Effect of this Section.—This section is confined to dealing with cases where a surplus, either in a society or in a branch, is certified by the valuer to be disposable after making the valuation provided for in sec. 36.

A.—If the society has no branches it may, if it has a surplus, distribute that surplus in any one or more additional benefits among the members of the society who are insured persons (*i.e.* among voluntary and employed contributors) under this Part of the Act. This distribution must be in accordance with a scheme submitted by the society to the Insurance Commissioners and sanctioned by them. No distribution can take place until such scheme has been so sanctioned.

B.—If the society is a society with branches the following provisions apply—

- (1) If the central fund of the society shows a surplus, including any surplus transferred from the branches, while some of its branches show a deficiency, the surplus is to be used in the first instance to make good $\frac{3}{4}$ or, if the society thinks fit, the whole of the deficiency of each such branch, unless the society is satisfied that the deficiency is due to maladministration on the part of the branch in question when, if the Insurance Commissioners consent, it may refuse to make good any part of the deficiency out of its surplus (see 38 (1) (*a*), *infra*).
- (2) If any branch of a society shows a surplus, $\frac{1}{3}$ of that surplus in the case of each such branch, is to be transferred to the central body or other central authority of the society.
- (3) If the society has satisfied its obligations under (1), any balance of surplus remaining in the hands of the society is to be distributed amongst the branches which have a surplus in proportion to the amount of such surplus.
- (4) A branch, after satisfying its obligation under (2), may distribute the remaining two-thirds of its surplus, together

Sect. 37.**EFFECT OF
THIS SECTION.**

with any sums received from the society under (3), in any one or more additional benefits in accordance with a scheme approved by the society and sanctioned by the Insurance Commissioners. There is no provision in the section directing to whom these additional benefits are to be distributed. It is submitted that the distribution should be confined to the members of the branch who are insured persons.

(*Note.*—For the purpose of the above provisions, and for the provisions of the next succeeding section relating to societies with branches, sec. 40 (3) (*infra*, p. 140) should be borne in mind. That section provides “where a society with branches has among members insured persons who are not members of any branch, and the benefits of such members are administered by the society itself, such members shall be treated for the purposes of this Part of this Act relating to valuations, surpluses, and deficiencies as if they formed a separate branch.”)

Deficiency arising after the Scheme has been Submitted.—

(1) If at any time after a scheme submitted by a society has been sanctioned there is found to be a deficiency in the funds of the society, no additional benefits may be distributed under the scheme until such deficiency is extinguished and a surplus shown. Similarly, if, at any time after a scheme submitted by a branch has been sanctioned, there is found to be a deficiency in the funds of that branch no additional benefits may be distributed under the scheme until such deficiency is extinguished and a surplus shown.

(2) In any other case it would appear that the society or the branch is at liberty to continue with its distribution of additional benefits under its scheme, provided that the society or branch continued to fulfil their respective obligations under sec. 38 (1) (a) and subsec. (1) (c) of this section.

Scheme for Distributing Additional Benefits.—By subsec.

(2) a scheme made under this section may prescribe the conditions to be complied with as respects any additional benefits conferred by it, and must, as far as practicable, provide that members who are in arrears should have reduced additional benefits or be suspended therefrom. The subsection goes on to say that the scheme “may make a corresponding reduction in the amount to which such members are to be deemed to be in arrears for the purpose of reckoning the rate of sickness benefit.” *Seem* the general idea of these words is that, when a member is made to put up with reduced additional benefits because he is in arrears, the scheme may also provide, as a kind of solatium, that his arrears should be reduced for the purpose of reckoning rate of sickness benefit. It is not easy to see how there can be any correspondence between the two reductions.

The effect of the former reduction is in benefits and against the member, while the effect of the second reduction is in arrears and in his favour. *Quære* whether the meaning is that in so far as a member suffers reduction of additional benefit, he should be compensated therefor by a reduction of his arrears and a consequent increase in his sickness or disablement benefit rate?

Branch.—This expression means “a separately registered

branch " (*vide* sec. 79, *infra*, p. 240). For cases where a branch may be treated as a separate society for the purpose of this section, *vide* sec. 40, *infra*.

Additional Benefits.—Subsec. (3) (it is submitted *ex abundanti cautela*) confines these benefits to the benefits enumerated in Part II. of the Fourth Schedule to the Act (*infra*, p. 329).

Societies in an Association or Group.—*Vide* sec. 39 (4) and (5), *infra*.

(4) "The provisions of this Part of this Act as to the application of surpluses of branches of societies with branches shall apply to such associated and grouped societies as if all the societies in any association or group were branches of a single society, subject to the following modifications :—

(a) A reference to the central finance committee or the local Health Committee for the county or county borough shall, as the case may require, be substituted for the reference to the central authority of the society ;

(b) The approval of the central financial committee or the local Health Committee shall not be required to any scheme prepared by an associated or grouped society for the distribution of any surplus.

(5) Where an associated or grouped society is a society with branches, the provisions of this Part of this Act relating to surpluses or deficiencies of societies with branches shall not apply to the society, but each branch shall, for the purposes of this section, be deemed to be a separate society.

Power to separate Men's and Women's Funds.—*Vide* sec. 40, *infra*, p. 139.

38.—(1) If upon any such valuation a deficiency is found, the following provisions shall apply :—

(a) If the deficiency is shown by a branch of an approved society, three-quarters, or, if the society thinks fit, the whole thereof, shall, in the first place, so far as possible, be made good out of any surplus available for that purpose in the hands of the central body or other central authority of the society :

Provided that the society may, if it is satisfied that the deficiency is due to any maladministration on the part of the branch in question, with the consent of the Insurance Commissioners, refuse to make good any part of the deficiency out of such surplus :

(b) Subject as aforesaid, every deficiency shall be made good in accordance with a scheme for that purpose to be prepared by the society, or, in the case

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of a deficiency in a branch, by the branch subject to the approval of the society, and submitted to the Insurance Commissioners for their sanction ; such a scheme shall provide for making good the deficiency, within a period of three years from the date at which the valuation was made, in any one or more of the following ways :—

(i) By a compulsory levy, by way of increase of the weekly rate of contributions, upon members of the society or branch being insured persons ;

(ii) By reducing the rate of sickness benefit either for the whole period during which sickness benefit is payable or for any part thereof ;

(iii) By deferring the day as from which sickness benefit becomes payable ;

(iv) By reducing the period during which sickness benefit is payable ;

(v) By increasing the period which is required by this Part of this Act to elapse between two periods of disease or disablement to prevent the one being treated as a continuation of the other ;

(vi) By any other method approved by the Insurance Commissioners,

and, on the sanction of the Insurance Commissioners being given to the scheme, the society or branch shall proceed to make good the deficiency in accordance therewith :

- (c) Payment of the amount of any compulsory levy made in accordance with a scheme sanctioned under this section may be enforced in such manner as may be provided by the rules of the society or branch ; and, where those rules so provide, it shall be lawful for the society or branch in the case of any member to enforce payment of the amount of the levy by giving notice in the prescribed manner to the employer of such member requiring him to pay the amount of the levy,

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and, upon such notice being given, such amount shall be payable as if it were part of the contribution to be paid by the employer on behalf of the member, and all the provisions of this Part of this Act relating to the payment of such contributions and the recovery thereof from members shall apply accordingly :

- (d) If a member chargeable with a levy falls into arrears, his arrears shall reckon as though the total sum thereof, inclusive of the levy, consisted of the contributions payable by or in respect of him had no levy been made :
- (e) If within six months after the declaration of a deficiency, or, where an enquiry as to excessive sickness is pending under this Part of this Act, such longer period as the Insurance Commissioners determine, such scheme as aforesaid has not been submitted to and sanctioned by the Insurance Commissioners, or if at any time thereafter it appears to the Insurance Commissioners that the society or branch to which the scheme relates is not enforcing the provisions of the scheme, the Insurance Commissioners may take over the administration of the affairs of the society or branch under this Part of this Act, and shall, as soon as possible thereafter, take such steps as they may think necessary to make good the deficiency by any or all of the methods mentioned in paragraph (b) of this section, and for that purpose they shall be entitled to exercise all or any of the powers given to the society or branch by this Part of this Act :
- (f) The Insurance Commissioners after taking over the administration of the affairs of any society or branch shall within a reasonable time, not exceeding three years, make arrangements for the restoration to the society or branch of its powers of self-government or, failing that, for the transfer of the members of the society or

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branch, being insured persons, to other approved societies or branches or to the Post Office fund :

(g) Any question or dispute arising between the Insurance Commissioners and the society or branch in respect of the amount of the deficiency, or as to the adequacy of any scheme proposed for making it good, shall be submitted to an independent valuer to be appointed by the Lord Chief Justice, and such valuer shall, subject to the provisions of this Act and of the regulations thereunder, act, so far as practicable, on his own knowledge and experience, and shall have power to determine how and by what parties the costs of proceedings, including his own remuneration, not exceeding such amount as the Treasury may prescribe, are to be defrayed, and his decision shall be final and conclusive :

(h) A scheme made under this section shall not affect any person who becomes a member of the society or branch after the date as at which the valuation was made, or any member over seventy years of age :

(i) Any insured person who, having been a member of the society or branch at the date as at which the valuation disclosing the deficiency was made, is transferred to another society or to another branch of the same or any other society before the deficiency is made good, shall be liable to any levy or reduction of benefits which has been or may be made in respect of such deficiency in like manner in all respects as if he had not ceased to be a member, and if the transfer took place before the scheme imposing the levy or reduction of benefits was sanctioned, such adjustment in the amount of any transfer value paid in respect of him shall be made as the circumstances require.

(2) Any member liable to a levy payable at intervals may relieve himself of the liability thereto, and a member

subject to a diminution of benefits by virtue of any such scheme may, with the consent of the society or branch, acquire a right to undiminished benefits, on payment to the Insurance Commissioners of the capitalised value of the levy or diminution of benefits, as the case may be, ascertained in the prescribed manner.

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Effect of the Section.—This section lays down what is to take place in the case of a society or a branch of an approved society showing a deficit after valuation has been made according to the provisions of sec. 36 (*supra*, p. 126).

As has already been seen (*vide* note to sec. 37, *supra*), three-quarters of any deficiency shown by a branch of any approved societies, or the whole deficiency, if the society thinks fit, must, in the first place, be made good so far as possible out of any surplus in the hands of the central body or other central authority of the society. Subject to this provision any deficiency must be made good.

(1) In the case of a society, by a scheme prepared by the society and sanctioned by the Insurance Commissioners.

(2) In the case of a branch, by a scheme prepared by the branch, approved by the society, and sanctioned by the Commissioners.

The basis of the scheme must be to make good the deficiency within three years from the date on which the valuation was made upon which the deficiency was shown.

The various means by which such deficiency may be met are provided in subsec. (1), (b), ((i.) to (vi.) incl.).

The Insurance Commissioners may take over a society or branch, and take such steps as they may think necessary to make good any deficiency by all or any of the methods mentioned in para. (b) of the section—

(1) If the scheme has not been submitted to and approved by the Insurance Commissioners within six months of the declaration of a deficiency (or, where an inquiry as to excessive sickness is pending, such longer period as the Commissioners may determine; or,

(2) If after making a scheme a society or a branch appear to the Commissioners not to be enforcing the scheme.

But where the Commissioners avail themselves of this power, they must within three years either restore self-government to the society or branch, or make arrangements for the transfer of the members being insured persons to some other approved society or to the Post Office fund.

Disputes between the Insurance Commissioners and a society or branch—

(1) As to the amount of a deficiency,

(2) As to the adequacy of a scheme for making any deficiency good,

are to be decided by an independent valuer appointed by the Lord Chief Justice.

Provisions are also made in this section—

(1) For schemes made under the section not to affect persons who become members of the society or branch after the making of a scheme, or members over seventy years of age;

Sect. 38. (2) For transfer of members from a society showing a deficiency ;

— (3) For permitting members to pay the capitalised value of any
 EFFECT OF levy payable at intervals, or of any diminution of benefits imposed
 THE SECTION. by a scheme, and thus to secure a right to the full benefits.

Compulsory Levy under Subsec. (1) (c).—For the provisions as to employers paying contributions on behalf of contributors, *vide* sec. 4 and the Third Schedule (*supra*, pp. 31, 34).

Note on Subsec. (1) (d).—The effect of this provision is that the sum total of a person's arrears calculated in pennies, including the arrears of compulsory levy, is to be divided by the amount of his ordinary weekly contribution, when the quotient will be the number of weekly contributions the member will be in arrears.

Example.—X, an employed contributor, is a member of a society which makes a compulsory levy of 1*d.* per week. He falls 14 weeks into arrears. Those arrears will amount to $14 \times 7d.$ (7*d.* being the employed rate of contribution) = 98*d.* + 14*d.* (viz. 14 weeks at 1*d.*) = 112*d.* He will be deemed to be in arrears of $\frac{112}{7} = 16$ weekly contributions.

Inquiry as to Excessive Sickness.—*Vide* sec. 63, *infra*, p. 214.

Transfer to another Approved Society.—*Vide* sec. 31, *supra*, p. 119.

Sect. 39. **39.**—(1) Subject to the provisions of this section, all approved societies which at the date of any valuation have less than five thousand insured persons as members for the purposes of this Part of this Act shall, for the purposes of the valuation—
 — Pooling arrangements in the case of small societies.

(a) if they have joined an association formed under this section, be associated with the other societies in the same association ; and

(b) if they have not joined any such association, be grouped together according to the localities in which they carry on business.

(2) Any such societies may, with the consent of the Insurance Commissioners, form for the purposes of this section an association with a central financial committee, provided that the aggregate number of insured persons who are members of the associated societies is not less than five thousand, and the conditions on which a society shall be entitled or allowed to join, or having joined to secede from, an association, shall be such as may be prescribed.

(3) Any such society which has not joined any such

association as aforesaid, and which carries on business in any county or county borough, shall, for the purposes of this section, be grouped with the other unassociated societies carrying on business in the same county or county borough.

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(4) The provisions of this Part of this Act as to the application of surpluses of branches of societies with branches shall apply to such associated and grouped societies as if all the societies in any association or group were branches of a single society, subject to the following modifications :—

(a) A reference to the central financial committee in the case of an association, and to the Insurance Committee for the county or county borough in the case of a group, shall be substituted for the reference to the central authority of the society ;

(b) The approval of the central financial committee or Insurance Committee shall not be required to any scheme prepared by an associated or grouped society for the distribution of any surplus.

(5) Where an associated or grouped society is a society with branches, the provisions of this Part of this Act relating to surpluses and deficiencies of societies with branches (except those requiring the approval of a society to a scheme prepared by a branch as to the distribution of a surplus or the making good of a deficiency) shall not apply to the society, but each branch shall, for the purposes of this section, be deemed to be a separate society.

(6) For the purposes of this section a society shall be deemed to carry on business only in the county or county borough in which its registered office or other principal place of business is situate :

Provided that, where of the insured persons who are members of a grouped society at the date of any valuation more than one hundred or more than one-sixth reside in some county or county borough other than that in which the registered office or other principal place of business is situate, the proper proportion of any surplus or

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(7) The Insurance Commissioners may exempt from this section any society consisting of persons entitled to rights in a superannuation or other provident fund established for the benefit of persons employed by one or more employers, if the employer, in addition to the contributions payable by him under this Part of this Act, is responsible for the solvency of the fund, or for the benefits payable thereout, or is liable to pay a substantial part of, or to make substantial contributions to, or substantially to supplement the benefits payable out of the fund, and this section shall not apply to any society to which such an exemption has been granted.

(8) Except so far as relates to the power of refusing to make good any part of a deficiency due to maladministration on the part of any society, nothing in this section shall be construed as conferring on any central financial committee or Insurance Committee any powers of control over the administration of associated or grouped societies.

Object of the Section.—The object of this section is to give financial stability to small approved societies. The manner in which this end is effected is by provisions that all approved societies with, at the date of any valuation, less than five thousand members being insured persons should be grouped together for the purposes of valuation.

This grouping may be done in two ways—

- (1) The societies themselves may take the initiative and, with the consent of the Insurance Commissioners, form an association with the central financial committee. The societies forming such an association must have in the aggregate not less than five thousand members who are insured persons.
- (2) Any societies who have not joined any such association will be grouped according to the county or county borough in which they carry on business. For the purpose of this grouping a society is to be deemed to carry on business

only in the county or county borough in which its registered office or other principal place of business is situate. The Insurance Committees for the county or county boroughs will take the place occupied by the central financial committee in the case of an association of societies.

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The association or group is then to be valued, and surpluses dealt with, as if all the societies in any association or group were branches of a single society, *i.e.* in accordance with secs. 36 and 37, *supra*, and, where those sections refer to the central authority of a society, a reference to the central financial committee of the association, or to the Insurance Committee for the county or county borough, is, as the case may require, to be substituted. For this purpose associated or grouped societies which are societies with branches are to be treated as if each branch were a separate society.

(NOTE.—There is no provision in subsec. (4) applying the provisions of sec. 38 as to deficits to association or groups of societies. *Quære* whether the inference to be drawn from the words “for the purposes of valuation” and from the provisions of subsecs. (5) and (8) is sufficient to make the provisions of sec. 38 apply?)

Conditions for joining or seceding from an association.—These conditions are to be prescribed by the Insurance Commissioners. There is no provision in the section for determining who is to group unassociated societies. *Semble* this duty will devolve upon the Insurance Committee.

Grouped society with members being insured persons resident outside county or county borough in which society carries on business.—In a case where a grouped society has, at the date of any valuation, more than one hundred, or more than one sixth of its members, being insured persons, resident in some county or county borough other than that in which the society carries on business, the proper proportion of any surplus or deficiency of the society may be apportioned to the Insurance Committee of that other county or county borough. This apportionment will only be made on the application of any Insurance Committee concerned. If the proportion cannot be agreed, it is to be determined by the Insurance Commissioners.

Administration of associated or grouped societies.—Such societies will retain to the full their powers of managing their own affairs. The only power of control possessed by central financial committees or Insurance Committees will be the power (*vide* sec. 38 (1) (a), proviso) to refuse to make good in whole or in part a deficiency due to maladministration.

“Superannuation of other Provident Fund,” *vide* sec. 25, *supra*, p. 111.

40.—(1) Where a society with branches is so organised that the branches in different geographical areas are grouped together for the purpose of this section, the branches in any such area may, if and to such extent as the rules of the society so provide, and if the number

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Special provisions with regard to societies with branches.

Sect. 40. of members of the branches being insured persons in the area exceeds five thousand, be treated for the purposes of the provisions of this Part of this Act relating to valuations, surpluses, and deficiencies as if they formed a separate society.

(2) The rules of any society with branches may provide for the branches reinsuring with the society their liabilities in respect of any of the benefits under this Part of this Act, or, if the society is so organised as aforesaid, for such reinsurance either with the society or with the group.

(3) Where a society with branches has among its members insured persons who are not members of any branch, and the benefits of such members are administered by the society itself, such members shall be treated for the purposes of this Part of this Act relating to valuations, surpluses, and deficiencies as if they formed a separate branch.

Branch.—By sec. 79, *infra*, this expression does not include any branch of a society which is not, itself, separately registered.

Sect. 41. **41.** Where an approved society, not being a society with branches, has amongst its members both men and women, and the rules of the society so provide, the provisions of this Part of this Act with respect to valuations, surpluses, and deficiencies shall apply to the society as if it were a society consisting of two branches, the one comprising the male members and the other comprising the female members.

Power to
separate
men's and
women's
funds.

Note.—The power to separate men's and women's funds is confined to societies *without* branches. *Quære* whether this power may be exercised by an associated or grouped society which has no branches?

Deposit Insurance.

Sect. 42. **42.** Until the first day of January nineteen hundred and fifteen, the following provisions shall apply in the case of insured persons (in this Act referred to as deposit contributors) who have not joined an approved society

Provisions as
to deposit
contributors.

within the prescribed time, or who, having been members of an approved society, have been expelled or have resigned therefrom and have not, within the prescribed time, joined another approved society :—

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- (a) Contributions by or in respect of a deposit contributor shall be credited to a special fund to be called the Post Office fund :
- (b) The sums required for the payment of any sickness, disablement, or maternity benefit payable to a deposit contributor, except so far as they are payable out of moneys provided by Parliament, shall be paid out of the moneys standing to his credit in the Post Office fund, and his right to benefits under this Part of this Act shall be suspended on the sums standing to his credit in that fund being exhausted, except that his right to medical benefit and sanatorium benefit shall continue until the expiration of the then current year, and that the Insurance Committee, if it has funds available for the purpose and thinks fit so to do, may allow him to continue to receive medical benefit or sanatorium benefit or both such benefits after the expiration of such year :
- (c) Such sum as may be prescribed shall in each year be payable in respect of each deposit contributor towards the expenses incurred by the Insurance Committee in the administration of benefits :
- (d) Such sum as the Insurance Committee may, with the consent of the Insurance Commissioners, determine shall in each year be payable in respect of each deposit contributor for the purposes of the cost of medical benefit :
- (e) The sums payable in respect of a deposit contributor for the purposes of medical benefit and sanatorium benefit, and towards the expenses of administration, shall, except so far as they are payable out of moneys provided by Parliament, be deducted at the commencement of each year

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from the amount standing to his credit in the Post Office fund, and, if at the commencement of any year the amount so standing to his credit is insufficient to provide such sums, he shall not, unless the Insurance Committee consents, and except subject to such conditions as that committee may impose, be entitled to any benefits during that year :

- (f) Upon the death of a deposit contributor, four-sevenths (or in the case of a woman one-half) of the amount standing to his credit in the Post Office fund shall be paid to his nominee or, in default of a nomination, to the person entitled to receive the sum as if it were money payable on the death of a member of a registered friendly society, and the balance thereof shall be forfeited, and sections fifty-six to sixty-one of the Friendly Societies Act, 1896, as amended by any subsequent enactment, shall, subject to the prescribed adaptations, apply accordingly :
- (g) Where a deposit contributor proves to the satisfaction of the Insurance Committee that he has permanently ceased to reside in the United Kingdom, four-sevenths (or in the case of a woman one-half) of the amount standing to his credit in the Post Office fund may be paid to him.

Object and Effect of this Section.—This and the next succeeding section set out the provisions which are to apply in the case of insured persons, whether voluntary or employed contributors, (1) who have not joined an approved society within the time to be prescribed by the Insurance Commissioners, or, (2) who, having been members of an approved society, have been expelled or have resigned therefrom, and have not joined another approved society. These provisions are only to be in force until Jan. 1, 1915, before which date, presumably, they will be reconsidered in light of the reconstruction of the present Poor Law system, which it is anticipated will take place between now and then.

The method upon which this Act deals with deposit contributors is not insurance at all, but consists in an accumulation of their contributions and payment of benefits to them out of such accumulation until it is exhausted. Two-ninths (or in the case of women one

quarter) of the cost of the benefits given to deposit contributors and of the administration of such benefit will be met out of the State contribution (sec. 3, *supra*, p. 29).

All contributions paid by or in respect of a deposit contributor are to be credited to a special fund called the Post Office Fund. This fund will consist in a number of individual accounts, the amount standing to the credit of each of which will depend upon the number of contributions paid by the individual deposit contributor. It should be observed that the equalisation of age of insured persons which is effected by the creation of appropriate reserve values under sec. 54 (*infra*) does not apply to insured persons who become deposit contributors, who will be *pro tanto* worse off than insured persons who become members of approved societies. The object of the Act is that as many persons as possible should become members of approved societies, and the absence of reserve value in the case of deposit contributors and the fact that deposit insurance affords but limited protection, should form a powerful inducement to every insured person to become a member of an approved society.

The Insurance Committees have complete charge of the administration of all benefits payable to deposit contributors, and may make rules for such administration under the power given to them by sec. 14 (*supra*, p. 83).

At the commencement of each year the sums payable in respect of a deposit contributor for the purposes of (a) medical benefit, (b) sanatorium benefit, (c) expenses of administration, except so far as such sums as are to be derived from the State contribution, are to be deducted from the amount standing to the individual deposit contributor's credit at the Post Office fund. If the funds standing to the credit of a deposit contributor are insufficient to provide these sums, that contributor is not entitled to any benefits at all that year, unless the Insurance Committee consents and subject to any condition it may impose. So far as concerns medical benefit, the amount of that sum is to be prescribed by the Insurance Commissioners; so far as concerns sanatorium benefit, the amount is fixed at 1s. 3d. by sec. 16 (2) (*supra*). With regard to expenses, the Insurance Commissioners are to prescribe the sum payable in respect of each deposit contributor for this purpose. It should be noticed that these expenses are confined to the expenses incurred by the Insurance Committee in the administration of benefits (*semble* this means benefits to deposit contributors), and do not include other expenses which Insurance Committees may incur.

As a natural corollary of the above provisions, a deposit contributor, whatever may be the state of his credit in the Post Office Fund, is entitled to medical benefit and sanatorium benefit until the expiration of the then current year; and there is further power in the Insurance Committee to give such benefits after the expiration of that year if it has funds available for the purpose. (Insurance Committees may also extend sanatorium benefit to the dependents of insured persons, *vide* sec. 17, *supra*.)

After providing for medical and sanatorium benefits and expenses of administration the amount left to the credit of the deposit contributor, is available until exhaustion for the payment of sickness, disablement or maternity benefit.

The payment of these latter benefits involves in the case of men

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OBJECT AND
EFFECT OF
THIS
SECTION.

Sect. 42. 7-9ths of their cost coming from the contributor and 2-9ths from the State; thus, where the deposit contributor has 70s. standing to his credit in the Post Office fund, he will be able, with the assistance of the State contribution, to enjoy 90s. worth of benefits before his right to benefits ceases. But it would appear that on the complete exhaustion of his own funds the State contribution will cease to be payable in respect of him.

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OBJECT AND
EFFECT OF
THIS
SECTION.

Death of Deposit Contributor.—*Vide* the provisions of para. (f) of this section, the Friendly Societies Act, 1896 (59 & 60 Vict. c. 25), secs. 56 to 61, and the Friendly Societies Act, 1908 (8 Ed. 7, c. 32), sec. 5.

Deposit Contributor ceasing to reside in the United Kingdom.—The provisions of para. (g) of this section only apply where a deposit contributor, on permanently ceasing to reside in the United Kingdom, does not join any of the societies, institutions, or branches mentioned in sec. 32 (*supra*, p. 120). In such cases the deposit contributor is entitled to have the whole amount standing to his credit in the Post Office fund transferred to the society, institution, or branch which he joins (*cf.* the provisions as to members of approved societies permanently ceasing to reside in the United Kingdom (sec. 33, *supra*, p. 122).

Arrears.—None of the provisions of sec. 10 (*supra*, p. 164), applicable to deposit contributors.

Rates of Contribution. Rates of Benefit.—These will be the same as for members of approved societies.

Sect. 43. **43.**—(1) If an insured person, being a member of an approved society, ceases to be a member of that society, whether voluntarily or by expulsion, and fails to become within the prescribed time a member of another approved society, then—

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Transfer from
approved
society to
deposit in-
surance and
vice versa.

(a) if he becomes a deposit contributor, his transfer value shall be carried to his credit in the Post Office fund: Provided that, if a reserve value has been credited to the society in respect of him, such part of that reserve value as is still outstanding (or if the amount so outstanding exceeds the transfer value such part of the reserve value as is equal to the transfer value) shall be cancelled, and the amount, if any, by which the transfer value exceeds the amount so cancelled shall be carried to the credit of the deposit contributor;

(b) if he does not become a deposit contributor, his transfer value shall be carried to such account and dealt with in such manner as may be prescribed.

(2) If an insured person who is a deposit contributor subsequently becomes a member of an approved society for the purposes of this Part of this Act, there shall be transferred to the society the amount standing to his credit in the Post Office fund:

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Provided that—

- (a) if that amount exceeds the value of the contributions paid by or in respect of him estimated on the assumption that he had been a member of an approved society since his entry into insurance, the excess shall not be transferred to the society but shall be carried to the credit of the Post Office fund;
- (b) if that amount is less than such value, the insured person shall be treated as being in arrear to the amount of the deficiency.

Object and Effect of the Section.—This section deals with transfers to approved societies from deposit insurance, and *vice versa*.

- (1) Where an insured person ceases to be a member of an approved society, and
 - (a) becomes a deposit contributor, his transfer value (sec. 31, *supra*) is to be carried to his credit in the Post Office fund. But in so far as reserve value (sec. 55, *infra*) is an element in such transfer value, that reserve value is to be cancelled, and the deposit contributor is only to be credited with the difference between the transfer value and the reserve value;
 - (b) does not become a deposit contributor, his transfer value is to be dealt with as the Insurance Commissioners may prescribe. (*Quære* whether the transfer value in this latter case includes reserve value or not, *semble* the intention of the section is that it should not; the reserve value will, presumably, be written off.)
- (2) Where the deposit contributor becomes a member of an approved society, the amount standing to his credit in the Post Office fund is to be transferred to the society, but,
 - (a) if that amount exceeds the value of the contributions paid by or in respect of him, estimated on the assumption that he had been a member of an approved society since his entry into insurance, the excess is not to be transferred to the society but is to be carried to the credit of the Post Office fund. It is a little difficult to see how this excess can arise before January 1, 1915, for a deposit contributor pays exactly the same contributions as a member of an approved society, and there are no provisions for crediting individual accounts in the

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Post Office fund with any sums other than those derived from individual contributions.

- (b) If that amount is less than such value the insured person is to be treated as being in arrear to the amount of the deficiency. These arrears will, it is submitted, be calculated by dividing the weekly amount of contributions payable by the deposit contributor into the deficiency, when the result will be the number of weeks contributions which the deposit contributor is to be deemed to be in arrears (*vide* sec. 10 (4), *supra*, p. 65). It is submitted that such arrears, will be arrears which have accrued due during the calendar year current at the time of his so becoming a member of an approved society, and that therefore the deposit contributor in question will have the right to pay them off under the powers given to him by sec. 10 (5), *supra*.
- (3) In the case of a deposit contributor who ceases to be a deposit contributor otherwise than by death or permanent removal from the United Kingdom, there is no provision for dealing with the amount standing to his credit in the Post Office fund.

Provisions as to Special Classes of Insured Persons.

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Special pro-
visions with
respect to
married
women.

44.—(1) Where a woman who has before marriage been an insured person marries, she shall be suspended from receiving the ordinary benefits under this Part of this Act until the death of her husband, and, if she is a member of an approved society, one-third of her transfer value shall be carried to a separate account called the married women's suspense account, but, if at any time after the death of her husband she becomes an employed contributor, the period between her marriage and the expiration of one month from the death of her husband shall be disregarded for the purpose of reckoning arrears, and there shall be transferred from the married women's suspense account to the society of which she is a member the proper reserve value calculated according to tables to be prepared by the Insurance Commissioners:

Provided that, where a woman who has been employed within the meaning of this Part of this Act before marriage, proves that she continues to be so employed after marriage, she shall not be so suspended so long as she continues to be so employed, and that, where a married woman so suspended from the ordinary benefits

becomes employed within the meaning of this Part of this Act before the death of her husband, contributions shall thereupon again become payable in respect of her, and she shall cease to be suspended from receiving the ordinary benefits, but, subject to regulations made by the Insurance Commissioners, she shall, for the purposes of those benefits, be treated as if she had not previously been an insured person.

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(2) Where a married woman being a member of an approved society is so suspended from the ordinary benefits as aforesaid, she may, if she so elects within one month after such suspension, or, subject to the consent of the society, after the expiration of that month, and notwithstanding that she is not engaged in any regular occupation, become whilst so suspended a voluntary contributor, subject to the following modifications, but not otherwise :—

- (a) The rate of contributions payable by her shall be threepence a week ;
- (b) The benefits to which she shall be entitled shall be—
 - (i) medical benefit ; and
 - (ii) sickness benefit and disablement benefit at the rates and subject to the conditions specified in Table D. of Part I. of the Fourth Schedule to this Act ;
- (c) No part of her contributions shall be retained by the Insurance Commissioners for the purpose of discharging their liabilities to approved societies in respect of the reserve values created under this Act :

Provided that, where a married woman elects not to become such a voluntary contributor, she shall be entitled to have a sum equal to the remaining two-thirds of her transfer value applied in accordance with regulations of the Insurance Commissioners towards the payment of any of the benefits specified in Part III. of the Fourth Schedule to this Act until the same is exhausted, except that, where a reserve value was credited to the society in

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(3) Where the husband of a married woman who has been so suspended from ordinary benefits as aforesaid and who is a member of an approved society dies, she may, if she is qualified to become a voluntary contributor, and elects to do so within one month after the death of her husband, become an ordinary voluntary contributor paying contributions at the rate which would have been applicable to the case had she become such a contributor at the date of her entry into insurance :

Provided that she may, whether or not so qualified, if she so elects within one month after the death of her husband, continue to be or become a voluntary contributor on the same terms and subject to the same conditions as above provided as respects married women.

In either such case there shall be transferred from the married women's suspense account to the society the proper reserve value calculated as aforesaid.

(4) Where a married woman who was at the date of her marriage a deposit contributor is by virtue of this section suspended from the ordinary benefits under this Part of this Act, two-thirds of the sum standing to her credit in the Post Office fund shall be applied in accordance with the regulations of the Insurance Commissioners towards the payment of any of the benefits specified in Part III. of the Fourth Schedule to this Act until the same is exhausted.

(5) Where a woman who was a married woman at the commencement of this Act at any time subsequently either before or within one year after the death of her husband becomes an employed contributor and a member of an approved society, she shall be entitled to full benefits, notwithstanding that at the time of so becoming she is of the age of seventeen or upwards.

(6) Where any arrears of contributions have accrued

due in respect of a married woman during coverture such arrears shall, on the death of her husband, be disregarded and she shall be thenceforth entitled to benefits as if such arrears had never accrued due.

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(7) Except as provided by this section, a married woman shall not be entitled to become a voluntary contributor, and, if a woman is before marriage a voluntary contributor, she shall on marriage not be entitled to continue to be such a contributor.

(8) If a woman, whilst a voluntary contributor at such reduced rates of benefit as are provided by this section, becomes employed within the meaning of this Part of this Act, she shall be entitled to a certificate (to be granted in manner herein-before provided) exempting her from liability to become an employed contributor so, however, that such exemption shall not exempt the employer from his liability to pay contributions in respect of her, or deprive him of his right to recover such part of those contributions as is payable on her behalf, but of each weekly contribution so paid by the employer threepence shall be treated as her contribution as a voluntary contributor and the balance shall be applied for her benefit in such manner as the society may determine.

(9) If at any time the married women's suspense account is insufficient to meet the liabilities imposed on it by this section, the deficiency shall be made good out of the sums retained by the Insurance Commissioners for discharging their liabilities in respect of the reserve values created by this Act.

(10) Transfer value for the purposes of this section shall be calculated in such manner as the Insurance Commissioners may prescribe.

(11) Where a woman is a member of an approved society at the time when she is entitled to exercise an option under this section, it shall be the duty of the society to give her full information as to the nature of her rights.

(12) Where a deficiency has been found in respect of the society or branch of which a woman is a member

Sect. 44. at a valuation previous to the time when she became suspended from ordinary benefits under this Part of this Act, and that deficiency has not been made good at the time of her marriage, or where a woman is in arrears at that time, such adjustments in the sums transferred to the married women's suspense account, and in the balance of her transfer value, and in the rates of benefit to which she is entitled under this section, shall be made as the Insurance Commissioners may prescribe.

(13) Save as aforesaid, the provisions of this Part of this Act shall apply to a woman who has been married, both during and after coverture, in like manner as if she had never been married.

(14) This section shall apply in the case of a woman whose marriage has been dissolved or annulled, or who has, for a period of not less than two years, been actually separated from or deserted by her husband, as if her husband had died at the date at which such dissolution or annulment took effect, or, as the case may require, at the expiration of such period of two years.

Object and Effect of Section.—This section sets out the provisions of the Act dealing with married women. In order to appreciate the position created by this section, it is necessary to refer briefly to the position of women in general under the Act. It will be remembered that all women, whether married or single, who are employed within the meaning of this part of the Act are bound to become employed contributors (*vide supra*, p. 5). Any single woman who fulfils the qualifications laid down by sec. 1 (3) (*supra*, p. 4) may become a voluntary contributor, but except so far as allowed by the section now under consideration, no married woman can become or continue to be a voluntary contributor.

The section now under consideration provides that a woman who was before marriage an insured person, should, on marriage, be suspended from receiving the *ordinary* benefits conferred by the Act (*semble* the benefits set out in sec. 8 (1), *supra*), until the death of her husband (for the extended meaning of "death," *vide* subsec. (14)). Where, however, a woman

- (1) was before marriage and continues after marriage to be employed within the meaning of this part of this Act, or
 - (2) becomes so employed during coverture,
- she is not suspended or ceases to be suspended as the case may be.

Certain classes of married women will, on the death of their husbands, be given very favourable terms of becoming insured either as voluntary or employed contributors. These classes and the nature of the terms given are dealt with in the table set out at

the end of the note. This provision will of course involve considerable loss, and that loss will be met in part out of a new fund called the Married Women's Suspense Account. Women who have been insured persons before marriage will have, at the date of marriage, transfer values representing the contributions which they have made or which have been made in respect of them during spinsterhood. On marriage one third of the transfer value of such women, if they are members of approved societies, is to be carried to the Married Women's Suspense Account. These transfer values are not the same as the transfer values dealt with in sec. 31 (*supra*, p. 119), but are to be calculated in such manner as the Insurance Commissioners may prescribe. Power is also given to the Insurance Commissioners to adjust the transfer value or the rates of benefit to which a woman may be entitled under this section in the following cases:—

(1) Where the society or branch of which the woman in question is a member has a deficiency which, at the date of her marriage, has not been extinguished, or

(2) Where the woman herself is in arrears.

The loss which will be made by giving the favourable terms above referred to will be met in most cases by giving the women who are entitled to these terms on the death of their husbands reserve values, and these reserve values will be drawn from the Married Women's Suspense Account. If that account is insufficient to provide for the liability thus imposed upon it, the deficiency is to be made good out of the sums retained by the Insurance Commissioners for discharging their liabilities in respect of the reserve values created by this Act, that is to say, out of the sums retained by the Insurance Commissioners under sec. 55 (3), *infra*. This provision will make any additional charge, above and beyond what can be met out of the Married Women's Suspense Account, a charge on the general Fund, and will have the effect of postponing the date on which benefits may be extended under this Act (*vide* sec. 8 (9), *supra*, p. 56).

It will be observed that two-thirds of such transfer values are not disposed of. The sums which that fraction represents will be used to finance one or other of the three forms of insurance which are provided by this section for married women during the period of suspension from ordinary benefits. These forms of insurance are as follows:—

(1) Where a married woman being a member of an approved society is suspended from the ordinary benefits conferred by the Act, she may, if she elects within one month after her suspension, or if later than that, subject to the consent of the society, become a voluntary contributor on the terms set out in subsec. (3). These terms are that she should in return for a contribution of threepence a week receive (a) medical benefit, (b) sickness benefit and disablement benefit, at the rates and subject to the conditions specified in Table D of Part I. of the Fourth Schedule to this Act. (Table D is printed on p. 154 for convenience of reference.)

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TABLE SHOWING HOW THE ACT AFFECTS MARRIED WOMEN.

BEFORE MARRIAGE.	ON MARRIAGE.	DURING COVERTURE.	ON DEATH OF HUSBAND.
Employed Contributor member of an approved society.	<p>If she continues to be employed she is not suspended from ordinary benefits.</p> <p>If she ceases to be employed—</p> <ol style="list-style-type: none"> (1) She is suspended from ordinary benefits. (2) One-third of transfer value carried to Married Women's Suspense Account. 	<p>So long as she continues to be employed she is dealt with as an ordinary employed contributor.</p> <p>She may not become an ordinary voluntary contributor. She may elect—</p> <ol style="list-style-type: none"> (1) To become a special voluntary contributor under subsec. (2), <i>or</i> (2) To have the remaining two-thirds of her transfer value applied in accordance with the proviso to subsec. (2). <p>A.—If she elects the first of these alternatives and then becomes employed—</p> <ol style="list-style-type: none"> (1) Suspension ceases and she is treated as if she had not previously been insured * (proviso to subsec. (1)), <i>or</i> (2) She may get a certificate of exemption under subsec. (8). <p>B.—If she elects the second alternative and then becomes employed, she is dealt with as in A (1).</p>	<ol style="list-style-type: none"> (1) Arrears accrued during coverture are disregarded. Subsec. (6). (2) If she continues to be employed, no change. (3) If she ceases to be employed, she may (if qualified) become an ordinary voluntary contributor. <p>A.—If she has elected to become a special voluntary contributor and is not employed, she may either—</p> <ol style="list-style-type: none"> (1) Become an ordinary voluntary contributor (if qualified) on terms of subsec. (3), <i>or</i> (2) Continue to be a special voluntary contributor as provided in the proviso to subsec. (3). <p>B.—If she did not elect to become a special voluntary contributor and is not employed, she may, if qualified, become an ordinary voluntary contributor on ordinary terms.</p> <p>C.—In any case if she becomes employed at any time after the death of her husband, arrears accrued due during coverture and one month afterwards are to be disregarded.</p>
Voluntary contributor member of an approved society.	<ol style="list-style-type: none"> (1) Suspended from ordinary benefits. (2) One-third of transfer value is carried to Married Women's Suspense Account. 	<p>The same provisions apply to her as apply to an employed contributor who is a member of an approved society at the time of marriage who ceases to be employed on marriage.</p>	<p>The same provisions apply as in the case of an employed contributor who is a member of an approved society at the time of marriage and who ceases to be employed on marriage.</p>

Employed deposit contributor.	<p>If she continues to be employed she is not suspended from ordinary benefits.</p> <p>If she ceases to be employed—</p> <p>(1) She is suspended from ordinary benefits.</p> <p>(2) One-third of the amount standing to her credit in the Post Office fund is left standing there and does not appear to be dealt with under this or any other section.</p> <p>(1) She is suspended from ordinary benefits.</p> <p>(2) One-third of the amount standing to her credit in the Post Office fund is left standing there and does not appear to be dealt with under this or any other section.</p>	<p>So long as she continues to be employed, she is dealt with as an ordinary employed deposit contributor.</p> <p>She can never become a voluntary contributor—</p> <p>A.—If she ceases to be employed, two-thirds of the amount standing to her credit in the Post Office fund is to be applied in accordance with subsec. (4).</p> <p>B.—If later she becomes employed, suspension ceases, and she is treated as if she had not previously been insured * (proviso to subsec. (1)).</p> <p>She cannot continue to be a voluntary contributor.</p> <p>A.—If she continues to be unemployed, two-thirds of the amount standing to her credit in the Post Office fund is to be applied in accordance with subsec. (4).</p> <p>B.—If she becomes employed, suspension ceases, and she is treated as if she had not previously been insured * (proviso to subsec. (1)).</p> <p>She can never become a voluntary contributor.</p> <p>A.—If employed, she is dealt with as an ordinary employed contributor.</p> <p>B.—If not employed, the Act does not affect her.</p>	<p>(1) If she continues to be employed, no change.</p> <p>(2) If she ceases to be employed, she may, if qualified, become an ordinary voluntary contributor.</p> <p>A.—If she remains unemployed, she may, if qualified, become an ordinary voluntary contributor.</p> <p>B.—If she continues to be employed no change.</p>
Married at the time of commencement of the Act.			<p>A.—If she continues to be or becomes unemployed, she may, if qualified, become an ordinary voluntary contributor.</p> <p>B.—If she continues to be or becomes employed, no change.</p>
Uninsured person married after commencement of Act.		<p>C.—If she becomes employed and joins an approved society after commencement of Act, then subsec. (5) applies. She cannot become a voluntary contributor. If she becomes employed, she is dealt with as an ordinary employed contributor.</p>	<p>A.—Arrears accrued due during coverage are disregarded.</p> <p>B.—If she becomes an employed contributor and a member of an approved society within one year after husband's death, she receives full benefits, whatever her age.</p> <p>C.—Arrears accrued due during coverage are disregarded.</p> <p>(1) She can (if qualified) become a voluntary contributor.</p> <p>(2) If employed, arrears accrued due during coverture are disregarded.</p>

NOTE.—It is assumed throughout the table that a woman who was a deposit contributor on marriage does not become a member of an approved society at any stage, and *vice versa*. If this assumption were not made the combinations would be almost endless.

* "Treated as if she had not previously been insured" *vide* sec. 8 (7) *supra* n. 55 and sec. 9 (4) *supra* n. 60.

Sect. 44.**TABLE D.—Rates and Conditions for Married Women.**

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Sickness benefit: during the first thirteen weeks, the sum of 5s. a week; during the second thirteen weeks, 3s. a week.

Disablement benefit: the sum of 3s. a week.

Sickness and disablement benefit shall not be payable during the two weeks before and four weeks after confinement, except in respect of a disease or disablement neither directly or indirectly connected with childbirth.

No part of the contributions of a married woman who has elected to come in under this form of insurance is to be retained by the Insurance Commissioners for the purpose of discharging their liabilities to approved societies in respect of the reserve values created under the Act.

(2) Where such a married woman does not elect to become a voluntary contributor under the above conditions, she may have a sum equal to the remaining two-thirds of her transfer value applied towards the payment of any of the benefits specified in Part III. of the Fourth Schedule to this Act, until such sum is exhausted. If that transfer value includes a reserve value the sum aforesaid is to be reduced by so much as may be prescribed, and the amount by which such sum is so reduced may not be drawn by her, but is to be written off the amount of the reserve values credited to her society.

(3) Where a married woman was at the date of her marriage a deposit contributor, and is suspended from ordinary benefits on marriage in accordance with this section, two-thirds of the sum standing to her credit in the Post Office fund is to be applied towards the payment of any of the benefits specified in Part III. of the Fourth Schedule to this Act until the same is exhausted.

Where a married woman elects to become a voluntary contributor under the first form of insurance above set out, and afterwards again becomes employed, she may, if she likes, get a certificate exempting her from becoming an employed contributor. This exemption, will not, however, have the effect of releasing her employer from his obligation to pay contributions in respect of, or of depriving the employer of his right to deduct from her wages such part of the contribution as is payable in respect of her.

The above sets out briefly the provisions of this section. In order, however, that the effect of it may be seen in detail a table is inserted which shows how different classes of women are affected.

Insured Person includes voluntary and employed contributors. These persons may be members of approved societies or deposit contributors.

Employed within meaning of this Part of this Act.—*Vide* sec. 1 (2) (*supra*, p. 4).

Ordinary or Full Benefits.—*Vide* sec. 8 (1) (*supra*, p. 45).

Ordinary Voluntary Contributor.—For the qualifications necessary for becoming a voluntary contributor, *vide* sec. 1 (3) (*supra*, p. 4).

Date of entry into Insurance.—*Vide supra*, p. 39.

Certificates of Exemption.—For the manner of granting such certificates *vide* sec. 2, *supra*, p. 22.

45.—(1) This Part of this Act shall apply to persons of the age of seventeen or upwards at the date of entry into insurance who are not British subjects, subject to the following modifications :—

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Special provisions as to
aliens.

- (a) No such person shall be qualified to become a member of an approved society for the purposes of this Part of this Act, except upon the terms and subject to the conditions herein-after mentioned ;
- (b) No part of the benefits to which such persons may become entitled shall be paid out of moneys provided by Parliament ;
- (c) The rate of sickness, disablement, and maternity benefit shall, as respects a deposit contributor, be reduced, in the case of men, to seven-ninths, or in the case of women to three-quarters, of the rate to which they would otherwise be entitled under this Part of this Act ;
- (d) No part of the sums payable in respect of such persons for medical benefit and sanatorium benefit or towards the expenses of administration of benefits shall, in the case of such persons, be paid out of moneys provided by Parliament.

(2) Where such a person becomes a member of an approved society the following provisions shall have effect :—

- (i) The contributions payable by or in respect of such person shall be credited to the society ;
- (ii) The society shall in each year pay to the Insurance Committee the whole of the sums payable in respect of such person for medical benefit and sanatorium benefit ;
- (iii) The rate and conditions of sickness benefit, and disablement benefit, and maternity benefit shall be such as may be determined by the society ;
- (iv) Such person shall not be deemed to have joined an approved society for the purposes of the provisions of this Part of this Act relating to reserve values, and no part of the contributions of such

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person shall be retained by the Insurance Commissioners towards the discharge of their liabilities in respect of reserve values.

(3) A woman who, having been a British subject before marriage, has ceased to be a British subject by reason of marriage with a person not being a British subject, shall not be subject to the provisions of this section if her husband is dead, or the marriage has been dissolved or annulled, or she has for a period of not less than two years been actually separated from or deserted by her husband.

(4) This section shall not apply to any person who, on the fourth day of May nineteen hundred and eleven, was a member of a society which, or a separate section of which, becomes an approved society, and had then been resident in the United Kingdom for five years or upwards, or to any person who is transferred to an approved society or the Post Office fund in pursuance of an arrangement with the Government of any foreign State.

Object and Effect of Section.—This section sets out the modifications, subject to which this part of this Act applies to certain classes of aliens. The section applies to all aliens who are of the age of seventeen or upwards at the date of their entry into insurance, *except*—

- (1) Any alien who on May 4, 1911, was a member of a society which shall become an approved society, and who has been resident for five years in the United Kingdom (subsec. (4)) ;
- (2) Any alien who is transferred to an approved society or to the Post Office fund, in pursuance of an arrangement with the Government of any foreign State under sec. 32 (*supra*, p. 120) (subsec. (2)).

It should be observed that aliens who are within the above exception are excluded from the operation of the section now under consideration. It would appear that such aliens will be dealt with in exactly the same way as British subjects. They will be eligible for membership of any approved society, and will receive the assistance of the State grant, with the consequent enjoyment of full benefits. Reserve values will also, if necessary, be created in respect of them.

With regard to the aliens with whom this section does deal, the following provisions apply :—

If such aliens are employed within the meaning of this Act they must become insured as employed contributors, and if they possess the qualifications stipulated for by sec. 1 (3) (*supra*, p. 4), they

may, if they like, become voluntary contributors. In either case, two methods of insurance are open to them—

- (1) They may become members of an approved society, or
- (2) They may become deposit contributors.

A. If they adopt the first of these two methods the following provisions apply—

- (1) No part of the benefits to which they may become entitled, or of the expenses of administration, is to be paid out of moneys provided by Parliament;
- (2) The contributions payable by or in respect of them are to be credited to the society;
- (3) The society will have to pay to the appropriate Insurance Committee the sums payable in respect of such persons for medical and sanatorium benefit. These sums will presumably be the same as those payable in respect of an insured person of British nationality, and will be, in respect of the former benefit, the sum agreed or determined, as the case may be, under sec. 15 (6) (*supra*, p. 92), and, in respect of the latter benefit, the sum of one shilling and threepence for each such insured alien, as provided by sec. 16 (2) (a) (*supra*, p. 96);
- (4) The rates and conditions of sickness, disablement, and maternity benefit are left to the discretion of the society, and will, presumably, be such as the society can afford, having regard to its obligation in respect to medical and sanatorium benefit. It is submitted that the discretion in the society only goes to rates and conditions, and that it will have to make reasonable provision for all three benefits. In other words, the society will not be able to devote the whole of the money to the payment of one or two of these benefits to the exclusion of the third;
- (5) No reserve values (*vide* sec. 55, *infra*, p. 199) are to be credited to the society in respect of such aliens, and no sums are to be retained from their contributions for the discharge of any liabilities in respect of reserve values. The consequence of this is that the ages of such aliens will not be equalised, as will be the case for employed and voluntary contributors of British nationality who enter into insurance within the first year or the first six months, as the case may be, after the commencement of this Act, and any society which admits such aliens as members under the provisions of the section now under consideration, should adapt their scale of benefits to the ages of such aliens. At the same time there is no provision in the Act compelling such societies to do this, and it would appear to be possible for them, should they so desire, to equalise the ages of such members to a limited extent by introducing flat rates of benefits for all such members, which would be below the rates which older members, and above those which younger members, should, on a true actuarial basis, receive.

B. If they adopt the second of these two methods—

- (1) No part of the benefits to which they may become entitled, or of the expenses of administration, is to be paid out of moneys provided by Parliament.
- (2) Sickness, disablement, and maternity benefit is to be

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reduced in the case of men to seven-ninths, and in the case of women to three-quarters, of the ordinary rate of benefit.

Aliens aged Sixteen.—This section is expressed to apply to aliens “who are of the age of seventeen and upwards at the date of entry into insurance.” By sec. 1 (*supra*) “all persons of the age of sixteen and upwards” shall, or may be, insured under this Part of this Act. The result of these provisions is, that the section now under consideration does not apply to aliens who have attained their sixteenth, but not their seventeenth, birthday. But such aliens will be obliged, if they are employed, or will be at liberty, if they are qualified, to become insured under this part of this Act, since they are “persons of the age of sixteen or upwards.” Such aliens will, therefore, be entitled to be treated in exactly the same manner as British subjects, viz. to be insured for full benefits at the ordinary rates, and to have two-ninths of the cost of the benefits to which they may become entitled, and of the cost of administering these benefits, paid out of moneys provided by Parliament. Reserve values will also be created for them if necessary, *e.g.* in the case of widows under sec. 43 (1) (*supra*, p. 144).

Date of Entry into Insurance.—*Vide supra*, p. 39.

Aliens—British Subjects.—*Vide note, supra*, p. 26.

Note on Subsec. (1) (a) to (d).—It is submitted that these provisions apply to the case of an alien, who becomes a member of an approved society, except in so far as those provisions are modified by the provisions of subsec. (2). For example, it is submitted, and assumed above, that the fact that an alien becomes a member of an approved society will not entitle him to have two-ninths of the cost of his benefit paid out of moneys provided by Parliament.

Paragraphs (b) and (d) would appear to overlap, except in so far as expenses of administration are dealt with in para. (d). It is submitted that para. (d) is inserted *ex abundanti cautela*, in order that the Treasury should not have to pay out any money provided by Parliament in respect of aliens under the provisions of sec. 15 (7) and (8), or sec. 17 (2) and (3) (*supra*, pp. 92, 99). (*Sed quære.*)

Aliens who become Naturalized.—There are no provisions dealing with the position of aliens who, after entering insurance as aliens, subsequently become naturalized. “An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural born British subject is entitled, or subject in the United Kingdom, . . .” Naturalization Act, 1870 (33 Vict. c. 14), s. 8. It is submitted that, as soon as an alien is granted a certificate of naturalization, he is entitled to be treated in the same manner as any British subject under this Part of this Act. If, at the time the certificate is granted, the alien is a member of an approved society subject to the provisions of this section, *quære* how the financial side of his transfer to full benefits will be effected? In the case of a deposit contributor it would seem that no difficulty would arise, but a member of an approved society, who was also an employed contributor, and who had entered into insurance within one year from the commencement of this Act, would, it is submitted, become entitled to

full benefits, and a reserve value might be necessary in order to provide these benefits. The wording of sec. 55 as to the creation of reserve values is very wide, and, if the position of a naturalized alien is such as to require a reserve value, as it well may, if the above submission is correct, it would be within the power of the Insurance Commissioners to create the appropriate reserve value.

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IZED.

46.—(1) For the purpose of providing seamen, marines, and soldiers with such benefits during their term of service and after their return to civil life as are herein-after in this section mentioned, there shall be deducted from the pay of every seaman and marine within the meaning of the Naval and Marine Pay and Pensions Act, 1865, and of every soldier of the regular forces (other than soldiers of His Majesty's Indian Forces, the Royal Malta Artillery, and native soldiers of any regiment raised outside the United Kingdom), the sum of one penny halfpenny a week, and there shall be contributed by the Admiralty and the Army Council respectively, out of moneys provided by Parliament for navy and army services, in respect of every such seaman, marine, and soldier who has joined an approved society in the manner hereafter mentioned, the sum of one penny halfpenny per week, and, in respect of every other such seaman, marine, and soldier, such sum per week as may be prescribed:

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visions with
regard to
persons in the
naval and
military
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Provided that no such deduction shall be made from the pay of a seaman, marine, or soldier who has completed the period of his first engagement and has re-engaged for pension unless he so elects within the prescribed time, and that no contribution shall be made by the Admiralty or Army Council in respect of any week in respect of which such a deduction is not made.

(2) A seaman, marine, or soldier—

- (a) who was at the date of his entry or enlistment an insured person and had joined and was at that date a member of an approved society; or
- (b) who within six months from the date of his entry or enlistment, or, in the case of a seaman, marine, or soldier serving at the commencement of this Act, within six months after the

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commencement of this Act, or within such longer period as may be prescribed, joins an approved society for the purposes of this Part of this Act ;

shall, for the purposes of this Part of this Act, be treated as if he were an employed contributor, subject, until his discharge, to the following modifications :—

- (i) The employed rate shall be three pence, and the deductions made from his pay and the contributions made in respect of him by the Admiralty or Army Council shall be treated as the contributions paid in respect of him ;
- (ii) He shall not be entitled to medical benefit, sanatorium benefit, sickness benefit, or disablement benefit ;
- (iii) Maternity benefit shall be payable, notwithstanding that both he and his wife are resident outside the United Kingdom at the date of the confinement, and the society may arrange with the Admiralty or Army Council for the administration of the benefit through the Admiralty or Army Council ;
- (iv) The sum to be retained out of each weekly contribution by the Insurance Commissioners towards the discharge of their liabilities in respect of reserve values shall be one penny, and the remaining five-ninths of a penny shall be paid out of the Navy and Army Insurance Fund hereinafter constituted.

(3) With respect to seamen, marines, and soldiers who have not joined an approved society as aforesaid, the following provisions shall have effect :—

- (a) The sums so deducted and the contributions so made as aforesaid in respect of such men shall be paid into the National Health Insurance Fund, and out of such sums there shall be retained by the Insurance Commissioners towards discharging their liabilities in respect of the reserve values created under this Part of this Act the like amount as if such men were members of approved

societies, and the balance shall be credited to a special fund to be called the Navy and Army Insurance Fund : Sect. 46.

- (b) There shall also be paid into the Navy and Army Insurance Fund in each year out of moneys provided by Parliament a sum equal to two-ninths of the amount, calculated in the prescribed manner, which would have been payable in that year in respect of medical, sanatorium, sickness, and disablement benefits (including expenses of administration) had all seamen, marines, and soldiers from whose pay deductions are made under this section been members of approved societies and entitled to such benefits as employed contributors :
- (c) The weekly contributions to be made by the Admiralty and Army Council in respect of such men shall be such as may from time to time be required to keep the Navy and Army Insurance Fund solvent :
- (d) If any such man was at the date of his entry or enlistment a deposit contributor, he shall, for the purpose of dealings with the sum standing to his credit in the Post Office fund, be treated as if the Navy and Army Insurance Fund had been an approved society, and he had at the date of his entry or enlistment become a member of that society :
- (e) In the case of a seaman, marine, or soldier serving at the commencement of this Act, there shall be credited to the Navy and Army Insurance Fund such reserve value as would have been credited to an approved society had he at that date become a member of the society as an employed contributor : Provided that no such reserve value shall be credited to that fund if at the date aforesaid he had completed the period of his first engagement and had re-engaged for pension, unless he elects to have deductions made from

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his pay, or unless, not having so elected, he becomes on discharge entitled to benefits payable out of that fund as herein-after mentioned :

- (f) Every such man shall, until discharged, be entitled to maternity benefit payable out of the Navy and Army Insurance Fund, and shall be entitled to such benefit, notwithstanding that both he and his wife are at the date of the confinement resident outside the United Kingdom, and the benefit shall be administered by the Admiralty and Army Council either directly or through Insurance Committees :
- (g) On the discharge of a seaman, marine, or soldier, from whose pay deductions have been made and continue to be made up to the date of his discharge, there shall be debited to the Navy and Army Insurance Fund, and, if he becomes a member of an approved society within the prescribed time from his discharge, there shall be credited to that society, or, if he does not become a member of such a society within the prescribed time from his discharge, there shall, unless he becomes entitled to benefits out of the Navy and Army Insurance Fund as herein-after mentioned, be carried to his credit in the Post Office fund the transfer value which would have been payable in respect of him had he been a member of an approved society throughout his period of service, or, in the case of a man serving at the date of the commencement of this Act, since that date, and, if he becomes a deposit contributor, so much of the reserve value, if any, credited to the Navy and Army Insurance Fund in respect of him shall be cancelled as would have been cancelled had he been transferred from an approved society to the Post Office fund :
- (h) A man discharged from service as a seaman, marine, or soldier who proves that the state of

his health is such that he cannot obtain admission to an approved society may, if he so elects, on making application to the Insurance Commissioners in the prescribed manner within three months of his discharge, or such longer time as may be prescribed, become, subject to regulations made by the Insurance Commissioners after consultation with the Admiralty and Army Council, entitled to benefits (other than additional benefits) provided under this Part of this Act at the full rate, the cost of which benefits shall be payable out of the Navy and Army Insurance Fund, and such benefits shall be administered by Insurance Committees or otherwise in such manner as may be prescribed by such regulations as aforesaid, and any contributions paid under this Part of this Act by or in respect of him shall be paid into that fund:

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Provided that—

(i) no deductions from benefits shall be made on account of any pension to which a man may be entitled;

(ii) the rate of sickness benefit shall be reduced, in the case of a man who entered into insurance when of the age of seventeen or upwards or who is in arrears, to the like extent as it would be reduced had he been an employed contributor and a member of an approved society who entered into insurance at the like age or who is in arrears to the like extent, so however that the rate of sickness benefit shall in no case be reduced below five shillings a week;

(iii) there shall in each year be repaid to the Navy and Army Insurance Fund, out of moneys provided by Parliament, a sum equal to two-ninths of the amount expended out of the fund on such benefits as aforesaid, including the expenses of administration;

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(iv) if a man who is so entitled to benefits payable out of the Navy and Army Insurance Fund at any time becomes a member of an approved society for the purposes of this Part of this Act, he shall cease to be entitled to benefits payable out of that fund, and there shall be debited to that fund and credited to such society the transfer value which would have been so debited and credited if he had been at that time transferred from one approved society to another approved society.

(4) In the application of this Part of this Act to a man who is or has been a seaman, marine, or soldier, and to whom this section applies—

- (i) the date of his entry or enlistment as a seaman, marine, or soldier, or, if he was serving at the commencement of this Act, the date of that commencement, shall, unless he was an insured person at the date of his entry or enlistment, be treated as the date of his entry into insurance ;
- (ii) deductions from pay, with the corresponding contributions made by the Admiralty and Army Council, shall be treated as payments of contributions at the employed rate for the purpose of reckoning the number of contributions made in respect of him, arrears, and transfer value, and for the purpose of qualifications for becoming a voluntary contributor ;
- (iii) a seaman, marine, or soldier during his term of service shall, if he has joined an approved society as aforesaid before his entry or enlistment, be deemed to reside in that part of the United Kingdom in which he resided immediately before his entry or enlistment, or, if after his entry or enlistment, in the part of the United Kingdom in which the registered office or other principal place of business of the society or branch which

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he has joined is situate, and in any other case in England, and all persons entitled to benefits payable out of the Navy and Army Insurance Fund shall be deemed to reside in England.

(5) Discharge shall, in the case of a seaman, marine, or soldier who on the completion of any term of service is transferred to a reserve, include such transfer.

(6) This section shall not apply to a seaman, marine, or soldier who entered or enlisted before the age of sixteen until he attains that age, and on attaining that age shall apply to him as if he had entered or enlisted at the time when he attained that age.

(7) The foregoing provisions of this section shall, subject to such adaptations and modifications as may be prescribed, apply to men belonging to the Naval Reserves when employed on service during war or any emergency, and to men of the Army Reserve when called out on permanent service, and to men of the Territorial Force when called out on embodiment, but, except as aforesaid, shall not apply to any such men.

(8) Where a man of the Naval Reserves, the Army Reserve, or the Territorial Force is being trained and is in receipt of pay out of the moneys provided by Parliament for Navy or Army services, he shall, for the purposes of this Part of this Act, be deemed, whilst so training to be employed within the meaning of this Part of this Act and to be in the sole employment of the Crown. Provided that this subsection shall not apply to a man who was not immediately before the training an insured person, except in such cases and under such circumstances as may be specified in a special order made by the Insurance Commissioners.

Object and Effect of Section.—By para. (a) of Part II. of the First Schedule (*infra*, p. 322), employment in the naval or military service of the Crown, including service in Officers' Training Corps, except as otherwise provided in Part I. of this Act, is an employment which is excepted from the ordinary operation of the Act. This section supplies the meaning of the words "except as otherwise provided," and provides for the extent to which, and the means by which, such persons are to be insured

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The persons to whom this section applies are—

- (1) Seamen and marines within the meaning of the Naval and Marine Pay and Pensions Act, 1865 (28 & 29 Vict. cap. 73). By sec. 2 of that Act "seaman or marine means a petty officer, or seaman, non-commissioned officer of marines, or marine, or other person forming part in any capacity of the complement of any of Her Majesty's vessels or otherwise belonging to Her Majesty's Naval or Marine Force (not being an officer within the meaning of the Act)";
- (2) Soldiers of the regular forces (other than soldiers of His Majesty's Indian forces, the Royal Malta Artillery, and the native soldiers of any regiment raised outside the United Kingdom). This will include soldiers in British regiments of the regular forces serving anywhere outside the United Kingdom (*e.g.* at Gibraltar, in South Africa, or in India);
- (3) Men belonging to the Naval Reserves when employed on service during war or any emergency, and men of the Army Reserve when called out on permanent service;
- (4) Men of the Territorial Force when called out on embodiment.

The provisions of this section are applied compulsorily to the men forming all these four categories, *except* to seamen, marines, and soldiers who have completed their first engagement, and who have re-engaged for a pension. Such men have an option as to whether they should avail themselves thereof or not.

To categories (3) and (4) the provisions of this section only apply subject to such adaptations and modifications as the Insurance Commissioners may prescribe.

Broadly speaking, the effect of this section is that the men to whom it applies are insured, *sub modo*, during their period of service. Their contribution will amount to threepence a week paid in both classes, payable as to three-halfpence in the case of men in class (1) (*infra*), and of an indeterminate amount in the case of men in class (2) (*infra*), by deduction from their pay, and as to the balance by their employers, the Admiralty or the Army Council, as the case may be. During their period of service they will only receive maternity benefit. The provision of maternity benefit will not, however, exhaust their contributions. These contributions will serve to enable them to re-enter the ordinary scheme of insurance on their discharge in as favourable a position as if they had been ordinary employed contributors throughout their period of service, or, if such re-entry is impossible to them on the ground of their health, will form the basis of a new fund called the Navy and Army Insurance Fund, which will, amongst other things, insure such men after their discharge.

The method by which this end will be attained is as follows:—

Seamen, marines, and soldiers will be divided into two classes:

- (1) Those who, at the date of entry or enlistment, are already members of approved societies, or who, within six months from the date of entry into the Navy, or enlistment in the Army, or, in the case of seamen,

marines, or soldiers, who are in either of the services at the commencement of the Act, viz. July 15, 1912, or such other date as may be ordered (*vide* sec. 115), within six months from that date join an approved society for the purposes of this Part of this Act. This will include all persons, who, on entering either of the services, were either voluntary or employed members of approved societies.

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- (2) Those who have not joined an approved society as aforesaid. This will include all persons, who, entering either of the services, were either voluntary or employed deposit contributors, or who were not insured at all.

It should be noticed that both these classes may include men who have re-engaged for a pension, provided such men have elected to have deductions made from their pay.

(Note.—*Deductions from pay.*—*Vide* The Army Act (44 & 45 Vict. c. 58, s. 136)).

To a Man in Class (1) the following Provisions apply:—

- (a) His employed rate of contribution is to be threepence, paid as to three-halfpence by himself by deduction being made from his pay, and as to the remaining three-halfpence by the Admiralty or the Army Council, as the case may be, on their own behalf as employers;
- (b) The only benefit he can receive is to be maternity benefit, and, if his society is in a position to give them, additional benefits. But there are to be no geographical limits within which maternity benefit is to be paid: he will receive it wherever he or his wife may be residing (contrast sec. 8 (4)). This benefit may be administered by the Admiralty or by the Army Council, if his society make arrangements to that end;
- (c) Only one penny out of each of his weekly contributions is to be retained by the Insurance Commissioners in respect of reserve values (sec. 55, *infra*), and the remaining five-ninths of a penny, which that section lays down that the Insurance Commission are to retain, is to be paid out of the Navy and Army Insurance Fund;
- (d) *In every other respect* he is to be treated as an ordinary employed contributor.

This last provision will have the following effects:—

- (i) He will continue to be a member of his society throughout his period of service, and on discharge can continue to be an insured member thereof as an employed contributor (if employed), or as a voluntary contributor (if qualified), as if he had been an employed contributor throughout his period of service.
- (ii) A reserve value will be created for him and credited to his society.
- (iii) The contributions paid in respect of him will be paid into the National Health Insurance Fund (sec. 54, *infra*, p. 196), and, subject to the retention of the penny by the Insurance Commissioners against his reserve values, will be credited to the approved society of which he is a member.
- (iv) Two-ninths of the cost of the maternity benefits and of its

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administration, &c., will be met by the State contribution (sec. 3, *supra*, p. 29).

- (v) All the other provisions of the Act dealing with employed contributors will apply during his period of service.

To a Man in Class (2) the following Provisions apply:—

- (a) Three-halfpence are to be deducted from his pay every week, and the Admiralty or Army Council, as the case may be, is to pay in respect of him such contributions every week as may be required to keep the Navy and Army Insurance Fund solvent. These contributions are to be credited to the Navy and Army Insurance Fund after the Insurance Commissioners have retained therefrom the ordinary amount, viz. one and five-ninths of a penny, in respect of reserve values.
- (b) If he is serving at the date of the commencement of this Act, the same reserve value as would have been credited to an approved society, had he at that date become a member of an approved society, is to be credited in respect of him to the Navy and Army Insurance Fund. But, if he is a man who has completed the period of his first engagement and has re-engaged for a pension, no such reserve value is to be so credited in respect of him, unless he elects to have deductions of three-halfpence a week made from his pay; or, unless on his discharge he becomes entitled to benefits payable out of the Navy and Army Insurance Fund. In this latter case it is not clear whether the fund will be credited on his discharge with the sum with which it would have been credited had he elected to have deductions made from his pay—*i.e.* his reserve value as to the date of the commencement of this Act, or with a sum representing his true reserve value at the date of his discharge. It would seem that the construction of subsec (3), (e), points to the former being the correct reserve value. *Sed quære.*
- (c) During his period of service the only benefit to which he will be entitled is to be maternity benefit in respect of his wife. There will be no geographical limits within which such maternity benefit is to be paid; he will receive it wherever he or his wife may be residing. The benefit is to be administered by either the Admiralty or Army Council directly or through the local Health Committees.

On Discharge.—(Note, by subsec. (6) discharge includes transfer to the reserve.)

- (A) A man in class (1) will remain a member of his society either as a voluntary (if qualified) or an employed contributor.
- (B) To a man in class (2) the following provisions will apply:—
- (a) If he becomes a member of an approved society within the time from his discharge prescribed by the Insurance Commissioners, there is to be credited to such society the transfer value which would have been payable in respect of him had he been a member of an approved society during his period of service (*vide* sec. 31, *supra*, p. 119). This will presumably be the case whether he

joins such society as a voluntary or as an employed contributor.

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- (b) If he becomes a deposit contributor there is to be transferred to his credit in the Post Office Fund the transfer value which would have been payable in respect of him had he been a member of an approved society during his period of service, but the reserve value, if any, credited to the Navy and Army Insurance Fund in respect of him is to be cancelled. In other words, the transfer will be on the same lines as the transfer of a member of an approved society to deposit insurance under sec. 43 (1), (a) (*supra*, p. 144).

- (c) If he can prove that he is unable on discharge to obtain admission to an approved society owing to the state of his health, he may, if he applies to the Insurance Commissioners within three months of his discharge, become entitled to all the benefits (except additional benefits) provided by this Act at the full rate. The cost of such benefits is to be met out of the Navy and Army Insurance Fund. These benefits are to be administered by the Insurance Committees (or otherwise if the Insurance Commissioners by regulations so prescribe). Any contributions paid by or in respect of him under this part of the Act are to be paid into that fund.

(Note.—The form of insurance above referred to in (c) will also be available for men who have not become members of approved societies, and who have not elected to have deductions made from their pay.)

The Navy and Army Insurance Fund.—Out of this fund will be paid, as has already been seen, maternity benefit for men in Class (2) (*viz.* seamen, marines, and soldiers who have not joined an approved society) during their period of service. The fund will also have to pay out transfer values for such men as, on discharge, become members of approved societies or deposit contributors. Finally, it will have to provide full benefits for all such men who, on discharge, cannot obtain admission to an approved society on the ground of health, and who elect to be insured in it. In order to discharge the liabilities imposed upon it, it will be credited with the following sums:—

- (a) Two-ninths of the amount, calculated in the prescribed manner, which would have been payable out of moneys provided by Parliament in any given year in respect of medical, sanatorium, sickness and disablement benefit (including expenses of administration) had *all* seamen, marines, and soldiers from whose pay deductions are made under this section (*i.e.* men in Class (1) and in Class (2)) been members of approved societies and entitled to such benefits as employed contributors;
- (b) Any sum standing to the credit of a man in Class (2) in the Post Office Fund is to be dealt with on the date of his entry or enlistment as if the Navy and Army Insurance Fund were an approved society which he was leaving deposit insurance to join. In other words the Navy and Army Insurance Fund will receive the amount which, by sec. 42 (2), *supra*, would have been payable to an approved society

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if the man in question had been a deposit contributor and had joined such approved society at the date of his entry or enlistment in the Service ;

- (c) Reserve values for all men in Class (2) serving at the date of the commencement of this Act who are compelled or who elect to have deductions made from their pay. In the case of men who have completed the period of their first engagement and have re-engaged for a pension a reserve value will be credited to the fund, even though they have elected not to have deductions made from their pay, if, on discharge, they become entitled to full benefits payable out of the fund owing to their state of health being such as to debar them from becoming members of approved societies ;
- (d) The sums of three-halfpence a week deducted from the pay of men in Class (2) ;
- (e) Weekly contributions in respect of men in Class (2) made by the Admiralty or the Army Council, as the case may be, calculated at such rate as will ensure the solvency of the fund.

(Note.—Out of the sums mentioned in (d) and (e) the Insurance Commissioners before crediting such sums to the fund are to retain the same amount as they would retain for the purpose of discharging their liabilities in respect of reserve values as if the men in Class (2) were members of approved societies, viz. one penny and five-ninths a week in respect of each such man (*vide*, sec. 55, *infra*).)

Qualification for joining the Navy and Army Fund on discharge.—It will be observed that there is no provision in this section limiting the entry into this form of insurance to men whose bad state of health is existing at the date of their discharge. It is submitted that a man who, during the three months after his discharge, gets into a bad state of health from causes unconnected with his military or naval service is still entitled, on making application, to become insured in the Navy and Army Fund.

Insurance in the Navy and Army Fund after discharge.

- (1) A person who is insured in this fund does not appear to pay any contributions unless he becomes an employed contributor ; *quære*, however, whether if he does not pay contributions he will get into arrears. *Semble* he will, *vide* subsec. (3), (h), proviso (ii) ;
- (2) Such a person will be entitled to full benefits notwithstanding that he is in receipt of a pension ;
- (3) If such a person (a) entered into insurance after the age of seventeen, or (b) is in arrears, his rate of sickness is to be reduced to the same extent as if he was an employed contributor (*vide* sec. 9, (4) *supra*, p. 60, and sec. 10, (2) *supra*, p. 64, respectively) ;
- (4) Two-ninths of the amount expended by the fund on benefits, including expenses of administration, will be provided by the State.
- (5) If such a person becomes a member of an approved society he will cease to be insured in the Army and Navy Insurance Fund, and the fund will be liable to the society for the same transfer value as if the person in question

was being transferred from one society to another (*vide* sec. 31, *supra*, p. 119).

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Date of Entry into Insurance of Men to whom the Section applies.

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- (1) If the man was serving at the date of the commencement of the Act, the date of that commencement is the date of his entry into insurance.
- (2) If the man was not serving at the date of the commencement of this Act, and had not previously been insured, the date of his entry or enlistment as a seaman, marine, or soldier is the date of his entry into insurance.
- (3) If the man is already insured at the time of his entry or enlistment as a seaman, marine or soldier, the date of his entry into insurance is not affected by this section (*vide* Note on sec. 5, *supra*, for the date).*

Contributions of Men to whom this Section applies.

For the purpose of reckoning—

- (a) the number of contributions made in respect of such a man,
- (b) his arrears,
- (c) his transfer value,

deductions from pay with the corresponding contributions from the Admiralty or Army Council are to be treated as contributions at the employed rate.

Residence of Men to whom this Section applies.—During the period of service a seaman, marine, or soldier will be deemed to reside—

- (1) If he has joined an approved society before entry or enlistment, in that part of the United Kingdom where he resided immediately before his entry or enlistment;
- (2) If he joins an approved society after entry or enlistment, in that part of the United Kingdom in which the registered office or other principal place of business of the society or branch which he has joined is situate;
- (3) In any other case, in England.

All persons entitled to benefit payable not of the Navy and Army Insurance Fund are to be deemed to reside in England.

Seemle, these provisions will have the effect of putting all the men who, in accordance therewith, are to be treated as living in England, and the funds arising in respect of them, under the control of the Insurance Commissioners, and not under the control of the Scottish, Irish, or Welsh Commissioners, even if, in fact, they reside in Scotland, Ireland, or Wales. It would also seem that such men will be entitled to medical benefit even though they be resident, in fact, in Ireland (*vide* sec. 81 (9)).

Naval Reserves, Army Reserves, Territorial Force.—Provisions are made so that the men of these Forces should be deemed, during training, to be employed within the meaning of Part I. of the Act, and to be in the sole employment of the Crown, unless they are men who were not insured persons immediately before the training. The Insurance Commissioners may make special orders as to these latter men. For the procedure on making special orders, *vide* sec. 113, (*infra*, p. 319), and the Ninth Schedule (*infra*, p. 335).

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Special provisions where employer liable to pay wages during sickness.

47.—(1) The Insurance Commissioners shall from time to time make special orders specifying any classes of employment in which a custom or practice is shown to their satisfaction to prevail according to which the persons employed receive full remuneration during periods of disease or disablement, or any part thereof, and, where the custom or practice is confined to certain localities, the order shall also specify the localities in which the custom prevails, and, subject to the provisions of this section, the order may contain such incidental, supplemental, and consequential provisions as appear necessary for adapting the other provisions of this Part of this Act to cases under this section.

(2) It shall be lawful for any employer who employs persons in any class of employment specified in any such order, within a locality (if the custom is confined to certain localities) so specified, to give to the Insurance Commissioners the prescribed notice, and thereupon the employer shall, as respects all such persons, be subject to the liabilities, and this Part of this Act shall apply in respect of all such persons, subject to the modifications herein-after mentioned.

(3) The employer shall be liable to pay full remuneration to every such person during any period or periods not exceeding six weeks in the aggregate in any one year during which such person may be suffering from any disease or disablement commencing while such person is in his employment, notwithstanding that such person may have left his employment before the expiration of that time :

Provided that, if any such person is engaged for a term of not less than six months certain, the employer shall be liable to pay full remuneration during any period of disease or disablement lasting less than six weeks, and for the first six weeks of any period of disease or disablement lasting more than six weeks, notwithstanding that the aggregate exceeds six weeks, but, where any such period extends beyond the term of the engagement, the employer shall not be liable to make any payment

in respect of any part thereof after the expiration of such term. Sect. 47.

(4) This Part of this Act shall apply in respect of persons so employed as aforesaid, subject to the following modifications :—

- (a) Sickness benefit shall not be payable in respect of any period during which full remuneration is payable by the employer under this section, but, for the purpose of calculating the rate and duration thereof, shall be deemed to have been paid for six weeks before the date as from which it becomes actually payable :
- (b) The employed rate shall be reduced by two pence (or, where the employed contributor is a woman, one penny halfpenny) :
- (c) The weekly contributions payable by the employer shall be reduced by one penny (or, where the employed contributor is a woman, one halfpenny), and the weekly contributions payable by the employed contributor shall be reduced by one penny :
- (d) There shall be credited to the approved society of which any such person is a member, or, if he is a deposit contributor, to his account in the Post Office fund, the difference between the amount of contributions at such reduced rate actually paid in respect of him and the amount which would have been paid if those contributions had been at the full rate, and the amount of that difference shall be treated as having been expended on sickness benefit, and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament :
- (e) Contributions shall not be payable in respect of any period of disease or disablement during which full remuneration is payable under this section if the prescribed notice has been given :
- (f) The rules of an approved society or Insurance Committee as to notices and proof of disease and

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disablement may extend to periods of disease and disablement during which full remuneration is payable under this section.

(5) Where a person on ceasing to be so employed becomes temporarily unemployed, paragraphs (b) and (d) of the last foregoing subsection shall continue to apply in respect of him, and sickness benefit shall not be payable in respect of the first six weeks of any period of disease or disablement commencing after he ceased to be so employed, but, for the purpose of calculating the rate and duration thereof, shall be deemed to have been paid during those six weeks, and notwithstanding anything in this Part of this Act a disease or disablement shall not, for the purposes of sickness benefit, be treated as a continuation of a previous disease or disablement unless the medical practitioner attending such person certifies that it in fact is so.

(6) Where such a person as aforesaid ceases to be employed within the meaning of this Part of this Act, and is entitled to become a voluntary contributor paying contributions at the employed rate, paragraphs (b) and (d) of subsection (4) shall, if he becomes a voluntary contributor, continue to apply in respect of him, and sickness benefit shall not be payable in respect of the first six weeks of any period of disease or disablement commencing after he became a voluntary contributor, but, for the purpose of calculating the rate and duration thereof, shall be deemed to have been paid during those six weeks, and, notwithstanding anything in this Part of this Act, a disease or disablement shall not, for the purposes of sickness benefit, be treated as a continuation of a previous disease or disablement unless the medical practitioner attending such person certifies that it in fact is so :

Provided that, if any such person at any time wishes to become an ordinary voluntary contributor, he may become such after the payment of twenty-six weekly contributions at the full rate, or, if the society of which he is a member consents, after the payment of such less

number of such contributions as the society may appoint. Sect. 47.

(7) Where any employers wish to avail themselves of the provisions of this section as respects the persons employed by them in a class of employment, or in a locality, in which no such custom or practice as aforesaid exists, they may apply to the Insurance Commissioners, and the Commissioners, if, after ascertaining the views of the persons so employed, they think fit, may make a special order extending the provisions of this section as respects the applicants to the class of employment or locality mentioned in the application as if it were a class of employment or locality in which such a custom or practice as aforesaid prevailed.

(8) Any question as to whether an employer is entitled to avail himself of the provisions of this section as respects any persons employed by him shall be determined by the Insurance Committee, subject to appeal to the Insurance Commissioners.

(9) The payment of contributions purporting to be at the reduced rate authorised by this section as respects any persons employed by an employer in any class of employment, shall be conclusive evidence that he is, as respects those persons and all other persons employed by him in the same class of employment in the same locality, under the liability imposed by this section.

(10) An employer who has given such notice as aforesaid may, by giving three months' previous notice to the Insurance Committee, withdraw his notice as from the commencement of the next calendar year, and in such case, as from that date, this section shall cease to apply in respect of the persons employed by him in the class of employment to which the notice of withdrawal relates.

(11) None of the provisions of this section shall apply as respects any person employed at a rate of remuneration which is less than ten shillings a week.

(12) Nothing in this section shall relieve any employer from any legal liability to pay wages during sickness to

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— established custom.

Object and Effect of Section.—The object of this section is to give employers of employees in certain classes of employment the option of paying reduced contributions and, in the case of the employees, of receiving reduced benefits from the Insurance Fund. The classes of employment in which this option is to be given are to be specified by the Insurance Commissioners by special order (to be made in the manner provided by sec. 113 and the Ninth Schedule, *infra*, pp. 319 and 335, respectively). In order that a class of employment may be so specified by the Insurance Commissioners, it must be one in which it is proved to their satisfaction that a custom prevails according to which persons employed receive full remuneration during periods of disease or disablement. The order may specify a particular class of employment without geographical limits, or, where the custom is a local one, may specify the localities in which the custom prevails. Persons whose rate of remuneration is less than 10s. a week cannot be dealt with under this section.

The principal classes of employment in which such a custom prevails would appear to be—

- (1) Employment as an agricultural labourer in certain parts of Scotland, Northumberland, Durham, parts of Yorkshire, and parts of Wales;
- (2) Employment as a clerk;
- (3) Employment as a shop-assistant in certain cases;
- (4) Employment as a domestic servant.

In order fully to appreciate the provisions of the section now under consideration, the position of persons employed in such classes of employment should be considered as it stands under the Act apart from this section.

All such persons must be insured as employed contributors, and their employers are, in the first instance, responsible for paying the whole weekly contribution payable in respect of them (that is to say, 7*d.* in the case of men and 6*d.* in the case of women). This weekly contribution is ultimately to be paid partly by the employer and partly by the employee in the proportion set out in the Second Schedule to the Act (*infra*, p. 324), and the employer may deduct the employee's contribution from his wages. The manner in which such contributions are to be paid is by the employer affixing adhesive stamps to books or cards at weekly or other prescribed intervals (*vide* sec. 4, *supra*, p. 31, and sec. 7, *supra*, p. 45). Doubtless the intervals prescribed by the Commissioners will, for convenience, correspond with the intervals at which wages are usually paid, *e.g.* monthly in the case of domestic servants.

The employee will be entitled to all the benefits conferred by this Part of the Act (*vide* sec. 8 (1), *supra*, p. 45) as soon as the necessary number of contributions have been paid (*vide* sec. 8 (8), *supra*). Briefly, in the case of a domestic servant, for example, the result will be as follows:—

- (1) The servant will be attended by the doctor of his choice, and receive medicines and medical and surgical appliances at no further expense to himself or to his master;
- (2) If the servant gets consumption, he will, if recommended for

such treatment by the Insurance Committee, be treated in a sanatorium, or in his own home, again at no further expense to himself or to his master. If the servant has dependants, they will receive the value of his sickness and disablement benefit while he is in the sanatorium, sec. 12 (2) (a).

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- (3) The servant is entitled to maternity benefit ;
- (4) If the servant is rendered incapable of work by some specific disease, or by bodily or mental disablement, he will be entitled to 10s. a week for 26 weeks, commencing on the fourth day after being so rendered incapable, and 5s. a week after such 26 weeks for so long as the disablement lasts (in the case of women, 7s. 6d. a week for 26 weeks, and then 5s. a week); if he goes to hospital his dependants may receive the money (sec. 12).
- (5) During the time that the disease or disablement lasts, and in the absence of any contract to the contrary, the master of such a servant can either—
 - (a) Dismiss the servant on the same notice as he would have had to give if this Act had not passed, but with the knowledge that some provision is made for him, or
 - (b) Continue to keep the servant, giving him board, lodging, and such reduced wages (provided that by giving reduced wages he does not violate any existing contract between himself and the servant) as he thinks fit.

[*Note.*—There is no provision in the Act which prevents any employed contributor from receiving any benefit while the whole or any part of his wages are still being paid. The only limitation which exists in the Act is that the *amount* of benefit which the employed contributor can receive from the Insurance Fund may not exceed two-thirds of his usual rate of wages or remuneration, and in calculating the rate, allowance must of course be made for board and lodging, *e.g.* a general servant receiving £18 a year and board and lodging would probably be reckoned to be earning at least double as much as £18.]

The above shows exactly the position of master and domestic servant under the Act, without taking into account the provisions of this section. In order that the value of the option given by this section may be gauged, it must be kept in mind that the cost to the master and servant of putting themselves in that position is 13s. *per annum* to the master whether his servant be a man or a woman, and 17s. 4d. *per annum* to the servant if he is a man, and 13s. *per annum* if she is a woman.

How Exercising the Option will Affect the Master.—

- (1) The master will pay 1d. per week less contribution if his servant is a man, and $\frac{1}{2}$ d. per week less if his servant is a woman. That is to say, he will save 4s. 4d., or 2s. 2d. *per annum* as the case may be ;
- (2) Medical attendance, &c., will still be provided for the servant in the same way as if the master had not exercised the option ;
- (3) Similarly, if the servant gets consumption, he can still (if recommended) receive sanatorium treatment.

The liabilities imposed upon him are as follows :—

- (1) If the servant is engaged for a term of not less than 6

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months certain, the master will have to pay full wages to his servant,

(i) during the whole of any period of disease or disablement lasting less than 6 weeks,

(ii) for the first six weeks of any period of disease or disablement lasting more than 6 weeks,

even though the aggregate period during which he has to pay full wages exceeds 6 weeks. *But*, when the term of engagement comes to an end the master is under no further liability to pay wages even though the servant is disabled at that time.

Example.—A (a clerk) is engaged by B for the first 6 months of 1914. On January 14 he falls ill, and is away ill for 8 weeks. B will have to pay full wages to A during the first 6 weeks that he is ill. On April 2 A again falls ill and is away for 3 weeks. B will have to pay full wages during all those 3 weeks. On June 3 A again falls ill and does not recover till August 1. B will only have to pay full wages for 4 weeks, that is up to the end of the period for which A was engaged, viz. June 30.

(2) If the servant is engaged for a term of less than 6 months certain (this includes the ordinary terms upon which domestic servants are engaged) the master will have to pay full wages for at least, but not more than, 6 weeks in the year while the servant is suffering from any disease or disablement commencing while the servant is in his employment. *This obligation does not cease when the servant leaves the master.*

Example.—X (a butler) has given notice to leave at the end of March. On March 17 he falls ill. Y (his master) will be liable to pay him full wages up to April 28 even though X leaves his service at the end of March.

(*Note.*—By sec. 79 “The expression ‘disease or disablement’ means such disease or disablement as would entitle an insured person to sickness or disablement benefit”; *i.e.* a disease or disablement rendering him incapable of work. “Full remuneration.” This expression includes, it is submitted, not only money wages but the value of board and lodging, &c., in any case where such things are, in fact, part of the servant’s remuneration.)

How the Exercise of the Option will Affect the Servant.

- (1) The servant will, whether a man or a woman, pay one penny per week less contribution; that is to say, he or she will save 4s. 4d. a year;
- (2) Sickness benefit will not be paid to the servant during any period when the master is bound, under this section, to pay full remuneration;
- (3) Contributions will not be payable in respect of any period of disease during which the master is bound, under this section, to pay full remuneration. This concession only takes effect if the prescribed notice is given (sub-sec. (4) (e)).

If and while the servant becomes temporarily unemployed—

- (1) The servant will be paid full remuneration while he has any disease or disablement which commenced while in service, for six weeks from the commencement of such

disease or disablement, even if the servant has left his master's service during the six weeks. (This rule applies when the servant has been engaged for less than six months certain; where the servant is engaged for six months certain, or more, no remuneration need be paid by the master after the termination of the period of service (*vide supra*));

- (2) The servant's contribution will continue to be the reduced contribution, viz. 5*d.* a week in the case of men, and 4½*d.* a week in the case of women. These contributions the servant may continue to pay in order to keep out of arrears, for, by sec. 79 (*infra*, p. 240), he is still deemed to be an employed contributor, even though he is temporarily unemployed (*cf.* p. 37, *supra*).
- (3) No sickness benefit will be payable to the servant during the first six weeks of any period of disease or disablement;
- (4) After the first six weeks of any period of disease, sickness benefit will be paid to the servant. But instead of sickness benefit being paid for twenty-six weeks, as in the normal case, it will only be paid for twenty weeks. After the expiry of those twenty weeks, disablement benefit will, if the servant is still suffering from disease or disablement, become payable. Sickness benefit will be payable for twenty weeks, even though the servant has been suffering from disease or disablement for some period during the preceding twelve months, and has not paid fifty contributions since that time, notwithstanding the provisions of sec. 8 (5) (*supra*, p. 54), *unless* his doctor certifies that the second disease or disablement is, in fact, a continuation of the first disease or disablement. If his doctor does so certify, then the length of time during which the servant is entitled to sickness benefit and before he is entitled to disablement benefit, will be reduced by the length of time that the previous disease or disablement lasted, in accordance with sec. 8 (5).

In a case where the servant—

(1) *ceases to be employed within the meaning of this Part of this Act, vide sec. 1 (2) and First Schedule (supra, pp. 4, 6); and*

(2) *is entitled to and does become a voluntary contributor, paying the employed rate, vide sec. 5 (1) (supra, p. 38), the following provisions apply:—*

- (1) He will still pay the reduced rate of contribution, viz. 5*d.* in the case of a man, and 4½*d.* in the case of a woman;
- (2) As regards sickness benefit, he will be treated in exactly the same way as a servant who is temporarily unemployed;
- (3) If, however, he desires to become an ordinary voluntary contributor (*i.e.* paying full rates of contribution and receiving sickness benefit on the fourth day after the commencement of any disease or disablement), he may become such after the payment of twenty-six weekly contributions at the full rate, or, if the society of which he is a member consents, after the payment of such less number of contributions as the society may appoint.

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Sect. 47. State Grant in relation to Persons coming under the Provisions of this Section.—While such a person is—

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IN RELATION
TO PERSONS
COMING
UNDER THE
PROVISIONS
OF THIS
SECTION.

- (1) in employment, or
 - (2) temporarily unemployed, or
 - (3) a special voluntary contributor after ceasing to be employed,
- the amount of the difference between the reduced rate of contribution and the full rate is to be credited to the approved society of which the person is a member, or, if he is a deposit contributor, to his account in the Post Office Fund. That amount is to be treated as if it had been expended in benefits and accordingly (*vide* sec. 3, *supra*, p. 29), two-ninths thereof is to be paid out of moneys provided by Parliament and presumably credited to the approved society or to the person's account in the Post Office Fund as the case may be.

Manner in which the Option is to be Exercised.—

An employer who employs a person in any of the classes of employment specified in the order of the Commissioners and who desires to avail himself of the option given by this section, must give the Commissioners notice in the prescribed form (subsec. 2). He cannot give the notice in respect of individual servants; either all or none of his servants in the given class of employment must come under the provisions of this section. But it must also be borne in mind that the section provides that the mere fact that the employer has paid any contributions at the reduced rate permitted by this section in respect of *any* servant, is conclusive evidence that he is under the liabilities imposed by this section towards that servant and *all* other servants employed by him in the same class of the employment and in the same locality (subsec. (9)).

Questions as to whether an Employer has this Option.—

These question are to be decided by the local Health Committees subject to appeal to the Insurance Commissioners.

Withdrawal after Exercise of Option.—Once an employer has exercised his option, and placed himself and his servants under the provisions of this section, he can only withdraw by giving three months' notice to the Insurance Commissioners to take effect at the end of the then current calendar year. The provisions of the section will cease to apply both to the employer and his servants at the end of the year.

Special order as to Employment in which no Custom Exists.—*Vide* subsec. (7).

Application to the Provisions of this Section to Persons in the Service of the Crown.—*Vide* sec. 53 (2) (*infra*, p. 196).

Change of Employers.—There are no provisions in this section dealing with the rates of contribution or of benefit in respect of an insured person in a specified class who leaves an employer who has elected to come within this section, and who takes service with an employer who has not so elected. *Quære* whether this question can be dealt with by the Insurance Commissioners in any special order they may make under this section?

By subsec. (1), the order "may contain such incidental, supplementary and consequential provisions as appear necessary for adopting the other provisions of this Part of this Act to cases under this section." It is suggested that these words are sufficient to give the necessary power to the Insurance Commissioners to provide for the case above suggested in the special order.

48. In the application of this Part of this Act to masters, seamen, and apprentices to the sea service and the sea fishing service, the following provisions shall have effect:—

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Special provisions as to the mercantile marine.

- (1) Neither sickness benefit nor disablement benefit shall be paid to a master, seaman, or apprentice suffering from any disease or disablement in respect of any period during which the owner of the ship is under the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or otherwise, liable to defray the expense of the necessary surgical and medical advice and attendance and medicine, and of his maintenance, but, for the purpose of calculating the rate and duration of sickness benefit, such benefit shall be deemed to have been paid from the commencement of the disease or disablement until the determination of such liability as aforesaid, and he shall not be entitled to medical benefit during such period:
- (2) In the case of masters, seamen, and apprentices serving on foreign-going ships or ships engaged in regular trade on foreign stations, the employed rate and the employers' contributions shall each be reduced by one penny a week, and every four weekly contributions paid in any calendar year by a master, seaman, or apprentice whilst serving on such a ship shall, for the purposes of determining the number of contributions to be paid by him in that year and for the purposes of calculating arrears, be treated as five such contributions:

Provided that—

(a) nothing in this provision shall affect the number of employer's contributions to be paid in respect of such a master, seaman, or apprentice, but no employer's contributions paid in respect of any week in respect of which no contribution is payable by the

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master, seaman, or apprentice shall be taken into account in reckoning the amount of his arrears ;

(b) there shall be credited to the approved society of which the master, seaman, or apprentice is a member, or, if he is a deposit contributor, to his account in the Post Office fund, a sum equal to two-fifths of the amount of the contributions actually paid in respect of him, and an equal sum shall be treated as having been expended on sickness benefit, and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament :

- (3) A master, seaman, or apprentice who is neither domiciled nor has a place of residence in the United Kingdom shall not be deemed to be employed within the meaning of this Part of this Act, but the employer shall be liable to pay the same contributions in respect of him as would otherwise have been payable by him as employer's contributions, except in cases where the ship is engaged in regular trade on foreign stations :
- (4) The Board of Trade shall, as soon as may be after the passing of this Act, cause a society to be formed, to be called the Seamen's National Insurance Society, of which any masters, seamen, and apprentices to the sea service and the sea fishing service who are employed within the meaning of this Part of this Act shall be entitled to become members, but nothing in this section shall prevent any such person joining another approved society instead of the society so formed :
- (5) The affairs of the Seamen's National Insurance Society shall be managed by a committee constituted in accordance with a scheme to be prepared by the Board of Trade with the approval of the Insurance Commissioners, comprising representatives of the Board of Trade, of ship-

owners, and of members of the society in equal proportions, and the society shall, notwithstanding anything in this Part of this Act, become an approved society :

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- (6) All contributions paid by employers in respect of masters, seamen, or apprentices who are neither domiciled nor have a place of residence in the United Kingdom, and consequently deemed not to be employed within the meaning of this Part of this Act, shall be credited to the Seamen's National Insurance Society :
- (7) In addition to medical, sanatorium, sickness, disablement, and maternity benefits, members of the Seamen's National Insurance Society shall be entitled to such other benefits as may be provided under a scheme to be prepared by the committee of management, with the approval of the Board of Trade and the Insurance Commissioners, and such other benefits shall include pensions for masters and seamen with long sea service, and the scheme may provide for preference being given to masters and seamen who have served in foreign-going ships or ships engaged in foreign trade over those who have served in the coasting and home trade ships, and such preference may be proportionate to the length of time spent in the first-mentioned service : Provided that—

(a) the scheme shall provide for making a proper proportion of the sums credited to the Seamen's National Insurance Society under the last foregoing subsection applicable towards the payment of pensions or superannuation allowances granted by other approved societies to members with such sea service that, had they been members of the Seamen's National Insurance Society, they would have been entitled to pensions under the scheme ; and

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(b) in the case of the transfer of a member of the society to another approved society, the transfer value payable in respect of him shall be calculated with reference to the liabilities of the society for benefits other than such pensions as aforesaid :

- (8) The rules of the Seamen's National Insurance Society shall provide for allowing a member who leaves the sea service and is unable to obtain admission to another approved society on account of the state of his health to continue a member of the Seamen's National Insurance Society for the purposes of this Part of this Act, and the rules of that society may provide that a member of the society who has fulfilled the conditions entitling him to such pension as aforesaid shall not be deprived of his right to the pension by reason only that he has ceased to be a member of the society at the time when the pension first becomes payable or ceases so to be at any subsequent time :
- (9) Where a master, seaman, or apprentice is at the commencement of this Act a member of a society which becomes an approved society he may, if that society and the Seamen's National Insurance Society so agree, continue to be a member of the first-mentioned society for the purposes of benefits under this Part of this Act other than pension, and become a member of the last-mentioned society for the purposes of pension only, and in such case the balance of the contributions payable in respect of him (after deducting the sums to be retained by the Insurance Commissioners towards discharging their liabilities in respect of reserve values) shall be divided between the two societies in such proportion as they may agree :
- (10) Expressions in this section have the same meaning as in the Merchant Shipping Acts, 1894 to 1907,

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but the expressions "foreign-going ships" and "home-trade" ships include ships engaged in the sea fishing service, and the expression "ship engaged in regular trade on foreign stations" means a ship engaged regularly in trade between ports outside the British Islands when trading between such ports, but, for the purposes of this provision, a ship shall not be deemed not to be engaged in such a trade by reason only that she puts into a port in the United Kingdom for the purpose of surveyor repair :

- (11) The provisions of this Part of this Act affecting the employed rate and the rates of contributions of employers and contributors in Ireland, and depriving insured persons in Ireland of medical benefit, shall not apply to any such master, seaman, or apprentice, unless he has a permanent place of residence in Ireland and is not a member of the Seamen's National Insurance Society ; and, in the case of a master, seaman, or apprentice serving on a foreign-going ship or a ship engaged in foreign trade to whom such provisions do apply the amount by which the employed rate and the employer's contributions are to be reduced shall be one halfpenny a week :
- (12) Members of the Seamen's National Insurance Society shall, for the purposes of this Part of this Act, be deemed to reside in England, and the medical benefit and sanatorium benefit of such members shall be administered by the society instead of by the Insurance Committee, and the provisions of this Part of this Act relating to the administration of those benefits shall apply accordingly subject to such modifications as may be prescribed, but nothing in this provision shall prevent the society agreeing with Insurance Committees for the administration of those benefits by the Committees in relation to individual members of the society.

Sect. 48. **Object of Section.**—The object of this section is to provide a special form of insurance for masters, seamen, and apprentices to the sea service and the sea fishing service.

Interpretation.—By subsec. (10) the expressions used in this section are to have the same meaning as in the Merchant Shipping Acts, 1894 to 1907. A list follows of the principal expressions used in this section which are defined or used in those Acts.

Master.—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), sec. 742, "includes every person (except a pilot) having command or charge of any ship."

Seaman.—Merchant Shipping Act, sec. 742, "includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship."

Merchant Shipping Act, 1906 (6 Ed. 7, c. 47), sec. 49: "For the purposes of this Part of this Act" (*i.e.* Part IV., Provisions as to the relief and repatriation of distressed seamen and seamen left behind abroad). "... (2) The expression 'seamen' includes not only seamen as defined by the principal Act, but also apprentices to the sea service."

(For decisions, *vide* Temperley's Merchant Shipping Acts, 2nd ed., p. 418.)

Apprentice to the sea service.—This expression is not defined in the Merchant Shipping Acts, but such apprenticeship is dealt with in sec. 105 *et seq.* of the Merchant Shipping Act, 1894. *Vide* also the definition of "seamen" (*supra*). It would appear from secs. 106 and 107 of the Merchant Shipping Act, 1894, that boys aged 12 years or over may become such apprentices.

Apprentice to sea fishing service.—This expression is not defined in the Merchant Shipping Acts, but such apprenticeship is dealt with in the Merchant Shipping Act, 1894, sec. 392 *et seq.* It would appear from those sections that boys aged 13 years or over may become such apprentices. The expression "sea fishing service" is not defined in the Merchant Shipping Acts. Reference may be made to Sea Fisheries Act, 1868 (31 & 32 Vict. c. 45), sec. 5, where "sea fish" are defined.

Foreign-going ship.—Merchant Shipping Act, 1894, sec. 742, "includes every ship employed in trading or going between some place or places in the United Kingdom and some place or places situate beyond the following limits: that is to say, the coasts of the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the river Elbe and Brest inclusive."

Home-trade ship.—Merchant Shipping Act, 1894, sec. 742, "includes every ship employed in trading or going within the following limits: that is to say, the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the river Elbe and Brest inclusive."

[*Note.*—The two last-mentioned expressions include ships engaged in the sea-fishing service (subsec. 10).]

Coasting Trade.—This expression is not defined in the Merchant Shipping Act, 1894, *vide* sec. 625 and the cases cited thereunder in Temperley's Merchant Shipping Acts, 2nd ed., p. 361.

Effect of Section—

(1) **As to Benefits.**—Masters, seamen and apprentices are entitled to all the benefits conferred by the Act (*vide* sec. 8, *supra*) with the exception of—

- (a) Sickness benefit,
- (b) Disablement benefit,
- (c) Medical benefit,

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in respect of any period during which the owner of the ship is, under the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or otherwise, liable to defray the expense of the necessary surgical and medical attendance, and medicine, and of their maintenance. But sickness benefit is to be deemed to have been paid from the commencement of any disease or disablement for the purpose of reckoning the rate and duration of such benefit after the period has ended.

Example.—If X (a seaman) becomes ill on February 1, and is attended and maintained by the owner of his ship until March 28 (viz. eight weeks), he will only be entitled to sickness benefit for eighteen weeks from that date. On the expiry of those eighteen weeks, X will, if still entitled to benefit, receive disablement benefit instead of sickness benefit.

(Note.—The provisions of sec. 81 (9), by which no medical benefit is given in Ireland, do not apply to any such master, seaman or apprentice, unless—

- (1) he has a permanent residence in Ireland, and
- (2) is not a member of the Seamen's National Insurance Society.)

Period during which the owner is under liability as aforesaid, vide Merchant Shipping Act, 1906, sec. 34.

“(1) If the master of, or a seaman belonging to, a ship receives any hurt or injury in the service of the ship, or suffers from any illness (not being venereal disease, or an illness due to his own wilful act or default, or his own misbehaviour), the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master or seaman until he is cured, or dies, or is returned to a proper return port, and of his conveyance to the port, and in the case of death the expense (if any) of his burial shall be defrayed by the owner of the ship, without any deduction on that account from his wages.

“(2) If the master or a seaman is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of the removal and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in like manner.

“(3) The expense of all medicines, surgical and medical advice, and attendance, given to a master or seaman whilst on board his ship shall be defrayed in like manner.

“(4) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman who dies whilst on service, shall, if duly proved, be deducted from the wages of the seaman.”

For special benefits in the case of seamen, etc., who join the Seamen's National Insurance Society, *vide infra*.

(2) **As to Contributions.**—These will only be altered in the case of masters, seamen, and apprentices serving on a foreign-going ship, or on a ship engaged in regular trade on foreign

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EFFECT OF SECTION— “The expression ‘ship engaged in regular trade on foreign stations’ means a ship engaged regularly in trade between ports outside the British Islands when trading between such ports, but for the purposes of this provision a ship shall not be deemed not to be engaged in such a trade by reason only that she puts into a port in the United Kingdom for the purpose of survey or repair.”

(2) AS TO CONTRIBUTIONS.

(a) The employed rate is to be reduced by one penny a week.

This reduction is to take place entirely in the contribution payable by the employer on his own behalf; that is to say, he will pay twopence a week instead of threepence, while the seaman will continue to pay fourpence.

(b) The employer will have to pay twopence a week for every week that the seaman is in his service.

(c) The seaman will have to pay fourpence a week, but in any calendar year, four of such weekly contributions paid by the seaman are to be treated as five contributions for the purpose of determining the number of contributions to be paid by him in that year, and for the purpose of calculating arrears. This provision will have the following effect. If a seaman serves on such a ship for a calendar year, the employer will pay $52 \times 2d. = 8s. 8d.$, while the seaman will pay $42 \times 4d. = 14s.$, for, by paying 42 contributions, he will be deemed to have paid 52 contributions, which is the maximum payable in one year $\frac{5 \times 42}{4} = 52\frac{1}{2}$. Similarly,

a seaman, who serves on such a ship for 36 weeks only during a given calendar year, will be deemed to have paid $\frac{36 \times 5}{4} = 45$ contributions, and will be 7 contributions

only in arrear on that year. In calculating the amount of arrears of such a seaman, no employer's contribution, payable in respect of any week in respect of which no contribution is payable by the seaman, is to be taken into account in reckoning the amount of his arrears. The effect of this would seem to be that the seaman cannot reduce the amount of his arrears by counting in the number of contributions paid by his employer in weeks in which no contribution was paid by himself.

Example.—In 1914 X (a seaman) serves for 52 weeks. In 1915 X serves for 32 weeks.

In 1914 X will be deemed to have paid 52 weeks' contributions, but, in fact, will only have paid 42 weeks' contributions. X's employer will have paid 52 weeks' contributions, viz. 10 more than X.

In 1915 X will be deemed to have paid 40 weeks' contributions, but in fact will only have paid 32 weeks' contributions. The amount of X's arrears will be $(52 - \frac{40 + 52}{2}) = 6$ contributions.

X will not be able to reduce that figure by taking into account the extra 10 contributions paid by his employer in 1914.

(Note.—The provisions of the Act as to the employed rate of contribution in Ireland (*vide* Part II. of the Second

Schedule) do not apply to any master seaman or apprentice unless—

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- (1) He has a permanent place of residence in Ireland, *and*
- (2) He is not a member of the Seamen's National Insurance Society.

EFFECT
OF SECTION—
(2) AS TO CONTRIBUTIONS.

In the case of masters, etc., to whom the rates of contribution payable in Ireland still apply, and who are serving on a foreign-going ship, the employed rate and the employed contribution is to be reduced by $\frac{1}{2}d.$ per week.)

State contribution.—*Vide* subsec. (2) proviso (b), the effect of which is that seamen on foreign-going ships do not lose their proper share of the State contribution for any period during which the employer is under a liability to, and does, provide medical attendance and maintenance.

(3) **Foreigners.**—Masters, seamen, and apprentices who are neither domiciled in, nor have a place of residence in, the United Kingdom are not to be deemed to be employed within the meaning of this Part of this Act. They will not therefore have to pay contributions. But their employer will have to pay the employer's contributions in respect of them; such contributions are to be carried to the credit of the Seamen's National Insurance Society.

(4) **The Seamen's National Insurance Society.**—Any of the persons dealt with under this section may join any approved society they choose, but the section establishes the above society expressly for them.

Formation of the Society.—The society is to be formed by the Board of Trade as soon as possible after the passing of this Act.

Membership of the Society.—Any master, seaman or apprentice to the sea service and the sea-fishing service who is employed within the meaning of this Act (*vide supra*, p. 5) is eligible for membership.

(*Note.*—As will have been seen above, apprentices may be under sixteen years of age, but it is submitted that they will not be entitled to join the society till they are sixteen.)

Management of Society.—The society is to be managed by a committee constituted according to a scheme to be prepared by the Board of Trade with the approval of the Insurance Commissioners. The Committee is to be made up in equal proportions of—

- (1) representatives of the Board of Trade,
- (2) shipowners,
- (3) members of the society.

Status of the Society.—Notwithstanding anything in this Part of this Act the society is to be an approved society. This will relieve the society from the obligation to comply with the provisions of sec. 23 (*supra*, p. 104), and will also result in reserve values being credited to it under sec. 55 (*infra*, p. 199).

Benefits given by the Society.—The society will give the ordinary benefits conferred by this Part of this Act, viz. medical, sanatorium, sickness, disablement, and maternity benefits (*vide* sec. 8 (1), *supra*, p. 45); but other benefits are to be provided as well, in accordance with a scheme to be prepared by the committee of management and approved by the Board of Trade and the Insurance Commissioners. These other benefits must include pensions for masters and seamen with long sea service, and preference may be given to masters and seamen who have served in foreign-going

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(4) THE
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ships or ships engaged in the foreign trade over those who have served in coasting or home-trade ships. The scheme is also to provide that a proper proportion of the sums credited to the society in respect of contributions paid by employers in respect of foreigners (under subsec. (6)) should be applied towards the payment of pensions granted by other approved societies to members whose sea-service would, if they had been members of the Seamen's Society, have entitled them to pensions. A member of the society will not be deprived of his right to this pension by reason only that he has ceased to be a member of the society at the time when the pension first becomes payable, or that ceases to be a member at any later date.

Medical and sanatorium benefit and residence of members.—Members of the society are to be deemed to reside in England, and their medical and sanatorium benefits are to be administered by the society instead of by Insurance Committees. The effect of this provision as to residence will be that the Insurance Commissioners (as opposed to the Scottish, Irish, or Welsh Commissioners) will alone be concerned with the funds, &c., of the society.

Membership of Society for pension only.—Masters, seamen, or apprentices who are, at the commencement of this Act, already members of a society which becomes an approved society may join the Seamen's National Insurance Society for the purpose of the pension scheme only, without giving up their membership of the other society. The contributions of such persons (after deducting the 1½ths of a penny for reserve values (*vide* sec. 55, *infra*)) will be divided between the two societies in such proportion as they may agree.

Transfers.—It would appear from the section that, when the persons eligible for membership of the Seamen's National Insurance Society cease to go to sea, they will have to give up their membership of the society (*vide* subsecs. (4) and (8)). But the rules of the society must provide that a member who leaves the sea service and is unable to obtain admission to another approved society on account of the state of his health should be allowed to continue to be a member of the society.

The transfer value (*vide* sec. 31, *supra*, p. 119) of a member who leaves the Seamen's Society is to be calculated with reference to the liabilities of the society for benefits other than the provisions provided by the society. This is because such a member will, even after leaving, still be entitled to his right to, or to, his pension from the Seamen's Society (*vide supra*).

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Provisions as
to persons
over sixty-five
at commence-
ment of Act.

49.—(1) If any person who is of the age of sixty-five or upwards and under the age of seventy at the commencement of this Act is employed within the meaning of this Part of this Act, the like contributions shall, until he attains the age of seventy, be payable by his employer in respect of him as in the case of employed contributors, and the provisions of this Part of this Act relating to the payments of contributions and the recovery thereof shall apply accordingly.

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(2) For every weekly contribution made by or in respect of such a person, there shall be contributed out of moneys, provided by Parliament the sum of two pence.

(3) If such a person becomes a member of an approved society for the purposes of this section all contributions payable in respect of him under this section (including contributions out of moneys provided by Parliament) shall be credited to the society, and he shall become entitled to such benefits as the society may determine, but no reserve value shall be credited to the society in respect of him and no part of the contributions payable in respect of him shall be retained by the Insurance Commissioners towards the discharge of their liabilities in respect of reserve values.

(4) If such a person does not become a member of an approved society as aforesaid he shall become a deposit contributor, and accordingly all contributions payable in respect of him (including contributions out of moneys provided by Parliament) shall be carried to his credit in the Post Office fund, but the benefits to which he becomes entitled shall be such as may be determined by the Insurance Committee.

(5) No part of the cost of benefits under this section shall be payable out of moneys provided by Parliament.

Object of Section.—The object of the section is to provide a form of insurance for employed persons who are between the ages of 65 and 70 at the commencement of this Act, viz. July 15, 1912, (sec. 115, *infra*). But for this provision, ordinary insurance under this Part of this Act would not be open to such persons (*cf.* sec. 1 (4), *supra*, p. 4, and sec. 4 (4), *supra*, p. 32). The form of insurance provided by this section is confined to such of these persons as are employed within the meaning of this Part of this Act, (*vide* sec. 1 (2), *supra*); no such persons can become voluntary contributors.

The principal features of this form of insurance are :—

- (1) The ordinary employed rate of contribution is payable by or in respect of such persons in the ordinary way (*vide* sec. 4, *supra*, p. 32);
- (2) For every such weekly contribution paid, the State will further contribute twopence, in lieu of contributing two-ninths of the cost of benefits;
- (3) The benefits such a person receive are :—
 - (a) If he becomes a member of an approved society, such benefits as the society may determine,
 - (b) If he becomes a deposit contributor such benefits as the Insurance Committee may determine;

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OBJECT
OF SECTION.

(4) In no case will reserve values be credited in respect of such a person, nor will any deduction be made (under sec. 55 *infra*, p. 199), in respect of reserve values.

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Special pro-
visions as to
seasonal
trades.

50. Where it is proved to the satisfaction of the Insurance Commissioners that a trade or business carried on by any employers is of a seasonal nature and subject to periodical fluctuation, and that those employers systematically employ persons throughout the year and work short time during the season when the trade or business is depressed, the Insurance Commissioners may make a special order reducing, as respects such persons, the employed rate and the contributions payable by the employers and contributors to such extent and for such period in the year as may be specified in the order, and increasing such rate and contributions to a corresponding extent and for a corresponding period during the remainder of the year, and the order may contain such incidental, supplemental, and consequential provisions as may appear necessary for adapting the other provisions of this Part of this Act to cases under this section.

Object of Section.—The object of this section is to allow employers and employed contributors whose trade or business is of a seasonal nature to pay higher contributions during the period of the year when that trade is busy and correspondingly lower contributions during the period when the trade is slack. The Insurance Commissioners are to make these increases and reductions by means of a special order. The section is not intended to apply to occasional abnormal fluctuations, but only to trades, the normal condition of which is that the persons engaged therein are busy at one time of the year and slack at another time of the year.

The phraseology of the section may be contrasted with that of sec. 96 (*infra*).

Trade or Business.—*Vide supra*, p. 21.

Procedure on Making a Special Order.—*Vide* sec. 113 and the Ninth Schedule (*infra*, pp. 319, 335).

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Special pro-
visions as to
inmates of
charitable
homes, &c.

51.—(1) Where the managers of any institution carried on for charitable or reformatory purposes prove that the persons who are inmates of and supported by the institution receive maintenance and medical attendance when sick, the Insurance Commissioners may grant a certificate of exemption to those managers, and, where

such a certificate of exemption is granted, any such inmates who are employed by the managers of the institution shall not, in respect of such employment, be deemed to be employed within the meaning of this Part of this Act: Sect. 51.

Provided that it shall be a condition of such exemption that the managers shall be liable to pay in respect of any such inmate who, having been an inmate of the institution for more than six months, leaves the institution, the following sums:—

- (a) In the case of a person who was at the time of entering the institution below the age of sixteen, such capital sum as will be sufficient to secure him benefits under this Part of this Act at the full rate;
- (b) In the case of a person who was at the time of entering the institution of the age of sixteen or upwards, and who was at that time an insured person and a member of an approved society, a sum equal to the value, calculated in the prescribed manner, of the contributions which, apart from this section, would have been payable in respect of him during the time he was in the institution.

(2) Every such inmate as aforesaid shall, if he was an insured person before entering the institution, be suspended from benefits whilst he is such an inmate, and, if he was at such time a member of an approved society and has been an inmate of the institution for a period exceeding six months, the time during which he is in the institution shall be disregarded for the purpose of reckoning arrears.

Institution Carried on for Charitable Purposes.—For the meaning of the expression “charitable purposes,” *vide*, *Commissioners for special purpose of the Income Tax v. Pemsel*, [1891] A. C. 531, where a majority of the House of Lords held that the words “charitable purposes” in the Income Tax Acts, and, *semble*, in any Act, unless the contrary intention appears, were not restricted to the meaning of relief from poverty, but must be construed according to the technical meaning given to them in the expression “trust for charitable purposes” by the Courts of Chancery.

Sect. 51. The Courts of Chancery consider those purposes charitable which are enumerated in the preamble to the Statute of Elizabeth (43 Eliz. c. 4), or which, by analogies, are deemed to be within its spirit and intendment, *vide per* Grant, M.R., in *Morris v. Bishop of Durham* (1804), 9 Ves. Jun. 399, at p. 405. In the same case on appeal ((1805), 10 Ves. Jun. 522), Romilly (afterwards M.R.), *arguendo*, says at p. 532, "There are four objects within one of which all charity to be administered by the Court must fall: first, relief of the indigent; in various ways: money, provisions, education, medical assistance, etc.: second, the advancement of learning: thirdly, the advancement of religion; and, fourthly, which is the most difficult, the advancement of objects of general public utility." Romilly's division of the preamble to the Statute of Elizabeth into the above four heads is adopted by Lord Macnaghten in *Pemsel's Case* (*ubi supra*), at p. 583. Reference may also be made to *A.-G. v. Heelis*, (1824) 2 S. & S. 67, *per* Leach, V.C., at p. 76, "It is not material that the particular public or general purpose is not expressed in the Statute of Elizabeth, all other legal, public, or general purposes being within the equity of that Statute"; and *In re Foreaux*, [1895] 2 Ch. 501, where at p. 504 Chitty, J., says, "Charity in law is a highly technical term. The method employed by the Court is to consider the enumeration of charities in the Statute of Elizabeth, bearing in mind that the enumeration is not exhaustive. Institutions whose objects are analogous to those mentioned in the Statute are admitted to charities, and, again, institutions which are analogous to those already admitted by reported decisions are held to be charities. The pursuit of these analogies obviously requires caution and circumspection. After all, the best that can be done is to consider each case as it arises upon its own social circumstances." *Vide* also Tudor on Charities, 1906 ed. pp. 36-61, where the cases are collected.

Reformatory Purposes.—The principal institutions for reformation would appear to be—

(1) Borstal institutions established under the Prevention of Crimes Act, 1908 (8 Edw. 7, c. 59).

(2) Prisons set apart by the Secretary of State for the purpose of confining persons undergoing preventive detention under sec. 13 of the last cited Act (*Quære*).

(3) Reformatory and Industrial Schools within the meaning of sec. 44 of the Children Act, 1908 (8 Edw. 7, c. 67).

It is submitted that any other institutions whose purpose is the reformation of morals and character will be within this section.

"Inmates of and Supported by the Institution."—It is submitted that this expression refers to persons who are recipients of the charity or subjects of the reformatory influence which the institution provides, and not to persons who are engaged by the managers of the institution to do the work of the institution and who receive board and lodging in the institution as part of the remuneration; *e.g.* a hospital nurse would not be within the section (*cf.* the use of the word "inmate" in sec. 12 (*supra*, p. 77)).

(*Note.*—The expressions "charitable and reformatory purposes" and "inmates of and supported by" occur in sec. 5 of the Factory and Workshop Act, 1907 (7 Edw. 7, c. 39). The manner in which the latter expression is used in that section

supports, it is submitted, the meaning suggested for it in the above note.)

Schools.—*Quære* whether the provisions of sec. 9 (4) will not operate so as to make it unnecessary for managers of institutions of this kind to pay any sum to secure full benefits for departing inmates who were below the age of sixteen when they entered the institution?

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“INMATES
OF AND
SUPPORTED
BY THE
INSTITUTION.

52. Where a person who has been employed to teach in a public elementary school ceases to be employed within the meaning of this Part of this Act by reason of becoming a teacher to whom the Elementary School Teachers (Superannuation) Act, 1898, applies and does not become a voluntary contributor, there shall be paid to the Board of Education by the approved society of which he is a member or, if he is not a member of an approved society, out of the amount standing to his credit in the Post Office fund, a sum equal to the value calculated in the prescribed manner of the contributions paid by or in respect of him under this Part of this Act since he first began to teach in a public elementary school, or, if the amount standing to his credit is less than that sum, then the whole amount so standing to his credit; and the sum so paid to the Board of Education shall be placed by them to his credit in the Deferred Annuity fund in accordance with the rules for the time being applicable thereto.

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Special pro-
vision as to
persons be-
coming certi-
ficated
teachers.

Elementary School Teachers (Superannuation) Act, 1898 (61 & 62 Vict. c. 57). Certificated teachers are deemed not to be employed within the meaning of this Act by such employment being placed among the excepted employments, *vide* paragraph (d) of Part II. of the First Schedule (*infra*, p. 322). The provisions of this section will prevent a person who was previously employed as a teacher in a public elementary school, and who then becomes an uncertificated teacher, from losing the value of his previous contributions.

Deferred Annuity Fund.—*Vide* sec. 3 of the above Act.

Public Elementary School.—Sec. 12 (2) of the above Act. The meaning of this expression in Scotland is, “a public or other school in receipt of annual parliamentary grant,” *vide* also the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), sec. 7.

Scotland.—*Vide* sec. 80 (17), *infra*, p. 248.

Application of this section to Ireland.—*Vide* sec. 81 (17), *infra*, p. 257.

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53.—(1) This Part of this Act shall apply to persons employed by or under the Crown, other than those with

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Application
to other

Sect. 53. respect to whom special provision is made by this Part of this Act, in like manner as if the employer were a persons in the service of the Crown.

Provided that, in the case of a person employed in the private service of the Crown, the head of the department of the Royal Household in which he is employed shall be deemed to be his employer.

(2) The provisions of this Act relating to reduced insurance in cases where the employer is liable to pay wages during sickness shall extend in respect of persons employed by or under the Crown to cases where two-thirds only of the full remuneration are payable during periods, or parts of periods, of disease or disablement, if such remuneration is so payable for not less than three months in any year, and those provisions shall apply accordingly as if two-thirds of the full remuneration were substituted for the full remuneration and as if three months were substituted for six weeks as the maximum amount of time during any year such remuneration is payable.

Object and Effect of Section.—This section is inserted in order to bind the Crown which, but for its enactment, would not be bound by the Act. All persons employed by the Crown within the meaning of Part I. of the First Schedule will be dealt with as ordinary employed contributors employed by private persons, except those who are excepted by the certification of the Insurance Commissioners under paragraph (b) of Part II. of the First Schedule.

Provisions relating to Reduced Insurance.—*Vide* sec. 47 (*supra*, p. 172.)

Financial Provisions.

Sect. 54. **54.**—(1) All sums received in respect of contributions under this Part of this Act and all sums paid out of moneys provided by Parliament under this Part of this Act in respect of the benefits thereunder and the expenses of administration of such benefits shall be paid into a fund, to be called the National Health Insurance Fund, under the control and management of the Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and

insurance committees for the purposes of the benefits administered by them and the administration of such benefits shall be paid out of that fund. Sect. 54.
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(2) The sums payable to the said fund out of moneys provided by Parliament shall be paid in such manner and at such times as the Treasury may determine.

(3) The Insurance Commissioners shall ascertain periodically what sums standing in the National Health Insurance Fund to the credit of the several societies and of the Post Office fund and of the Navy and Army Insurance Fund are available for investment, and the amount so ascertained shall, so far as not required under the provisions of this Part of this Act to be paid over to societies for investment, or to be retained for investment on their behalf, or for the discharge of liabilities of societies, be carried to a separate account, called the Investment Account, and shall be paid over to the National Debt Commissioners and by them invested in accordance with regulations made by the Treasury in any securities which are for the time being authorised by Parliament as investments for Savings Banks funds, but those Commissioners shall, in making the investment, give preference to stock or bonds issued under the provisions of the Acts relating to borrowing for raising capital for the purposes of the local loans fund where the purposes for which such capital is required is the making of advances for the purposes of the Housing of the Working Classes Acts, 1890 to 1909 :

Provided that nothing in this provision shall prevent the Insurance Commissioners paying over to the National Debt Commissioners for temporary investment, pending the ascertainment of the amount available for investment as aforesaid, any sums in the National Health Insurance Fund not required to meet current liabilities.

(4) There shall be credited to the Post Office fund and to the Navy and Army Insurance Fund interest at the prescribed rate per annum on the sums from time to time standing to the credit of those funds in the Investment Account.

Sect. 54. (5) The accounts of the National Health Insurance Fund shall be audited by the Comptroller and Auditor-General in such manner as the Treasury may direct.

(6) The National Debt Commissioners shall present to Parliament annually an account of the securities in which moneys forming part of the said fund are for the time being invested.

Object and Effect of Section.—This Section establishes a central fund, under the control and management of the Insurance Commission, called the National Health Insurance Fund. Similar funds are established in Scotland, Ireland, and Wales respectively (*vide* secs. 80 (2), 81 (2), and 82 (2), *infra*. pp. 242, 250, 258, respectively.) The effect of the establishment of these three latter funds is to turn the fund established by this section into a purely English fund.

The sums to be paid into the National Health Insurance Fund consist of—

- (1) All sums received from contributions under this Part of this Act in respect of insured persons resident in England ;
 - (2) All sums paid out of moneys provided by Parliament in respect of the benefits imposed by this Part of this Act upon insured persons resident in England, and in respect of the expenses of administration of those benefits.
- (*Note.*—In addition to these sums it is submitted that all sums for the credit of the Navy and Army Insurance Fund (*vide* sec. 46, *supra*, p. 159), and for the credit of the Seaman's National Insurance Society (*vide* sec. 48, *supra*, p. 181), will also be paid into the National Health Insurance Fund.)

The sums so received will be credited—

- (1) to the several approved societies (*cf.* sec. 56 (1) (a), *infra*, p. 202) ;
- (2) to the Post Office fund (*cf.* sec. 42 (a), *supra*, p. 140) ;
- (3) to the Army and Navy Insurance Fund (*cf.* 46 (3) (a), *supra*, p. 160) ;

Out of the fund will be paid—

- (1) To the several approved societies, the sums required for the payment of expenses of administration and of sickness, disablement and maternity benefit in respect of their members being insured persons. To the Seamen's National Insurance Society sums required to pay for sanatorium and medical benefit will also be paid (*vide* sec. 48 (12)).
- (2) To the several Insurance Committees—
 - (a) The sums required for the payment of expenses of administration and of sickness, disablement and maternity benefit in respect of deposit contributors (*vide* sec. 42, *supra*).
 - (b) The sum required for the administration of sanatorium and medical benefit in respect of all insured persons (except members of the Seamen's National Insurance

Society), (*vide* sec. 16 (2) and sec. 15 (6), *supra*, pp. 96, 92, respectively).

The section further provides—

- (1) for the establishment of an Investment Account for the investment of funds by the National Debt Commissioners and for the presentation of an annual account of the securities to Parliament;
- (2) for interest to be credited to the Post Office fund and to the Navy and Army Insurance Fund;
- (3) for the audit of the Fund's accounts according to the direction of the Treasury.

Amount to be paid over to Societies for Investment.—

Vide sec. 56 (1) (b) (*infra*, p. 202).

Securities authorised for the Investment of Savings Banks Funds.—*Vide* Trustee Savings Bank Act, 1863 (26 & 27 Vict. c. 87), sec. 15, and sec. 19. The securities enumerated in the latter section are, “bank annuities or Exchequer bills or Parliamentary securities of whatsoever kind created or issued, or which may hereafter be created or issued under the authority of any Act or Acts of Parliament for the interest on which provision is made by Parliament, or any stock or debenture or other securities expressly guaranteed by authority of Parliament.”

For the power of Savings Banks to make special investments, *vide* Trustee Savings Bank Act, 1863, sec. 16, Savings Bank Act, 1891 (54 & 55 Vict. c. 21), sec. 10, where these special investments are confined to investments authorised by law in the case of investment by trustees (for these investments *vide infra*, p. 204), and Savings Bank Act, 1904 (4 Edw. 7, c. 8), sec. 6 (2), which extends special investments to “securities issued under the Local Loans Act, 1875, and . . . loans secured on the security of any local rate levied, under the authority of any Act of Parliament, by any local authority authorised to borrow money on that security.” It is submitted that the Commissioners have power to invest in these latter securities as well as in the securities mentioned in sec. 19 of the 1863 Act. This would seem clear from the fact that they must give preference to stock issued for the purposes of the Housing of the Working Classes Acts, 1890 to 1909.

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OBJECT AND
EFFECT
OF SECTION.

55.—(1) The Insurance Commissioners shall cause tables to be prepared showing, in cases in which such provision is necessary, the capital sums (in this Part of this Act referred to as “reserve values”) which it is necessary to provide in respect of members entering into insurance at ages over the age of sixteen to meet the estimated loss (if any) arising through the acceptance by an approved society of such persons as members upon the terms and conditions as regards contributions and benefits prescribed by this Part of this Act.

(2) On a person of the age of seventeen or upwards

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—
Reserve
values.

Sect. 55. joining an approved society for the purposes of this Part of this Act, there shall be credited to the society the reserve value (if any) appropriate to such person in accordance with such tables.

The sum so credited to a society in respect of reserve values shall carry interest at the rate of three per centum per annum.

(3) Out of each weekly contribution paid by or in respect of an insured person who is a member of an approved society (other than a voluntary contributor who entered into insurance within six months after the commencement of this Act and at the date of that entry was of the age of forty-five years or upwards) there shall be retained by the Insurance Commissioners the sum of one penny and five-ninths (or in the case of women one penny halfpenny), and the amounts so retained shall, together with any other moneys available for the purpose, be applied in manner provided by this Part of this Act towards discharging the liabilities of the Insurance Commissioners to approved societies in respect of the reserve values created by this section.

(4) The Insurance Commissioners shall periodically apportion amongst the several societies, including the Navy and Army Insurance Fund, the sums retained by them, and the sums, if any, otherwise available for the discharge of such liabilities as aforesaid, in proportion to the amount of reserve values for the time being credited to the several societies, and shall credit to each society the amount so apportioned, and any balance of the sums so credited to a society, after providing for interest on the reserve values for the time being credited to the society, shall be written off the amount of the reserve values so credited.

(5) If any person is convicted of the offence of knowingly making any false statement as to his age in any declaration made for the purpose of obtaining a reserve value to be credited to an approved society in respect of him, the reserve value shall be cancelled, and the member of the society in respect of whom it was

credited shall be treated as if he had entered into insurance after the expiration of one year from the commencement of this Act. Sect. 55.

Object of Section.—The employed rate of contribution fixed by this Part of the Act is what may be called a “flat rate,” *i.e.* the same rate is to be paid by all insured persons who are entitled to be insured at the employed rate, irrespective of their age at date of entry into insurance. Similarly the benefits conferred by the Act are, with certain exceptions, payable at a flat rate to all such insured persons irrespective of their age. Such insured persons may be any age between sixteen and sixty-five at the date of their entry into insurance. It is a well-known fact that the liability of a person to sickness increases directly with the increase of his age. Hence, apart from special provision, a flat rate of contribution should produce comparatively large benefits for young persons, and very much smaller benefits for older persons, or, conversely, a flat rate of benefits should be produced by comparatively small contributions from young persons and very much larger contributions from older persons. This section makes the special provision by which both flat rate of contributions and of benefits are simultaneously retained, and yet the insurance fund is kept actuarially sound. It is assumed, in the absence of special provision dealing with the case, that all insured persons paying this employed rate were sixteen years of age at the date of their entry into insurance. Actuarial calculations are then made of the amount, having regard to their actual age and taking interest at 3 per cent. per annum, which a society ought to be holding as a reserve in respect of them had they actually been insured for the benefits conferred by this Part of this Act during the years between sixteen and their actual age. This amount is to be calculated and set out in tables to be prepared by the Insurance Commissioners, and is termed a “reserve value.” A paper credit is created therefor and credited through the insurance fund to approved societies in respect of each insured member of the age of seventeen or upwards to whom the flat rate of benefit and of contribution applies. But, inasmuch as this paper credit has got eventually to be liquidated in cash by the payment of benefits, provision has to be made so that that cash should be forthcoming. This is done under this section by the power given to the Insurance Commissioners to retain one penny and five-ninths (or in the case of women, three halfpence) out of each weekly contribution paid by or in respect of an insured person who is a member of an approved society. These sums are calculated to produce the whole amount of the reserve values which it will be necessary to create within some eighteen or nineteen years.

The sums retained by the Insurance Commissioners are to be apportioned periodically among the several societies, and any balance of such sum so apportioned to any society after providing for interest on the reserve values credited to the society, is to be written off the reserve values with which the society is credited.

It will, obviously, not be necessary to create these reserve values for deposit contributors, since they are only entitled to benefits so long as their accumulated contributions last (*vide* sec. 42, *supra*).

It would seem that reserve values will be necessary for all

Sect. 55. employed contributors of the age of seventeen and upwards who join an approved society within one year from the commencement of this Act, for voluntary contributors of the age of seventeen and upwards who come into insurance under sec. 5 (1) (a) (*supra*), and for the special cases dealt with in secs. 44 and 46 (*supra*).

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OBJECT
OF SECTION.

Where an insured person who is a member of an approved society becomes a deposit contributor, his reserve value is to be cancelled (sec. 43 (1) (a)).

Effect of Section.—The effect of the section will be to throw the burden created by giving these favourable rates of benefit and of contribution to older persons on young persons entering into insurance now and for the next few years. In other words, the actuarial calculations show that persons under a certain age will pay too much for the benefits conferred by the Act in direct ratio to their increasing youth, while persons over that age will receive too great benefits in return for their contributions in direct ratio to their increasing age.

Offence.—Knowingly making a false statement for the purpose of obtaining the crediting of a reserve value is an offence under sec. 69 (1) (*infra*, p. 230).

“Treated as if he had entered into Insurance, etc.”—For the effect of these words, *vide* secs. 8 (8), 9 (4), *supra*, pp. 56, 60.

Sect. 56.

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Transactions
between the
Insurance
Commis-
sioners and
societies.

56.—(1) The Insurance Commissioners shall, subject to the approval of the Treasury, make regulations with respect to crediting and debiting to the several societies sums received and paid by the Insurance Commissioners on behalf of and to societies and as to the payments to be made by and to the Commissioners to and by societies, and those regulations shall, amongst other things—

(a) provide for crediting to each society the contributions paid by or in respect of the members of the society after deducting the amounts retained thereout for discharging the liabilities of the Insurance Commissioners in respect of reserve values;

(b) require the Insurance Commissioners, on carrying any sum to the credit of an approved society in the investment account, to pay over to the society for investment, or, at the request of the society, to retain for investment on behalf of the society, four-sevenths, or, so far as the sums are attributable to women, one-half, of the amount so credited to the society;

(c) provide for crediting to each society interest at the

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prescribed rate per annum on the sums for the time being standing to the credit of the society in the investment account ;

- (d) provide for the discharge of debit balances in such manner as the Insurance Commissioners determine, either by the reduction of the reserve values credited to the society or out of the proceeds of the realisation of securities held by the society or by the Commissioners on behalf of the society, and out of the sums standing to the credit of the society in the investment account, proportionately :

Provided that, in the case of any society which gives notice to that effect to the Insurance Commissioners, no part of the sums carried to the credit of the society in the investment account shall be paid over to the society or retained by the Commissioners for investment on its behalf, but the whole amount shall remain to the credit of the society in the investment account, and in such case the regulations made under the foregoing provisions shall apply to the society subject to the prescribed modifications.

(2) Every approved society shall invest any sums paid to the society for investment, and shall for the purpose have power to invest in any securities in which trustees are for the time being by law empowered to invest trust funds, or in any stocks, mortgages, or other securities issued by any local authority within the meaning of the Local Loans Act, 1875, and charged on any rates levied by or on the order or precept of such authority, or in any other securities for the time being approved by the Insurance Commissioners.

(3) Where, at the request of a society, the Insurance Commissioners instead of paying over any sum to the society retain such sum for investment on behalf of the society, they shall invest such sum in accordance with the directions of the society in any securities in which the society might have invested it had it been paid over to the society, and shall from time to time vary such

Sect. 56. investments in accordance with the like directions, and shall pay over to the society all sums received by way of interest or dividend on the investments held by them on behalf of the society.

(4) Every approved society shall apply the sums received by way of interest or dividend on investments held by the society or by the Insurance Commissioners on behalf of the society towards the cost of the benefits under this Part of this Act of the members of the society and the cost of the administration of those benefits, or otherwise, as the Insurance Commissioners may prescribe.

Object of Section.—Under this section the Insurance Commissioners are to make regulations for the crediting and debiting of approved societies' accounts with the proper sums and for permitting such societies themselves to invest certain sums of money.

Investments by Approved Societies.—

A. The Insurance Commissioners, on carrying any sum to the credit of a society in the Investment Account (*vide* sec. 54 (3), *supra*), may be required by any approved society to pay over to the society four-sevenths (or, so far as the sums are attributed to women one-half) of the amount standing to the credit of the society in that account. These fractions are chosen presumably because they represent the proportion of the amount which has actually come out of the pockets of the contributors themselves in the case of employer contributors who are paying the employed rate.

The sums paid to a society under these provisions may be invested by the society—

- (1) In securities in which trustees may invest trust funds. A complete list of such securities would occupy too much space to be set out here. *Vide* Trustee Act, 1893 (56 & 57 Vict. c. 53), secs. 1 to 7. Colonial Stock Act, 1900 (63 & 64 Vict. c. 62), sec. 2. Metropolis Water Act, 1902 (2 Edw. 7, c. 41), sec. 17 (4).
- (2) In securities issued by any local authority within the meaning of the Local Loans Act, 1875 (38 & 39 Vict. c. 83). By sec. 34 of that Act "local authority means the justices of any county, liberty, riding, parts or division of a county in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as in this Act defined, also any prescribed authority." "Rate" is defined in the same section.
- (3) In any other securities for the time being approved by the Insurance Commissioners.

B. The whole of the sums standing to the credit of a society in the Investment Account may remain there to the credit of the society and be invested by the Commissioners in the securities mentioned in sec. 54 (3), *supra*, if the society gives notice to the Commissioners to that effect.

C. The societies may request the Commissioners to retain any sums which might have been paid over to them for investment. The Commissioners will then be bound to follow the directions of the society as to the investment of those sums, but the society can only direct that they should be invested in such securities as the society might have invested them had they been paid over for investment, *i.e.* in the securities mentioned in A., *supra*.

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BY APPROVED
SOCIETIES.

Dividends and Interest.—The dividends and interest arising from securities whether invested by the Insurance Commissioners or societies can only be applied to the costs of benefits and administration under this Act, or otherwise as the Insurance Commissioners may prescribe.

Insurance Commissioners: Advisory Committee.

57.—(1) As soon as may be after the passing of this Act there shall be constituted for the purposes of this Part of this Act Commissioners (to be called the Insurance Commissioners), with a central office in London, and with such branch offices as the Treasury may think fit, and the Commissioners shall be appointed by the Treasury, and of the Commissioners so appointed one at least shall be a duly qualified medical practitioner who has had personal experience of general practice.

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Constitution
of Insurance
Commis-
sioners, ap-
pointment of
inspectors,
&c.

(2) The Insurance Commissioners may sue and be sued, and may for all purposes be described by that name, and shall have an official seal which shall be officially and judicially noticed, and such seal shall be authenticated by any Commissioner or the secretary to the Commissioners, or some person authorised by the Commissioners to act on behalf of the secretary.

(3) The Insurance Commissioners may appoint such officers, inspectors, referees, and servants, for the purposes of this Part of this Act as the Commissioners, subject to the approval of the Treasury as to number, may determine, and there shall be paid out of moneys provided by Parliament to the Commissioners and to such officers, inspectors, referees, and servants, such salaries or remuneration as the Treasury may determine; and any expenses incurred by the Treasury (including the remuneration of valuers and auditors appointed by the Treasury) or the Commissioners in carrying this

Sect. 57. Part of this Act into effect, to such extent as the Treasury may sanction, shall be defrayed out of moneys provided by Parliament.

(4) Every document purporting to be an order or other instrument issued by the Insurance Commissioners and to be sealed with the seal of the Commissioners authenticated in manner provided by this section, or to be signed by the secretary to the Commissioners or any person authorised by the Commissioners to act on behalf of the secretary, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

(5) The Insurance Commissioners may empower any inspector appointed by them to exercise in respect of any approved society or any branch of an approved society all or any of the powers given by section seventy-six of the Friendly Societies Act, 1896, to an inspector appointed thereunder :

Provided that any complaint or report as to any such branch as aforesaid made by an inspector under this subsection shall be communicated to the central body or other central authority of the society.

Object of Section.—This section establishes a central insurance authority for the purpose of this Part of this Act. Similar authorities are established for Scotland, Ireland, and Wales, *vide* secs. 80 (1), 81 (1), and 82 (1) (*infra*, pp. 241, 249, 258), respectively. The authorities so established are known as the Scottish, Irish, and Welsh Insurance Commissioners respectively. The powers and duties of all four authorities would appear to be the same, with the exception that the Insurance Commissioners (*i.e.* the authority established for England) will have control over the funds, etc., of the Army and Navy Insurance Fund (*vide* sec. 46 (3) (a) and (4) (iii) (*supra*, pp. 160, 164), and of the Seamen's National Insurance Society (*vide* 47 (12), *supra*, p. 185).

Joint committee of several bodies of commissioners, vide sec. 83 (*infra*, p. 260).

Duly Qualified Medical Practitioner.—*Vide supra*, p. 95.

Powers of an Inspector.—Friendly Societies Act, 1896 (59 & 60 Vict. c. 25), s. 76 (5). The powers of an inspector appointed under this section are as follows. He may require the production of all or any of the books and documents of the society, and may examine on oath its officers, members, agents, and servants, in relation to its business, and may administer such oaths accordingly.

Expenses of the Insurance Commissioners.—These will be provided in the case of all four bodies of Insurance Commissioners

out of moneys provided by Parliament, thus forming an exception to the general rule laid down in sec. 3 (*supra*), that the funds for defraying expenses of administration are to be derived partly from contributions and partly from moneys provided by Parliament.

Powers and Duties of Insurance Commissioners.—*Vide* Introduction.

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EXPENSES
OF THE
INSURANCE
COM-
MISSIONERS.

58. The Insurance Commissioners shall, as soon as may be after the passing of this Act, appoint an Advisory Committee for the purpose of giving the Insurance Commissioners advice and assistance in connexion with the making and altering of regulations under this Part of this Act, consisting of representatives of associations of employers and of approved societies, of duly qualified medical practitioners who have personal experience of general practice, and of such other persons as the Commissioners may appoint, of whom two at least shall be women.

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of advisory
committee.

Regulations.—For a list of the regulations to be made by the Insurance Commissioners under this Act, *vide* Introduction.

Duly Qualified Medical Practitioner.—*Vide supra*, p. 95.

Insurance Committees.

59.—(1) An Insurance Committee shall be constituted for every county and county borough.

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(2) Every such committee shall consist of such number of members as the Insurance Commissioners, having regard to the circumstances of each case, determine, but in no case less than forty or more than eighty, of whom—

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(a) three-fifths shall be appointed in such manner as may be prescribed by regulations of the Insurance Commissioners so as to secure representation of the insured persons resident in the county or county borough who are members of approved societies, and who are deposit contributors, in proportion, as nearly as may be, to their respective numbers;

(b) one-fifth shall be appointed by the council of the county or county borough;

(c) two members shall be elected in manner provided

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by regulations made by the Insurance Commissioners, either by any association of duly qualified medical practitioners resident in the county or county borough which may have been formed for that purpose under such regulations, or, if no such association has been formed, by such practitioners ;

(d) one member or, if the total number of the committee is sixty or upwards, two members, or, if the total number of the committee is eighty, three members, shall be duly qualified medical practitioners appointed by the council of the county or county borough ;

(e) the remaining members shall be appointed by the Insurance Commissioners :

Provided that—

(i) The regulations with respect to the appointment of members to represent insured persons shall provide for conferring on the approved societies which have members resident in the county or county borough the power of appointing the representatives of such members, and, where an association of the deposit contributors resident in the county or county borough has been formed under such regulations as aforesaid, for conferring on such association the power of appointing the representatives of the deposit contributors ;

(ii) Of the members appointed by the council of the county or county borough two at least shall be women, and of the members appointed by the Insurance Commissioners one at least shall be a duly qualified medical practitioner and two at least shall be women.

(3) The Insurance Commissioners may, where any part of the cost of medical benefit or sanatorium benefit is defrayed by the council of the county or county borough, increase the representation of the council and make a corresponding diminution in the representation of the insured persons.

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(4) The Insurance Commissioners may make regulations as to the appointment, quorum, term of office, and rotation of members and proceedings generally (including the appointment of sub-committees consisting wholly or partly of members of the committee) of the committee, and the employment of officers and the provision of offices by the committee, including the use by the committee, with or without payment, of any offices of a local authority, but subject to the consent of such authority, and any such regulations may provide for the constitution of district insurance committees, and for apportioning amongst the several district insurance committees any of the powers and duties of the Insurance Committee and regulating the relations of district insurance committees to the Insurance Committee and to one another :

Provided that the regulations so made shall require the Insurance Committee of every county (except in cases where, owing to special circumstances, the Commissioners consider it unnecessary) within six months after the commencement of this Act to prepare after consultation with the county council and submit for approval to the Commissioners a scheme for the appointment of district insurance committees for the county and prescribing the area to be assigned to each such committee, and in particular the scheme shall provide for the appointment of a district insurance committee for each borough (including the City of London and a metropolitan borough) within the county having a population of not less than ten thousand, and for each urban district within the county with a population of not less than twenty thousand, but, if the Insurance Committee or, on appeal, the Insurance Commissioners consider it expedient in the case of any such borough (outside London) or urban district, any adjoining areas may be grouped with such borough or urban district for the purpose of the appointment of a district insurance committee.

(5) Any Insurance Committee may, and shall if so required by the Insurance Commissioners, combine with any one or more other Insurance Committees for all

Sect. 59. or any of the purposes of this Part of this Act, and, where they so combine, the provisions of this Part of this Act shall apply with such necessary adaptations as may be prescribed.

Object and Effect of the Section.—This section provides for the establishment of an Insurance Committee for every county and county borough. These committees are to consist of not less than forty, or of not more than eighty members. The precise number is left to the discretion of the Insurance Commissioners. Of these members—

- (1) Three-fifths, viz. not less than twenty-four or more than forty-eight are to represent the insured persons resident in the county or county borough who are members of approved societies and who are deposit contributors, in proportion to their respective numbers.
- (2) One-fifth are to be appointed by the council of the county or county borough. Of these members two at least must be women.
- (3) Two members are to be elected by any association of duly qualified medical practitioners resident in the county or county borough, or, if no such association exists, by such practitioners.
- (4) If the numbers of the Insurance Committee are under 60, one member, over 60 and under 80, two members, 80, three members, must be duly qualified medical practitioners appointed by the council of the county or county borough.
- (5) The remaining members are to be appointed by the Insurance Commissioners. Of these members one must be a duly qualified medical practitioner and two at least must be women.

By subsec. (3) the Commissioners may increase the representation of the council of the county or county borough and make a corresponding diminution in the representation of insured persons where such council defrays any part of the cost of medical benefit or sanatorium benefit (*cf.* sec. 15 (7) and (8), *supra*, p. 92, and sec. 17 (2) and (3), *supra*, p. 99).

Appointment of representatives of insured persons.—Regulations of the Insurance Commissioners are to prescribe the manner in which such persons are to be appointed, and must be so made that the approved societies who have members resident in the county or county borough or associations of deposit contributors resident in the county or county boroughs formed under those regulations, should have the power of making such appointments. There are no provisions for apportioning among approved societies, so entitled to appoint representatives, power according to the number of members which they may have in the county or county borough, but it is submitted that the Insurance Commissioners, in order to provide that the persons so appointed should really be representative, will have to frame their regulations in such a way as to apportion the power of appointment among approved societies in accordance with the membership of such societies in the area in question.

Election by medical practitioners.—This is to be done in accordance with regulations to be made by the Insurance Commissioners.

Proceedings of the Committee.—These are to be governed by regulations made by the Insurance Commissioners.

District insurance committees.—The regulations of the Insurance Commissioners above referred to shall also require the Insurance Committee of every county (unless, owing to special circumstances, the Commissioners consider it unnecessary) to prepare a scheme for the appointment of district insurance committees for different areas in accordance with the proviso to subsec. (5). The regulations may provide for any of the powers and duties of Insurance Committees being apportioned amongst the several district insurance committees.

Combination of Insurance Committees.—The Insurance Commissioners may require an Insurance Committee to combine with any one or more other Insurance Committees for all or any of the purposes of this Part of this Act. Power is also given to Insurance Committees to combine on their own initiative.

Powers and Duties of Insurance Committees.—*Vide* Introduction for complete list. Their principal duty is to administer sanatorium and medical benefits for all insured persons, and all benefits for deposit contributors.

Income of Insurance Committees.—*Vide* sec. 60, *infra*.

Insurance Committees to Consult Local Medical Committees.—*Vide* sec. 61, *infra*, p. 212.

Duly qualified Medical Practitioner.—*Vide* *supra*, p. 95.

60.—(1) The Insurance Committee of a county or county borough shall, in addition to the other powers and duties conferred and imposed on it by this Part of this Act, have the following powers and duties:—

- (a) It shall make such reports as to the health of insured persons within the county or county borough as the Insurance Commissioners, after consultation with the Local Government Board, may prescribe, and shall furnish to them such statistical and other returns as they may require, and may make to them such other reports on the health of such persons and the conditions affecting the same, and may make such suggestions with regard thereto as it may think fit, and the Insurance Commissioners shall forward to the councils of the counties, boroughs, and urban and rural districts, which appear to them to be affected by or interested in any such reports, returns, or suggestions, copies of such reports, returns, and suggestions, and the

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reports and returns so made shall include such reports and returns as will enable an analysis and classification to be made of the persons who are deposit contributors :

(b) It shall make such provision for the giving of lectures and the publication of information on questions relating to health as it thinks necessary or desirable and may, if it thinks fit, for that purpose make arrangements with local education authorities, universities and other institutions :

(c) It shall keep proper books and accounts in the prescribed form and shall, when required, submit such accounts to audit by auditors appointed by the Treasury.

(2) For the purpose of assisting Insurance Committees in the exercise and performance of their powers and duties under this Part of this Act, and with a view to promoting co-operation between such committees and the councils of counties, boroughs, and urban and rural districts, any medical officer of health may, at the request of an Insurance Committee and with the consent of the council by whom he is appointed, attend meetings of the committee and give such advice and assistance as is in his power.

(3) For the purposes of this section, the council of a borough includes the mayor, aldermen, and commons of the City of London in common council assembled, and the council of a metropolitan borough.

Other powers and duties of Insurance Committees.—

For a list of the powers and duties of Insurance Committees, *vide* Introduction.

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Income.

61.—(1) All sums available for sanatorium benefit in a county or county borough, and all sums payable in respect of the members of approved societies and deposit contributors resident in the county or county borough for the purposes of medical benefit and administrative expenses in any year, shall be paid or credited to the Insurance Committee at the commencement of that year.

(2) There shall also be paid to the Insurance Committee in every year by each approved society having members who are insured persons resident in the county or county borough, in respect of each such member, the sum of one penny towards the administrative expenses of the committee:

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Provided that, if the special circumstances of any county are such that the Insurance Commissioners consider that the travelling expenses of the members of the committee should be repaid to them by the committee, the Insurance Commissioners may authorise such repayment, and in such case may increase the said sum of one penny to such sum, not exceeding twopence, as they may determine.

(3) It shall be lawful for any local authority, out of any fund or rate out of which the expenses of the authority are payable, to subscribe such sums as it may think fit towards the general purposes of the Insurance Committee.

Sums available for Sanatorium Benefit.—*Vide* sec. 16 (2), *supra*, p. 96.

(1) One shilling and threepence in respect of each insured person resident in the county or county borough out of funds out of which benefits are payable, and

(2) One penny in respect of each such person payable by the State (this sum *may* be retained by the Commissioners).

Sums payable for purposes of Medical Benefit.

(1) In respect of members of approved societies, such sum as may be agreed by the society and the Insurance Committee, or, in default of agreement, determined by the Commissioners. *Vide* sec. 15 (6), *supra*, p. 92.

(2) In respect of deposit contributors, such sum as the Insurance Committee may, with the consent of the Commissioners, determine. *Vide* sec. 42 (d), *supra*, p. 141.

Excess Expenditure on Sanatorium and Medical Benefit.—*Vide* secs. 17 (2) and (3), *supra*, p. 99, and 15 (7) and (8), *supra*, p. 92.

62. Where a local medical committee has been formed for any county or county borough or for any area for which a district committee has been formed and the Insurance Commissioners are satisfied that such committee is representative of the duly qualified medical practitioners resident in the county or county borough

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Sect. 62 — or such area as aforesaid, they shall recognise such committee, and, where a local medical committee has been so recognised, it shall, subject to regulations made by the Insurance Commissioners, be consulted by the Insurance Committee or district committee, as the case may be, on all general questions affecting the administration of medical benefit, including the arrangements made with medical practitioners giving attendance and treatment to insured persons, and shall perform such other duties, and shall exercise such powers, as may be determined by the Insurance Commissioners.

Duly qualified medical practitioner, vide supra, p. 95.

Insurance Committee or district Committee, vide sec. 59 (4) (supra, p. 209).

Administration of medical benefit and arrangements . . . for attendance, vide sec. 15, supra, p. 87.

Excessive Sickness.

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causes of
excessive
sickness, &c.

63.—(1) Where it is alleged by the Insurance Commissioners or by any approved society or Insurance Committee that the sickness which has taken place among any insured persons, being, in the case where the allegation is made by a society or committee, persons for the administration of whose sickness and disablement benefits the society or committee is responsible, is excessive, and that such excess is due to the conditions or nature of employment of such persons, or to bad housing or insanitary conditions in any locality, or to an insufficient or contaminated water supply, or to the neglect on the part of any person or authority to observe or enforce the provisions of any Act relating to the health of workers in factories, workshops, mines, quarries, or other industries, or relating to public health, or the housing of the working classes, or any regulations made under any such Act, or to observe or enforce any public health precautions, the Commissioners or the society or committee making such allegation may send to the person or authority alleged to be in default a claim for the payment of the amount of any extra expenditure alleged to have been incurred by reason of

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such cause as aforesaid, and, if the Commissioners, society, or committee and such person or authority fail to arrive at any agreement on the subject, may apply to the Secretary of State or the Local Government Board, as the case may require, for an inquiry, and thereupon the Secretary of State or Local Government Board may appoint a competent person to hold an inquiry.

(2) If, upon such inquiry being held, it is proved to the satisfaction of the person holding the inquiry that the amount of such sickness has—

- (i) during a period of not less than three years before the date of the inquiry; or
- (ii) If there has been an outbreak of any epidemic, endemic or infectious disease, during any less period;

been in excess of the average expectation of sickness by more than ten per cent., and that such excess was in whole or in part due to any such cause as aforesaid, the amount of any extra expenditure found by the person holding the inquiry to have been incurred under this Part of this Act by any societies or committees where the allegation is made by the Insurance Commissioners, or, if the allegation is made by a society or committee, by the society or committee in question, by reason of such cause shall be ordered by him to be made good in accordance with the following provisions:—

- (a) Where the excess or such part thereof as aforesaid is due to the conditions or nature of the employment or to any neglect on the part of any employer to observe or enforce any such Act or regulation as aforesaid, it shall be made good by the employer:
- (b) Where such excess or such part thereof as aforesaid is due to bad housing or insanitary conditions in the locality, or to any neglect on the part of any local authority to observe or enforce any such Act or regulation or such precautions as aforesaid, it shall be made good by such local

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authority as appears to the person holding the inquiry to have been in default, or, if due to the insanitary condition of any particular premises, shall be made good either by such authority or by the owner, lessee, or occupier of the premises who is proved to the satisfaction of the person holding the inquiry to be responsible :

(c) Where the excess or such part thereof as aforesaid is due to an insufficient or contaminated water supply, it shall be made good by the local authority, company, or person by whom the water is supplied, or who having imposed upon them the duty of affording a water supply have refused or neglected to do so, unless the local authority, company, or person prove that such insufficiency or contamination was not due to any default on the part of the authority, company, or person, but arose from circumstances over which they had no control.

(3) Where any such inquiry as aforesaid is held in respect of bad housing or insanitary conditions in any locality, it shall be lawful for the local authority to serve notice upon the owner, lessee, or occupier of any premises which are the subject-matter of the inquiry, and, where it is proved that such a notice has been served and that any such extra expense as aforesaid, or any part thereof, has been caused by the act or default of such owner, lessee or occupier, the person holding the inquiry may order the owner, lessee, or occupier to repay to the local authority the amount of the extra expenditure or part thereof which has been so caused.

(4) For the purpose of this section, the average expectation of sickness shall be calculated in accordance with the tables prepared by the Insurance Commissioners for the purpose of valuations under this Part of this Act, but any excessive sickness attributable to any disease or disablement which is due to any disease or injury in respect of which damages or compensation are payable

under the Employers' Liability Act, 1880, or the Workmen's Compensation Act, 1906, or at common law, shall not be taken into account.

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(5) The Insurance Commissioners shall make regulations as to the procedure on inquiries under this section, and a person holding an inquiry under this section shall have all such powers as an inspector of the Local Government Board has for the purposes of an inquiry under the Public Health Acts, and shall have power to order how and by what parties costs, including such expenses as the Secretary of State or Local Government Board may certify to have been incurred by them, are to be paid, and an order made by such person under this section may, by leave of the High Court, be enforced in the same manner as a judgment or order of the Court to the same effect:

Provided that a society or committee shall not be ordered to pay the costs of the other party to the inquiry if the person holding the inquiry certifies that the demand for an inquiry was reasonable under the circumstances, and, when he so certifies, the Treasury may repay to the society or committee the whole or any part of the costs incurred by it.

(6) Without prejudice to any other method of recovery, any sum ordered under this section to be paid by a local authority may, in accordance with the regulations of the Local Government Board with the approval of the Treasury, be paid out of the Local Taxation Account and deducted from any sums payable either directly or indirectly out of that account to the local authority.

(7) For the purposes of this section, any expenditure on any benefit administered by an Insurance Committee shall be deemed to be expenditure of that Committee, but any sums paid to any such Committee under this section to meet extra expenditure on sickness benefit or disablement benefit shall be dealt with for the benefit of deposit contributors in accordance with regulations made by the Insurance Commissioners.

(8) Where under this section any sum is paid to the

Sect. 63. Insurance Commissioners, the Insurance Commissioners shall apply the same in discharge of any expenses incurred by the Commissioners under this section and shall distribute the balance amongst the societies and committees which appear to the Commissioners to have incurred extra expense on account of the excessive sickness in such proportions as the Commissioners think just.

(9) Where an association of deposit contributors resident in any county or county borough has been formed under regulations made by the Insurance Commissioners, the Insurance Committee for the county or county borough shall, if so required by the association, take proceedings under this section on behalf and at the expense of the association.

Object of Section.—The object of this section is to give power to the Insurance Commissioners, approved societies and Insurance Committees to recover from persons or local authorities whose acts or defaults have occasioned excessive sickness among the insured persons for the administration of whose benefits the society or committee is responsible, the extra expenditure incurred by reason of such excessive sickness. Where a claim of this nature is made, and is not settled by agreement, the Commissioners, society or committee making the claim may apply to the Secretary of State or to the Local Government Board for an inquiry. The Secretary of State or the Local Government Board is thereupon to appoint a competent person to hold an inquiry under the conditions set out in subsec. (5).

In order to succeed the Insurance Commissioners, society or committee making the claim must prove—

(1) that the sickness in the particular locality in respect of which the claim is being made has been more than ten per cent. in excess of the average expectation of sickness during a period of not less than three years before the date of the inquiry; or, in the case of sickness due to an outbreak of any epidemic, endemic, or infectious disease, during any less period. For the method by which the average expectation of sickness is arrived at *vide infra*.

(2) That such excessive sickness is due to any one or more of the following causes—

- (a) The condition or the nature of the employment of the persons in respect of whom the claim is made;
- (b) Bad housing or insanitary conditions in any locality;
- (c) Defective or contaminated water supply;
- (d) Failure or neglect of any person or local authority to observe or enforce any public health precautions or the provisions of or the regulations made under any Act relating to
 - (i) The health of workers in factories, workshops, mines, quarries or other industries (*vide* Factory and

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Workshop Acts, 1901 and 1907 (1 Edw. 7, c. 22 and 7 Edw. 7, c. 39), the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77), the Coal Mines Regulation Act, 1887 (50 & 51 Vict. c. 58), the Quarries Act, 1894 (57 & 58 Vict. c. 42), Shop Hours Act, 1892, and 1904 (55 & 56 Vict. c. 62 and 4 Edw. 7, c. 31), Alkali Works Regulation Acts, 1881, and 1892 (44 & 45 Vict. c. 37 and 55 & 56 Vict. c. 30)).

- (ii) Public health (*vide* the Public Health Acts of 1875, 1890, 1896, and 1904 (38 & 39 Vict. c. 55, 53 & 54 Vict. c. 59, 59 & 60 Vict. c. 19, 4 Edw. 7, c. 16), the Public Health (Water) Act, 1878 (41 & 42 Vict. c. 25), the Infectious Diseases Prevention Act, 1890 (53 & 54 Vict. c. 34), the Rivers Pollution Prevention Act, 1876-1893 (39 & 40 Vict. c. 75 and 56 & 57 Vict. c. 31)).

- (iii) The housing of the working classes (*vide* the Housing of the Working Classes Acts, 1890-1903 (53 & 54 Vict. c. 70 and 3 Edw. 7, c. 39), the Housing and Town Planning Act, 1909 (9 Edw. 7, c. 44)).

(*Note.*—*Observance of public health precautions.*—*Quære* whether this means anything more than the observance of the provision of the Public Health Acts? Perhaps creating a nuisance at common law might, in certain cases, be held to be a failure to observe “public health precautions.”)

The persons against whom the person holding the inquiry may make an order for the payment of the extra expenditure incurred are—

- (1) The employer, where the excess is due to —
 - (a) the conditions or nature of the employment,
 - (b) the employer's neglect to observe or enforce any Act or regulation above referred to;
- (2) Any local authority, where the excess is due to—
 - (a) bad housing or insanitary conditions in the locality,
 - (b) neglect to observe or enforce any of the Acts or regulations above referred to, and the person holding the inquiry finds that such local authority was in default,
 - (c) insufficient or contaminated water supply where such local authority supplies the water, or having imposed upon it the duty of supplying water has neglected or refused to do so, unless the local authority can prove that the insufficiency or contamination of the water is due to circumstances over which it had no control, and not to its own default.
- (3) The owner, lessee, or occupier of any particular premises, where the excess is due to the insanitary condition of such premises, and the owner or occupier is proved to be responsible;
- (4) Water companies, where the excess is due to insufficient or contaminated water supply, in the same circumstances as a local authority supplying water might be held responsible (*vide* (2) (c), *supra*).

Recovery of extra expenditure by local authority, due to bad housing

Sect. 63. *or insanitary conditions, from owners or occupiers of premises.*—A local authority may, when an inquiry is held in respect of bad housing or insanitary conditions, serve a notice on the owner, lessee, or occupier of the premises, the subject matter of the inquiry, and any part of the extra expenditure to which the local authority may be put, which has been caused by the Act or default of such owner or occupier, may be ordered by the person holding the inquiry to be repaid by such owner or occupier to the local authority.

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SECTION.

The effect of this provision will be to simplify matters for the bodies making claims under this section. Where, in a given locality, there is excessive sickness due to the bad housing or insanitary conditions, they need not consider too closely the respective delinquencies of the local authority or the owners or the occupiers of the premises in question, but can claim against the local authority with the knowledge that such authority can protect itself by using the powers above referred to.

Average Expectation of Sickness.—By subsec. (4) this is to be calculated in accordance with the tables prepared by the Insurance Commissioners for the valuation under sec. 36, but no account is to be taken of excessive sickness attributable to disease or disablement due to any disease or injury in respect of which damages or compensation are payable under the Employer's Liability Act, 1880 (43 & 44 Vict. c. 42), or The Workmen's Compensation Act, 1906 (6 Edw. 7, c. 58), or at common law. The diseases for which compensation can be obtained under the Workmen's Compensation Act, 1906, are at present: anthrax, ankylostomiasis, lead poisoning, mercury poisoning, phosphorous poisoning, arsenic poisoning and their respective sequelæ.

It should be observed that these tables will deal with the average expectation of sickness throughout the areas included under the Act. The effect of this section will, therefore, be to create a standard sickness rate; any excess of more than 10 per cent. over which, if due to any of the causes aforesaid, may give rise to proceedings for the recovery of the extra expenditure entailed thereby. It would seem that each of the bodies of Commissioners will be entitled to prepare tables, and, therefore, a different standard may be set up for the different parts of the United Kingdom.

Procedure on inquiry.—This is to be governed by regulations to be made by the Insurance Commissioners.

The person holding the inquiry is to have the powers that an inspector of the Local Government Board has for the purposes of an inquiry under the Public Health Act. These powers are as follows: He may summon any person to be examined before him, or to produce any books, contracts, agreements, accounts, or copies of the same. He may examine witnesses on oath, or require the party examined to make and subscribe a declaration of the truth of his evidence. Persons wilfully giving false evidence before inspectors are punishable as for perjury, and persons refusing to attend his summons or give evidence, or, who alter, suppress, or destroy documents required to be produced are guilty of a misdemeanour (*vide* sec. 296, The Public Health Act, 1875 (38 & 39 Vict. c. 55), and secs. 21, 26, Poor Law Board Act, 1847 (10 & 11 Vict. c. 109)).

Costs.—The person holding the inquiry may also make orders as to how and by what parties costs, including such expenses as the

Secretary of State or Local Government Board may certify to have been incurred by them, are to be paid. If the person holding the inquiry certifies that the demand for an inquiry was reasonable in the circumstances, he can make no order on any society or committee to pay the costs of the other party to the inquiry. In such circumstances the Treasury, at their discretion, may repay to the society or committee any costs which they have incurred. It would appear that these latter provisions do not apply where the Insurance Commissioners are the party demanding the inquiry.

Any order made by the person holding the inquiry may, by leave of the High Court, be enforced in the same manner as a judgment or order of the Court.

Money ordered to be paid by a local authority, how recovered.—When a local authority has been ordered to pay any sum under this section, that sum may in accordance with regulations made by the Local Government Board with the approval of the Treasury be paid out of the Local Taxation Account, and deducted from any sums payable directly or indirectly out of that account to such local authority.

This provision is without prejudice to any other method of recovery.

Money recovered under this Section : how dealt with—

- (1) Where an approved society receives or recovers any sum under the provisions of this section, it would seem that it will be at liberty to deal with such sum as it thinks fit;
- (2) Where an Insurance committee receives or recovers any such sum, the sum is to be dealt with for the benefit of deposit contributors in accordance with regulations made by the Insurance Commissioners;
- (3) Where the Insurance Commissioners receive or recover any such sum, they may first repay themselves thereout any expenses which they have incurred, and then they must distribute the balance amongst the societies and committees who have incurred extra expenses owing to the excessive sickness, in such proportion as they may think just.

Supplementary Provisions.

64.—(1) If under any other Act of the present session any sum is made available for the purposes of the provision of or making grants in aid to sanatoria and other institutions for the treatment of tuberculosis or such other diseases as the Local Government Board with the approval of the Treasury may appoint, such sum shall be distributed by the Local Government Board with the consent of the Treasury in making grants for those purposes, and the Treasury before giving their consent shall consult with the Insurance Commissioners :

Provided that such sum shall be apportioned between

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Provision of
sanatoria, &c.

Sect. 64. England, Wales, Scotland, and Ireland in proportion to their respective populations ascertained in accordance with the returns of the census taken in the year nineteen hundred and eleven.

(2) If any such grant is made to a county council, the Local Government Board may authorise the county council to provide any such institution, and, where so authorised, the county council shall have power to erect buildings and to manage and maintain the institution and for that purpose to enter into agreements and make arrangements with the Insurance Committees and other authorities and persons, and to do all such things as may be necessary for the purposes aforesaid, and any expenses of the county council, so far as not defrayed out of the grant, shall be defrayed out of the county fund as expenses for general county purposes, or, if the order of the Local Government Board so directs, as expenses for special county purposes charged on such part of the county as may be provided by the order.

(3) For the purpose of facilitating co-operation amongst county councils, county borough councils, and other local authorities (not being Poor Law authorities) for the provision of such sanatoria and other institutions as aforesaid, the Local Government Board may by order make such provisions as appear to them necessary or expedient, by the constitution of joint committees, joint boards, or otherwise, for the joint exercise by such councils and authorities of their powers in relation thereto, and any such order may provide how, in what proportions, and out of what funds or rates the expenses of providing such institutions, so far as they are not defrayed out of grants under this section, are to be defrayed, and may contain such consequential, incidental, and supplemental provisions as may appear necessary for the purposes of the order, and an order so made shall be binding and conclusive in respect of the matters to which it relates.

(4) An Insurance Committee may, with the consent of the Insurance Commissioners, enter into agreements with any person or authority (other than a Poor

Law authority) that, in consideration of such person or authority providing treatment in a sanatorium or other institution or otherwise for persons recommended by the Committee for sanatorium benefit, the Committee will contribute out of the funds available for sanatorium benefit towards the maintenance of the institution or provision of such treatment, such annual or other payment, and subject to such conditions and for such period as may be agreed, and any such agreement shall be binding on the Committee and their successors, and any sums payable by the Committee thereunder may be paid by the Insurance Commissioners and deducted from the sums payable to the Committee for the purposes of sanatorium benefit.

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Object of Section.—This section provides—

- (1) For the distribution in grants of the sum of £1,500,000 made available by the Finance Act, 1911 (1 & 2 Geo. 5, c. 48), sec. 16 (1) (b), for the provision of sanatoria, etc. This sum is to be apportioned between England, Wales, Scotland, and Ireland in proportion to the respective populations of those countries as shown by the census of 1911.
- (2) For the authorisation by the Local Government Board of county councils to whom grants out of the £1,500,000 are made :—
 - (a) to erect, manage, and maintain sanatoria ;
 - (b) to enter into agreements with Insurance Committees and with other authorities and persons for the erection, management and maintenance of such sanatoria ;
 - (c) to defray any expenses so incurred, so far as not defrayed out of the grant, out of the county fund as expenses for general county purposes, or if the order of the Local Government Board so directs, as expenses for special county purposes charged on such part of the county as may be provided by the order.
- (3) For the Local Government Board to have power, in order to facilitate co-operation among local authorities, to make by order such provision as may seem to them necessary
 - (a) for joint committees, &c., and for the joint exercise of the powers of such local authorities ;
 - (b) for laying down in what proportion, and out of what funds or rates the expenses of providing sanatoria, so far as not defrayed out of grants under this section, are to be defrayed ;
 - (c) for such consequential, incidental, and supplemental matter as may appear necessary for the order.

Orders made by the Local Government Board under this section are to be binding and conclusive in respect of the matters to which they relate.

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(4) For Insurance Committees being authorised to enter into agreements with any person or authority for the provision of sanatorium treatment over a number of years in return for annual or other payments. Such agreements are to be binding on the committee and their successors, and the sums payable under any such agreement may be paid by the Insurance Commissioners and deducted from the sums payable to the committee for the purposes of sanatorium benefit. (For these latter sums *vide* secs. 16 and 61, *supra*, pp. 96, 212.

It should be observed that there is no obligation in this section put upon local authorities to build sanatoria, nor, if they do so, is there any obligation put upon the Local Government Board to give such authorities any part of the grant. But in order to obtain a share of the grant, local authorities will have to build sanatoria.

Provision of Sanatoria in Wales.—As respects the part of any sum available for grants apportioned to Wales, the Welsh Commissioners are to exercise the powers of the Local Government Board under this section, *vide* sec. 82 (3) (*infra*, p. 259).

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Power to
Insurance
Commis-
sioners to
make regula-
tions, &c.

65. The Insurance Commissioners may make regulations for any of the purposes for which regulations may be made under this Part of this Act or the schedules therein referred to, and for prescribing anything which under this Part of this Act or any such schedules is to be prescribed, and generally for carrying this Part of this Act into effect, and any regulations so made shall be laid before both Houses of Parliament as soon as may be after they are made, and shall have effect as if enacted in this Act:

Provided that, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such regulation is laid before it, praying that the regulation may be annulled, His Majesty in Council may annul the regulation, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

Object of Section.—This section gives power to the Insurance Commissioners to make regulations, where regulations are required, and to prescribe, what is expressed to be prescribed, under this Part of this Act or the Schedules therein referred to.

The proviso allows the Houses of Parliament to have some check on the regulations made by the Insurance Commissioners.

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Determina-
tion of ques-

66. If any question arises—

(a) as to whether any employment or any class of

employment is or will be employment within the meaning of this Part of this Act or as to whether a person is entitled to become a voluntary contributor ; or

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tions by
Insurance
Commis-
sioners.

- (b) as to the rate of contributions payable by or in respect of any insured person ; or
- (c) as to the rates of contributions payable in respect of an employed contributor by the employer and the contributor respectively ;

the question shall be determined by the Insurance Commissioners, in accordance with regulations made by them for the purpose : Provided that—

- (i) if any person feels aggrieved by the decision of the Insurance Commissioners on any question arising under paragraph (a), he may appeal therefrom to the county court, with a further right of appeal upon any question of law to such judge of the High Court as may be selected for the purpose by the Lord Chancellor, and the decision of that judge shall be final ;
- (ii) the regulations of the Insurance Commissioners may provide for questions under paragraph (b) being determined, in the case of any person who is or is about to become a member of an approved society, by the society ;
- (iii) the Insurance Commissioners may, if they think fit, instead of themselves deciding whether any class of employment is or will be employment within the meaning of this Part of this Act, submit the question for decision to the High Court in such summary manner as subject to rules of court may be directed by the court, and the court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question, and the decision of the court shall be final.

(2) This section shall come into operation on the passing of this Act.

Questions under para. (a).— These questions will be difficult questions of mixed law and fact. In the case of the liability of a

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UNDER
PARA. (a).

person to be insured as an employed contributor the answer to the question depends on whether the person is employed within the meaning of Part I. of the First Schedule to the Act (*vide* note on employed contributors, *supra*, p. 5). The question as to whether a person is entitled to become insured as a voluntary contributor depends upon whether he is within the ambit of sec. 1 (3) (*supra*, p. 4). An appeal is allowed from the decision of the Insurance Commissioners on these questions to the county court and, from the county court on a point of law *only*, to a judge of the High Court. "Any person aggrieved" will include an employer.

The Commissioners may submit any question as to whether any employment is an employment within the meaning of Part I. of the Act direct to the High Court. The section is so drafted that rulings may be obtained before the commencement of the Act.

Questions under paras. (b) and (c).—The determination of these questions may be delegated by the Insurance Commissioners in the case of a person who is or who is about to become a member of an approved society to the society. It is submitted that, in a proper case, *Mandamus* or *Certiorari* will lie to the Commissioners or to the society in respect of the judicial function in regard to these questions which the section imposes upon them (*vide supra*, p. 28).

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Disputes.

67.—(1) Subject to the provisions of the foregoing section every dispute between—

- (a) An approved society or a branch thereof and an insured person who is a member of such society or branch or any person claiming through him ;
- (b) An approved society or branch thereof, and any person who has ceased to be a member for the purposes of this Part of this Act of such society or branch, or any person claiming through him ;
- (c) An approved society and any branch thereof ;
- (d) Any two or more branches of an approved society ;

relating to anything done or omitted by such person, society, or branch (as the case may be) under this Part of this Act or any regulation made thereunder, shall be decided in accordance with the rules of the society, but any party to such dispute may, in such cases and in such manner as may be prescribed, appeal from such decision to the Insurance Commissioners.

(2) Every dispute between an insured person and the Insurance Committee, relating to anything done or omitted by such person or the Insurance Committee

under this Part of this Act, or any regulation made hereunder, shall be decided in the prescribed manner by the Insurance Commissioners. Sect. 67.

(3) The Insurance Commissioners may authorise referees appointed by them to decide any appeal or dispute submitted to the Insurance Commissioners under this section.

(4) The Insurance Commissioners may make regulations as to the procedure on any such appeal or dispute, and such regulations may apply any of the provisions of the Arbitration Act, 1889, but, except so far as it may be so applied, the Arbitration Act, 1889, shall not apply to proceedings under this section, and any decision given by the Insurance Commissioners or a referee under this section shall be final and conclusive.

Object of Section.—This section provides the method by which disputes between the persons or bodies and the persons or bodies mentioned in subsec. (1) (a) to (d) and in subsec. (2) *relating to anything done or omitted by such persons or bodies are to be decided.* These words are very wide and should cover every imaginable form of dispute, and the section consequently becomes of very great importance. For example, any question as to whether a claim by an insured person for benefits is or is not to be recognised will be decided by the machinery provided by this section. These disputes are, where an approved society is concerned, to be decided according to the rules of the society, and where a deposit contributor and an Insurance Committee are concerned in the manner prescribed by the Insurance Commissioners. An appeal lies in the case of a decision according to the rules of a society to the Insurance Commissioners, who may authorise referees to decide any such appeal or dispute. The procedure on any such appeal or dispute (*semble* before the Commissioners or before the referees) is to be in accordance with regulations made by the Insurance Commissioners. The regulations may in the discretion of the Commissioners apply any of the provisions of the Arbitration Act, 1889 (52 & 53 Vict. c. 49). The decision of the Insurance Commissioners or the referee is conclusive. Notwithstanding this, in a proper case, a further remedy will be open by *Mandamus* or *Certiorari* (*vide supra*, p. 28).

68.—(1) Where the medical practitioner attending on any insured person in receipt of sickness benefit certifies that the levying of any distress or execution upon any goods or chattels belonging to such insured person and being on premises occupied by him, or the taking of any proceedings in ejectment or for the recovery of any rent Sect. 68.

Protection against distress and execution in certain cases.

Sect. 68. or to enforce any judgment in ejectment against such person, would endanger his life, and such certificate has been sent to the Insurance Committee and has been recorded in manner herein-after provided, it shall not be lawful during any period named in the certificate for any person to levy any such distress or execution or to take any such proceedings or to enforce any such judgment against the insured person :

Provided that, if any person desirous of levying such distress or execution or taking such proceedings or enforcing such judgment disputes the accuracy of the certificate, he may apply to the registrar of the county court, who, if he is of opinion that the certificate should be cancelled or modified, may make an order cancelling or modifying it, and no appeal shall lie against any such order or a refusal to make any such order.

(2) A certificate granted for the purpose of this section shall continue in force for one week or such less period as may be named in the certificate, but may be renewed from time to time for any period not exceeding one week, up to but not beyond the expiration of three months from the date of the grant of the original certificate, but no such renewal shall have effect unless sent to the Insurance Committee and recorded as aforesaid :

Provided that the protection conferred by this section shall not extend beyond the expiration of one month from such date if, on demand being made by the person desirous of levying such distress or execution, or taking such proceedings, or enforcing such judgment, proper security is not given for payment of rent thereafter to become due from the insured person or the amount of the judgment debt, as the case may be, and any dispute as to the sufficiency of the security shall be determined by the registrar of the county court whose decision shall be final and not subject to appeal.

(3) If any person knowingly levies or attempts to levy any such distress or execution or takes any such proceedings or enforces or attempts to enforce any such judgment in contravention of this section, he shall be

liable on summary conviction to a fine not exceeding fifty pounds. Sect. 68.

(4) A certificate or renewal thereof granted under this section shall forthwith be sent to the Insurance Committee, and the Committee shall, unless it has reason to suspect its genuineness, record it in a special register without fee, and such register shall, at all reasonable times, be open to inspection; and, where so recorded, its genuineness shall not be questioned in any proceedings against a sheriff or other officer for failure to levy any distress or execute any warrant.

(5) Where the time within which a warrant may be executed is limited, any period during which the warrant cannot be executed by reason of the provisions of this section shall be disregarded in computing the time within which the warrant may be executed.

Object of Section.—The object of this section is to prevent the lives of insured persons (*i.e.* voluntary or employed contributors) who are in receipt of sickness benefit being endangered by distress, execution on the premises which they occupy, or by the taking of proceedings in ejectment or for the recovery of rent or to enforce any judgment in ejectment.

In order to enjoy this protection the following conditions must be satisfied:—

- (1) The person in question must be in receipt of sickness benefit.
The section does not apply when the person is in receipt of any other benefit.
- (2) The medical practitioner attending that person must certify that—
 - (a) the levying of any distress or execution upon any goods or chattels belonging to such insured person and being on premises occupied by him, or
 - (b) the taking of any proceedings in ejectment, or
 - (c) the taking of any proceedings for the recovery of any rent, or
 - (d) the taking of any proceeding to enforce any judgment in ejectment against such person, would endanger his life.

[*Note.*—It would seem that the certificate may mention all or any of the above, and that the protection will extend to such of the proceedings as are mentioned in the certificate.]

- (3) The certificate should mention the period during which it is to be in force if that period does not exceed one week.
After one week the certificate must be renewed.
- (4) The certificate and any renewals thereof must be recorded forthwith in a special register to be kept by the Insurance Committee.

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OBJECT OF
SECTION.

(5) If the protection is to last beyond one month after the date of the grant of the original certificate, on the application of the landlord or creditor, security must be given, the sufficiency of which is to be determined by the registrar of the county court, for the rent or debt in respect of which the landlord or creditor desires to take any of the proceedings mentioned in this section.

The protection exists throughout any period mentioned in the certificate. Disputes as to the accuracy of the certificates are to be settled by the registrar of the county court, who has power to cancel or modify the certificate. His decision is expressed to be final, but it is submitted that in a proper case *certiorari* and *mandamus* will lie as a method of redress.

Contravention of this section will entail, on summary conviction, a fine not exceeding £50.

The register of certificates is to be open to inspection; and the fact that a certificate is registered will protect a sheriff or other officer from proceedings for failure to levy any distress or to execute any warrant.

Goods or Chattels belonging to such Insured Person.—

There can be no protection when the goods or chattels, on which distress or execution is levied, are not the property of the person in question. *Quære* whether goods on a hire-purchase agreement made with the tenant, which are excluded from the operation of the Law of Distress Amendment Act, 1908 (8 Edw. 7, c. 53), sec. 4, may be distrained upon, notwithstanding that a certificate under this section is in force? The answer to this question would seem to depend upon whether levying a distress is "taking proceedings for the recovery of rent." Strictly speaking, distress is the taking, without legal process, of goods to compel the payment of rent. The expression "taking proceedings, &c.," appears to imply resort to legal process. But it would seem very doubtful whether distress would not be held to be within the above expression.

There is nothing in the section to prevent hire-purchase traders from recovering possession of their goods from persons in respect of whom a certificate is in force, if instalments are in arrear, and if they can do so without recourse to the courts and execution.

Medical Practitioner.—*Quære* whether this means a duly qualified medical practitioner? *Vide* Medical Act, 1858 (21 & 22 Vict. c. 90), sec. 34, and contrast p. 95, *supra*.

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Offences.

69.—(1) If, for the purpose of obtaining any benefit or payment or the crediting of a reserve value under this Part of this Act, either for himself or for any other person, any person knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding three months with or without hard labour.

(2) If any employer has failed to pay any contributions which under this Part of this Act he is liable to pay in respect of an employed contributor, or if any such

employer, any insured person, or any other person is guilty of any other contravention of or non-compliance with any of the requirements of this Part of this Act or the regulations made thereunder in respect of which no special penalty is provided, he shall for each offence be liable on summary conviction to a fine not exceeding ten pounds, and where the offence is failure or neglect on the part of the employer to make any such contributions, to pay to the Insurance Commissioners a sum equal to the amount of the contributions which he has so failed or neglected to pay, which sum when paid shall be treated as a payment in satisfaction of such contributions :

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Provided that no person shall be liable to any penalty in respect of any matter if he has acted in conformity with any decision in respect thereto by the Insurance Commissioners, or, if the matter is one which the Insurance Committee is competent to decide, in conformity with its decision.

Obtaining the Crediting of a Reserve Value.—For the treatment of a person (for insurance purposes) under this Act who is convicted under this section in connection with reserve values, *vide* sec. 55 (5), *supra*.

Imprisonment for a Term not Exceeding Three Months.—This will have the effect of depriving any person accused under subsec. (1) of this section of a trial by jury, *vide* Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), sec. 17.

Employer's Contributions.—*Vide* sec. 4 (*supra*), p. 31, and Second Schedule (*infra*), p. 324.

70.—(1) Where an employer has failed or neglected to pay any contributions which under this Part of this Act he is liable to pay in respect of a person being a member of an approved society in his employment, and by reason thereof that person has been deprived in whole or in part of his right to any benefits which would otherwise have been payable to him, he shall be entitled to take proceedings against the employer for the value of the right of which he has been so deprived, and in any such proceedings the employer may be ordered to pay to the Insurance Commissioners a sum equal to the value so ascertained, which sum when paid shall be carried to the credit of the society of which such person

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Civil proceedings against employer for neglecting to pay contributions.

Sect. 70. is a member, and thereupon such person shall thenceforth be entitled to receive from the society benefits at the same rate as he would have been entitled to had the contributions been properly paid, together with the difference between the amount of the benefits (if any) he has actually received and the benefits he would have received had the contributions been properly paid.

(2) Proceedings may be taken under either this or the last preceding section notwithstanding that proceedings have also been taken under the other section in respect of the same failure or neglect to pay contributions.

Object and Effect of Section.—This section provides that—

- (1) Where an employer has failed or neglected to pay contributions which he is liable to pay in respect of *an employed member of an approved society*; and
- (2) By reason of such failure or neglect that person has been deprived of any right to any benefits which would otherwise have been payable to him,

such person may take civil proceedings against the employer in question *for the value of the right of which he has been so deprived*. In such proceedings the employer may be ordered to pay a sum equal to such value to the Insurance Commissioners, which sum is to be carried by them to the credit of the approved society of which the person is a member. Thereupon such person will receive the benefits he would have received if his contribution had been properly paid, together with the difference (if any) between the amount of the benefits he has actually received and the benefits he would have received if the contribution had been properly paid.

It is submitted that proceedings can only be taken under this section where the person taking those proceedings has actually suffered reduction of or suspension from benefits owing to the fact that his employer has failed or neglected to pay contributions in respect of him. No proceedings can be taken where the allegation is merely that, if the person in question had become entitled to benefits, the rate would have been reduced, or suspended owing to the non-payment of contributions.

Effect of this Section and the Preceding Section.—Proceedings may be taken under either of these sections notwithstanding that proceedings have already been taken under the other section. The result of proceedings being taken under both sections will, if they are successful, result in the employer being not only fined but also having to pay twice over for reinstating the person in respect of whom he has failed to pay contributions. If, under sec. 69, the employer pays up the contributions he has failed to pay, such payment should put the society in a position to pay benefits as if such contribution had been properly paid from whatever date the payment of benefits may commence. But under sec. 70 the employer will also have to pay up the value of the benefits of which the person has been deprived, which value will already have been

provided for by the payment he has made under sec. 69. It will therefore be to the advantage of the society to take proceedings under both sections, with, if the member in question is receiving benefits, as much delay as possible.

An example is given to show the working of the section.

Example.—A has been three years in insurance (1914, 1915, 1916) as an employed member of an approved society. During that time he has fallen thirty-six contributions in arrears. All these arrears are due to failure or neglect of his employer to pay the contributions. A has not been entitled to benefits during those years, but on January 1, 1917, becomes so entitled. Inasmuch as he is in arrears to the extent of twelve contributions in a yearly average his sickness benefit will be reduced from 10s. to 5s. 6d. (*vide* Fifth Schedule, *infra*, p. 331). If proceedings are taken at once and the amount of the contributions not paid, viz. $36 \times 7d. = 21s.$, is recovered from the employer this sum is to be treated in satisfaction of the unpaid contributions. A will thereupon be entitled to full benefits and will have no ground for proceeding under sec. 70. But assuming that A's illness in respect of which he is entitled to receive benefits lasts 10 weeks, and that no proceedings are taken until after he has recovered, then proceedings may be taken under both sections, which, if successful, will result in the society receiving 21s. as aforesaid, and in A's receiving $10 \times 4s. 6d. = £2\ 5s.$ Thus A will suffer no loss and the society will gain by not having had to pay full benefits during A's illness.

[*Note.*—Proceedings under sec. 70 can only be brought against an employer in regard to unpaid contributions due in respect of an employed member of an approved society. Deposit contributors have only the remedy provided by sec. 69.]

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OBJECT AND
EFFECT OF
SECTION.

71. If it is found at any time that a person has been in receipt of any payment or benefit under this Part of this Act without being lawfully entitled thereto he, or in the case of his death his personal representatives, shall be liable to repay to the Insurance Commissioners the amount of such payment or benefit, and any such amount may be recovered as a debt due to the Crown and when so recovered shall be carried to the credit of the society of which such person was a member, or if he was not a member of any approved society, of the Post Office fund.

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Repayment
of benefits
improperly
paid.

72.—(1) Every registered friendly society which provides benefits similar to any of those conferred by this Part of this Act, shall submit to the Registrar of Friendly Societies a scheme for continuing, abolishing, reducing, or altering such benefits as respects members who become insured persons and for continuing, abolishing,

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Provisions as
to application
of existing
funds of
friendly
societies.

Sect. 72. or reducing the contributions of such members, so, however, that the combined effect of the alteration of the benefits and contributions shall not prejudicially affect the solvency of the society, and, if the scheme or a supplementary scheme shows on an actuarial valuation that, owing to the alterations in the benefits and contributions effected by the scheme, any part of the existing funds of the society is set free as not being required to meet the liabilities of the society, the scheme or the supplementary scheme shall provide for the application of the part of the funds so set free in any one or more of the following ways:—

- (a) towards the cost of the provision of other or increased benefits payable by the society independently of this Part of this Act to existing members whether insured persons or not;
- (b) in reduction of the contributions payable by such members in respect of the benefits payable by the society independently of this Part of this Act;
- (c) towards the payment or repayment of contributions payable under this Part of this Act by such of its existing members as are entitled and elect to receive benefits under this Part of this Act through the society.

(2) This section shall apply to branches of registered societies in like manner as to societies: Provided that a society with branches may, if it so desires (subject always to the exercise of any right of a branch, expressly conferred by the rules of the society, to dispose of any of its funds for the benefit solely of the members of the branch), submit a scheme applicable to all its branches, and it shall be competent for the society to provide by its scheme or supplementary scheme for the application of the whole or any part of any sums so set free towards the discharge of any deficiencies in any of its branches which may be found to exist on such actuarial valuation as aforesaid.

(3) Any scheme adopted by a society or branch of a society in accordance with its rules when confirmed by the Registrar of Friendly Societies shall be deemed to

be incorporated in the registered rules of the society or branch and may be amended accordingly, so, however, that no amendment shall be inconsistent with the provisions of this section.

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(4) This section shall apply to seamen, marines, and soldiers, from whose pay deductions are made under this Part of this Act as if they were insured persons, and for the purposes of this section "existing" means existing at the passing of this Act.

(5) This section shall come into operation on the passing of this Act.

Object of Section.—The operation of this section is not confined to registered friendly societies and their branches which become approved societies. All registered Friendly Societies which confer benefits similar to those conferred by this Part of the Act must *at once* (the Act received the Royal Assent on December 16, 1911) proceed to make and submit to the Registrar of Friendly Societies a scheme—

- (1) for continuing, abolishing, reducing, or altering the existing benefits in so far as they are similar to the benefits conferred by this Part of this Act as respects members who become insured persons, and
- (2) for continuing, abolishing or reducing the contributions of such members.

The schemes to be made and submitted under this section are to be made in view of the fact that a large number of members will probably become insured persons under the Act. These members will not require exactly the benefits for which they have hitherto been insuring, nor, in view of the contributions they will have to make under the Act, will they desire to continue to make the contributions which they have made hitherto. The schemes will first of all deal with the state of things created by these facts in the manner above set out, but they must be such as to ensure that the society remains solvent, having regard to its liabilities towards members who do not become insured persons, and to the liabilities and income for which the schemes themselves provide. At this point a scheme may, of course, account for all the existing funds of the society, but, assuming that, on an actuarial valuation (which must be made in any case to test the solvency of the society in light of the scheme), there are funds left over and so set free, the funds so set free are to be dealt with in one of the ways set out in subsec. (1) (a) to (c).

These ways may be divided into two classes—

- (1) Those which apply to existing (*i.e.* existing at the time of the passing of the Act) members, whether they become insured persons or not, and which relate to benefits and contributions payable independently of the Act, viz. subsec. (1) (a) and (b).
- (2) That which applies to members who are entitled and elect to receive benefits under this Part of the Act through the

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SECTION.**

society and which relates to contributions payable by such members under this Part of the Act, viz. subsec. (1) (c).

With regard to class (1), the scheme may provide for "other or increased benefits." These words enlarge the scope of the scheme. In what may be called the first stage of the scheme the only benefits affected are those which are similar to the benefits conferred by this Part of the Act, but in the later stage of the scheme provision may be made for giving or increasing any other benefit which it is within the competence of the society to give.

By subsec. (3), before a scheme is valid it must—

- (1) be adopted by a society or branch of a society by a vote of members taken in accordance with its rules,
- (2) be confirmed by the Registrar of Friendly Societies.

A scheme so adopted and confirmed is to be deemed to be incorporated in the registered rules of the society or branch, and may be altered according to those rules, provided that no alteration is made which is inconsistent with the provisions of this section.

The adoption by vote of the members and the necessity of obtaining the confirmation of the registrar should be sufficient safeguard against a scheme being put into force which does not deal fairly with the interests of the various classes of members concerned.

Seamen, Marines, and Soldiers (vide sec. 46, *supra*).—The schemes will apply to such of these persons as have deductions made from their pay as if they were insured persons. It should be noticed that under sec. 46 the only benefit to which such persons are entitled under this part of the Act is maternity benefit, but it is submitted that this provision will not prevent such persons from receiving any of the benefits which their societies may be able to give in accordance with the scheme they may make. Such benefits will be payable independently of the Act.

Societies with Branches.—The section is to apply to registered branches of registered friendly societies in like manner as to the societies. The effect of this provision is that branches may, if they choose, make their own schemes, but it will be unnecessary for a branch to make a scheme if the society makes use of the power given to it by subsec. (2) to make a scheme applicable to all its branches. In such a case the scheme may provide for funds set free after valuation to be applied in discharging any deficiency which any particular branch may show upon such valuation. If the rules of the Society expressly confer to a branch the right to dispose of any of its funds for the benefit solely of the members of the branch, the Society may only use its powers under subsec. (2) subject to the exercise of that right. The effect of this provision is, it is submitted, to make it possible for a society to submit a scheme applicable to such of its branches as do not exercise that right.

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Provisions as
to existing
employers'
provident
funds.

73.—(1) Where at the passing of this Act a superannuation or other provident fund has been established for the benefit of the persons employed by one or more employers, the provisions of the last foregoing section shall apply with the necessary adaptations and with this

modification that, where under the Act, deed, or other instrument establishing the fund or otherwise any sum is payable by the employer towards benefits secured by the Act or deed, and those benefits include benefits similar to any of those conferred by this Part of this Act, the scheme may provide for allowing the employer to deduct from any contributions payable by him as aforesaid towards benefits of a nature similar to those under this Part of this Act an amount not exceeding the amount of the employer's contributions payable by him under this Part of this Act. Sect. 73.

(2) Where the fund is one out of which pensions or superannuation allowances are payable, and it is proved to the satisfaction of the Insurance Commissioners that the rearrangements required in consequence of this Part of this Act will, upon a valuation under the existing rules of the fund, affect prejudicially the sum available for the payment of pensions or superannuation allowances, the Insurance Commissioners may grant a certificate authorising the value of the prospective extension of benefits under this Part of this Act when the reserve values have been written off as herein-before provided, to be brought into account in the valuation of the assets available for the discharge of the liabilities of the fund in respect of pensions and superannuation allowances.

Object of Section.—This section applies the preceding section with any necessary adaptations to provident funds (*cf.* sec. 24, *supra*, p. 109), and further enables the scheme made under the section to provide for the employer being at liberty to deduct from any contributions he may be under a liability under the Act or deed establishing the fund to make towards benefits similar to those conferred by this part of this Act, an amount equivalent to the employers' contributions he will have to pay under sec. 4 and the Second Schedule (*supra*, p. 31).

Prospective Extension of Benefits.—*Vide* sec. 8 (9), *supra*, p. 56.

74. Any member of an approved society who is a minor may execute all instruments and give all acquittances necessary to be executed or given under the rules of such society, but shall not be a member of the Sect. 74.

Provisions as to minors who are members of approved societies.

Sect. 74. Committee or a trustee, manager, or treasurer of such society or any branch thereof.

Sect. 75. **75.** Any society for the purpose of carrying on business under this Act, either alone or together with any purpose mentioned in section eight, subsection (1), of the Friendly Societies Act, 1896, may, after the passing of this Act, be registered as a friendly society under the Friendly Societies Act, 1896, notwithstanding that the contributions under this Act are not voluntary.

Power for societies to register under Friendly Societies Act, 1896.

Friendly Societies Act, 1896 (59 & 60 Vict. c. 25), sec. 8.—"The following societies may be registered under this Act:—

"(1) Societies (in this Act called friendly societies) for the purpose of providing by voluntary subscriptions of the members thereof, with or without donations, for. . . ."

But for the provisions of this section, no new society which desired to become an approved society could have been registered under the Friendly Societies Act.

Sect. 76. **76.**—(1) Except in so far as may be inconsistent with this Part of this Act, any business transacted under this Part of this Act by any approved society shall be treated as part of the ordinary business transacted by societies of the class to which that society belongs, and any enactment applying to the society in relation to the transaction of such ordinary business shall apply accordingly in relation to the business transacted by the society under this Part of this Act.

Application of Acts of Parliament to approved societies and sections.

(2) This section shall apply to an approved society which is a separate section of another body, subject to the necessary adaptation.

Note.—*Cf.* note on sec. 23 (*supra*, p. 106).

Sect. 77. **77.**—(1) The Local Government Board may, for the purposes of their powers and duties under this Part of this Act, hold such local inquiries and investigations as they may think fit, and the Board and their inspectors shall have for the purposes of such an inquiry the same powers as they respectively have for the purposes of an inquiry under the Public Health Acts, and the expenses incurred by the Board in respect of such inquiries and

Powers of the Local Government Board.

other proceedings under this Part of this Act (including the salary of any inspector or officer of the Board engaged in the inquiry or proceedings, not exceeding three guineas a day) shall be paid by such authorities and persons and out of such funds and rates as the Board may by order direct, and the Board may certify the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by the authority or person shall be a debt from that authority or person to the Crown: Provided that this provision shall not apply to inquiries with respect to responsibility for excessive sickness.

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(2) Any approval given by the Local Government Board under this Part of this Act may be given for such term, and subject to such conditions as the Board may think fit, and the Board shall have power to withdraw any approval which they have given.

(3) The Local Government Board may make it a condition of any approval to be given, or grant of money to be made under this Part of this Act, that the Board shall have such powers of inspection as may be agreed.

Duty of the Local Government Board.—The most important duty which the Board have to perform under Part I. of the Act is the duty of distributing the £1,500,000 made available by the Finance Act, 1911, for the erection of sanatoria, *vide* sec. 64, *supra*. The Board also has to approve the arrangements for the administration of sanatorium benefit under sec. 16, *supra*. The Board may also appoint other diseases (besides tuberculosis) in connection with sanatorium benefit (sec. 8 (1) (b), *supra*).

Power of Board and Inspectors under Public Health Acts.—*Vide* the Public Health Act, 1875 (38 & 39 Vict. c. 55), Part IX. secs. 293–296, and the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), secs. 21 and 26.

78. If any difficulty arises with respect to the constitution of Insurance Committees, or the advisory committee, or otherwise in bringing into operation this Part of this Act, the Insurance Commissioners, with the consent of the Treasury, may by order make any appointment and do anything which appears to them necessary or expedient for the establishment of such

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Power to
remove
difficulties.

Sect. 78. committees or for bringing this Part of this Act into operation, and any such order may modify the provisions of this Act so far as may appear necessary or expedient for carrying the order into effect: Provided that the Insurance Commissioners shall not exercise the powers conferred by this section after the first day of January nineteen hundred and fourteen.

Object of Section.—This section gives very wide powers to the Insurance Commissioners in the event of any difficulty arising—

- (1) With respect to the constitution of Insurance Committees (sec. 59), or
- (2) With respect to the constitution of the Advisory Committee (sec. 58), or
- (3) Otherwise in bringing into operation this Part of this Act.

Any order made by the Insurance Commissioners under this section may “modify the provisions of this Act so far as may appear necessary or expedient for carrying the order into effect.” It is a little difficult to see how an order in respect to a difficulty in bringing into operation this Part of this Act can modify the provisions of the Act, because *ex hypothesi* the operation of the Act depends upon its provisions. *Quære*, whether the meaning of the section is that the Commissioners should be judges of what are the governing ideas of this Part of the Act, and should have power to modify the provisions of the Act so far as those provisions create difficulties in matters of detail?

The powers of the Commissioners under this section only last until January 1, 1914.

Sect. 79. **79.** For the purposes of this Part of this Act unless the context otherwise requires,—

Interpreta-
tion.

The expression “branch,” in relation to a society, shall not include any branch of the society which is not itself separately registered;

The expression “disease or disablement” means such disease or disablement as would entitle an insured person to sickness or disablement benefit;

The expression “dependants,” in relation to any person, includes such persons as the approved society or Insurance Committee shall ascertain to be wholly or in part dependent upon his earnings;

A person whose normal occupation is employment within the meaning of this Part of this Act shall, for the purpose of reckoning the number and rate of contributions, be deemed to continue to be an

employed contributor notwithstanding that he is temporarily unemployed, but, if such period of unemployment extends beyond twelve months, he shall not continue to be an employed contributor unless the approved society of which he is a member or, if he is not a member of such a society, the Insurance Committee, is satisfied that his unemployment is due to inability to obtain employment, and is not due to any change in his normal occupation ;

The suspension of a member of an approved society from benefits under this Part of this Act shall not be deemed to deprive the member of his membership ;

Membership of an approved society means membership for the purposes of this Part of this Act ;

The expression “ valuer ” means a person possessing actuarial qualifications as may be approved by the Treasury ;

The expression “ county ” means administrative county ;

The Scilly Isles shall be deemed to be a county and the council of those Isles the council of a county, but the Insurance Committee for the Scilly Isles shall be constituted in such manner as the Insurance Commissioners prescribe ;

Monmouthshire shall be deemed to form part of Wales ;

A person shall be deemed according to the law in England, Wales, and Ireland, as well as according to the law in Scotland, not to have attained the age of seventeen until the commencement of the seventeenth anniversary of the day of his birth, and similarly with respect to other ages.

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80. This Part of this Act in its application to Scotland shall be subject to the following modifications :—

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- (1) For the purpose of carrying this Part of this Act into effect in Scotland, there shall be constituted, as soon as may be after the passing of this Act, Commissioners for Scotland (to be called the Scottish Insurance Commissioners) with a central

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office in Edinburgh, and with such branch offices in Scotland as the Treasury may think fit, and the Scottish Insurance Commissioners, of whom one at least shall be a duly qualified medical practitioner, shall be appointed by the Treasury, and may appoint such officers, inspectors, referees, and servants for the purposes aforesaid as the Scottish Insurance Commissioners, subject to the approval of the Treasury, may determine, and the provisions of this Part of this Act with respect to the payment of the salaries and remuneration of the Insurance Commissioners, and the officers, inspectors, referees, and servants appointed by them, and with respect to the payment of the expenses incurred by the Treasury or the Insurance Commissioners in carrying this Part of this Act into effect shall, with the necessary modifications, apply to the payment of the salaries and remuneration of the Scottish Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them and to the payment of expenses incurred by the Treasury or the Scottish Insurance Commissioners in carrying this Part of this Act into effect in Scotland, and for the purpose aforesaid the Scottish Insurance Commissioners, and the officers, inspectors, referees, and servants appointed by them shall respectively have all the like powers and duties as are, by the provisions of this Act, conferred and imposed on the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and references in those provisions to the Insurance Commissioners shall be construed as references to the Scottish Insurance Commissioners :

- (2) All sums received from contributions under this Part of this Act in respect of insured persons resident in Scotland, and all sums paid out of moneys provided by Parliament in respect of

benefits under this Part of this Act to such persons, and the expenses of administration of such benefits shall be paid into a fund to be called the Scottish National Health Insurance Fund, under the control and management of the Scottish Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and Insurance Committees for the purposes of such benefits and the administration of such benefits shall be paid out of that fund, and the foregoing provisions of this Act, with respect to the National Health Insurance Fund, shall, with the necessary modifications, apply to the Scottish National Health Insurance Fund accordingly :

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- (3) The expression "Local Government Board" means the Local Government Board for Scotland (in this section referred to as the Board) : Provided that, as regards the making of regulations respecting sums payable out of the Local Taxation (Scotland) Account, the said expression means the Secretary for Scotland ; the expression "Local Taxation Account" means the Local Taxation (Scotland) Account ; and the expression "inspector of the Local Government Board" includes a person acting under section seven or section eight of the Public Health (Scotland) Act, 1897 :
- (4) The expression "county borough" means a burgh or police burgh within the meaning of the Local Government (Scotland) Act, 1889 (in this section referred to as the Act of 1889), containing within the police boundaries thereof according to the census of nineteen hundred and eleven a population of twenty thousand or upwards, and includes the burgh of Dumfries and the police burgh of Maxwelltown, as if they were a single burgh, and all other burghs and police burghs shall, for the purposes of this Part of this Act, be held

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to be within the county, and unless already represented on the county council shall, for the purposes of this Part of this Act, be represented thereon as may be determined by the Secretary for Scotland: Provided that references to the council of a county borough shall, in the case of Dumfries and Maxwelltown, be construed as references to a joint committee of the town councils thereof which shall from time to time be appointed subject to the provisions of section seventy-six of the Act of 1889:

- (5) References to a county and the county council thereof shall, as regards—

(a) the counties of Kinross and Clackmannan ;
and

(b) the counties of Elgin and Nairn ;
be construed in each case as references respectively to a combination of the two recited counties and to a joint committee of the county councils thereof which shall from time to time be appointed subject to the provisions of section seventy-six of the Act of 1889 :

- (6) The minimum number of an insurance committee for any area containing a population of less than forty thousand shall be twenty-five instead of forty ; and, where a number less than forty is fixed the constitution of the committee may be varied as may be prescribed, so, however, that the proportion of members to be appointed by insured persons and by a county or town council and the number of members possessing a medical qualification shall not be altered :

- (7) No person, except a medical practitioner qualified as such, shall be qualified for appointment as member of an Insurance Committee by a county or town council unless he is a member of a local authority within the county under the Public Health (Scotland) Act, 1897, or of the town council, as the case may be ; but this require-

ment shall not apply to women if women so qualified are not available: Sect. 80.

- (8) Before submitting for approval a scheme prescribing areas to be assigned to district committees, the Insurance Committee of a county shall consult with the county council, or any committee thereof appointed for the purpose, and shall consider any representation received from them :
- (9) Where, owing to sparseness of population, difficulties of communication, or other special circumstances, they consider it desirable, an Insurance Committee shall have power, with the consent of the Scottish Insurance Commissioners, to modify or suspend any benefits for the administration of which they are responsible ; but, where such modification or suspension takes place, provision shall be made by the Committee, with the like consent, for the increase of other benefits or the grant of one or more additional benefits to an amount equivalent to the value of the modification or suspension :
- (10)—(a) If it appears to any county council that, having regard to the number of employed contributors resident in the county who are not members of any society approved under the foregoing provisions of this Act, it is desirable that steps should be taken for the establishment under the council of an approved society for the county (in this section referred to as a county society) the council may, at any time before the expiration of one year from the commencement of this Act, submit to the Scottish Insurance Commissioners a scheme for the establishment of a county society ;
- (b) The scheme may provide for —
 - (i) the representation of the council on the committee of management of the society ;

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- (ii) the appointment of officers subject to the approval of the council ;
 - (iii) the delegation of powers to committees ;
 - (iv) the giving of security by means of a charge upon the general purposes rate or otherwise ;
 - (v) the restriction of membership to insured persons resident in the county not being members of any other approved society ;
 - (vi) the reduction of benefits below the minimum rates fixed by this Part of this Act ; and
 - (vii) such other matters as may appear necessary, and in particular such further modifications of the provisions of this Part of this Act with respect to approved societies as may be required for the purpose of adapting those provisions to the case of a county society ;
- (c) Where such a scheme has been approved by the Scottish Insurance Commissioners, the provisions of the scheme shall have effect, notwithstanding anything to the contrary in this Part of this Act ; and subject to those provisions, the county society shall be an approved society for all the purposes of this Part of this Act :
- (d) A county council desirous of submitting a scheme under this section may, at any time after the passing of this Act, take such steps as appear necessary with a view to ascertaining what insured persons resident in the county are eligible and willing to become members of the proposed county society, and generally for the formation of the society ;

- (11) A person appointed in terms of the section of this Act relating to excessive sickness to hold an inquiry shall report to the authority appointing him, and any further action following on such inquiry which, in accordance with the provisions of that section, is to be or may be taken by the person making the inquiry, shall not be taken by him, but may be taken by that authority after consideration of the report, and that section shall be read and construed accordingly : Sect. 80.
- (12) Expenses incurred by a county council under this Part of this Act shall be defrayed out of the general purposes rate ; provided that, notwithstanding anything contained in the Act of 1889, the ratepayers of a police burgh shall not be assessed by the county council for any such expenses unless the police burgh is, for the purposes of this Part of this Act, held to be within the county ; and provided further that, with respect to every burgh within the meaning of the Act of 1889, which is, for the purposes of this Act, held to be within the county, subsection (3) and subsection (4) of section sixty, and section sixty-six, of the Act of 1889, shall, so far as applicable, have effect as if such expenses were expenditure therein mentioned :
- (13) Expenses incurred by a town council under this Part of this Act (whether under requisition from the county council or otherwise) shall be defrayed out of the public health general assessment, but shall not be reckoned in any calculation as to the statutory limit of that assessment ; and references to the borough fund or borough rate shall be construed accordingly :
- (14) The expression “borough” and the expression “urban district” mean a burgh or police burgh within the meaning of the Act of 1889, and the expressions “rural district” and “council of a

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rural district," unless inconsistent with the context, mean respectively a district of a county within the meaning of the said Act and the district committee thereof: Provided that the population limit prescribed for boroughs and urban districts in the subsection of this Act relating to the appointment of district committees for these areas shall not apply:

- (15) The expression "Lord Chief Justice" means the Lord President of the Court of Session:
- (16) The expression "county court" means the sheriff court; and, in lieu of an appeal from the county court upon any question of law, there shall be substituted an appeal from the sheriff upon any question of law in terms of subsection (17) (b) of the Second Schedule to the Workmen's Compensation Act, 1906: Provided that the decision of either division of the Court of Session on such appeal shall be final:
- (17) The expression "workhouse" means poorhouse; "coverture" means marriage; "levy any distress or execution" means use any diligence; "ejectment" means removing; "amount of judgment debt" means amount decerned for; "registrar of the county court" means court exercising jurisdiction in the proceedings; "certified midwife" means any midwife possessing such qualifications as may be prescribed; "public elementary school" means public school; "Public Health Acts" means the Public Health (Scotland) Acts, 1897 and 1907; "Local Loans Act 1875" means the Local Authorities Loans (Scotland) Acts, 1891 and 1893; and "High Court" means Court of Session:
- (18) Unless inconsistent with the context, references to the Elementary School Teachers' Superannuation Act, 1898, to the deferred annuity fund under that Act, and to the Board of Education, shall be construed, respectively, as

references to section fourteen of the Education (Scotland) Act, 1908, and a scheme thereunder, to the Scottish Teachers' Superannuation Fund, and to the Scottish Education Department. **Sect. 80.**

81. This Part of this Act, in its application to Ireland, shall be subject to the following modifications:— **Sect. 81.**

(1) For the purpose of carrying this Part of this Act Application to Ireland.

into effect in Ireland, there shall be constituted, as soon as may be after the passing of this Act, Commissioners for Ireland (to be called the Irish Insurance Commissioners), with a central office in Dublin, and with such branch offices in Ireland as the Treasury may think fit, and the Irish Insurance Commissioners, of whom one at least shall be a duly qualified medical practitioner, shall be appointed by the Treasury, and may appoint such officers, inspectors, referees, and servants for the purposes aforesaid as the Irish Insurance Commissioners, subject to the approval of the Treasury, may determine, and the provisions of this Part of this Act with respect to the payment of the salaries and remuneration of the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and with respect to the payment of the expenses incurred by the Treasury or the Insurance Commissioners in carrying this Part of this Act into effect shall, with the necessary modifications, apply to the payment of the salaries and remuneration of the Irish Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them and to the payment of expenses incurred by the Treasury or the Irish Insurance Commissioners in carrying this Part of this Act into effect in Ireland, and for the purpose aforesaid the Irish Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them shall respectively

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have all the like powers and duties as are by the provisions of this Act conferred and imposed on the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and references in those provisions to the Insurance Commissioners shall be construed as references to the Irish Insurance Commissioners :

- (2) All sums received from contributions under this Part of this Act in respect of insured persons resident in Ireland and all sums paid out of moneys provided by Parliament in respect of benefits under this Part of this Act to such persons and the expenses of administration of such benefits shall be paid into a fund to be called the Irish National Health Insurance Fund, under the control and management of the Irish Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and Insurance Committees for the purposes of such benefits and the administration of such benefits shall be paid out of that fund and the foregoing provisions of this Act with respect to the National Health Insurance Fund shall, with the necessary modifications, apply to the Irish National Health Insurance Fund accordingly :

- (3) The provisions of this Part of this Act conferring a right to exemption shall extend to any person employed in harvesting or other agricultural work who proves—

(a) that he is an Irish migratory labourer, that is to say, a person who, having a permanent home at some place in Ireland, has temporarily removed to some other place in Ireland or to Great Britain for the purpose of obtaining such employment ; and

(b) that he ordinarily resides at such permanent home for not less than twenty-six weeks in the year and is not employed within

the meaning of this Part of this Act whilst so resident ;

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and any contributions paid in Great Britain by the employer of a person holding a certificate of exemption by virtue of this provision shall be transferred to the Irish Insurance Commissioners for the purpose of being carried to such account and being dealt with in such manner as may be prescribed by the regulations made in that behalf by the Irish Insurance Commissioners ;

- (4) Employment in Ireland as an outworker, where the wages or other remuneration derived from the employment are not the principal means of livelihood of the person employed, shall be deemed to be included amongst the excepted employments specified in Part II. of the First Schedule to this Act :

- (5) The reference to the Lord Chancellor shall be construed as a reference to the Lord Chancellor of Ireland ;

The reference to the Lord Chief Justice shall be construed as a reference to the Lord Chief Justice of Ireland ;

The reference to the Local Government Board, as regards the making of regulations with respect to payments out of the Local Taxation Account, shall be construed as a reference to the Lord Lieutenant, and other references to the Local Government Board shall be construed as references to the Local Government Board for Ireland, and the reference to the Local Taxation Account shall be construed as a reference to the Local Taxation (Ireland) Account :

- (6) A reference to the Housing of the Working Classes (Ireland) Acts, 1890 to 1908, shall be substituted for the reference to the Housing of the Working Classes Acts, 1890 to 1909, a reference to the Public Health (Ireland) Acts, 1878 to 1907, shall

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be substituted for the reference to the Public Health Acts and a reference to the rate or fund applicable to the purposes of the Public Health (Ireland) Acts, 1878 to 1907, shall be substituted for any reference to the borough rate or borough fund :

(7)—(a) If it appears to any county council that, having regard to the number of employed contributors resident in the county who are not members of any society approved under the foregoing provisions of this Act it is desirable that steps should be taken by the council for the establishment of an approved society for the county under the council (in this section referred to as a county society), the council may, at any time before the expiration of one year from the commencement of this Act, submit to the Irish Insurance Commissioners a scheme for the establishment of a county society ;

(b) The scheme may provide for—

(i) the representation of the council on the committee of management of the society ;

(ii) the appointment of officers subject to the approval of the council ;

(iii) the delegation of powers to committees ;

(iv) the giving of security by means of a charge upon the county fund or otherwise ;

(v) the restriction of membership to insured persons resident in the county not being members of any other approved society ;

(vi) the reduction of benefits below the minimum rates fixed by this Part of this Act ; and

(vii) such other matters as may appear necessary, and in particular such further modifications of the provisions of this Part of this Act with respect to approved societies as may

be required for the purpose of adapting those provisions to the case of a county society; Sect. 81.

- (c) Where such a scheme has been approved by the Irish Insurance Commissioners, the provisions of the scheme shall have effect, notwithstanding anything to the contrary in this Part of this Act; and, subject to those provisions, the county society shall be an approved society for all the purposes of this Part of this Act;
- (d) A county council desirous of submitting a scheme under this section may, at any time after the passing of this Act, take such steps as appear necessary with a view to ascertaining what insured persons resident in the county are eligible and willing to become members of the proposed county society, and generally for the formation of the society:
- (8) The provisions with respect to the appointment of Insurance Committees shall have effect, subject to the following modifications, namely:—

The number of members of an Insurance Committee shall be twenty-four, and of that number—

(a) twelve shall be appointed in such manner as may be prescribed by regulations of the Irish Insurance Commissioners so as to secure representation of the insured persons resident in the county or county borough who are members of approved societies, and who are deposit contributors, in proportion, as nearly as may be, to their respective numbers, and the regulations so made shall provide for conferring on the approved societies which have members resident in the county or county borough the power of appointing representatives of such members, and, where an association of deposit contributors resident in the county or county borough has been formed under

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such regulations as aforesaid, for conferring on such association the power of appointing the representatives of the deposit contributors;

(b) eight (of whom at least one shall be a member of a local sanitary authority and at least two shall be women) shall be appointed by the council of the county or county borough; and

(c) four (of whom at least two shall be duly qualified medical practitioners) shall be appointed by the Irish Insurance Commissioners:

Provided that the Irish Insurance Commissioners may, where any part of the cost of sanatorium benefit is defrayed by the council of the county or county borough, increase the representation of the council and make a corresponding diminution in the representation of the insured persons:

- (9) An insured person in Ireland shall not be entitled to medical benefit under this Part of this Act, and the provisions with respect to medical benefit shall not apply:

Provided that medical benefit for an insured person being a member of an approved society shall be deemed to be included amongst the additional benefits specified in Part II. of the Fourth Schedule to this Act, and that such medical benefit when provided shall be administered by the Insurance Committee in accordance with the provisions of this Part of this Act, unless the Irish Insurance Commissioners otherwise direct:

- (10) As respects employed contributors in Ireland, the employed rate shall be the rate specified in Part II. of the Second Schedule to this Act, and the contributions by the contributors and contributions by the employers shall be at the

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rates specified in Part II. instead of the rates specified in Part I. of that schedule, and there shall be credited to the society of which any employed contributor in Ireland is a member or, if he is a deposit contributor, to his account in the Post Office fund, the difference between the amount of contributions actually paid by or in respect of him at the rate specified in Part II. of the Second Schedule to this Act and the amount which would have been paid if those contributions had been at the rate specified in Part I. of that schedule, and the amount of that difference shall be treated as having been expended on benefits and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament :

- (11) The foregoing provisions of this section as to the crediting of differences shall apply in the case of voluntary contributors resident in Ireland, with the modification that, where the voluntary rate is not the same as the employed rate, the difference to be credited shall be the difference between the amount of contributions actually paid at the voluntary rate and the amount which would have been paid if the contributor had been a voluntary contributor resident in Great Britain :

Provided that, in the case of a married woman resident in Ireland becoming a voluntary contributor at reduced rates of benefit under the special provisions with respect to married women, the rate of contributions payable by her shall be one penny half-penny a week instead of three pence a week, and the difference to be credited shall be one penny half-penny a week accordingly :

- (12) In ascertaining the voluntary rate applicable to voluntary contributors in Ireland in cases where that rate is not the same as the employed rate, regard shall be had both to the provisions of this

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section as to the crediting of differences and to the proportion of benefits to be paid out of the contributions payable by or in respect of such contributors :

- (13) Rules of an approved society or Insurance Committee under this Part of this Act may provide for the inspection of medical relief registers by officers of the society or Committee at all reasonable times, and for the furnishing to the society or Committee of such medical certificates as may be necessary for the purposes of the administration of the benefits administered by the society or Committee, and for the payment by the society or Committee to duly qualified medical practitioners of such remuneration in respect of the furnishing of those certificates as the Irish Insurance Commissioners may sanction, and all payments so made by the society or Committee shall be treated as expenses of administering the benefits aforesaid :
- (14) If a grant is made to a county council or county borough council out of any sum made available under any other Act of the present session for the purposes of the provision of or making grants in aid to sanatoria and other institutions for the treatment of tuberculosis or such other diseases as the Local Government Board may, with the approval of the Treasury, appoint, the council may, subject to the sanction of the Local Government Board, exercise for all or any of those purposes the powers given to them by Part II. of the Tuberculosis Prevention (Ireland) Act, 1908, in like manner as if those purposes were purposes authorised by that Part of that Act, and any expenses of the council so far as not defrayed out of the grant shall be defrayed in manner provided by that Part of that Act :
- (15) For the purposes of proceedings in Ireland under the provisions of this Part of this Act relative

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- to disputes, regulations of the Irish Insurance Commissioners may apply all or any of the provisions of the Common Law Procedure (Ireland) Act, 1856, with respect to arbitration :
- (16) The special provisions with respect to the reduction of contributions in cases where the employer is liable to pay wages during sickness shall have effect, subject to the modification that, where the rate of contributions payable by the employed contributor is one halfpenny a week, the weekly contributions payable by the employer shall be reduced by one penny halfpenny (or, if the employed contributor is a woman, one penny), and the weekly contributions payable by the employed contributor shall be reduced by one halfpenny :
- (17) In the special provisions as to persons becoming certificated teachers, references to the Board of Education, to the Elementary School Teachers (Superannuation) Act, 1898, and to a public elementary school shall respectively be construed as references to the Superintendent of the Teachers' Pension Office, to the National School Teachers (Ireland) Act, 1879, and to a national school, and any sums paid to the Superintendent of the Teachers' Pension Office in pursuance of those provisions shall be carried to the Pension Fund established under the last-mentioned Act and shall be dealt with in accordance with rules under that Act :
- (18) As respects insured persons in Ireland, "six-elevenths" shall be substituted for "four-sevenths" and (in the case of women) "four-ninths" shall be substituted for "one-half" :
- (19) For the reference to the registrar of the county court, there shall be substituted a reference to a magistrate appointed under the Constabulary (Ireland) Act, 1836 :
- (20) For references to a duly certified midwife, there

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shall be substituted references to a midwife having such qualifications as may be prescribed.

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Establish-
ment of Com-
missioners
for Wales.

82.—(1) For the purpose of carrying this Part of this Act into effect in Wales, there shall be constituted, as soon as may be after the passing of this Act, Commissioners for Wales (to be called the Welsh Insurance Commissioners) with a central office in such town in Wales as the Treasury may determine, and with such branch offices in Wales as the Treasury may think fit, and the Welsh Insurance Commissioners, of whom one at least shall be a duly qualified medical practitioner, shall be appointed by the Treasury, and may appoint such officers, inspectors, referees, and servants for the purposes aforesaid as the Welsh Insurance Commissioners, subject to the approval of the Treasury, may determine, and the provisions of this Part of this Act with respect to the payment of the salaries and remuneration of the Insurance Commissioners, and the officers, inspectors, referees, and servants appointed by them, and with respect to the payment of the expenses incurred by the Treasury or the Insurance Commissioners in carrying this Part of this Act into effect shall, with the necessary modifications, apply to the payment of the salaries and remuneration of the Welsh Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and to the payment of expenses incurred by the Treasury or the Welsh Insurance Commissioners in carrying this Part of this Act into effect in Wales, and for the purpose aforesaid the Welsh Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them shall respectively have all the like powers and duties as are by the provisions of this Act conferred and imposed on the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and references in those provisions to the Insurance Commissioners shall be construed as references to the Welsh Insurance Commissioners.

(2) All sums received from contributions under this

Part of this Act in respect of insured persons resident in Wales, and all sums paid out of moneys provided by Parliament in respect of benefits under this Part of this Act to such persons, and the expenses of administration of such benefits shall be paid into a fund to be called the Welsh National Health Insurance Fund, under the control and management of the Welsh Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and Insurance Committees for the purposes of such benefits and the administration of such benefits shall be paid out of that fund, and the foregoing provisions of this Act, with respect to the National Health Insurance Fund, shall, with the necessary modifications, apply to the Welsh National Health Insurance Fund accordingly.

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(3) The powers of the Local Government Board with respect to the distribution of any sum available for the purpose of the provision of or making grants in aid to sanatoria and other institutions shall, as respects the part thereof apportioned to Wales, be exercised by the Welsh Insurance Commissioners.

(4) If before or within twelve months after the commencement of this Act there is established for Wales by royal charter an association for the purpose of providing sanatoria and other institutions for the treatment and prevention of tuberculosis or such other diseases as the Local Government Board, with the approval of the Treasury, may appoint, the Welsh Insurance Commissioners in making and the Treasury in approving grants from any such sum as is in the last preceding subsection mentioned shall have regard to the provision of such institutions which may have been made, or may be proposed to be made, by the association.

Sums available for the Provision of Sanatoria.—*Vide* sec. 64 (*supra*, p. 221).

83.—(1) There shall be constituted as soon as may be after the passing of this Act, in accordance with regulations to be made by the Treasury, a joint committee of the several bodies of Commissioners appointed for the purposes of this Part of this Act, consisting of such members of each such body selected in such manner as may be provided by the regulations and of a chairman and other members (not exceeding two in number) to be appointed by the Treasury, and the chairman shall not

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Joint committee of
Commissioners.

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(2) The joint committee may make such financial adjustments as may be necessary between the several funds under the control and management of the several bodies of Commissioners, and shall exercise and perform such powers and duties of the several bodies of Commissioners under this Part of this Act, either alone or jointly with any of those bodies, as may be provided by such regulations.

(3) Amongst the powers so exerciseable by the joint committee shall be included a power of making regulations as to the valuation of societies and branches which have amongst their members persons resident in England, Scotland, Ireland, and Wales, or any two or any three of such parts of the United Kingdom, and the regulations so made shall require that, for the purposes of the provisions of this Part of this Act relating to valuations, surpluses, deficiencies and transfers, the members resident in each such part shall be treated as if they formed a separate society.

(4) Regulations made by the Treasury under this section shall be laid before Parliament as soon as may be after they are made, but, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such regulation is laid before it, praying that the regulation may be annulled, His Majesty in Council may annul the regulation and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

Powers and Duties of the Joint Committee.—*Quære* whether the Joint Committee can only exercise powers in relation to financial adjustments between the several National Health Insurance Funds (including matters in relation to valuations of, and transfers to and from, the societies mentioned in subsec. (3)), and whether the other powers and duties of the Commissioners will have to be exercised separately by each body of Commissioners?

The construction of subsec. (2) seems to point to the conclusion that the Committee may exercise *any* of the powers and duties of the Commissioners. This construction would, however, have the effect of giving the Treasury such powers as would enable them to render nugatory the appointment of separate bodies of Commissioners for the separate parts of the United Kingdom.

Provisions relating to valuation, vide secs. 36-41.

Provisions relating to transfer, vide secs. 31, 38 (i), and 43.

PART II.

UNEMPLOYMENT INSURANCE.

84. Every workman who, having been employed in a trade mentioned in the Sixth Schedule to this Act (in this Act referred to as "an insured trade"), is unemployed, and in whose case the conditions laid down by this Part of this Act (in this Act referred to as "statutory conditions") are fulfilled, shall be entitled, subject to the provisions of this Part of this Act, to receive payments (in this Act referred to as "unemployment benefit") at weekly or other prescribed intervals at such rates and for such periods as are authorised by or under the Seventh Schedule to this Act, so long as those conditions continue to be fulfilled, and so long as he is not disqualified under this Act for the receipt of unemployment benefit:

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Right of
workmen in
insured trades
to unemploy-
ment benefit.

Provided that unemployment benefit shall not be paid in respect of any period of unemployment which occurs during the six months following the commencement of this Act.

Object and effect of Section.—This section read together with the Schedules therein referred to sets out (a) the persons who are to be the beneficiaries of the scheme of unemployment insurance established by this Act, (b) the amount of the benefits which the Act will provide, and (c) the length of time during which those persons are entitled to recover such benefit.

Those persons consist of every *workman*—

- (1) who, having been employed in an insured trade, is unemployed,
 - (2) who fulfils the statutory conditions,
 - (3) who is not disqualified from receiving unemployment benefit.
- In point of form the drafting of the section would appear to be modelled upon the form adopted in the Old Age Pension Act, 1908 (8 Edw. 7, c. 40).

Workman.—The expression is defined in sec. 107 (1) (*infra*, p. 309) as meaning "any person of the age of sixteen or upwards employed wholly or mainly by way of manual labour, who has entered into or works under a contract of service with an employer, whether the contract is expressed or implied, is oral or in writing, and in relation to a person whilst unemployed means a person who, when employed, fulfilled the conditions aforesaid, but does not include an indentured apprentice." For the meaning of the expressions "employed wholly or mainly by way of manual labour" and

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OBJECT AND
EFFECT OF
SECTION.

"contract of service" *vide supra*, pp. 9 and 20 respectively. The Board of Trade has power by sec. 103 (*infra*, p. 303), with the consent of the Treasury and by Special order (*vide* sec. 113, *infra*, p. 319), to vary this definition in respect to age.

Having been Employed.—*Cf.* the first statutory condition for the receipt of unemployment benefit (sec. 86 (1)). Before obtaining any such benefit the workman in question must prove "that he has been employed as a workman in an insured trade in each of not less than twenty-six calendar weeks in the preceding five years."

Insured Trade.—A list of the insured trades is given in the Sixth Schedule to the Act, which is here printed for convenience.

SIXTH SCHEDULE.

LIST OF INSURED TRADES FOR THE PURPOSES OF PART II. OF THIS ACT RELATING TO UNEMPLOYMENT INSURANCE.

(1) Building; that is to say, the construction, alteration, repair, decoration, or demolition of buildings, including the manufacture of any fittings of wood of a kind commonly made in builders' workshops or yards.

(2) Construction of works; that is to say, the construction, reconstruction, or alteration of railroads, docks, harbours, canals, embankments, bridges, piers or other works of construction.

(3) Shipbuilding; that is to say, the construction, alteration, repair or decoration of ships, boats or other craft by persons not being usually members of a ship's crew, including the manufacture of any fittings of wood of a kind commonly made in a shipbuilding yard.

(4) Mechanical engineering, including the manufacture of ordnance and firearms.

(5) Ironfounding, whether included under the foregoing headings or not.

(6) Construction of vehicles; that is to say, the construction, repair, or decoration of vehicles.

(7) Sawmilling (including machine woodwork) carried on in connection with any other insured trade or of a kind commonly so carried on.

[NOTE.—It is not within the scope of this book to enter into a lengthy discussion as to what occupations are within the above Schedule, though, of course, many difficult cases on the border line may be suggested. The following observations are submitted by way of general commentary.]

(1) In order to ascertain whether a given workman is employed in an insured trade or not, the rule laid down in sec. 107 (2) (*infra*, p. 311) must be borne in mind. The rule is that "in determining any question as to whether any trade in which a workman is or has been employed is an insured trade, regard shall be had to the nature of the work in which the workman is engaged rather than to the business of the employer by whom he is employed."

(2) By sec. 107 (*infra*, p. 310): "Temporary work provided by a central body or distress committee under the Unemployed Workmen Act, 1905, or towards the provision of which any such central body or distress committee has contributed under that Act, shall not be deemed to be employment in an insured trade."

(3) Difficulties in the interpretation of this Schedule may be largely diminished, if the Board of Trade make use of their powers to exclude, by special order, subsidiary occupations (*vide* sec. 104, *infra*, p. 304).

(4) The wording of sec. 104 (b) would seem to suggest that, in general, the occupation of making parts or preparing of materials for use in connection with an insured trade is intended, in the absence of exclusion, to be within the insured trades.

(5) It is submitted, on the other hand, that the occupation of making of accessories for use in connection with an insured trade is not intended to be within the insured trade.

(6) The Board of Trade may make regulations for permitting workmen who are employed under the same employer partly in an insured trade and partly not in an insured trade to be treated, with the consent of the employer, as if they were wholly employed in an insured trade (*vide* sec. 91 (1) (a), *infra*, p. 281).

(7) Regulations made by the Board of Trade must give employers, workmen, or the Board of Trade an opportunity of obtaining a decision by the umpire (appointed by His Majesty under sec. 89, *infra*) as to whether contributions are payable in respect of any workman or class of workmen (*vide* sec. 91 (1) (b), *infra*, p. 281). These regulations may be brought into operation as soon as may be after the passing the Act (*vide* concluding words of sec. 91 (1)).

(8) Workmen occasionally employed in an insured trade in a district which is rural in character whose usual occupations are not insured trades are excluded, unless the employers and workmen agree to pay contributions (*vide* sec. 97, *infra*, p. 294).

(9) It will be observed that the different trades set out in the several paragraphs of the Schedule overlap in some cases. This is immaterial at present inasmuch as the rate of contribution and benefit is the same for all the employed trades. It will become material if and when the Board of Trade use the powers given them by sec. 102 or 103 (*infra*, pp. 301, 303) or under the Seventh Schedule to make different rates for different trades.

(10) *Construction of works*.—It is suggested that the construction of drainage works, reservoirs and roads are within the meaning of para. (2). The maintenance of roads would seem not to be included.

(11) *Mechanical engineering*.—This expression is very wide, and it is not easy to set limits to its application. It is submitted that it does not include electrical engineering though casting in connection therewith (*e.g.* casting for a dynamo) would probably be included. It would seem to include the making of all forms of machinery, and possibly the making of any articles included by the Board of Trade in their Annual Statement of Trade of the U. K. (p. 44) under the heading of machinery come within the meaning of the expression.

(12) *Construction of vehicles*.—It is submitted that the expression "vehicle" includes carriages, carts, railway coaches, trucks and waggons, motor-cars, bicycles, bath-chairs, and perambulators. *Quære* whether it includes aeroplanes?

Statutory Conditions.—*Vide* sec. 86 (*infra*, p. 271).

Disqualifications.—*Vide* sec. 87 (*infra*, p. 273).

Unemployed.—*Vide* the definition of "workman" (*supra*) and sec. 108 (1): "A workman shall not be deemed to be unemployed whilst he is following any remunerative occupation in an insured

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SIXTH
SCHEDULE.

Unemployment Benefit.—The rates at which and the periods during which this benefit is to be paid are laid down in the Seventh Schedule which is here printed for convenience.

SEVENTH SCHEDULE.

RATES AND PERIODS OF UNEMPLOYMENT BENEFIT.

In respect of each week following the first week of any period of unemployment, seven shillings, or such other rates as may be prescribed either generally or for any particular trade or any branch thereof :

Provided that, in the case of a workman under the age of eighteen, no unemployment benefit shall be paid while the workman is below the age of seventeen, and while the workman is of the age of seventeen or upwards but below the age of eighteen, unemployment benefit shall only be paid at half the rate at which it would be payable if the workman was above the age of eighteen.

No workman shall receive unemployment benefit for more than fifteen or such other number of weeks as may be prescribed either generally or for any particular trade or branch thereof within any period of twelve months, or in respect of any period less than one day.

No workman shall receive more unemployment benefit than in the proportion of one week's benefit for every five contributions paid by him under this Act :

Provided that for the purpose of the foregoing paragraph—

(a) in the case of a workman who satisfies the Board of Trade that he is over the age of twenty-one and has habitually worked at an insured trade before the commencement of this Act, there shall be deemed to be added to the number of contributions which he has actually paid five contributions for each period of three months or part of such period during which he has so worked before the commencement of this Act, up to a maximum of twenty-five contributions ; and

(b) where, owing to the fact that the wages or other remuneration of a workman are paid at intervals greater than a week, or for any other like reason contributions are paid under Part II. of this Act in respect of any workman at intervals greater than a week, that workman shall be entitled to treat each of such contributions as so many contributions as there are weeks in the period for which the contribution has been paid.

Any time during which a workman is, under Part II. of this Act, disqualified for receiving unemployment benefit shall be excluded in the computation of periods of unemployment under this schedule.

A period of unemployment shall not be deemed to commence till the workman has made application for unemployment benefit in such manner as may be prescribed.

The power conferred by this schedule on the Board of Trade to prescribe rates and periods of unemployment benefit shall not be

exercised so as to increase the rate of benefit above eight shillings per week or reduce it below six shillings per week, or to increase the period of unemployment benefit above fifteen weeks, or to alter the proportion which the period of benefit bears to the number of contributions paid, except by rules confirmed by an order made in accordance with the provisions of this Act relating to special orders.

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Power of Board of Trade to extend Schedule.—The Board of Trade have by sec. 103 (*infra*, p. 303), with the sanction of the Treasury, power to extend the provisions of this Part of this Act to workmen in any trade not being an insured trade. The extension must be made by special order (*vide* sec. 105, *infra*, p. 305) and cannot be made if the person holding the inquiry in relation to the order reports that the order should not be made or if the effect of the order would be, in the opinion of the Treasury, to increase the contribution to the unemployment fund out of moneys provided by Parliament to more than £1,000,000 per annum within three years of making the order.

Period of Unemployment.—Sec. 84 provides that payments of unemployment benefit should be made during such periods as are authorised by the Seventh Schedule. But the Schedule must be read subject to the proviso to that section, viz. that no unemployment benefit is to be paid during the first six months after the commencement of the Act, viz. until January 15, 1913.

There are four limitations in the schedule upon the length of that period, viz. :—

- (1) The period does not commence until one week after the workman has made application for unemployment benefit;
- (2) Time during which a workman is disqualified from receiving unemployment benefit by the operation of sec. 87 (*infra*, p. 273) is excluded from the period.
- (3) Unemployment benefit is only to be paid for fifteen weeks within any period of twelve months;
- (4) Unemployment benefit is only to be paid in the proportion of one week's benefit for every five contributions paid by the workman under the Act. This rule is referred to later on in the notes as the "one to five" rule.

An example shows clearly the working of the above limitations.

Example.—In 1913 X pays 46 contributions and receives benefit during 5 weeks. In 1914 he pays 39 contributions and receives benefit during 7 weeks. In 1915 he pays 41 contributions and receives benefit during 8 weeks, and those 8 weeks are in August and September of that year. On January 1, 1916, he again becomes unemployed. Applying the third limitation, it will be seen that, inasmuch as he has received benefit during 8 weeks in the previous August and September, it will be August, 1916, before he is entitled to 15 weeks' benefit, and that on January 8, 1916, he can only obtain 7 weeks' benefit.

But the application of the "one to five" rule will further cut down the period during which he can receive benefit. He has paid $46 + 39 + 41 = 126$ contributions. This entitles him to $126 \div 5 = 25\frac{1}{5}$ weeks' benefit. But he has already received $5 + 7 + 8 = 20$ weeks' benefit, therefore, on January 1, 1916, he will only be entitled to benefit during a fraction over five weeks.

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OF CONTRI-
BUTIONS.

A. A workman who—

(1) Is over the age of twenty-one, and

(2) Has habitually worked at an insured trade before the commencement of the Act,

will start under the scheme with five contributions to his credit for each period of three months that he has so worked up to a maximum of twenty-five contributions.

Example.—X has worked as an ironfounder regularly from 1908 to 1912 inclusive. From the commencement of the Act (*viz.* July 15, 1912 (*sec.* 114)) to February 1, 1913, he has paid twenty-five contributions. On February 1, 1913, he becomes unemployed. He will begin receiving benefit on February 8. But for the proviso to the fourth paragraph of the Schedule he would only be entitled, applying the "one to five rule," to five weeks' unemployment benefit. But the proviso allows him to count in the time that he was working from 1908 to 1912 before July 15, 1912, at the rate of five contributions for each period of three months up to twenty-five contributions. Therefore, on February 8, instead of being reckoned as having paid twenty-five contributions only, X will be entitled to say that he has paid $25 + 25 = 50$ contributions, and, again applying the one in five rule, will be entitled to ten weeks' unemployment benefit.

B. The fact that contributions are not paid weekly but in a lump sum at greater intervals than a week will not prejudice the workman. He will be entitled to reckon the payment of the lump sum as a payment of so many contributions as there are weeks in respect of which the lump sum is paid, *e.g.* if X is employed for ten weeks during a quarter by an employer who pays contributions quarterly, and that employer pays 4s. 2d. in respect of him, X will be entitled to reckon that payment as the payment of ten contributions.

C. It is provided in the Eighth Schedule (*infra*, p. 334) that if a workman is employed for one day the employer and workman are each bound to contribute twopence (*viz.* one penny each), if for two days fourpence (*viz.* twopence each), and for the purpose of reckoning the number of contributions, a contribution of twopence is to count as two-fifths of a contribution, and a contribution of fourpence as four-fifths of a contribution. For employment lasting more than two days in a week the full contribution of fivepence is to be paid. The result of this provision is that if a workman is employed by a different employer on every day of the week he will be entitled to reckon that he has paid $6 \times \frac{2}{5} = 2\frac{2}{5}$ contributions during that week. Where, however, an employer enters into an arrangement with a labour exchange, the periods of employment of different workmen may be treated as the continuous employment of a single workman (*vide*, *sec.* 99, *infra*).

D. It is further provided in the Eighth Schedule that the weekly contribution in respect of a workman under the age of eighteen is to be twopence (paid in equal proportions by the employer and the workman). That twopence is to be reckoned as one contribution for the purpose of payment of unemployment benefit before he reaches the age of eighteen, but as only two-fifths of a contribution for the purpose of payment of unemployment benefit after he has reached that age.

Example.—Thirty-five weekly contributions of twopence are paid

in respect of X during the nine months immediately succeeding his seventeenth birthday. If at the end of that time X becomes unemployed, he will be entitled to 3s. 6d. a week for seven weeks.

But, if those thirty-five contributions had been paid during the nine months immediately preceding his eighteenth birthday, and X had become unemployed after reaching the age of eighteen, he would only have been entitled to reckon each of his contributions at twopence as two-fifths of a contribution. Consequently X would have had only $\frac{2}{5} \times 35 = 14$ contributions to his credit, and could only have obtained benefit for $2\frac{4}{5}$ weeks.

(Note.—By sec. 107 (1), *infra*, “Contributions made by an employer on behalf of a workman shall be deemed to be contributions by the workman.”)

Power to Prescribe Rates.—By the Schedule the Board of Trade have power to vary the rates and periods of unemployment benefit either generally or for any particular trade or any branch thereof. This power must be carefully distinguished from the power given under sec. 93 (*infra*, p. 285) “to modify rates of contribution or rates and periods of unemployment benefit.”

The power given by this schedule is a power of which the Board of Trade can make use at any time in their own discretion. The Board can—

- (1) raise rates of benefit to 8s. or reduce them to 6s. a week;
- (2) differentiate between trades or branches of trades within those limits,
- (3) dispense with the waiting period of a week before giving benefits;

without any precedent formality.

For changes involving—

- (1) a greater increase or reduction of rate of benefit than is above indicated, or
- (2) an increase in the period during which unemployment benefit is to be paid above 15 weeks in any 12 months, or
- (3) any alteration of the one in five rule,

the procedure of a special order must be adopted.

(For that procedure *vide* sec. 113, and the Ninth Schedule, *infra*, pp. 114, 335, respectively.)

The power given by sec. 93 can only be used—

- (1) when the unemployment fund is in debt to the Treasury, and is insolvent;
- (2) On the direction of the Treasury;
- (3) As a temporary measure.

Special order procedure is not necessary for the use of this power.

Unemployment Benefit and Benefits under Part I.—There is express provision in sec. 87 (4) making it impossible for a workman to receive sickness or disablement benefit at the same time that he is receiving unemployment benefit. But it would seem that this provision was inserted *ex abundanti cautela*, inasmuch as sickness and disablement benefit are only payable to persons who are “incapable of work,” whereas the third statutory condition which must be fulfilled in order that a workman should obtain unemployment benefit is “that he is capable of work but unable to obtain suitable employment.”

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MENT BENE-
FITS UNDER
PART I.

There is nothing to prevent a workman from receiving medical and maternity benefit at the same time as unemployment benefit. Where a workman is receiving sanatorium benefit, it would seem that the test whether he can also receive unemployment benefit depends largely upon the meaning of the expression "capable of work." If that expression refers to the workman's physical capacity, he might well be held to be capable of work even though he was in a sanatorium or receiving sanatorium treatment. But it is submitted that the expression means something more than that, and that to be capable of work a man must be so situated that he can do work if it is offered. If this be correct, a workman could not be in receipt of sanatorium benefit and unemployment benefit at the same time. In this connection reference may also be made to the third disqualification in sec. 87, which disqualifies a workman from receiving unemployment benefit while he is an inmate of "any . . . other institution supported wholly or partly out of public funds." *Sed quære* whether institution in that section should not be limited to institution *ejusdem generis* as prisons or workhouses? If so, a sanatorium would not, it is submitted, be an institution within the meaning of that section.

Sect. 85.

Contributions
by workmen,
employers,
and the
Treasury.

85.—(1) The sums required for the payment of unemployment benefit under this Act shall be derived partly from contributions by workmen in the insured trades and partly from contributions by employers of such workmen and partly from moneys provided by Parliament.

(2) Subject to the provisions of this Part of this Act, every workman employed within the United Kingdom in an insured trade, and every employer of any such workman, shall be liable to pay contributions at the rates specified in the Eighth Schedule to this Act.

(3) Except where the regulations under this Part of this Act otherwise prescribe, the employer shall, in the first instance, be liable to pay both the contribution payable by himself, and also on behalf of and to the exclusion of the workman, the contribution payable by such workman, and subject to such regulations, shall be entitled, notwithstanding the provisions of any Act or any contract to the contrary, to recover from the workman by deductions from the workman's wages or from any other payment due from him to the workman the amount of the contributions so paid by him on behalf of the workman.

(4) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages

of or other payment due to the workman, or otherwise recover from the workman by any legal process the contributions payable by the employer himself. Sect. 85.

(5) Subject to the provisions of this Part of this Act, the Board of Trade may make regulations providing for any matters incidental to the payment and collection of contributions payable under this Part of this Act, and in particular for—

- (a) payment of contributions by means of adhesive or other stamps affixed to or impressed upon books or cards, or otherwise, and for regulating the manner, times and conditions in, at and under which such stamps are to be affixed and impressed or payments are otherwise to be made;
- (b) the issue, sale, custody, production, and delivery up of books or cards and the replacement of books or cards which have been lost destroyed or defaced.

(6) A contribution shall be made in each year out of moneys provided by Parliament equal to one-third of the total contributions received from employers and workmen during that year, and the sums to be contributed in any year shall be paid in such manner and at such times as the Treasury may determine.

Object of Section.—This section sets out—

- (1) The sources from which the sums required for the payment of unemployment benefit under this Act are to be derived, viz.—

- (a) Contributions by employers in respect of workmen employed in insured trades ($2\frac{1}{2}d.$ a week for each such workman employed).
- (b) Contributions by such workmen ($2\frac{1}{2}d.$ a week for each week so employed).
- (c) Moneys provided by Parliament (one-third of the total contributions received from employers and workmen during any given year).

- (2) The manner in which such contributions are to be paid and collected.

As to (1) (a) and (b), the respective rates of contribution payable by employers and workmen are specified in the Eighth Schedule to the Act (*vide infra*, p. 334). Both these contributions are, as in the case of the contributions payable by or in respect of an employed contributor under Part I. of the Act (*vide supra*, sec. 5), payable in the first instance by the employer, and, notwithstanding any contract to the contrary, the employer may recover from the workman,

Sect. 85.**OBJECT OF
SECTION.**

by deductions from his wages or otherwise, the amount of the contributions so paid by him on behalf of the workman. It must be observed, however, that the rules as to payment and recovery of contributions paid by employers on behalf of employed contributors under Part I. of the Act (*vide* Third Schedule to the Act) are not applicable to this Part of the Act. Presumably the regulations to be made by the Board of Trade will provide rules for the payment and recovery of such contributions. Apart from such regulations it would appear that a contribution paid by an employer on behalf of a workman and not deducted from his wages would be recoverable from such workman in the same manner as any ordinary debt. In a case where a workman does not receive remuneration, notwithstanding that he is still in the employment of his employer (*i.e.* his contract of service still subsists), he is not to be deemed to be employed, and no contributions are payable.

In no case may the employer deduct from the wages of, or otherwise recover from, a workman the contributions payable by the employer himself. It is submitted that this provision will not prevent the incidence of the contribution falling where the higgling of the market places it. In other words this provision will not prevent an employer, if he can do so, from entering into fresh contracts with his workmen at rates of wages lower by the amount of the employer's contribution. Similarly workmen, if they can do so, are at liberty to enter into fresh contracts at rates of wages higher by the amount of the workman's contribution.

As to (2), the Board of Trade may make regulations for the payment and collection of contributions by means of stamps affixed to books or cards. (*Cf.* the regulations to be made by the Insurance Commissioners with regard to contribution under Part I. of the Act, sec. 7, *supra*, p. 45.) For provision *re* rewards for returning lost books or cards, *vide* sec. 100 (3), *infra*, p. 297.

Unemployment Benefit.—*Vide* sec. 84.

Workman.—*Vide* sec. 107 (1), *infra*, p. 309.

Insured Trades.—*Vide* sec. 84, *supra*, and the Sixth Schedule to this Act, *infra*, p. 262.

Employer.—*Vide supra*, p. 9, and sec. 91 (1) (*f*), *infra*, p. 282.

Obligation of Workman to pay Contribution.—It is submitted that subsec. (2) imposes an obligation on any workman, whose employer has failed to pay any contribution on his behalf, to pay such contributions himself. The section may be contrasted with the corresponding section in Part I. of the Act (sec. 4, *supra*, p. 31), which, it is submitted, puts no such obligation upon an employed contributor. *Vide* also sec. 101 (2), *infra*, p. 299.

Refund of Contributions to Employer.—(1) By sec. 94 (*infra*, p. 288) it is provided that when an employer has employed the same workman continuously during a year, and has paid at least forty-five contributions in respect of him, he may obtain a refund of one-third of the employer's contributions.

(2) By sec. 96 (*infra*, p. 291) in certain cases of working short time an employer, who has paid both his own and his workmen's contributions without recovering the latter from the workmen, may be refunded the whole of such contributions.

Return of Contributions paid by Mistake.—*Vide* sec. 100 **Sect. 85.**
(2), *infra*, p. 297.

Employers' Contributions and Income Tax.—It is submitted that in estimating income for the purposes of Schedule D of the income tax, the employer will be entitled to deduct the amount he has paid in contributions on his own behalf under this Part of this Act (*vide* Income Tax Act, 1842 (5 & 6 Vict. c. 35), sec. 100, Sched. (D), 1st and 2nd cases, rule 1).

Employers' and Labour Exchanges.—*Vide* sec. 99, *infra*, p. 295, for arrangements which an employer may make whereby the contributions he is liable to pay may be paid through Labour Exchanges.

86. The statutory conditions for the receipt of unemployment benefit by any workman are— **Sect. 86.**

- (1) that he proves that he has been employed as a workman in an insured trade in each of not less than twenty-six separate calendar weeks in the preceding five years;
- (2) that he has made application for unemployment benefit in the prescribed manner, and proves that since the date of the application he has been continuously unemployed;
- (3) that he is capable of work but unable to obtain suitable employment;
- (4) that he has not exhausted his right to unemployment benefit under this Part of this Act:

Statutory
conditions for
receipt of
unemploy-
ment benefit.

Provided that a workman shall not be deemed to have failed to fulfil the statutory conditions by reason only that he has declined—

- (a) an offer of employment in a situation vacant in consequence of a stoppage of work due to a trade dispute; or
- (b) an offer of employment in the district where he was last ordinarily employed at a rate of wage lower, or on conditions less favourable, than those which he habitually obtained in his usual employment in that district, or would have obtained had he continued to be so employed; or
- (c) an offer of employment in any other district at a rate of wage lower or on conditions less

Sect. 86.

favourable than those generally observed in such district by agreement between associations of employers and of workmen, or, failing any such agreement, than those generally recognised in such district by good employers.

Object of Section.—This section sets out the statutory conditions which a workman in an insured trade must fulfil before he can receive unemployment benefit.

Application for Unemployment Benefit.—This must be made in the manner to be prescribed by the Board of Trade under the powers given them by the Seventh Schedule (*infra*, p. 332).

Continuously Unemployed.—(*Vide* sec. 107 (1), *infra*.) “Two periods of unemployment of not less than two days each, separated by a period of not more than two days, during which the workman has not been employed for more than twenty-four hours or two periods of unemployment of not less than one week each, separated by an interval of not more than six weeks, shall be treated as a continuous period of unemployment, and the expression ‘continuously unemployed’ shall have a corresponding meaning.”

Suitable Employment.—It is submitted that these words mean suitable to the capacity and antecedents of the workman; *vide* also proviso to this section and sec. 94 (1) (*infra*, p. 288). It is submitted that apart from the provisions of the last-mentioned section, the competence of the workman must be a factor in determining what is suitable employment.

Exhaustion of Right to Benefit.—*Vide* Seventh Schedule, *supra*, p. 264, and the third and fourth limitation on periods of unemployment discussed in the note, p. 265.

Note on Proviso.—The proviso, as has been above suggested, is one of the tests of what is to be considered unsuitable employment. Employment may be considered unsuitable on two grounds—

- (1) That the employment comes into existence by reason of a trade dispute.
- (2) That the employment offers a rate of wages or conditions lower or less favourable than those which the workman usually obtained in his own district, or than the standard rate in any other district.

The words of paragraph (b) of the proviso (which deal with an offer of employment in the district where the workman was last ordinarily employed) are framed to include the cases of a man—

- (1) Who is rising in the scale of wages by reason, for example, of his increasing capability, or—
- (2) Who is falling in the scale of wages by reason, for example, of increasing age or any other disability.

In the former case a man may be entitled to stand out for higher wages than he had habitually earned; in the latter case a workman may find that he has failed to fulfil the statutory conditions because he has refused an offer of employment at lower wages than those which he habitually earned.

The words of paragraph (c) of the proviso (which deal with an

offer of employment in any district other than that in which the workman was last ordinarily employed) do not set up the workman's habitual or prospective earnings as a test. The only test under this paragraph is what may comprehensively be termed standard wages. *Semble*, standard wages means—

- (1) Trade Union wages, if generally observed in the district by agreement, or, (if there is no such agreement);
- (2) The standard generally recognised by good employers.

The expression "good employers" would appear to be taken from the resolution as to fair wages in Government contracts passed by the House of Commons on March 10, 1909 (*vide* Parliamentary Debates, 5th Series, Vol. 2, cols. 415-458: "The contractor shall, under the penalty of a fine or otherwise, pay rates of wages and observe hours of labour not less favourable than those commonly recognised by employers and trade societies (or, in the absence of such recognised wages and hours, those which in practice prevail amongst good employers) in the trade in the district when the work is carried out" (*vide* Amendment to original motion proposed by the Postmaster-General (Mr. Sydney Buxton) at col. 425 and carried at col. 458)).

The expression is ambiguous; but the conjecture may be hazarded that the qualifications for virtue will consist rather in the payment of high wages than in the possession of high moral character.

Trade Dispute.—This expression is defined in sec. 107, *infra*, p. 309, as "any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any persons, whether workmen in the employment of the employer with whom the dispute arises or not."

87.—(1) A workman who has lost employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop, or other premises at which he was employed, shall be disqualified for receiving unemployment benefit so long as the stoppage of work continues, except in a case where he has, during the stoppage of work, become *bonâ fide* employed elsewhere in an insured trade.

Where separate branches of work which are commonly carried on as separate businesses in separate premises are in any case carried on in separate departments on the same premises, each of those departments shall, for the purposes of this provision, be deemed to be a separate factory or workshop or separate premises, as the case may be.

(2) A workman who loses employment through misconduct or who voluntarily leaves his employment

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NOTE ON
PROVISO.

Sect. 87.

Disqualifica-
tions for un-
employment
benefit.

Sect. 87. without just cause shall be disqualified for receiving unemployment benefit for a period of six weeks from the date when he so lost employment.

(3) A workman shall be disqualified for receiving unemployment benefit whilst he is an inmate of any prison or any workhouse or other institution supported wholly or partly out of public funds, and whilst he is resident temporarily or permanently outside the United Kingdom.

(4) A workman shall be disqualified for receiving unemployment benefit while he is in receipt of any sickness or disablement benefit or disablement allowance under Part I. of this Act.

Object of the Section.—This section indicates the circumstances in which, and the length of time for which, a workman is disqualified from receiving unemployment benefit.

Note on Subsec. (1)—The meaning of this subsection is not very clear, but it is submitted that, upon its true construction, the subsection only operates to disqualify a workman from receiving unemployment benefit when—

- (1) there is a stoppage of work due to a trade dispute; and
- (2) the trade dispute to which the stoppage of work is due takes place at the factory, workshop, or other premises at which the workman was employed,

and the workman by reason thereof loses his employment. In other words, unless there is a trade dispute at the factory where the workman was employed, no stoppage of work at that factory due to a trade dispute elsewhere will bring the subsection into operation.

Trade Dispute is defined in sec. 107, *infra*, as “any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any persons, whether workmen in the employment of the employer with whom the dispute arises or not.” This definition would include a sympathetic strike.

The special meaning given to the words “factory, workshop, or other premises” should also be borne in mind. There may be carried on under the same roof or on the same premises several separate branches of work which, as a general rule, are carried on as separate businesses in different buildings or on different premises. In such a case, for the purposes of this section, each such separate branch or department of any business, though carried on under the same roof or on the same premises, is to be reckoned as a separate factory or workshop or separate premises as the case may be. The words used are very general, and it is difficult to suggest their meaning with precision. They will raise questions of fact for the insurance officer to decide in each case. It may, however, be suggested that the test will be whether the branch constitutes what is commonly carried on as a separate business. The grading of the workmen employed will not provide any test.

Some concrete examples of how the section will affect a workman are given—

Example I.—X is employed at a shipbuilding yard where a stoppage of work takes place because the employer is unable to get his materials owing to a railway strike. X, on losing his employment, will not be disqualified from receiving employment benefit.

Example II.—Y is employed at a motor-car factory. A strike takes place at other such factories in the district. Y comes out in sympathy. Y will then be disqualified from receiving unemployment benefit until his late employer has settled the sympathetic strike.

Example III.—Z is employed as a painter and decorator in building a house. The bricklayers engaged in building that house strike, there is no work for Z to do and he loses his employment. Z is not disqualified from receiving unemployment benefit until the bricklayers' strike is settled.

The last words of the first paragraph of the subsection ("except in a case where," &c.) are not easy to construe. It is submitted that they go to the length of time during which a workman may be disqualified and not to the main provision of the subsection. A concrete example is given to show the effect of the suggested construction.

Example IV.—W is employed as a navvy on the construction of a harbour. He and his fellow workmen are locked out. W thereupon goes and obtains employment on the construction of a neighbouring canal. The canal is completed and he becomes unemployed before the strike at the harbour is settled. W is not disqualified from receiving unemployment benefit.

But if, whether the lock-out at the harbour has ended or not, W strikes while employed on the canal, and so loses his employment, he will be disqualified from receiving unemployment benefit.

Note on Subsec. (2) and (3).—Among the circumstances in which a workman is disqualified from receiving unemployment benefit under these subsections are—

- (1) where he has lost his employment through misconduct;
- (2) where he is in prison.

In the first of these cases the disqualification lasts for six weeks, and in the second case for so long as the workman remains in prison. The same misconduct may be the cause of the workman's losing his employment and of his going to prison, but it is not necessarily so. When the imprisonment is for a period of less than six weeks, it is submitted that the disqualification only lasts during the period of imprisonment, unless the misconduct for which the workman was imprisoned or some other misconduct was the proximate cause of the loss of employment.

Where a workman is not specifically dismissed for misconduct, but is unable to continue in his employment because he has committed an offence for which he is sent to prison, the proximate cause of the loss of employment is the fact that he was sent to prison, and not the fact that he misconducted himself.

Note on Subsec. (4).—This provision would seem to have been inserted *ex abundanti cautela*; to be entitled to receive sickness or disablement benefit under Part I. a person must be "incapable of work," and the third statutory condition (sec. 86 (3)) for the receipt

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NOTE ON
SUBSEC. (1).

Sect. 87. of unemployment benefit is that a workman should be capable of work, but unable to obtain suitable employment.

NOTE ON
SUBSEC. (4).

Determination of Questions arising under this Section.—

Vide sec. 88, *infra*.

Period of Unemployment and Disqualification.—The Seventh Schedule provides that in computing periods of unemployment any time during which a workman is disqualified is to be excluded. The Schedule further provides that benefit is only payable after the first week of any period of unemployment. The result of a combination of these provisions is that a workman will have to wait for a week after he has ceased to be disqualified before he can obtain benefit.

Example.—X loses his employment on January 1 owing to misconduct. He is therefore disqualified for six weeks. Those six weeks will expire on February 11, but X will not be able to obtain benefit until after February 18.

Sect. 88.
Determination of claims.

88.—(1) All claims for unemployment benefit under this Part of this Act, and all questions whether the statutory conditions are fulfilled in the case of any workman claiming such benefit, or whether those conditions continue to be fulfilled in the case of a workman in receipt of such benefit, or whether a workman is disqualified for receiving or continuing to receive such benefit, or otherwise arising in connection with such claims, shall be determined by one of the officers appointed under this Part of this Act for determining such claims for benefit (in this Act referred to as “insurance officers”):

Provided that—

(a) in any case where unemployment benefit is refused or is stopped, or where the amount of the benefit allowed is not in accordance with the claim, the workman may require the insurance officer to report the matter to a court of referees constituted in accordance with this Part of this Act, and the court of referees after considering the circumstances may make to the insurance officer such recommendations on the case as they may think proper, and the insurance officer shall, unless he disagrees, give effect to those recommendations. If the insurance officer disagrees with any such

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recommendation, he shall, if so requested by the court of referees, refer the recommendation, with his reasons for disagreement, to the umpire appointed under this Part of this Act, whose decision shall be final and conclusive ;

- (b) the insurance officer in any case in which he considers it expedient to do so may, instead of himself determining the claim or question, refer it to a court of referees, who shall in such case determine the question, and the decision of the court of referees shall be final and conclusive.

(2) Nothing in this section shall be construed as preventing an insurance officer or umpire, or a court of referees, on new facts being brought to his or their knowledge, revising a decision or recommendation given in any particular case, but, where any such revision is made, the revised decision or recommendation shall have effect as if it had been an original decision or recommendation, and the foregoing provisions of this section shall apply accordingly, without prejudice to the retention of any benefit which may have been received under the decision or recommendation which has been revised.

(3) The Arbitration Act, 1889, shall not apply to proceedings under this section, except so far as it may be applied by regulations under this Part of this Act.

(4) For the purposes of proceedings under this section in Ireland, regulations may apply all or any of the provisions of the Common Law Procedure (Ireland) Act, 1856, with respect to arbitration.

Object and Effect of Section.—This section indicates the tribunal which will hear and decide certain matters under this Part of this Act. The matters which will have to be decided by that tribunal are—

- (1) All claims for unemployment benefit under this Act ;
- (2) Any question as to whether the statutory conditions (*vide* sec. 86, *supra*, p. 271), are fulfilled in the case of a workman claiming benefit ;
- (3) Any question as to whether the statutory conditions continue to be fulfilled by a workman already in receipt of benefit ;

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—
OBJECT AND
EFFECT OF
SECTION.

(4) Any question as to whether a workman is disqualified for receiving or continuing to receive benefit (*vide* sec. 87, *supra*, p. 273);

(5) Any other matters arising in connection with claims for benefit.

The tribunal is to be, in the first instance, an insurance officer (appointed by the Board of Trade under sec. 89, *infra*); from the insurance officer an appeal lies, in certain cases, to a court of referees (constituted under sec. 90, *infra*), and, in a case of a disagreement between the insurance officer and the court of referees, to an umpire (appointed by His Majesty under sec. 89).

Where—

(1) benefit is refused or stopped, or,

(2) the amount of the benefit is not in accordance with the claim,

The workman may require the insurance officer to report the matter to a court of referees. Thereupon the matter is to be considered by the referees who may make such recommendations as they think fit.

These recommendations are to be acted upon by the insurance officer unless he disagrees with them. If the insurance officer does so disagree,

(1) he need not, at that stage, give effect to the recommendations, but,

(2) if the referees so request, he must refer the recommendation with his reasons for disagreeing therewith to an umpire.

The decision of the umpire is to be conclusive. It will thus be seen that the right of appeal lies, in the first instance, in the workman; but that right is exhausted when the matter has been considered by the referees. The further right of appeal lies in the intermediate tribunal, viz.—The referees, in a case where its decision is not accepted by the lower tribunal, viz.—the insurance officer.

Any of these three tribunals may revise a decision or a recommendation where new facts are brought to the knowledge of the tribunal. Such revised decision or recommendation is to be treated as if it was an original decision or recommendation and the rights of appeal will apply accordingly.

Procedure.—This is to be laid down for by regulations of the Board of Trade, *vide* sec. 91 (1), (c) and (d). These regulations may also provide for the payment of benefit during any period intervening between any application for the decision of any claim for benefit and the final determination of the claim (*ibidem* (e)).

Sect. 89.

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Appointment
of umpire,
insurance
officers,
inspectors,
&c.

89.—(1) For the purposes of this Part of this Act, an umpire may be appointed by His Majesty, and insurance officers shall be appointed by the Board of Trade (subject to the consent of the Treasury as to number) and the insurance officers shall be appointed to act for such areas as the Board direct.

(2) The Board of Trade may appoint such other

officers, inspectors, and servants for the purposes of this Part of this Act as the Board may, with the sanction of the Treasury, determine, and there shall be paid out of moneys provided by Parliament to the umpire and insurance officers and to such other officers, inspectors, and servants, such salaries or remuneration as the Treasury may determine; and any expenses incurred by the Board of Trade in carrying this Part of this Act into effect to such amount as may be sanctioned by the Treasury shall be defrayed out of moneys provided by Parliament:

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Provided that such sum as the Treasury may direct, not exceeding one-tenth of the receipts, other than advances by the Treasury, paid into the unemployment fund on income account shall, in accordance with regulations made by the Treasury, be applied as an appropriation in aid of money provided by Parliament for the purpose of such salaries, remuneration, and expenses.

Object of Section.—This section provides—

- (1) for the appointment of an umpire by His Majesty;
- (2) for the appointment of insurance officers, other officers, inspectors and servants for the purpose of this Part of the Act by the Board of Trade;
- (3) for the remuneration of such persons;
- (4) for the payment of the expenses of the Board of Trade in carrying this Part of this Act into effect, to such amount as may be sanctioned by the Treasury.

The money necessary to pay such remuneration and expenses is to be provided by Parliament subject to an appropriation in aid not exceeding one-tenth of the income, excluding advances from the Treasury (under sec. 93, *infra*) paid into the unemployment fund.

Umpire.—By sec. 91 (1) (*d*), *infra*, p. 282, the Board of Trade have power to appoint a deputy umpire in the unavoidable absence or incapacity of the umpire.

The most important duty of the umpire would seem to be that of deciding whether contributions are payable in respect of any workman or class of workman (*vide* sec. 91 (1) (*b*), *infra*).

Insurance Officers.—The principal duty of such officers will be to hear and determine claims for unemployment benefit under sec. 88, *supra*.

Inspectors.—For the powers of inspectors appointed under this Act, *vide* sec. 112, *infra*, p. 316.

90.—(1) A court of referees for the purposes of this Part of this Act shall consist of one or more members

Sect. 90

Courts of referees.

Sect. 90. chosen to represent employers, with an equal number of members chosen to represent workmen, and a chairman appointed by the Board of Trade.

(2) Panels of persons chosen to represent employers and workmen respectively shall be constituted by the Board of Trade for such districts and such trades or groups of trades as the Board may think fit, and the members of a court of referees to be chosen to represent employers and workmen shall be selected from those panels in the prescribed manner.

(3) Subject as aforesaid, the constitution of courts of referees shall be determined by regulations made by the Board of Trade.

(4) The regulations of the Board of Trade may further provide for the reference to referees chosen from the panels constituted under this section, for consideration and advice, of questions bearing upon the administration of this Part of this Act, and for the holding of meetings of referees for the purpose.

(5) The Board of Trade may pay such remuneration to the chairman and other members of a court of referees and such travelling and other allowances (including compensation for loss of time) to persons required to attend before any such court, and such other expenses in connection with any referees, as the Board, with the sanction of the Treasury determine, and any such payments shall be treated as expenses incurred by the Board of Trade in carrying this Part of this Act into effect.

Object of Section.—This section provides for the constitution and establishment of Courts of Referees. They will consist of an equal number of persons chosen to represent employers and workmen respectively and a chairman appointed by the Board of Trade. These persons will be selected from panels chosen to represent employers and workmen for such districts and such trades or groups of trades as the Board of Trade may think fit.

The only functions of a court of referees will be—

- (1) To act as a quasi court of appeal from decisions of the Insurance officer under sec. 88 (*supra*, p. 276);
- (2) To consider and advise on questions dealing with the administration of the Act (subsec. (4)).

Election of Representatives.—There are no special provisions

dealing with the manner in which workmen and employers are to choose their respective representatives. It is left to the Board of Trade to prescribe the manner in which this is to be done.

Sect. 90.

—
OBJECT OF
SECTION.

91.—(1) The Board of Trade may make regulations for any of the purposes for which regulations may be made under this Part of this Act and the Schedules therein referred to, and for prescribing anything which under this Part of this Act or any such Schedules is to be prescribed, and—

Sect. 91.

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Regulations.

(a) for permitting workmen who are employed under the same employer partly in an insured trade and partly not in an insured trade to be treated with the consent of the employer as if they were wholly employed in an insured trade; and

(b) for giving employers, and workmen, and the Board of Trade an opportunity of obtaining a decision by the umpire appointed under this Part of this Act on any question whether contributions under this Part of this Act are payable in respect of any workman or class of workmen, and for securing that a workman in whose case contributions have been paid in accordance with any such decision, shall, as respects any unemployment benefit payable in respect of those contributions, be treated as a workman employed in an insured trade, and for securing that employers and workmen shall be protected from proceedings and penalties in cases where, in accordance with any such decision, they have paid or refrained from paying contributions; and

(c) for prescribing the evidence to be required as to the fulfilment of the conditions and qualifications for receiving or continuing to receive unemployment benefit, and for that purpose requiring the attendance of workmen at such offices or places and at such times as may be required; and

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- (d) for prescribing the manner in which claims for unemployment benefit may be made and the procedure to be followed on the consideration and examination of claims and questions to be considered and determined by the insurance officers, courts of referees, and umpire, and the mode in which any question may be raised as to the continuance, in the case of a workman in receipt of unemployment benefit, of such benefit, and for making provision with respect to the appointment of a deputy umpire in the case of the unavoidable absence or incapacity of the umpire; and
- (e) with respect to the payment of contributions and benefits during any period intervening between any application for the decision of any question or any claim for benefit, and the final determination of the question or claim; and
- (f) for providing that, where any workmen are employed in or for the purposes of the business of any person, but are not actually employed by that person, that person may be treated for the purposes of this Part of this Act as their employer instead of their actual employer, and for allowing that person to deduct from any payments made by him to the actual employer any sums paid by him as contributions on behalf of the workmen, and for allowing the actual employer to recover the like sums from the workmen; and

generally for carrying this Part of this Act into effect, and any regulations so made shall have effect as if enacted in this Act.

Any regulations made under this section for giving an opportunity of obtaining a decision of the umpire may be brought into operation as soon as may be after the passing of this Act.

(2) The regulations may, with the concurrence of the Postmaster-General, provide for enabling claimants of

unemployment benefit to make their claims for unemployment benefit under this Act through the Post Office, and for the payment of unemployment benefit through the Post Office.

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(3) All regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent forty days on which that House has sat next after any such regulation is laid before it, praying that the regulation may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new regulation.

Object of Section.—This section gives power to the Board of Trade to make regulations and to prescribe where, under this Part of this Act, any regulations are to be made or any matters are to be prescribed, and, in particular, to deal by regulation or prescription with the matters set out in paragraphs (a) to (e) of subsec. (2). Any regulations so made are to have effect as if enacted in the Act.

Note on Paragraph (a).—*Quære* whether under this paragraph the Board of Trade have power to permit a workman whose occupation has been excluded by them from the occupations which are to be deemed to be employment in an insured trade under sec. 104, *infra*, to be treated, with the consent of the employer, as if he was employed in an insured trade. *Seemle*, they cannot, for a workman to be within this paragraph must be employed partly in an insured trade and partly in an uninsured trade. It will not be sufficient that he is employed in an occupation which is common to insured and uninsured trades, which has *ex hypothesi* been excluded the list of insured trades.

Note on Paragraph (b).—This paragraph provides for three matters, viz.—

(1) For giving to employers and workmen an opportunity of obtaining a decision by the umpire on any question whether contributions under this Part of this Act are payable in respect of any workman or class of workmen. The regulations to be made in respect of this matter may be brought into operation as soon as may be after the passing of the Act. This will be very useful for employers and workmen who are uncertain as to whether they are within the ambit of this Part of the Act or not. They will be enabled to obtain a decision on the question before contributions become payable, viz. before July 15, 1912.

These questions may be extremely difficult and important. Their difficulty consists in the fact that the umpire will have to decide a question of mixed law and fact which involves the following considerations:—

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NOTE ON
PARAGRAPH
(b).

(a) Whether the person is a workman or not (*vide* sec. 107, *infra*, p. 309). This will involve consideration as to whether—

(i) The person in question is employed “wholly or mainly by way of manual labour” (*vide supra*, p. 20);

(ii) The person is “under a contract of service” (*vide supra*, p. 9).

(b) Whether the person in question is employed in an “insured trade” (*vide* sec. 84 and the Sixth Schedule to the Act, *supra*, p. 262).

Effect must also be given to the rule laid down in sec. 107 (2), viz. “In determining any question as to whether any trade in which a workman is, or has been, employed is an insured trade or not, regard shall be had to the nature of the work in which the workman is engaged rather than to the business of the employer by whom he is employed.

(2) For securing that a workman, in whose case contributions have been paid in accordance with any decision (*i.e.* by an umpire under (1), *supra*), should, as respects unemployment benefit payable in respect of such contributions, be treated as a workman in an insured trade.

(3) For securing that employers and workmen should be protected from proceedings and penalties in cases where, in accordance with any such decision, they have paid or refrained from paying contributions.

Note on Para. (c).—This paragraph gives a very wide discretion to the Board of Trade. It would seem to be within the Board’s competence to make a new code of evidence admitting hearsay, the oral proof of the contents of documents, &c. It will be observed that there is no power to compel a witness to give evidence on oath.

Note on Para. (d) and (e).

Claims for benefit, vide sec. 88, *supra*, p. 276.

Questions to be determined by insurance officers, vide sec. 88.

Questions to be determined by courts of referees, vide sec. 90, *supra*, p. 279.

Questions to be determined by umpire, vide also sec. 88, and 101 (6), *supra*, p. 277; *infra*, p. 299.

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Unemploy-
ment fund.

92.—(1) For the purposes of this Part of this Act, there shall be established under the control and management of the Board of Trade a fund called the unemployment fund, into which shall be paid all contributions payable under this Part of this Act by employers and workmen and out of moneys provided by Parliament, and out of which shall be paid all claims for unemployment benefit and any other payments which under this Part of this Act are payable out of the fund.

(2) The accounts of the unemployment fund shall be

audited by the Comptroller and Auditor-General in such manner as the Treasury may direct. Sect. 92.

(3) Any moneys forming part of the unemployment fund may from time to time be paid over to the National Debt Commissioners and by them invested in accordance with regulations made by the Treasury in any securities which are for the time being authorised by Parliament as investments for savings banks moneys.

(4) The National Debt Commissioners shall present to Parliament annually an account of the securities in which moneys forming part of the said fund are for the time being invested.

Object of Section.—This section establishes a general fund called the “unemployment fund.” This fund is to be managed and controlled by the Board of Trade.

The income of this fund will be—

- (1) The contributions payable in respect of workmen in insured trades (*vide* sec. 85, *supra*, p. 268) and the Eighth Schedule to the Act (*infra*, p. 334).
- (2) The moneys to be provided by Parliament under sec. 85 (6).
- (3) *Semble*, any money advanced under sec. 93, *infra*.

The outgoings from the fund will be—

- (1) the payment of unemployment benefits in accordance with the Seventh Schedule, (*infra*, p. 332).
- (2) Payment of one-tenth of the receipts towards expenses of administration (*vide* sec. 89 (2) proviso).
- (3) Payments to association, under sec. 106 (*infra*, p. 308).
- (4) Return of contributions to workmen under sec. 95 (*infra*, p. 289).
- (5) Refund of contributions to employers under secs. 94 and 96 (*infra*, pp. 288, 291).
- (6) Repayment to the treasury of moneys advanced under sec. 93, *infra*.

Investment.—Any moneys forming part of the unemployment fund may be paid over to the National Debt Commissioners who may invest such moneys in any securities which are for the time being authorised as investments for savings bank moneys. For these investments *vide supra*, p. 199.

93.—(1) The Treasury may out of the Consolidated Fund or the growing produce thereof advance on the security of the unemployment fund any sums required for the purpose of discharging the liabilities of that fund under this Part of this Act: Provided that the total amount of advances outstanding at any time shall not exceed three million pounds. Sect. 93.

—
Treasury
advances.

Sect. 93. (2) If, whilst any part of any such advance is outstanding, it appears to the Treasury that the unemployment fund is insolvent, the Board of Trade shall, if the Treasury so direct, by order, make such temporary modifications in any of the rates of contribution, or the rates or periods of unemployment benefit, and during such period, as the Board of Trade think fit, and as will on the whole, in the opinion of the Treasury, be sufficient to secure the solvency of the unemployment fund:

Provided that no order made under this subsection shall reduce the weekly rate of unemployment benefit below the sum of five shillings, or shall increase the rates of contribution from employers or workmen by more than one penny per workman per week, or increase those rates unequally as between employers and workmen, and no such order shall remain in force more than three months after all the advances and interest thereon have been repaid, or come into force until one month after it is made.

(3) An order under this section shall not be made so as to be in force at any time while any previous order made under this section is in force.

(4) On any such order being made, the Board of Trade shall cause the order, together with a special report as to the reasons for making the order, to be laid before Parliament.

(5) The Treasury may, for the purpose of providing for the issue of sums out of the Consolidated Fund under this section, or for the repayment to that fund of all or any part of the sums so issued, or for paying off any security issued under this section, so far as that payment is not otherwise provided for, borrow money by means of the issue of Exchequer bonds or Treasury bills, and all sums so borrowed shall be paid into the Exchequer.

(6) The principal of and interest on any Exchequer bonds issued under this section shall be charged on and payable out of the Consolidated Fund of the United Kingdom, or the growing produce thereof.

(7) Notwithstanding anything in any other Act, money in the hands of the National Debt Commissioners for the reduction of the National Debt shall not be applied to purchasing, reducing, or paying off any Exchequer bonds or Treasury bills issued under this section. Sect. 93.

Object and Effect of Section.—This section provides two powers—

- (1) To the Treasury to make advances from the consolidated fund to the unemployment fund to an extent not exceeding £3,000,000;
- (2) To the Board of Trade, by order, (a) to raise the rate of contributions, or (b) to lower the rate of benefit, or (c) to lessen the period during which the benefit is to be paid.

First Power.—The exercise of this power is in the discretion of the Treasury. It may presumably be exercised at any time that the unemployment fund is incapable of meeting its obligations under this Part of the Act (*vide* note on sec. 92, *supra*). There is no express provision for the repayment of such advances out of the unemployment fund.

Second Power.—There are checks on the use of this power by the Board of Trade—

- (1) The Board must be directed by the Treasury to use the power;
- (2) There must be an advance or part of an advance made under the first power outstanding;
- (3) It must appear to the Treasury that the unemployment fund is insolvent;
- (4) The modifications made by the Board of Trade must be such as the Treasury may consider necessary to secure the solvency of the fund;
- (5) No reduction of benefit below 5s. a week is allowed;
- (6) No increase of contributions from employers and workmen may exceed one penny per week per workman;
- (7) No increase of such contributions may divide the increased rate to be paid unequally as between employers and workmen;
- (8) No order made by Board of Trade may remain in force for more than three months after any advances made under the first power have been repaid;
- (9) Two or more orders made under this section cannot be in force concurrently.

This second power may be termed an emergency power, and must be carefully distinguished from the power given to the Board of Trade (sec. 102, *infra*) to revise rates of contributions seven years after the commencement of this Act and that given by the Seventh Schedule to prescribe rates of benefit and periods of unemployment (*vide supra*, p. 264).

The power of the Board of Trade under this section is absolutely limited, in regard to modifications of rates of contribution, to raising the rate by one penny. The Board cannot add successive pennies to the rate of contribution. It is expressly provided that

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POWER.**

two orders made under this section cannot be in force at the same time. The effect of this provision is that, assuming that the power had been exercised and the rate raised to 6*d.*, before the power can again be used, the previous order must expire, thus automatically reducing the rate of contribution to its original figure, above which the new order can only raise the rate by one penny.

Special order procedure is not necessary for the exercise of this power. It is a power which will necessarily be used in an emergency and at short notice, and the delay necessary for an inquiry under the special order procedure would make that form of procedure unsuitable.

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Refund of
part of
contributions
paid by em-
ployer in the
case of
workmen
continuously
employed.

94.—(1) The Board of Trade shall, on the application of any employer made within one month after the termination of any calendar year, or other prescribed period of twelve months, refund to such employer out of the unemployment fund a sum equal to one-third of the contributions (exclusive of any contributions refunded to him under any other provisions of this Part of this Act) paid by him on his own behalf during that period in respect of any workman who has been continuously in his service through the period, and in respect of whom not less than forty-five contributions have been paid during the period.

(2) For the purpose of meeting any change in the period for which any refund of contributions is to be made under the foregoing provisions of this section, or for the purpose of making provision for any period which may elapse between the date on which contributions commence to be payable under this Part of this Act and the date on which the first period for the refund of contributions under the foregoing provisions of this section commences, the Board of Trade may, so far as necessary for the purpose, apply the provisions of this section to any period less than twelve months, subject to such proportionate reduction of the number of contributions required as they direct, and this section shall take effect as regards any such period of less than twelve months as so applied.

Object and Effect of Section.—This section is intended to

give an inducement to employers to employ their workmen regularly, by allowing an employer

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(1) in whose service a workman has been continuously throughout the year, or any other prescribed period of twelve months, and—

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SECTION.

(2) in respect of whom not less than forty-five contributions have been paid during the year,

to be given a refund of 1s. 3d. of the contributions paid by him on his own behalf in respect of such workmen. This refund will be exclusive of any refund of contributions to which the employer may be entitled under sec. 96, *infra*. The same individual workman must be continuously employed in order that the employer should be able to claim the refund.

The continuous employment of different workmen under an arrangement made with the Labour Exchange (*vide* sec. 99, *infra*) will not be reckoned as continuous employment of a single workman for the purposes of this section, though it may be so reckoned for the purpose of the amount of the employer's contribution.

The provisions of subsec. (2) are inserted in order to provide for refunds for periods of less than twelve months, if the Board of Trade alter the period for which refunds may be given, *e.g.* from a calendar year to a period of twelve months from the 1st July to the 30th June.

The main object of the section would appear to be to encourage the continuous employment of labour and by making continuous employment the least onerous form of employment to an employer so far as contributions under this Part of the Act are concerned.

Other provisions in the Act, *e.g.* secs. 96 and 99, and the rates of contribution tend to have the same effect (*vide* Introduction, p. lxxix. where the question is discussed).

95.—(1) If it is shown to the satisfaction of the Board of Trade by any workman or his personal representatives that the workman has paid contributions in accordance with the provisions of this Part of this Act in respect of five hundred weeks or upwards, and that the workman has reached the age of sixty, or before his death had reached the age of sixty, the workman or his representatives shall be entitled to be repaid the amount, if any, by which the total amount of such contributions have exceeded the total amount received by him out of the unemployment fund under this Act, together with compound interest at the rate of two and a half per cent. per annum calculated in the prescribed manner.

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Repayment
of part of
contributions
by workmen
in certain
cases.

(2) A repayment to a workman under this section shall not affect his liability to pay contributions under this Part of this Act, and, if after any such repayment he becomes entitled to unemployment benefit, he shall be

Sect. 95. treated as having paid in respect of the period for which the repayment has been made the full number of contributions which is most nearly equal to five-eighths of the number of contributions actually paid during that period.

Object of Section.—This section is to allow workmen who have been continuously in employment, to obtain on or after attaining the age of 60 a repayment of the contributions they have paid. This repayment is to be paid to the workman, if he is living, or to his personal representatives, if he is dead.

A repayment will only be paid to or in respect of a workman who fulfils the following conditions :—

(1) That he has paid contributions under this Part of this Act for 500 weeks ;

(2) That he has reached the age of sixty.

The amount of the repayment will be the total amount of the workman's contributions *less* the total amount received by him in benefit. Interest will be calculated on the amount of the repayment at $2\frac{1}{2}$ per cent. The amount of the employer's and the State contributions will be disregarded in making the calculations and will remain in the unemployment fund.

Note on Subsec. (2).—This part of the section deals with the case of a workman who has received a repayment and then continues to work in an insured trade. Such a workman

(1) Must continue to pay contributions (and *semble* the obligation on his employer to pay contributions is unaffected) ;

(2) Is to be treated, if he becomes entitled to benefit, as if, in respect of the period for which the repayment has been made, he had paid the number of full contributions which is most nearly equal to $\frac{5}{8}$ of the number of contributions he has actually paid during such period.

The reason for the insertion of these last words is that a workman who has drawn a repayment has only taken from the fund the amount of his *own* contributions, viz. $2\frac{1}{2}d.$ a week.

During the time that he has been paying contributions $2\frac{1}{2}d.$ has been paid in each week by his employers and $1\frac{3}{4}d.$ by the State, in addition to his own $2\frac{1}{2}d.$ a week. Thus a full contribution amounts to $6\frac{3}{4}d.$ a week. Now $2\frac{1}{2}d.$ a week is $\frac{3}{8}$ of the full contribution. Therefore, when a workman withdraws in the shape of a repayment his own contributions consisting of $2\frac{1}{2}d.$ a week, there remains in the fund $\frac{5}{8}$ of a full contribution for every week for which the workman has paid contributions. This sum has been paid in respect of the workman and is virtually standing to his credit. The words now under discussion give him the benefit of that credit, inasmuch as he is treated as having made the number of full contributions which that sum represents, viz. $\frac{5}{8}$ of the number of contributions that he has actually made.

Double Repayment.—It is submitted that a workman who receives a repayment and continues to work after the age of sixty will be entitled, if he again fulfils the conditions, to a second repayment.

96.—(1) If any employer satisfies the Board of Trade that during any period of depression in his business workmen employed by him have been systematically working short time, and that during such period he has paid contributions under this Part of this Act on behalf of such workmen, as well as on his own behalf, without recovering such contributions from such workmen either by way of deductions from wages or otherwise, there shall be refunded to him out of the unemployment fund, in accordance with regulations made by the Board of Trade, the contributions so paid by him in respect of those workmen (including those paid on behalf of the workmen as well as those paid on his own behalf), for the period or such part thereof as in the circumstances may seem just:

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Refund of contributions paid in respect of workmen working short time.

Provided that, except in a case where the working of short time has been effected by stopping the work for some day in the week which has been usually recognised as a working day of at least four hours in the trade and district, no such refund shall be made in respect of any workmen for any week in which the hours of work have exceeded five-sixths of the number usually recognised as constituting a full week's work at that time in the trade and district.

(2) Any employer who desires to take advantage of this section may make an application to the Board of Trade with a view to obtaining their ruling as to the circumstances under which, and the means by which, he proposes to effect a reduction of working hours, and the Board of Trade may, if they think fit, on the necessary information being supplied, give their ruling as to whether the circumstances are such, and the proposed means of reducing working hours are such, as to satisfy the requirements of this section.

Object and Effect of Section.—This section lays down conditions under which an employer, who pays out of his own pocket both his own and his workmen's contributions, may obtain a refund from the Board of Trade of the money so paid. The section is far from being clearly drafted, and numerous points of ambiguity and difficulty arise.

Sect. 96. In order to have a right to a refund an employer must satisfy the Board of Trade—

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SECTION.

- (1) That there has been a period of depression in his business.
- (2) That workmen employed by him have been systematically working short time.

As to (1) two questions arise—

- (a) What is the meaning of "a period of depression?"
- (b) What is meant by the words "period of depression in his business"?

To deal with question (a), it would appear at first sight that a period of depression must be a period during which business is below its normal level. The normal level of business is, presumably, an average between good and bad times. If this be correct, then a "period of depression" is any time when business goes down below that level, and includes all periods of what may be called "cyclical depression."

A second interpretation of the phrase is that a "period of depression" means those periods in the year when seasonal slackening of business takes place in certain trades. The use of the word "depression" may be compared with its use in sec. 50 (*supra*, p. 192), where it is definitely stated to apply to seasonal trades.

A third interpretation is that the words may mean only an abnormal depression in business. In that case the normal level of a business would include both good and bad times, and would not be an average between the two. In other words, if the level of a business were to be represented by a fluctuating line on a chart, the normal level of depression of the business could be represented by a straight line running somewhere between the highest of the low points and lowest of the low points of the fluctuating line. A "period of depression" would, it is suggested, be something below that straight line.

It is submitted that the whole section really contemplates abnormality (*e.g.* the payment by the employer of both his own and the workmen's contributions will presumably be abnormal), and that on the true construction the third suggested interpretation is correct. The question is, however, far from being easy, and the conclusion is submitted with diffidence.

To deal with question (b), there would seem to be two possible different meanings of the words as used in the section—

(1) It may refer to a period of depression all over the country, or in certain districts, in the business which the employer happens to carry on; or

(2) It may refer to a period of depression in the actual factories or workshops which the individual employer is carrying on.

It is submitted, again with diffidence, that the intention of the section is to deal with the individual employer and his individual business, and not to bring into consideration the state of affairs in that business outside. If this be correct, it should be observed that the depression may be brought about by causes over which the employer has no control, or by his own faulty methods of business. It is submitted, however, that the Board of Trade will not be entitled to go into the causes of the depression.

But the difficulties of construction do not end here. Assuming that the above submission is correct, the question then arises—what

is the employer's business? In other words, can the employer be taken to be carrying on several businesses at the same time and in the same place in respect of some of which there may be a period of depression and in others not? And, if so, how far can he subdivide his business into compartments for the purpose of this section. It is submitted that such subdivision can be made, and that an employer may claim a refund in respect of workmen in one compartment of his business while other compartments are working full time. This view may be supported by the fact that the phrase "workmen employed by him" is used instead of "*the* workman employed by him." These words would appear to indicate that a group of workmen engaged in one particular compartment of the business may be taken by the employer as a basis on which to found a claim under this section. How far this subdivision can go it is very difficult to say. It may be suggested that any part of a business that is habitually considered as a distinct and separate compartment of that business may be dealt with as a separate unit under this section. (*Cf.* the provisions of 87 (1), *supra*, as to separate branches of work.)

As to (2); it is submitted that the word "systematically" goes both to time and to number of workmen. In other words, in order to support a claim under this section, an employer must show—

- (1) That the workman in question have been working short time continuously and not spasmodically;
- (2) That all the workmen in the particular compartment of the business which is the subject of the claim, have been working short time, and not some of them only.

[NOTE.—The length of the period of time for which an employer is to get a refund is in the discretion of the Board of Trade.

Short time.—This phrase is defined in the proviso to the section as meaning—

- (1) Hours of work in a week which do not exceed five-sixths of the number usually recognised as constituting a full week's work at that time in the particular trade and district.
- (2) Work during a week of five days only where the short time has taken the form of stopping work on one day in the week, and that particular day is not one which has been usually recognised as a working day of less than four hours.

Practically the effect is that short time means stoppage of work in one day a week provided that day is not a half-holiday on which it is not the usual custom to work as much as four hours.

Ruling of the Board of Trade.—Provision is made by subsec. (2) whereby employers, who see bad times coming, may obtain a ruling from the Board of Trade as to whether, in the event of their paying both contributions, and working short time, they will be entitled to a refund. This provision will be of considerable advantage to an employer who does not desire to run the risk of not obtaining the refund, after he has paid both contributions.

Appeals.—An employer who has been refused a refund under this section may, in a proper case, have a remedy by *certiorari* or *mandamus*. The circumstances in which these writs will lie are discussed (*supra*, p. 28).

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OBJECT AND
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SECTION.

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Saving for
occasional
employment
in rural
neighbour-
hoods.

97. Where a workman is employed in a district which is rural in its character, and the workman usually follows in that district some occupation other than an insured trade, and is employed in an insured trade occasionally only, contributions under this Part of this Act shall not be payable in respect of the workman, except in cases where the employer and the workman agree that contributions shall be payable notwithstanding this provision.

Object of Section.—This section makes the payment of contributions under this Part of this Act unnecessary in respect of workmen occasionally employed in an insured trade—

(1) Where the workman is employed in a district which is rural in character, and

(2) Where the workman usually follows some occupation other than an employed trade,

unless the employer and the workman agree that contributions shall be payable. In a case where employer and workman make such an agreement it would appear, from the form of the section, that the payment of contributions will become *ipso facto* compulsory, and the provisions of this Part of the Act as to such contributions will apply. There is no provision for notifying or recording any such agreement, or for regulating the length of time during which such an agreement is to be valid. If disputes arise as to whether contributions are payable under this section, it would appear that they will have to be decided by the umpire (*vide* sec. 101 (6)), who will have to decide (if it be necessary) whether or not any such agreement has been entered into.

District Rural in Character.—*Seem*, the question whether a workman is employed in such a district would seem to be a question of fact to be decided by the umpire.

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Payment of
contributions
in case of
Reservists or
Territorials
during
training.

98. Where a man of the Naval Reserves, the Army Reserve, or the Territorial Force, is being trained and is in receipt of pay out of the moneys provided by Parliament for Navy or Army services, and immediately before the training was employed in an insured trade, he shall, for the purposes of this Part of this Act, be deemed, whilst so training, to be in the employment of the Crown in an insured trade.

Employed in an Insured Trade.—*Vide supra*, p. 262.

Deemed to be in the Employment of the Crown.—By sec. 107 (3), *infra*, this Part of the Act is expressed to apply to the Crown. The effect of this provision will be that workmen who are members of any of the above forces will not lose anything by undergoing their period of training.

99.—(1) The Board of Trade may, in such cases and on such conditions as the Board may prescribe, make an arrangement with any employer liable to pay contributions under any part of this Act, whereby, in respect of workmen engaged by him through a labour exchange, or in his employ at the date of such arrangement, the performance of all or any of the duties required under any Part of this Act to be performed by the employer in respect of those workmen, whether on his own behalf or on behalf of the workmen, shall be undertaken on behalf of the employer by the labour exchange, and whereby in respect of such workmen different periods of employment, whether of the same workmen, or different workmen, may, for the purposes of the employer's contributions under this Part of this Act, but not for the purposes of a refund of any part of the employer's contributions, be treated as a continuous employment of a single workman.

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Provisions
with respect
to workmen
engaged
through
labour ex-
changes.

(2) Where any such arrangement has been made, all the periods of employment during which a workman engaged through a labour exchange is employed by one or more employers with whom such an arrangement has been made, may, subject to regulations made by the Board of Trade, on the application of the workman, be treated for the purposes of his contributions under this Part of this Act as a continuous period of employment under one employer, and those regulations may provide for the refund of part of his contributions under this Part of this Act accordingly.

Object and Effect of Section.—This section enables the Board of Trade to make arrangements with employers whereby, in respect of certain of the employer's workmen, labour exchanges may perform on behalf of the employer all or any of the duties required by this Part of the Act to be performed by the employer in respect of such workmen, whether on his own behalf or on behalf of these workmen.

Such an arrangement may be made in respect of—

- (1) Workmen engaged by the employer through a labour exchange; or
- (2) Workmen in the employer's employ at the date of such arrangement.

The effect of making such an arrangement is that periods of employment, whether of the same or different workmen may, for

Sect. 99. *the purposes of the employer's contribution only*, be treated as a continuous employment of a single workman. Thus an employer who has made such an arrangement will only have to pay $2\frac{1}{2}d.$ a week in respect of the number of workmen comprised under the agreement, irrespective of whether the workman employed is the same individual or not, instead of having to pay according to the short time rate set out at the end of the Eighth Schedule (*infra*, p. 334). The workman will be similarly treated.

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SECTION.

But it would seem that the workman will, in the first instance, have to pay according to the short time rates if he is employed for short periods, and the employer will have to make the appropriate deductions. The following provisions will, however, have the effect of placing him in as good a position as the employer in this respect.

A workman engaged through a labour exchange, and employed by one or more employers, with whom such an arrangement has been made, may, subject to regulations, apply to the Board of Trade to have all his periods of employment treated, for the purposes of his contributions, as a continuous period of employment. The regulations may provide for a refund of part of his contributions accordingly. This provision will give the workman, as in the case of the employer, the advantage of only paying $2\frac{1}{2}d.$ a week instead of the short time rates in the Eighth Schedule above referred to.

Method of working the section.—The principal duty which an employer will be bound to perform in respect of his workmen will be that of keeping and affixing stamps to their insurance books. He will, presumably, be relieved of this task by the Labour Exchange, under the arrangements made. Inasmuch as the workmen, in respect of whom the arrangement is made, will be engaged through the Labour Exchange, the officials at the Exchange will be able to keep account of contributions which should be paid in respect of such workmen. They will, presumably, keep such an account and present it from time to time to the employer for payment. But the employer will have to make deductions from the workmen's wages, unless he wishes to pay their contributions out of his own pocket, or to rely upon other methods of recovery. He will, therefore, have to keep an account of such deductions in order to check the account presented by the Labour Exchange. If he had not entered into any such arrangement he would not be under any obligation to keep any such account. It will be for the employer to weigh the advantages of having insurance books stamped for him and the pecuniary advantage of not being obliged to pay short time rates against the expense of keeping such an account.

Labour Exchanges.—These are established and maintained by the Board of Trade under the Labour Exchanges Act, 1909 (9 Ed. 7, c. 7).

Sect. 100.

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Subsidiary
provisions.

100.—(1) If the repeated failure of any insured workman to obtain or retain employment appears to the insurance officer to be wholly or partly due to defects in skill or knowledge, the insurance officer may, if he thinks

fit, for the purpose of testing the skill or knowledge of the workman, offer to arrange for the attendance of the workman at a suitable place for the purpose, and may, out of the unemployment fund, pay all or any of the expenses incidental to such attendance. Sect. 100.

If the workman fails or refuses either to avail himself of the offer, or to produce satisfactory evidence of his competence, or if as a result of the test the insurance officer considers that the skill or knowledge of the workman is defective, and that there is no reasonable prospect of such defects being remedied, such facts shall be taken into consideration in determining what is suitable employment for the workman.

If in any case as a result of the test the insurance officer considers that the skill or knowledge of the workman is defective, but that there is a reasonable prospect of the defects being remedied by technical instruction, the insurance officer may, subject to any directions given by the Board of Trade, pay out of the unemployment fund all or any of the expenses incidental to the provision of the instruction, if he is of opinion that the charge on the unemployment fund in respect of the workman is likely to be decreased by the provision of the instruction.

(2) The regulations of the Board of Trade made under this Part of this Act shall provide for the return to a workman who is not a workman in an insured trade and to his employer of any contributions paid by them respectively under the belief that the workman was a workman in an insured trade, subject, in the case of the workmen's contributions, to the deduction of any amount received by him in respect of unemployment benefit under a similar belief.

(3) Where under regulations made by the Board of Trade any sum has been paid out of the unemployment fund by way of a reward for the return of a book or card which has been lost, the person responsible for the custody of the book or card at the time of its loss shall be liable to repay the sum so paid, not exceeding one shilling in respect of any one occasion.

Sect. 100. Object and Effect of Section.—The object of the first subsection of this section is to protect the unemployment fund from constant demands made upon it by workmen who repeatedly fail to obtain or retain employment, owing to their lack of skill or knowledge. In the case of such a workman the insurance officer may arrange for his attendance at a suitable institution, *semble*, for technical instruction, and may pay, out of the fund, the expenses of such attendance. This preliminary attendance is in the nature of a test as to whether the skill or knowledge of the workman is capable of improvement under a course of such instruction. If, as a result of the test, the insurance officer considers that the skill and knowledge of the workman is defective, but that there is a reasonable prospect of a course of technical instruction remedying the defects, the insurance officer, if he thinks that he will thereby make a saving to the fund, may arrange for such a course of instruction to be given to the workman, and may pay the expenses thereof out of the unemployment fund.

If, on the other hand, as a result of the test, the insurance officer considers that the skill or knowledge of the workman is defective, and that there is no prospect of improvement in skill or knowledge, this fact is to be taken into account by the insurance officer in determining what is suitable employment for the workman (*cf.* sec. 86 (3), *supra*, p. 271).

Refusal of Workman.—If a workman fails or refuses to undergo the preliminary test, or to produce satisfactory evidence of his competence, these facts may also be taken into account by the insurance officer in determining what is suitable employment for the workman (*vide* sec. 86 (3), *supra*).

It is submitted that if a workman, after the preliminary test has resulted in the insurance officer forming an opinion favourable to his capability of improvement, is offered and refuses to take the course of instruction, that fact, without any express statutory provision to that effect, should be taken into account in determining what is suitable employment for that workman. Employment which is unsuitable for a competent workman may well be suitable for a workman who is incompetent and unwilling to improve, though capable of improvement.

Note on Subsection (2).—This subsection provides that employers and workmen may be repaid any contributions paid by them under a mistake of fact or law as to their liability to pay contributions. A decision as to this liability may be obtained at any time under regulations to be made by the Board of Trade under sec. 91 (1) (*b*) (*supra*, p. 281).

Sect. 101. 101.—(1) If for the purpose of obtaining any benefit or payment under this Part of this Act, either for himself or for any other person, or for the purpose of avoiding any payment to be made by himself under this Part of this Act, or enabling any other person to avoid any such payment, any person knowingly makes any false statement or false representation, he shall be liable on summary

Offences and proceedings for recovery of contributions, &c.

conviction to imprisonment for a term not exceeding three months, with or without hard labour. Sect. 101.

(2) If any employer or workman has failed to pay any contributions which he is liable under this Part of this Act to pay, or if any employer or workman or any other person refuses or neglects to comply with any of the requirements of this Part of this Act, or the regulations made thereunder, he shall, for each offence, be liable on summary conviction to a fine not exceeding ten pounds, and also, where the offence is failure or neglect to make any contribution under this Part of this Act, to pay to the unemployment fund a sum equal to three times the amount which he has refused or neglected to pay (not exceeding five pounds), which sum, when paid, shall be treated as a payment in satisfaction of the contributions which he has so refused or neglected to pay.

(3) Proceedings under the foregoing provisions of this section shall not be instituted except by, or with the consent of, the Board of Trade, and may be commenced at any time within three months of the date at which the offence comes to the knowledge of the Board of Trade.

(4) Nothing in this section shall be construed as preventing the Board of Trade from recovering any sums due to the unemployment fund by means of civil proceedings, and all such sums shall be recoverable in such proceedings as debts due to the Crown.

(5) If it is found at any time that a person has been in receipt of unemployment benefit under this Part of this Act whilst the statutory conditions were not fulfilled in his case, or whilst he was disqualified for receiving unemployment benefit, he shall be liable to repay to the unemployment fund any sums paid to him in respect of unemployment benefit whilst the statutory conditions were not fulfilled, or whilst he was disqualified for receiving the benefit, and the amount of such sums may be recovered as a debt due to the Crown.

(6) In any proceedings under this section, or in any proceedings involving any question as to the payment

Sect. 101. of contributions under this Part of this Act, or for the recovery of any sums due to the unemployment fund, the decision of the umpire appointed under this Part of this Act on any question arising, whether the trade in which the workman is or has been employed is an insured trade or not shall be conclusive for the purpose of these proceedings, and, if no such decision has been obtained and the decision of the question is necessary for the determination of the proceedings the question shall be referred, in accordance with the regulations made under this Part of this Act, to the umpire for the purpose of obtaining such a decision.

Object and Effect of Section.—This section deals with—

- (1) Criminal proceedings for offences under this Part of the Act;
- (2) Civil proceedings for the recovery of unpaid contributions, or of sums wrongly paid by way of benefit.

Criminal Proceedings.—Offences under this Part of this Act are divided into three classes :

- (a) Knowingly making any false statement or representation for the purpose (i) of obtaining any benefit or payment, or (ii) of avoiding any payment under this Part of this Act ;
- (b) Failure on the part of an employer or of a workman to pay any contributions which he is liable under this Part of this Act to pay ;
- (c) Refusal or neglect in an employer or in a workman or in any other person to comply with any of the requirements of this Part of this Act, or of the regulations made thereunder.

With regard to (a).—A person who commits this offence is liable, on summary conviction, to imprisonment for a term not exceeding three months, with or without hard labour. This will have the effect of depriving the person accused of this offence of the right to be tried by jury (*vide* Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 17).

With regard to (b).—A person who commits this offence is liable, for each contribution he has failed or neglected to pay, on summary conviction to a fine not exceeding £10. Besides this such a person will be liable to pay to the unemployment fund a sum equal to three times the amount which he has refused or neglected to pay not exceeding £5. This sum when paid is to be treated as payment in satisfaction of the contributions which he has refused or neglected to pay. These criminal proceedings do not bar recovery of the unpaid contributions by civil proceedings unless the person against whom the criminal proceedings have been brought has, in such proceedings, been ordered to pay, and has paid, the sum aforesaid in satisfaction of the unpaid contributions. The provision of this section in this respect may be compared with the provisions of secs. 69, 70 in Part I. of this Act (*vide supra*, p. 230).

Knowledge is not necessary for the commission of the offence, mere inadvertence is sufficient. **Sect. 101.**

With regard to (c).—A person who commits this offence is liable, on summary conviction, to a fine not exceeding £10.

CRIMINAL
PROCEED-
INGS.

With regard to (a), (b), and (c)—

- (1) No proceedings with regard to these offences may be taken except by or with the consent of the Board of Trade (subsec. 3). This subsection goes on to say that such "proceedings may be commenced at any time within three months of the date at which the offence comes to the knowledge of the Board of Trade." It is submitted that "may" here means "must," and that it would be a good defence to any such proceedings to prove that they were commenced more than three months after the offence had come to the Board of Trade's knowledge.
- (2) By subsec. (6). If, in any proceedings in which it is alleged that any of these offences have been committed, the decision of the question whether the trade in which a workman is or has been employed is an insured trade or not, is necessary to the determination of the proceedings, the decision of that question by an umpire (appointed by His Majesty under sec. 89 (1), *supra*, p. 278) is to be conclusive. If no such decision has been obtained that question is to be referred to the umpire for the purpose of obtaining such a decision. The effect of this provision is to take out of the Court's jurisdiction, even in criminal proceedings, any question as to the meaning of the expression "workman" under this Part of the Act, or as to the meaning of the Sixth Schedule.

Civil Proceedings.

- (1) Any sums due to the unemployment fund may be recovered by the Board of Trade as debts due to the Crown.
- (2) The amount of any unemployment benefit paid to a person whilst the statutory conditions (*vide* sec. 86, *supra*, p. 271) were not fulfilled, may be recovered, at any time, from that person as a debt due to the Crown.
- (3) The amount of any unemployment benefit paid to a person whilst he was disqualified from receiving unemployed benefit (*vide* sec. 87, *supra*, p. 273) may be recovered at any time from that person as a debt due to the Crown.

[NOTE.—The provisions of subsec. (6) as to obtaining a decision of the umpire apply to civil proceedings in the same manner as they apply in the case of criminal proceedings.]

102. If at any time after the expiration of seven years from the commencement of this Act it appears to the Board of Trade that the unemployment fund is insufficient or more than sufficient to discharge the liabilities imposed upon the fund under this Part of this Act, or that the rates of contribution are excessive **Sect. 102.**

Periodical
revision of
rates of con-
tribution.

Sect. 102. or deficient as respects any particular insured trade, or any particular branch of any such trade, the Board may, with the sanction of the Treasury, by special order made in manner herein-after provided revise the rates of contribution of employers and workmen under this Part of this Act, and any such order may, if the Board think fit, prescribe different rates of contribution for different insured trades or branches thereof, and, where any such order is made the rates prescribed by the order shall as from such date as may be specified in the order be substituted as respects trades or branches thereof to which it relates for the rates prescribed by this Act :

Provided that, where such a revision has been made, no further revision under this section shall be made before the expiration of seven years from the last revision, and that no order under this section shall increase the rates of contribution from employers or workmen by more than one penny per workman per week above the rates specified in the Eighth Schedule to this Act, or shall vary such rates unequally as between employers and workmen.

Object and Effect of Section.—This section gives power to the Board of Trade at any time after the expiration of seven years from the commencement of this Act to revise, by special order, the rates of contribution under this part of this Act. This power must not be confused with the emergency power given to the Board of Trade under sec. 93 (2), *supra*, p. 286.

This revision may be upwards or downwards according as the unemployment fund appears to the Board to be sufficient or insufficient to discharge its liabilities. It may also prescribe different rates of contribution for different trades or branches thereof, according as the existing rates of contribution appear to be excessive or deficient in any particular insured trade or branch thereof. Thus the order may increase the rates for some trades or branches of trades and decrease it for others according to the average amount of unemployment in those trades or branches.

Conditions limiting the making of orders for revision :—

- (1) No order may increase the rates of contribution by more than one penny per workman per week above the rates specified in the Eighth Schedule (*infra*, p. 334) ;
- (2) No order may vary rates unequally between employers and workmen ;
- (3) Where an order for revision has once been made, no further revision may be made before the expiration of seven years from the last revision. *Quære* whether this

provision applies to prevent a revision of rates in a trade or branch of a trade the rates in which were unaffected by the previous revision. *Seem* it does, and that any revision, however small and however few workmen and employers it affects, exhausts the power of the Board under this section for the next seven years.

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OBJECT AND
EFFECT OF
SECTION.

Special Order.—*Vide* sec. 113 and Ninth Schedule, *infra*, pp. 319, 335.

103. If it appears to the Board that it is desirable to extend the provisions of this Part of this Act to workmen in any trade other than an insured trade, or to vary the definition of "workman" with respect to the age of the persons included therein, either generally or for any particular insured trade, or any particular branch of any such trade, the Board may, with the consent of the Treasury, make, in manner herein-after provided, a special order extending this Part of this Act to such workmen or so varying the definition of "workman," as the case may be, either without modification or subject to such modifications of rates of contribution or rates or periods of benefit as may be contained in the order, and, on any such order being made, this Part of this Act shall, subject to the modifications (if any) contained in the order, apply as if the trade mentioned in the order were an insured trade, or as if the definition of "workman" were varied in accordance with the order, as the case may be, and as if the rates of contribution and the rates and periods of benefit mentioned in the order were the rates of contribution and the rates and periods of benefit provided by this Part of this Act in respect of such trade :

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Power to
extend to
other trades.

Provided that no such order shall be made if the person holding the inquiry in relation to the order reports that the order should not be made, or if the order would, in the opinion of the Treasury, increase the contribution to the unemployment fund out of moneys provided by Parliament to a sum exceeding one million pounds a year before the expiration of three years from the making of the order, and that the rates of contribution mentioned in the order shall not exceed the rates specified in the

Sect. 103. Eighth Schedule to this Act, and shall be imposed equally as between employers and workmen.

Object and Effect of the Section.—This section gives power to the Board of Trade to extend, by special order, the provisions of this part of this Act to workmen in any trade other than an insured trade

- (a) without modification or,
- (b) subject to such modification of (i) rates of contribution, (ii) rates of benefit, (iii) periods of benefit, as may be contained in the order.

The special order may also vary the definition of workman (*vide* sec. 107, *infra*) as respects age.

The conditions limiting the power of the Board to make such an order are:—

- (1) That the Board has obtained the consent of the Treasury to the making of the order;
- (2) That the person holding the inquiry under the provisions for making special orders reports in favour of making the order;
- (3) That the Treasury are of opinion that the order would not increase the contribution to the unemployment fund out of moneys provided by Parliament to a sum exceeding £1,000,000 a year from the expiration of three years from the making of the order;
- (4) That the rates of contribution mentioned in the order do not exceed the rates specified in the Eighth Schedule (*infra*, p. 334);
- (5) That the rates mentioned in the order are imposed equally as between employers and workmen.

Special Orders.—*Vide* sec. 113 and the Ninth Schedule (*infra*, pp. 319, 335).

Sect. 104. **104.** The Board of Trade may, if in any case they consider that it is desirable, by special order exclude from the occupations which are to be deemed employment in an insured trade for the purpose of this Part of this Act—

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Exclusion of
subsidiary
occupations.

- (a) Any occupation which appears to them to be common to insured and uninsured trades alike, and ancillary only to the purposes of an insured trade; and
- (b) Any occupation which appears to them to be an occupation in a business which, though concerned with the making of parts or the preparation of materials for use in connection with an insured trade, is mainly carried on as a separate business

or in connection with trades other than insured trades ; Sect. 104.

and, on any such order being made, the occupation to which the order relates shall not be treated as employment in an insured trade for the purposes of this Part of this Act.

Any special order made under this section may be made so as to cover one or more occupations. The provisions of this Part of this Act as to the laying of regulations before Parliament and the presentation of an Address thereon shall apply to special orders made under this section.

105.—(1) The Board of Trade may, on the application of any association of workmen the rules of which provide for payments to its members, being workmen in an insured trade, or any class thereof, whilst unemployed, make an arrangement with such association that, in lieu of paying unemployment benefit under this Part of this Act to workmen who prove that they are members of the association there shall be repaid periodically to the association out of the unemployment fund such sum as appears to be, as nearly as may be, equivalent to the aggregate amount which such workmen would have received during that period by way of unemployment benefit under this Part of this Act if no such arrangement had been made, but in no case exceeding three-fourths of the amount of the payments made during that period by the association to such workmen as aforesaid whilst unemployed. Sect. 105.

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Arrange-
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of workmen
in insured
trade who
make pay-
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members
whilst un-
employed.

(2) The council or other governing body of any association of workmen which has made such an arrangement as aforesaid shall be entitled to treat the contributions due from any of its members to the unemployment fund under this Part of this Act, or any part thereof, as if such contributions formed part of the subscriptions payable by those members to the association, and, notwithstanding anything in the rules of the association to the contrary, may reduce the rates of subscription of those members accordingly.

Sect. 105. — (3) For the purpose of determining whether a workman has exhausted his right to unemployment benefit under this Part of this Act, the amount of any sum which, but for this section, would have been paid to him by way of unemployment benefit shall be deemed to have been so paid.

(4) The Board of Trade may make regulations for giving effect to this section, and for referring to the umpire appointed under this Part of this Act any question which may arise under this section.

(5) The fact that persons other than workmen can be members of an association shall not prevent the association being treated as an association of workmen for the purposes of this section, if the association is substantially an association of workmen.

Object and Effect of Section.—This section is designed to provide for the administration of unemployment benefit through associations of workmen (*e.g.* trade unions). It should be observed that *any* association of workmen may make the arrangements contemplated by the section provided that by its rules it provides for payments to its members, being in an insured trade, or in any class thereof, whilst unemployed.

If, or where, existing associations of workmen are inadequate, fresh associations may be formed in order to obtain the advantage of this and the next succeeding section. The only conditions which such an association will have to fulfil are the conditions that it is an association of workmen, and that its rules make the above provision.

(*Note.*—In determining what associations are entitled to make arrangements under this section, the provisions of sub-sec. (5) must be borne in mind. The fact that a certain number of the members of an association are not workmen within the meaning of sec. 107, will not prevent an association from being an association of workmen within the meaning of this section. The reason for this provision is, presumably, that the definition of "workmen" in sec. 108 only includes such workmen as are employed "wholly or mainly by way of manual labour," and that trade unions include among their membership persons, such as foremen, who are not so employed. But for that provision, a strict interpretation of the expression "association of workmen" might have resulted in excluding from the operation of the section most of the trade unions in the country.

It should be observed that the associations referred to in this section are not the same as the associations referred to in sec. 106. But it is submitted that any association within the meaning of this section will probably also be an association within the meaning of sec. 106, whereas the converse of this proposition will not be true.

The arrangements.—The Board of Trade may make arrangements with any such association on its application to the following effect:—

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OBJECT AND
EFFECT OF
SECTION.

- (1) The Board of Trade will cease to pay unemployment benefit to workmen who prove that they are members of the association;
- (2) The workmen will look to the association for the payment of any unemployment benefit to which they are entitled;
- (3) At the end of whatever period is fixed by the arrangement, the Board of Trade will repay to the association, out of the unemployment fund, such sum as appears to be approximately equivalent to the aggregate amount which the workmen who are members of the association would have received during that period in unemployment benefit from the unemployment fund, if the arrangement had not been made;
- (4) The sum so repaid cannot in any case exceed three-quarters of the amount of the payments made by the association in unemployment benefit to its members who are workmen in insured trades.

Thus it will be seen that it will not be to the advantage of any such association to enter into these arrangements, unless it is prepared to give unemployment benefit at a rate not less than 9s. 4d. a week, since three-quarters of that sum is exactly 7s., which is the amount of the benefit provided by this Part of the Act.

Contributions under the Act, and subscriptions to such association.—By subsec. (2) the governing body of any association which has entered into the foregoing arrangements with the Board of Trade may treat the contributions of its members who are workmen in insured trades due under this Part of this Act, as if such contributions formed part of the subscriptions to the association. The rates of subscription of such members may, notwithstanding anything in the rules of the association to the contrary, be reduced accordingly. An example will show how this provision will work in a concrete case. Assuming that the subscription to the association is 1s. a week, the payment of which entitles a member to unemployment benefit of 10s. a week (amongst other things). If a member is a workman in an insured trade his subscription may be reduced by 2½d. a week to 9½d., which is the amount of the contribution due by him under this Part of the Act.

Exhaustion of right to benefit.—In order to test whether a workman has exhausted his right to benefit, the calculations must be made as if no arrangements had been made under this section with his association—i.e. the rules in the Seventh Schedule (*vide supra*, p. 264) as to the period during which unemployment benefit may be paid must be observed (*e.g.* the “one to five” rule will apply).

Questions arising under this section.—Any question which may arise under this section is to be referred, in accordance with regulation to be made by the Board of Trade, to the umpire (appointed by the Board of Trade under sec. 89, *infra*).

Administration of Section.—It will be observed that there is nothing to prevent any association which makes an arrangement under this section with the Board of Trade from paying unemployment benefit according to its own rules. These rules may of course provide for payment of that benefit in circumstances in which

Sect. 105. benefit would not be payable under this Part of the Act. But associations will only obtain repayment of three-quarters of such benefit as would have been paid under this Part of this Act. The method by which the unemployment fund is to be protected does not appear in the Act. Such protection will, however, be provided by administrative regulations, *semble*, to be made under this section. It is anticipated that these regulations will provide that, when a member of an association falls out of work, he will go and lodge his book or card with the insurance officer at the Labour Exchange. He will then receive a voucher to the effect that his book has been lodged and that he is out of employment. He will take that voucher to his association, and the association will use it to sustain any claim it may have on the unemployment fund when the time for repayment arrives. Of course the Insurance officer will have to make sure that the workman satisfies the statutory conditions and is not disqualified, in order to be able to check the claims of the association for a refund. As has been said before, failure on the part of the workman will not *ipso facto* prevent his association from giving him benefit if it chooses, but it will prevent the association from being repaid out of the unemployment fund any part of the benefit so paid.

Sect. 106. **106.**—(1) The Board of Trade may, with the consent of the Treasury, and on such conditions and either annually or at such other intervals as the Board may prescribe, repay out of moneys provided by Parliament to any association of persons not trading for profit the rules of which provide for payments to persons whilst unemployed, whether workmen in an insured trade or not, such part (in no case exceeding (one-sixth) as they think fit, of the aggregate amount which the association has expended on such payments during the preceding year or other prescribed period, exclusive of the sum (if any) repaid to the association in respect of such period in pursuance of an arrangement under the last foregoing section, and exclusive, in the case of payments which exceed twelve shillings a week, of so much of those payments as exceeds that sum.

Repayments
to associa-
tions who
make pay-
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persons
whether
workmen in
insured trade
or not, whilst
unemployed.

(2) No repayment shall be made under this section in respect of any period before the expiration of six months from the commencement of this Act.

(3) The Board of Trade may make regulations for giving effect to this section, and for determining the mode in which questions arising under this section shall be settled.

Object and Effect of Section.—The object of this section is to encourage voluntary associations for insurance against unemployment by giving the Board of Trade power to repay to such associations a part (not exceeding one-sixth) of the sum they may have expended upon unemployment benefit up to 12s. a week.

The section does not create any charge on the unemployment fund; the moneys for repayments under this section will be provided by Parliament.

It will be observed that the associations who may benefit by the provisions of this section are not the same as the associations with which arrangements may be made under the preceding section. The preceding section is confined in its application to "associations of workmen, the rules of which provide for payments to their members, being workmen in an insured trade, or any class thereof, whilst unemployed," whereas the section now under consideration applies to "any association of persons not trading for profit, the rules of which provide for payments to persons whilst unemployed whether workmen in an insured trade or not." The latter expression is much the wider of the two; and it includes any association under the preceding section, provided that that association does not trade for a profit.

The exercise of this power by the Board of Trade is limited in the following ways:—

- (1) The Board must obtain the consent of the Treasury before making any repayment;
- (2) The amount of the repayment is limited to one-sixth of any unemployment benefit up to but not exceeding 12s. a week. In calculating the amount of the repayment any payments which exceed 12s. a week are to be ignored. *Quære* whether, in the case of an association which pays varying rates of benefits, some of which are over and some of which are under 12s. a week, the repayment is to consist of one-sixth of the aggregate amount so paid in so far as that amount represents an average of 12s. a week or under, or whether the repayment is to consist of one-sixth of the aggregate amount paid, taking the weekly payments at rates under 12s. a week at their actual figures, and weekly payments at over 12s. a week as if they had been made at 12s. a week? *Semble*, the latter would be the correct method.

Application of Section to Associations making arrangements under Sec. 107.—Where an association has made an arrangement with the Board of Trade under sec. 107, the sum which had been repaid to it by the Board cannot be reckoned in when calculating the aggregate amount of unemployment benefit. The aggregate amount of unemployment benefit should be calculated on the amount paid out by the association before any repayment is made.

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OBJECT AND
EFFECT OF
SECTION.

107.—(1) For the purposes of this Part of this Act— **Sect. 107.**

The expression "workman" means any person of the age of sixteen or upwards employed wholly or mainly by way of manual labour, who has entered

—
Interpreta-
tion and
application.

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into or works under a contract of service with an employer, whether the contract is expressed or implied, is oral or in writing, and in relation to a person whilst unemployed means a person who, when employed, fulfilled the conditions aforesaid, but does not include an indentured apprentice ;

Contributions made by an employer on behalf of a workman shall be deemed to be contributions by the workman :

Two periods of unemployment of not less than two days each, separated by a period of not more than two days, during which the workman has not been employed for more than twenty-four hours or two periods of unemployment of not less than one week each, separated by an interval of not more than six weeks, shall be treated as a continuous period of unemployment, and the expression “ continuously unemployed ” shall have a corresponding meaning ;

Temporary work provided by a central body or distress committee under the Unemployed Workmen Act, 1905, or towards the provision of which any such central body or distress committee has contributed under that Act, shall not be deemed to be employment in an insured trade.

A workman shall not be deemed to be unemployed whilst he is following any remunerative occupation in an insured trade, or whilst he is following any other occupation from which he derives any remuneration or profit greater than that which he would derive from the receipt of unemployment benefit under this part of this Act.

A workman shall not, for the purposes of contributions, be deemed to be employed in any period in respect of which he receives no remuneration from his employer, notwithstanding that he continues during such period in his employment ;

The expression “ trade dispute ” means any dispute between employers and workmen, or between

workmen and workmen, which is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any persons, whether workmen in the employment of the employer with whom the dispute arises or not. Sect. 107.

(2) In determining any question as to whether any trade in which a workman is or has been employed is an insured trade or not, regard shall be had to the nature of the work in which the workman is engaged rather than to the business of the employer by whom he is employed.

(3) This Part of this Act shall apply to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person, except to such of those workmen as are serving in an established capacity in the permanent service of the Crown, subject, however, to such modifications as may be made therein by Order in Council for the purpose of adapting the provisions of this Part of this Act to the case of such workmen.

(4) If the Board of Trade are satisfied that any class of workmen are, having regard to their claim to pension or to the other terms of their service, in as permanent a position as that of persons serving in an established capacity in the permanent service of the Crown, the Board of Trade may exempt that class of persons from the provisions of this Part of this Act, and any persons so exempt shall not be deemed to be workmen.

Employed wholly or mainly by Way of Manual Labour.—

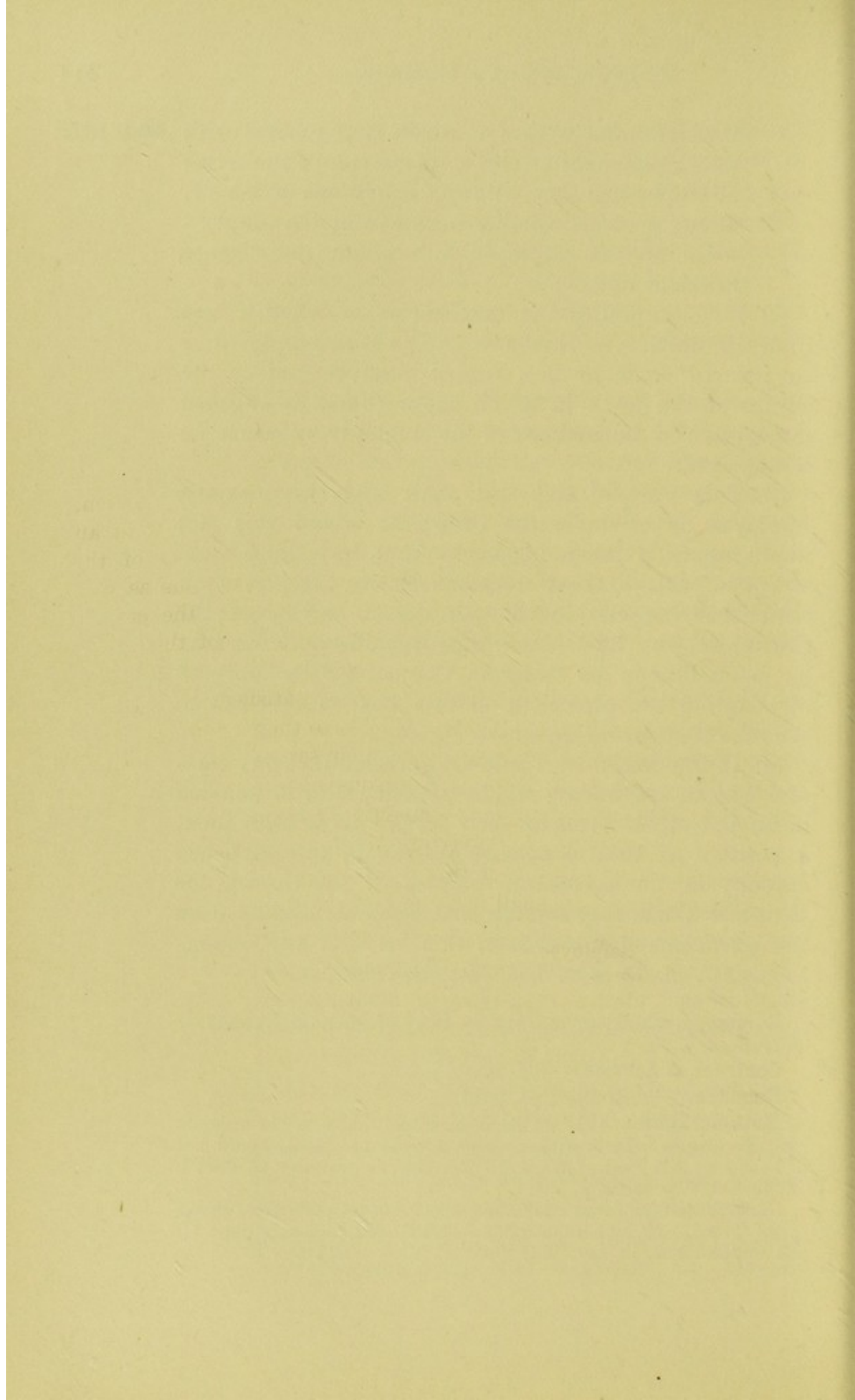
Vide supra, p. 20.

Contract of Service.—*Vide supra*, p. 9.

Employer.—*Vide supra*, pp. 9, 14.

Note on Subsec. (3).—This subsection is necessary in order to bind the Crown, which, without such express provision, would not be bound by this Part of the Act. For similar provision in Part I. of the Act, *vide supra*, p. 195.

Workmen serving in an established capacity in the permanent service of the Crown.—*Cf.* Superannuation Act, 1859 (22 Vict. c. 26), sec. 17, and Superannuation Act, 1887 (50 & 51 Vict. c. 67), sec. 12.



PART III.

GENERAL.

108. Stamps required for the purposes of this Act shall be prepared and issued in such manner as the Commissioners of Inland Revenue, with the consent of the Treasury, may direct, and the said Commissioners may, by regulations in accordance with the provisions of Part I. of this Act relating to regulations by the Insurance Commissioners, provide for applying, with the necessary adaptations, as respects such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Management Act, 1891, as amended by any subsequent Act, and section sixty-five of the Post Office Act, 1908, and may with the consent of the Postmaster-General provide for the sale of such stamps through the Post Office.

Sect. 108.

Provisions as
to stamps.

The Stamps Duties Management Act, 1891 (54 & 55 Vict. c. 38); sec. 13 contains penal provisions; secs. 9, 10, 12, 22, and 24 are amended by secs. 13, 10, and 7 of the Revenue Act, 1898 (61 & 62 Vict. c. 44).

The Post Office Act, 1908 (8 Ed. 7, c. 48), sec. 65, provides that—

- (1) A person shall not—
 - (a) make, knowingly utter, deal in, or sell any fictitious stamp, or knowingly use for any postal purpose any fictitious stamp; or
 - (b) have in his possession, unless he shows a lawful excuse, any fictitious stamp; or
 - (c) make, or, unless he shows a lawful excuse, have in his possession, any die, plate, instrument, or materials for making any fictitious stamp.
- (2) If any person acts in contravention of this section, he shall be liable, on summary conviction, on a prosecution by order of the Commissioners of Inland Revenue, to a fine not exceeding twenty pounds, subject of the like right of appeal as in the case of a penalty under the Acts relating to the Excise.
- (3) Any stamp, die, plate, instrument or materials found in the

Sect. 108. possession of any person in contravention of this section may be seized and shall be forfeited.

THE POST
OFFICE ACT,
1908.

(4) For the purposes of this section, "fictitious stamp" means any facsimile or imitation or representation, whether on paper or otherwise, of any stamp for denoting a rate of postage of any British possession or of any foreign country.

Sect. 109. **109.** In granting outdoor relief to a person in receipt of or entitled to receive any benefit under this Act, a board of guardians shall not take into consideration any such benefit, except so far as such benefit exceeds five shillings a week.

Outdoor
relief.

Outdoor Relief.—*Vide* The Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 52-54, the Outdoor Relief Prohibitory Order of 1844, and the Outdoor Relief Regulation Order of 1852.

[*Note.*—This section follows the lines of The Outdoor Relief (Friendly Societies) Act, 1904 (4 Ed. 7, c. 32), s. 1 (2).]

Sect. 110. **110.**—(1) There shall be included among the debts which, under section one of the Preferential Payments in Bankruptcy Act, 1888, and section two hundred and nine of the Companies (Consolidation) Act, 1908, are, in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all contributions payable under this Act by the bankrupt or the company in respect of employed contributors or workmen in an insured trade during the four months before the date of the receiving order, or, as the case may be, the commencement of the winding-up or the winding-up order, and those Acts shall have effect accordingly, and formal proof of the debts to which priority is given under this section shall not be required except in cases where it may otherwise be provided by rules made under the Bankruptcy Act, 1883, or the Companies (Consolidation) Act, 1908.

Priority of
claims for
contributions
due by
bankrupt
employers.

(2) In the case of the winding up of a company within the meaning of the Stannaries Act, 1887, such contributions as aforesaid shall, if payable in respect of a miner, have the like priority as is conferred on wages

of miners by section nine of that Act, and that section shall have effect accordingly. Sect. 110.

(3) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

(4) In the application of this section to Scotland, a reference to section three of the Bankruptcy (Scotland) Act, 1875, and the respective dates therein mentioned shall be substituted for the reference to section one of the Preferential Payments in Bankruptcy Act, 1888, and the date of the receiving order, and an Act of Sederunt under the Bankruptcy Amendment (Scotland) Act, 1856, shall be substituted for Rules under the Bankruptcy Act, 1883.

(5) In the application of this section to Ireland a reference to section four of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, shall be substituted for the reference to section one of the Preferential Payments in Bankruptcy Act, 1888; and a reference to general orders made under the first-mentioned Act shall be substituted for the reference to rules made under the Bankruptcy Act, 1883; and any reference to a bankrupt shall include a reference to an arranging debtor; and the reference to the receiving order shall be construed as a reference to the order of adjudication in the case of a bankrupt, or to the filing of the petition for arrangement in the case of an arranging debtor.

The Preferential Payments in Bankruptcy Act (51 & 52 Vict. c. 62), s. 1, and The Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 209, enact that, in the case of a receiving order, or, in the case of a company, of a winding up or winding-up order, certain debts are to rank equally among themselves and abate in proportion, but are to be paid in priority to all other debts.

All Contributions payable under this Act.—This includes the contributions for health insurance under Part I. of this Act, and the contributions for unemployment insurance under Part II. of this Act. In the former case, *quære* who is the creditor entitled to prove? In the latter case, it would appear that contributions may be recovered by the Board of Trade, *vide* sec. 101 (4), *supra*,

Sect. 110. p. 299). There is no similar provision to this in Part I. of the Act. It is submitted that the Insurance Commissioners are the creditors for contributions under that Part of this Act (*cf.* sec. *supra*, p. 71). *Sed quære?*

—
ALL CON-
TRIBUTIONS
PAYABLE
UNDER THIS
ACT.

Rules made under the Bankruptcy Act, 1883, or the Companies (Consolidation) Act, 1908.—For the rules as to proof, *vide* Rules 219–231 the Bankruptcy Rules, 1886–1890, and Schedule 2 of the Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), also Rules 88–114 Companies Act (Winding-up Rules), 1909.

A Company within the Meaning of the Stannaries Act, 1887.—By (50 & 51 Vict. c. 43), s. 2, “The term ‘company’ means any persons or partnership body, joint stock company, company constituted under the Companies Act, 1862, or any statutory modification thereof, and whether corporate or unincorporate, and whether limited or unlimited, engaged in or formed for working mines within the stannaries. The term ‘the stannaries’ means the stannaries of Cornwall and Devon. The Act extends only to metalliferous mines and tin-streaming works within the stannaries.”

Sec. 9 enacts: “If at the commencement of the winding-up of any company, whether by the court or otherwise, any wages (not exceeding such an amount as under the fourth section of the Act would be made a first charge), are unpaid, the same shall be paid by the liquidator forthwith in priority to all other costs except costs of and incidental to the making of the order for the winding up . . . and subject to the tenth section of the Act, to all claims, whether by mortgages, execution creditors, or any other person whatsoever; but subject as aforesaid the court may by order charge the whole or any part of the assets of the company, in absolute priority to all claims and to all existing mortgages or charges thereon with the payment of a sum sufficient to discharge the said wages. . . .”

[*Note.*—Bankruptcy (Scotland) Act, 1875 (38 & 39 Vict. c. 26), s. 3. Preferential Payments in Bankruptcy (Ireland Act), 1889 (59 & 60 Vict. c. 60), s. 4.]

Sect. 111. **111.** Every assignment of, or charge on, and every agreement to assign or charge, any of the benefits conferred by this Act shall be void, and, on the bankruptcy of any person entitled to any such benefit, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

—
Benefits to be
inalienable.

[*NOTE.*—This section follows the wording of sec. 6 of the Old Age Pensions Act, 1908 (8 Ed. 7. c. 40).]

Sect. 112. **112.**—(1) An inspector appointed under this Act shall, for the purposes of the execution of this Act, have power to do all or any of the following things, namely:—

—
Powers of
inspectors.

- (a) to enter at all reasonable times any premises or place, other than a private dwelling-house not being a workshop, where he has reasonable grounds for supposing that any employed contributors or workmen in an insured trade are employed ;
- (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act are complied with in any such premises or place ;
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an employed contributor or workman in an insured trade, and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined ;
- (d) to exercise such other powers as may be necessary for carrying this Act into effect.
- Sect. 112.
—

(2) The occupier of any such premises or place and any other person employing any employed contributor or workman in an insured trade, and the servants and agents of any such occupier or other person, and any employed contributor or workman in an insured trade shall furnish to any inspector all such information and shall produce for inspection all such registers, books, cards, and other documents as the inspector may reasonably require.

(3) If any person wilfully delays or obstructs an inspector in the exercise of any power under this section or fails to give such information or to produce such documents as aforesaid, or conceals or prevents or attempts to conceal or prevent any person from appearing before or being examined by an inspector, he shall be liable on summary conviction to a fine not exceeding five pounds :

Sect. 112. Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

(4) Where any such premises or place are liable to be inspected by inspectors or other officers, or are under the control, of some other Government department, the Insurance Commissioners or Board of Trade may make arrangements with that other Government department for any of the powers and duties of inspectors under this section being carried out by inspectors or other officers of such other Government department, and, where such an arrangement is made, such inspectors and officers shall have all the powers of an inspector under this section.

(5) Every inspector shall be furnished with the prescribed certificate of his appointment, and on applying for admission to any premises for the purposes of this Act shall, if so required, produce the said certificate to the occupier.

Private Dwelling-house not being a Workshop.—The expression “private dwelling-house” is used in sec. 91 (7) of the Public Health Act, 1875 (38 & 39 Vict. c. 55), and in a similar section in the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), sec. 24 (b). Under the latter of these Acts it was held in *McNair v. Baker*, [1904] 1 K. B. 208, that a club with bedrooms was not a private dwelling-house within the meaning of the section. The expression is frequently used in restrictive covenants in leases, *vide* the cases collected in Stroud’s Judicial Dictionary, p. 1554.

“Workshop” is defined in the Factory and Workshops Act, 1901 (1 Ed. 7, c. 22), sec. 149, as

(a) Any premises or places named in Part II. of the Sixth Schedule to the Act, which are not a factory; and

(b) Any premises, room, or place, not being a factory, in which premises, room, or place, or within the close, or curtilage, or precincts of which premises any manual labour is exercised by way of trade, or for purposes of gain in, or incidental to, any of the following purposes, namely:—

(i) The making of any article or part of any article; or

(ii) The altering, repairing, ornamenting, or finishing of any article; or

(iii) The adapting for sale of any article, and to, or over, which premises, room, or place the employer of the persons working therein has the right of access or control.

(For decisions on this section, *vide Fullers, Ltd. v. Squire*, [1901] 2 K. B. 209; and *Hoare v. Robert Green, Ltd.*, [1907] 2 K. B. 315.)

It is submitted that the expression "private dwelling-house not being a workshop" does not mean more than premises used solely as a private dwelling-house.

Employed Contributors.—*Vide* sec. 1, *supra*, p. 6.

Workmen in Insured Trades.—*Vide* sec. 84, *supra*, p. 261.

Sect. 112.

PRIVATE
DWELLING-
HOUSE NOT
BEING A
WORKSHOP.

Sect. 113.

Procedure for
making
special orders.

113.—(1) Sections eighty and eighty-one of the Factory and Workshop Act, 1901, relating to the making of regulations under that Act, as set out and adapted in the Ninth Schedule to this Act, shall apply to special orders made under this Act.

(2) Before a special order (other than a special order excluding any occupation from the occupations which are to be deemed employment in an insured trade) comes into force it shall be laid before each House of Parliament for a period of not less than thirty days during which the House is sitting, and, if either of those Houses before the expiration of those thirty days presents an Address to His Majesty against the order or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new order.

Note.—A. The following are the cases in which, under Part I. of the Act, the Insurance Commissioners must resort to special order procedure:—

- (1) The inclusion among persons employed within the meaning of this Part of this Act of any persons engaged in any of the excepted employments specified in Part II. of the First Schedule (*vide* sec. 1 (2) proviso);
- (2) Provisions for reinsurance with the Commissioners of the liabilities of approved societies for maternity benefit (*vide* sec. 19);
- (3) For the application of sec. 46 (8) to certain men in the Naval Reserves, the Army Reserve, or the Territorial Force.
- (4) For the specification of classes of employment in which the employer is, by custom, liable to pay wages during sickness for the purpose of the provisions of sec. 47, and the extension of such provisions to classes of employment where such custom does not exist (*vide* sec. 47 (1) and (7));
- (5) Increase or reduction of contributions in seasonal trades (sec. 50);
- (6) Exclusion of employment as an outworker from employments within the meaning of this Part of this Act (*vide* First Schedule, Part I. para. (c)).

B. The following are the cases in which, under Part II. of the

Sect. 113.

NOTE.

Act, the Board of Trade must resort to special order procedure:—

- (1) For revising rates, &c., of contributions after seven years under sec. 102.
- (2) For extending the provisions of Part II. of the Act to workmen in other than insured trades under sec. 103.
- (3) For excluding ancillary, &c., occupations from insured trades under sec. 104.
- (4) For the exercise of the Board's power to prescribe rates of benefit, &c., under the last paragraph of the Seventh Schedule.

Sect. 114.

Provisions as to birth certificates.

114. Where, for the purposes of this Act, the age of any person is required to be proved by the production of a certificate of birth, any person shall, on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board for England, Scotland, or Ireland, as the case may be, and, on payment of a fee of sixpence, be entitled to obtain a certified copy of the entry of the birth of that person in the birth register, under the hand of the registrar or superintendent registrar having the custody thereof, and forms for such requisition shall on request be supplied without any charge by every registrar of births and deaths and by every superintendent registrar.

Sect. 115.

Short title and commencement.

115. This Act may be cited as the National Insurance Act, 1911, and shall, save as otherwise expressly provided by this Act, come into operation on the fifteenth day of July nineteen hundred and twelve:

Provided that His Majesty in Council may, should necessity arise, substitute some subsequent date or dates not being later than the first day of January nineteen hundred and thirteen as respects the provisions of this Act relating to health insurance, and not being later than the first day of October nineteen hundred and twelve as respects the provisions of this Act relating to unemployment insurance.

SCHEDULES.

FIRST SCHEDULE.

Sections 1
and 81.

PART I.

EMPLOYMENTS WITHIN THE MEANING OF PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

(a) Employment in the United Kingdom under any contract of service or apprenticeship, written or oral, whether expressed or implied, and whether the employed person is paid by the employer or some other person, and whether under one or more employers, and whether paid by time or by the piece or partly by time and partly by the piece, or otherwise, or, except in the case of a contract of apprenticeship, without any money payment.

(b) Employment under such a contract as aforesaid as master or a member of the crew of any ship registered in the United Kingdom or of any other British ship or vessel of which the owner, or, if there is more than one owner, the managing owner or manager, resides or has his principal place of business in the United Kingdom.

(c) Employment as an outworker (that is to say, a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials for the purposes of the trade or business of the last-mentioned person), unless excluded by a special order made by the Insurance Commissioners, and any such order may exclude outworkers engaged in work of any class, or outworkers of any class or description specified in the order, or may defer the commencement of this Act as respects all outworkers, and the person who gave out the articles or materials shall, in relation to the person to whom he gave them out, be deemed to be the employer.

(d) Employment in the United Kingdom in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under any contract of bailment (or in Scotland any contract of letting to hire) in consideration of the payment of a fixed sum or a share in the earnings or otherwise, in which case the owner shall, for the purposes of Part I. of this Act, be deemed to be the employer.

PART II.

EXCEPTIONS.

(a) Employment in the naval or military service of the Crown, including service in Officers' Training Corps, except as otherwise provided in Part I. of this Act.

(b) Employment under the Crown or any local or other public authority where the Insurance Commissioners certify that the terms of the employment are such as to secure provision in respect of sickness and disablement on the whole not less favourable than the corresponding benefits conferred by Part I. of this Act.

(c) Employment as a clerk or other salaried official in the service of a railway or other statutory company, or of a joint committee of two or more such companies, where the Insurance Commissioners certify that the terms of employment, including his rights in such superannuation fund as is herein-after mentioned, are such as to secure provision in respect of sickness and disablement, on the whole, not less favourable than the corresponding benefits conferred by Part I. of this Act, and the person so employed is entitled to rights in a superannuation fund established by Act of Parliament for the benefit of persons in such employment, or in Ireland is entitled to rights in any such superannuation fund or in any railway superannuation fund which may be approved by the Insurance Commissioners.

(d) Employment as a teacher to whom the Elementary School Teachers Superannuation Act, 1898, or a scheme under section fourteen of the Education (Scotland) Act, 1908, or the National School Teachers (Ireland) Act, 1879, applies, or, in the event of any similar enactment being hereafter passed as respects teachers or any class of teachers (other than teachers in public elementary schools), as a teacher to whom such enactment applies.

(e) Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some other occupation, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.

(f) Employment in respect of which no wages or other money payment is made where the employer is the occupier of an agricultural holding and the employed person is employed thereon, or where the person employed is the child of, or is maintained by, the employer.

(g) Employment otherwise than by way of manual labour and at a rate of remuneration exceeding in value one hundred and sixty pounds a year, or in cases where such employment involves part-time service only, at a rate of remuneration which in the opinion of the Insurance Commissioners, is equivalent to a rate of remuneration exceeding one hundred and sixty pounds a year for whole-time service.

(h) Employment of a casual nature otherwise than for the purposes of the employer's trade or business, and otherwise than for the purposes of any game or recreation where the persons employed are engaged or paid through a club, and in such case the club shall be deemed to be the employer.

(i) Employment of any class which may be specified in a special order as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood.

(j) Employment as an outworker where the person so employed is the wife of an insured person and is not wholly or mainly dependent for her livelihood on her earnings in such employment.

(k) Employment as a member of the crew of a fishing vessel where the members of such crew are remunerated by shares in the profits or the gross earnings of the working of such vessel in accordance with any custom or practice prevailing at any port if a special order is made for the purpose by the Insurance Commissioners, and the particular custom or practice prevailing at the port is one to which the order applies.

(l) Employment in the service of the husband or wife of the employed person.

Sections 4
and 81.

SECOND SCHEDULE.

RATES OF CONTRIBUTION UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

PART I.

Employed Rate.

In the case of men	- - - - -	7d. a week.
„ „ women	- - - - -	6d. „

Contributions by Employers and Employed Contributors.

To be paid by the employer	- - - - -	3d. a week.
„ „ contributor	- { Men, 4d. „	
	{ Women, 3d. „	

In the case of employed contributors of either sex of the age of 21 or upwards whose remuneration does not include the provision of board and lodging by their employer, and the rate of whose remuneration does not exceed 2s. 6d. a working day, the following shall be the rates of contribution :—

Where the rate of remuneration does not exceed 1s. 6d. a working day—

		A week.
To be paid by the employer	- - - { For men, 6d.	
	{ „ women, 5d.	
„ out of moneys provided by Parliament	1d.	

Where the rate of remuneration exceeds 1s. 6d. but does not exceed 2s. a working day—

		A week.
To be paid by the employer	- - - { For men, 5d.	
	{ „ women, 4d.	
„ „ contributor	- - - - - 1d.	
„ out of moneys provided by Parliament	1d.	

Where the rate of remuneration exceeds 2s. but does not exceed 2s. 6d. a working day—

To be paid by the employer	- - - { For men, 4d.	
	{ „ women, 3d.	
„ „ contributor	- - - - - 3d.	

PART II.

Employed Rate in Ireland.

In the case of men - - - - - $5\frac{1}{2}d.$ a week.
 „ „ women - - - - - $4\frac{1}{2}d.$ „

Contributions by Employers and Employed Contributors.

To be paid by the employer - - - - - $2\frac{1}{2}d.$ a week.
 „ „ contributor - $\left\{ \begin{array}{l} \text{Men, } 3d. \\ \text{Women, } 2d. \end{array} \right.$ „

In the case of employed contributors of either sex of the age of 21 or upwards whose remuneration does not include the provision of board and lodging by their employer, and the rate of whose remuneration does not exceed 2s. 6d. a working day, the following shall be the rates of contribution :—

Where the rate of remuneration does not exceed 1s. 6d. a working day—

A week.

To be paid by the employer - - - $\left\{ \begin{array}{l} \text{For men, } 4\frac{1}{2}d. \\ \text{„ women, } 3\frac{1}{2}d. \end{array} \right.$
 „ out of moneys provided by Parliament 1d.

Where the rate of remuneration exceeds 1s. 6d. but does not exceed 2s. a working day—

A week.

To be paid by the employer - - - $\left\{ \begin{array}{l} \text{For men, } 4d. \\ \text{„ women, } 3d. \end{array} \right.$
 „ „ contributor - - - - - $\frac{1}{2}d.$
 „ out of moneys provided by Parliament 1d.

Where the rate of remuneration exceeds 2s. but does not exceed 2s. 6d. a working day—

To be paid by the employer - - - $\left\{ \begin{array}{l} \text{For men, } 3\frac{1}{2}d. \\ \text{„ women, } 2\frac{1}{2}d. \end{array} \right.$
 „ „ contributor - - - - - 2d.

Section 4.

THIRD SCHEDULE.

RULES AS TO PAYMENT AND RECOVERY OF CONTRIBUTIONS
PAID BY EMPLOYERS ON BEHALF OF EMPLOYED CON-
TRIBUTORS UNDER PART I. OF THIS ACT RELATING
TO HEALTH INSURANCE.

(1) A weekly contribution shall be payable for each calendar week during the whole or any part of which an employed contributor has been employed by an employer: Provided that, where one weekly contribution has been paid in respect of an employed contributor in any such week, no further contribution shall be payable in respect of him in the same week, and that, where no remuneration has been received and no services rendered by an employed contributor during any such week, or where no services have been rendered by an employed contributor during any such week and the employed contributor has been in receipt of sickness or disablement benefit during the whole or any part of that week, the employer shall not be liable to pay any contribution either on his own behalf or on behalf of the contributor in respect of that week.

(2) The employer shall, except as herein-after provided, be entitled to recover from the employed contributor the amount of any contributions paid by him on behalf of the employed contributor.

(3) Except where the employed contributor does not receive any wages or other pecuniary remuneration from the employer, the amounts so recoverable shall, notwithstanding the provisions of any Act or any contract to the contrary, be recoverable by means of deductions from the wages or other remuneration, and not otherwise; but no such deductions may be made from any wages or remuneration other than such as are paid in respect of the period or part of the period in respect of which the contribution is payable, or in excess of the sum which represents the amount of the contributions for the period (if such period is longer than a week) in respect of which the wages or other remuneration are paid.

(4) Where a contribution paid by the employer on behalf of an employed contributor is recoverable from the contributor but is not recoverable by means of deductions as aforesaid, it shall (without prejudice to any other means of recovery) be recoverable summarily

as a civil debt, but no such contribution shall be recoverable unless proceedings for the purpose are instituted within three months from the date when the contribution was payable.

(5) Where the contributor is employed by more than one employer in any calendar week, the first person employing him in that week or such other employer or employers as may be prescribed shall be deemed to be the employer for the purposes of the provisions of Part I. of this Act relating to the payment of contributions and of this schedule.

(6) Regulations of the Insurance Commissioners may provide that in any cases or any classes of cases where employed contributors work under the general control and management of some person other than their immediate employer, such as the owner, agent, or manager of a mine or quarry, or the occupier of a factory or workshop, such person shall, for the purposes of the provisions of Part I. of this Act relating to the payment of contributions and of this schedule, be treated as the employer, and may provide for allowing him to deduct the amount of any contributions (other than employer's contributions) which he may become liable to pay from any sums payable by him to the immediate employer, and for enabling the immediate employer to recover from the employed contributors the like sums and in the like manner as if he were liable to pay the contributions.

(7) Where the contributor is not paid wages or other money payments by his employer or any other person, the employer shall be liable to pay the contributions payable both by himself and the contributor, and shall not be entitled to recover any part thereof from the contributor.

(8) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages of or otherwise to recover from the contributor the employer's contribution.

(9) Any sum deducted by any employer from wages or other remuneration under this schedule shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

(10) The Insurance Commissioners may, by regulations, provide that in the case of outworkers the contributions

to be paid may be determined by reference to the work actually done, instead of by reference to the weeks in which work is done, and any such regulations may apply to all trades or to any specified classes or branches of trades, and may determine the conditions to be complied with by employers who adopt such a system of payment of contributions.

(11) For the purposes of this schedule the expression "calendar week" means the period from midnight on one Sunday to midnight on the following Sunday.

Sections 8, 9,
37, 44, and 81.

FOURTH SCHEDULE.

BENEFITS UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

PART I.

Rates of Benefits.

TABLE A.—*Ordinary Rates.*

Sickness benefit: for men, the sum of 10s. a week throughout the whole period of twenty-six weeks; for women, the sum of 7s. 6d. a week throughout the whole period of twenty-six weeks.

Disablement benefit: the sum of 5s. a week for men and women alike.

TABLE B.—*Reduced Rates in the case of Unmarried Minors.*

Sickness benefit—for males, the sum of 6s. a week during the first thirteen weeks and the sum of 5s. a week during the second thirteen weeks.

for females, the sum of 5s. a week for the first thirteen weeks and the sum of 4s. a week for the second thirteen weeks.

Disablement benefit—for females, the sum of 4s. a week.

TABLE C.—*Reduced Rates for Persons over Fifty in certain cases.*

Where the insured person is over 50 and under 60 at the time of becoming an employed contributor—

For men, the sum of 7s. a week throughout the whole period of twenty-six weeks.

For women, the sum of 6s. a week throughout the whole period of twenty-six weeks.

Where the insured person is over 60 at the time of becoming an employed contributor—

For both men and women, the sum of 6s. a week for the first thirteen weeks, and 5s. a week during the second thirteen weeks.

TABLE D.—*Rates and Conditions for Married Women.*

Sickness benefit: during the first thirteen weeks, the sum of 5s. a week; during the second thirteen weeks, 3s. a week.

Disablement benefit: the sum of 3s. a week.

Sickness and disablement benefit shall not be payable during the two weeks before and four weeks after confinement, except in respect of a disease or disablement neither directly nor indirectly connected with childbirth.

PART II.

Additional Benefits.

(1) Medical treatment and attendance for any persons dependent upon the labour of a member.

(2) The payment of the whole or any part of the cost of dental treatment.

(3) An increase of sickness benefit or disablement benefit in the case either of all members of the society or of such of them as have any children or any specified number of children wholly or in part dependent upon them.

(4) Payment of sickness benefit from the first, second, or third day after the commencement of the disease or disablement.

(5) The payment of a disablement allowance to members though not totally incapable of work.

(6) An increase of maternity benefit.

(7) Allowances to a member during convalescence from some disease or disablement in respect of which sickness benefit or disablement benefit has been payable.

(8) The building or leasing of premises suitable for convalescent homes and the maintenance of such homes.

(9) The payment of pensions or superannuation allowances whether by way of addition to old age pensions under the Old Age Pensions Act, 1908, or otherwise.

(10) The payment, subject to the prescribed conditions, of contributions to superannuation funds in which the members are interested.

(11) Payments to members who are in want or distress including the remission of arrears whenever such arrears may have become due.

(12) Payments for the personal use of a member who, by reason of being an inmate of a hospital or other institution, is not in receipt of sickness benefit or disablement benefit.

(13) Payments to members not allowed to attend work on account of infection.

(14) Repayment of the whole or any part of contributions thereafter payable under Part I. of this Act by members of the society or any class thereof.

PART III.

Benefits for Married Women who do not become Voluntary Contributors at reduced Rates.

Payment of the sum of 5s. a week on confinement during a period not exceeding four weeks on any one occasion.

Payments during any period of sickness or distress, subject to regulations made by the Insurance Commissioners and to the discretion of the society or committee administering the benefit.

FIFTH SCHEDULE.

Section 10.

REDUCTION OR POSTPONEMENT OF SICKNESS BENEFIT AND
WHERE CONTRIBUTIONS ARE IN ARREAR.

TABLE.

(1)					(2)			
Where the arrears amount to					Rates of Sickness Benefit.			
					Men.		Women.	
					s.	d.	s.	d.
4 contributions a year on average					9	6	7	3
5	"	"	"	-	9	0	7	0
6	"	"	"	-	8	6	6	9
7	"	"	"	-	8	0	6	6
8	"	"	"	-	7	6	6	3
9	"	"	"	-	7	0	6	0
10	"	"	"	-	6	6	5	9
11	"	"	"	-	6	0	5	6
12	"	"	"	-	5	6	5	3
13	"	"	"	-	5	0	5	0
					5s. 0d. commencing 5th day after commencement of illness.			
For both Men and Women.					"	"	6th	" "
					"	"	7th	" "
					"	"	8th	" "
					"	"	9th	" "
					"	"	10th	" "
					"	"	11th	" "
					"	"	12th	" "
					"	"	13th	" "
					"	"	14th	" "

Notes.

Where the insured person is, by virtue of any of the provisions of Part I. of this Act, other than those relating to arrears, entitled to sickness benefit at a rate lower than the full rate, this Table shall have effect as if the entries in the first column were so shifted down that the first entry therein was set opposite the entry in the second column next below the entry specifying the rate of sickness benefit to which the insured person is entitled.

When the rate of sickness benefit during the first thirteen weeks to which the insured person is entitled

is, by virtue of any of the provisions of this Act, other than those relating to arrears, less than 5s. a week, this Table shall have effect as if such lower rate were therein substituted for the rate of 5s. a week.

Section 84.

SIXTH SCHEDULE.

LIST OF INSURED TRADES FOR THE PURPOSES OF PART II. OF THIS ACT RELATING TO UNEMPLOYMENT INSURANCE.

(1) Building; that is to say, the construction, alteration, repair, decoration, or demolition of buildings, including the manufacture of any fittings of wood of a kind commonly made in builders' workshops or yards.

(2) Construction of works; that is to say, the construction, reconstruction, or alteration of railroads, docks, harbours, canals, embankments, bridges, piers or other works of construction.

(3) Shipbuilding; that is to say, the construction, alteration, repair or decoration of ships, boats or other craft by persons not being usually members of a ship's crew, including the manufacture of any fittings of wood of a kind commonly made in a shipbuilding yard.

(4) Mechanical engineering, including the manufacture of ordnance and firearms.

(5) Ironfounding, whether included under the foregoing headings or not.

(6) Construction of vehicles; that is to say, the construction, repair, or decoration of vehicles.

(7) Sawmilling (including machine woodwork) carried on in connection with any other insured trade or of a kind commonly so carried on.

Section 84.

SEVENTH SCHEDULE.

RATES AND PERIODS OF UNEMPLOYMENT BENEFIT.

In respect of each week following the first week of any period of unemployment, seven shillings, or such other rates as may be prescribed either generally or for any particular trade or any branch thereof:

Provided that, in the case of a workman under the age of eighteen, no unemployment benefit shall be paid while the workman is below the age of seventeen, and while the workman is of the age of seventeen or upwards but below the age of eighteen, unemployment benefit shall only be paid at half the rate at which it would be payable if the workman was above the age of eighteen.

No workman shall receive unemployment benefit for more than fifteen or such other number of weeks as may be prescribed either generally or for any particular trade or branch thereof within any period of twelve months, or in respect of any period less than one day.

No workman shall receive more unemployment benefit than in the proportion of one week's benefit for every five contributions paid by him under this Act:

Provided that for the purpose of the foregoing paragraph—

- (a) in the case of a workman who satisfies the Board of Trade that he is over the age of twenty-one and has habitually worked at an insured trade before the commencement of this Act, there shall be deemed to be added to the number of contributions which he has actually paid five contributions for each period of three months or part of such period during which he has so worked before the commencement of this Act, up to a maximum of twenty-five contributions; and
- (b) where, owing to the fact that the wages or other remuneration of a workman are paid at intervals greater than a week, or for any other like reason contributions are paid under Part II. of this Act in respect of any workman at intervals greater than a week, that workman shall be entitled to treat each of such contributions as so many contributions as there are weeks in the period for which the contribution has been paid.

Any time during which a workman is, under Part II. of this Act, disqualified for receiving unemployment benefit shall be excluded in the computation of periods of unemployment under this schedule.

A period of unemployment shall not be deemed to commence till the workman has made application for

unemployment benefit in such manner as may be prescribed.

The power conferred by this schedule on the Board of Trade to prescribe rates and periods of unemployment benefit shall not be exercised so as to increase the rate of benefit above eight shillings per week or reduce it below six shillings per week, or to increase the period of unemployment benefit above fifteen weeks, or to alter the proportion which the period of benefit bears to the number of contributions paid, except by rules confirmed by an order made in accordance with the provisions of this Act relating to special orders.

Sections 85,
102, and 103.

EIGHTH SCHEDULE.

CONTRIBUTIONS FOR THE PURPOSES OF PART II. OF THIS
ACT RELATING TO UNEMPLOYMENT INSURANCE.

RATES OF CONTRIBUTION FROM WORKMEN AND EMPLOYERS.

From every workman employed in an insured
trade for every week he is so employed - $2\frac{1}{2}d.$

From every employer by whom one or more
workmen are employed in an insured trade,
in respect of each workman, for every week
he is so employed - - - - - $2\frac{1}{2}d.$

Provided that, in the case of a workman below the age of eighteen, $1d.$ shall be substituted for $2\frac{1}{2}d.$ as the contribution from the workman and from the employer, but, for the purpose of reckoning the number of contributions in respect of such a workman except as regards the payment of unemployment benefit before he reaches the age of eighteen, the $1d.$ shall be treated as two-fifths of a contribution.

Every such period of employment of less than a week shall, for the purposes of this schedule, be treated as if it were employment for a whole week, except that, where the period of employment is two days or less, the contributions both of the employer and of the workman shall be reduced to one penny if the period does not exceed one day and to twopence if it exceeds one day;

and, in such case, in reckoning the number of contributions under Part II. of this Act and the schedules therein referred to, contributions at such reduced rates shall be treated as two-fifths or four-fifths of a contribution as the case may require.

NINTH SCHEDULE.

Section 113.

PROVISIONS OF THE FACTORY AND WORKSHOP ACT, 1901, APPLIED TO SPECIAL ORDERS MADE UNDER THIS ACT.

80.—(1) Before the authority empowered to make special orders make any special order under this Act, they shall publish, in such manner as they may think best adapted for informing persons affected, notice of the proposal to make the order, and of the place where copies of the draft order may be obtained, and of the time (which shall be not less than twenty-one days) within which any objection made with respect to the draft order by or on behalf of persons affected must be sent to the authority.

(2) Every objection must be in writing and state—

- (a) the draft order or portions of draft order objected to;
- (b) the specific grounds of objection; and
- (c) the omissions, additions, or modifications asked for.

(3) The authority shall consider any objection made by or on behalf of any persons appearing to them to be affected which is sent to them within the required time, and they may, if they think fit, amend the draft order, and shall then cause the amended draft to be dealt with in like manner as an original draft.

(4) Where the authority does not amend or withdraw any draft order to which any objection has been made, then (unless the objection either is withdrawn or appears to them to be frivolous) they shall, before making the order, direct an inquiry to be held in the manner hereinafter provided.

81.—(1) The authority may appoint a competent and impartial person to hold an inquiry with regard to any draft order, and to report to them thereon.

(2) The inquiry shall be held in public, and any

objector and any other person who, in the opinion of the person holding the inquiry, is affected by the draft order, may appear at the inquiry either in person or by counsel, solicitor, or agent.

(3) The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

(4) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the authority.

(5) The fee to be paid to the person holding the inquiry shall be such as the authority may direct and shall be deemed to be part of the expenses of the authority in carrying this Act into effect.

(6) For the purposes of this schedule, the expression "authority" means the Insurance Commissioners or the Board of Trade, as the case may be.

APPENDIX.

INTERPRETATION.

The following provisions of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), (a), would appear to be material.

1. (1) . . . unless the contrary intention appears—

(a) words importing the masculine gender shall include females; and

(b) words in the singular shall include the plural, and words in the plural shall include the singular.

2. (1) In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, whether contained in an Act passed before or after the commencement of this Act, the expression "person" shall, unless the contrary intention appears, include a body corporate.

12. (2) The expression "the Treasury" shall mean the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.

12. (4) The expression "the Admiralty" shall mean the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being for executing the office of Lord High Admiral of the United Kingdom.

12. (8) The expression "the Board of Trade" shall mean the Lords of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations.

12. (11) The expression "Postmaster General" shall mean Her Majesty's Postmaster General for the time being.

12. (17) The expression "National Debt Commissioners" shall mean the Commissioners for the time being for the Reduction of the National Debt.

15. . . . (1) The expression "municipal borough" shall mean, as respects England and Wales, any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include reference to the mayor, aldermen, and citizens of a city, and any reference to the powers, duties, liabilities, or property of the council of a borough shall be construed as a reference to the powers, duties, liabilities, or property of the mayor, aldermen, and burgesses of the borough acting by this council.

15 (4) The expression "borough" when used in relation to local government shall mean a municipal borough as above defined.

18 . . . (1) The expression "British Islands" shall mean the United Kingdom, the Channel Islands, and the Isle of Man.

18. (2) The expression "British possession" shall mean any part of Her Majesty's dominions exclusive of the United Kingdom, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession.

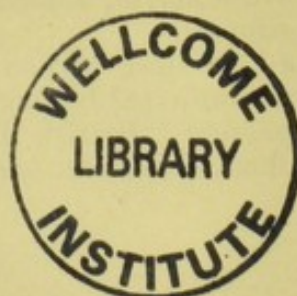
32. (1) Where an Act passed after the commencement of this Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

32. (3) Where an Act passed after the commencement of this Act confers a power to make any rules, regulations, or bye-laws, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations, or bye-laws.

36. (1) In this Act, and in every Act passed either before or after the commencement of this Act, the expression "commencement" where used with reference to an Act, shall mean the time at which the Act comes into operation.

36. (2) Where an Act passed after the commencement of this Act, or any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or bye-laws made, granted, or issued, under a power conferred by any such Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

37. Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or bye-laws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.



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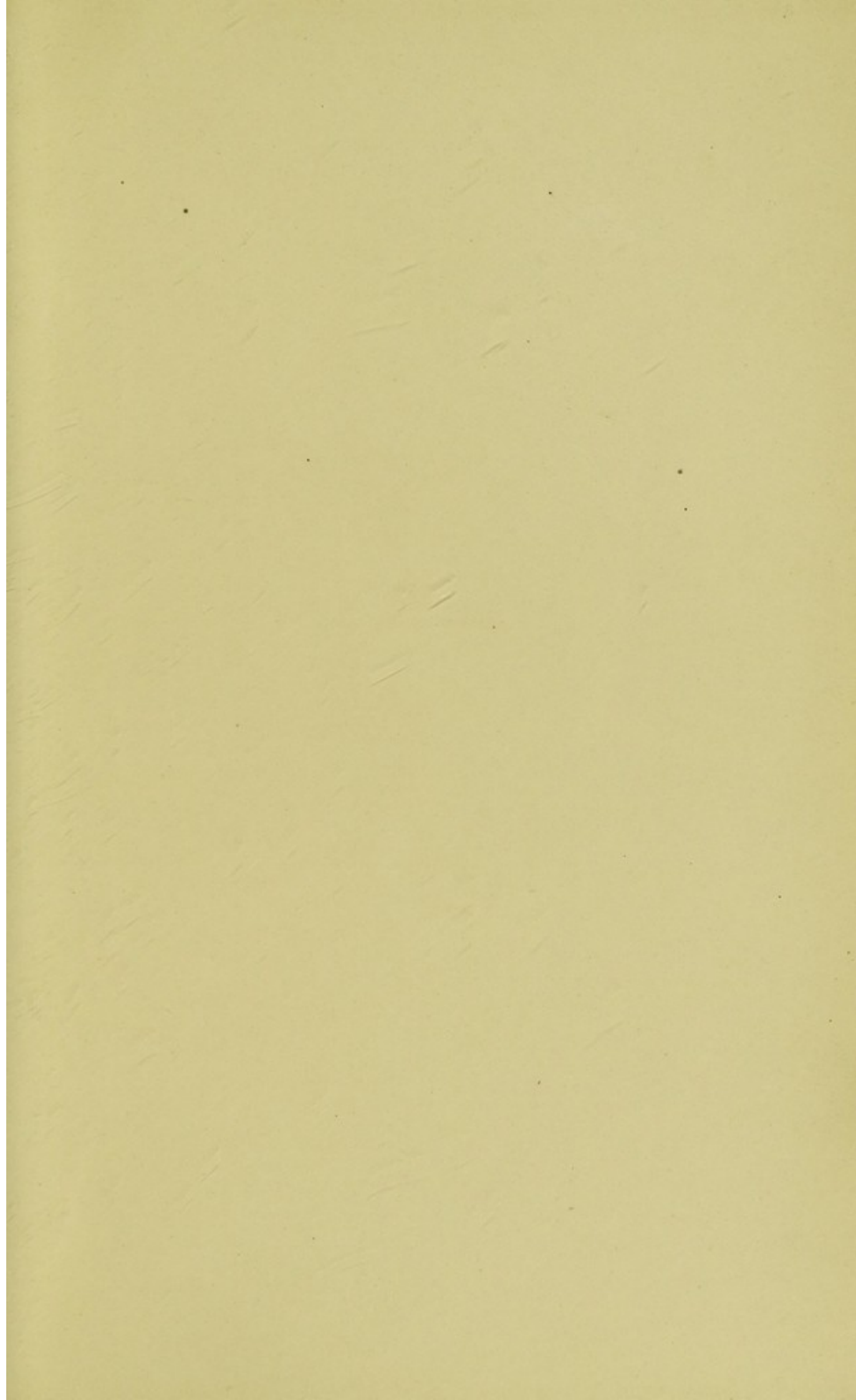
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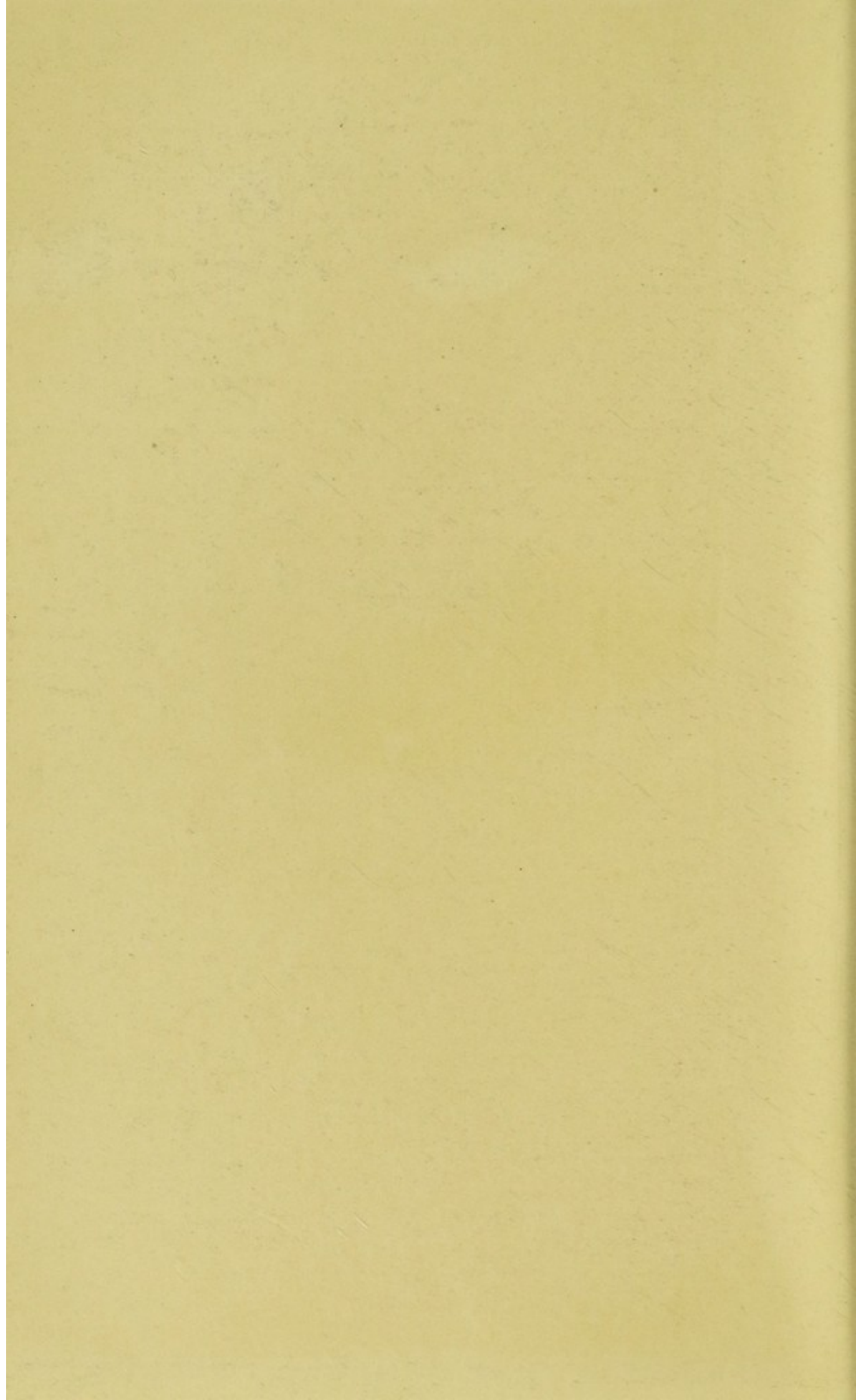
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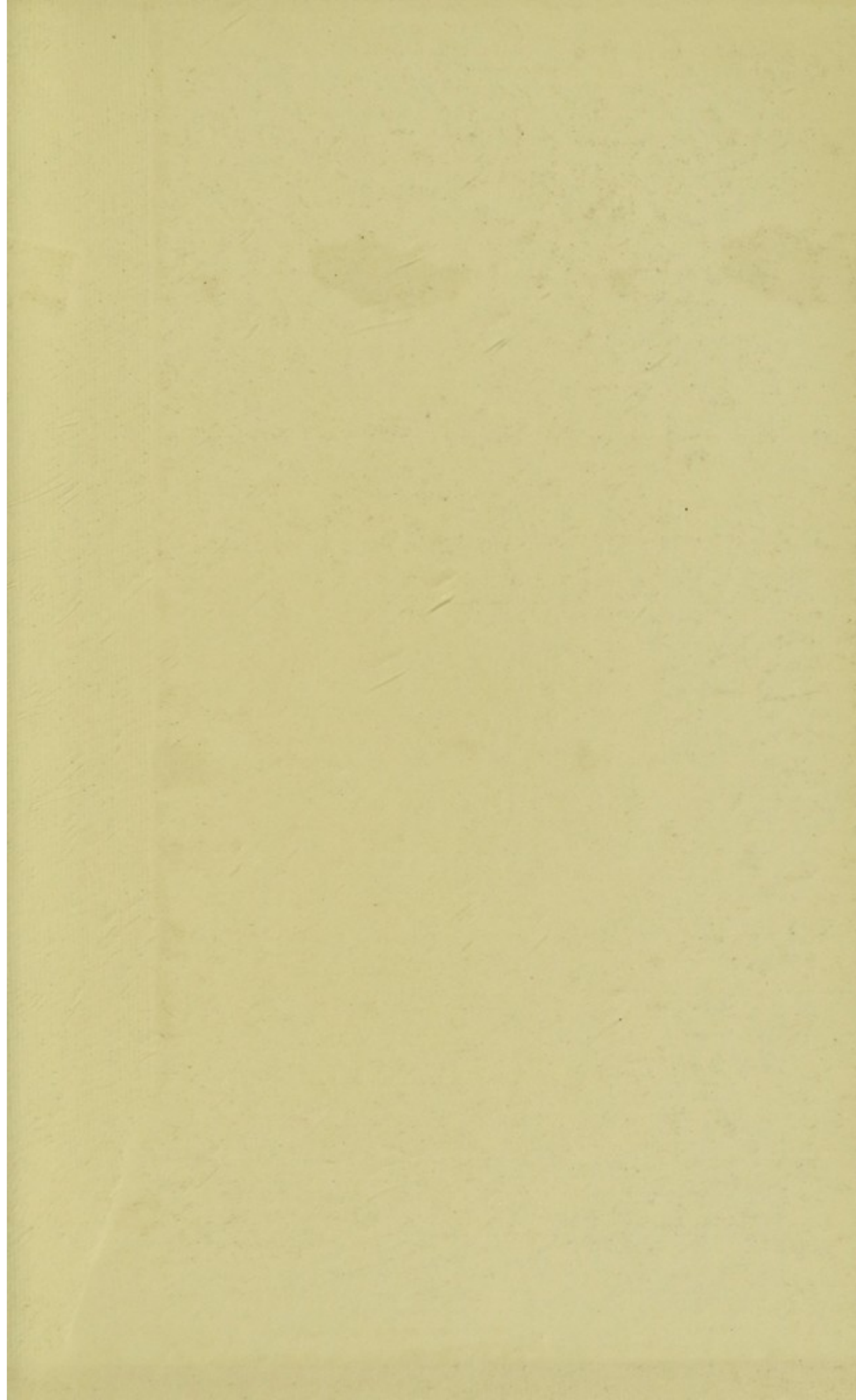
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