

seriousness of the situation. It is most likely—I think highly probable—that any magistrate or justice of the peace would be particularly anxious not to deal harshly with any person under the act; but the fact that an offender might find himself faced with the punishment of a fine of only \$5 or \$2 would be to create a very great wrong against his fellows. And it is to deter him from that that this provision is inserted. The very observations made by the hon. gentleman support the view I have expressed, because he himself says that it is a very severe penalty. Now, the whole purpose of the act is not to punish but to deter, and if the hon. gentleman keeps that fact in mind he will have no difficulty, I think, in reconciling this section with his views.

Subsection 2 agreed to.

Subsection 3 agreed to.

Section agreed to.

On section 32—Power to take and conduct proceedings.

Section agreed to.

On section 33—Civil proceedings by employee against employer for neglect to comply with act.

Mr. NEILL: I would direct attention to the latter part of subsection (1), in which it is provided that if an employer has neglected to pay the sums he collected from his employee, and the employee in consequence thereof loses the benefits for which he paid and to which he is entitled, the employee shall be entitled to recover from the employer as a civil debt a sum equal to the amount of unemployment benefit so lost. That would arise only where an employer deducted the money properly from his employee and failed to hand it over, and it would be a rare occurrence; it would almost always happen in some fly by night company on the eve of bankruptcy. In that event liability for a civil debt to the employee would be of no use at all to the employee, and an injustice would be done which would make the act very unpopular among a large section of people to whom it had been heralded. I hesitate to venture into the realm of law, but is there not some provision in connection with chattel mortgages and also the transfer of notes, providing for what is known as the protection of an innocent purchaser? Could not the employee be held to be in the same position, in which event

his remedy would not lie in a civil debt against the delinquent employer but he would collect the benefit for which he himself had actually paid, and the commission would either stand the loss or proceed against the defaulting employer? I submit that question to the Prime Minister.

Mr. BENNETT: As a matter of fact, this does not lessen or abrogate the right to proceed criminally against the employer if he has wrongfully converted to his own use moneys collected. This deals with the case of default that is short of criminality and at the same time lays the foundation for an action to recover the amount. The point made by the hon. gentleman is a technical question, but it would disturb the actuarial basis of the fund if to any substantial extent moneys were paid to a claimant when contributions had been made only by one party, the state, and none by either the employer or the employee. The fact that the employer has stolen the proceeds shall not operate against the employee's recovering them. The commission, I fancy, will exercise under its powers extreme care with respect to matters of that kind. You cannot always guard against the weaknesses of the human element in any of these matters. I think the hon. gentleman has had experience enough to know how extremely difficult if not impossible it is to guard against every contingency of that nature. I think the measure contemplates that the greatest promptness shall be exercised, because we are down to the weekly benefit, the lowest unit which could be used. I quite appreciate the point raised by the hon. member, but I do not think it can be dealt with in the way he suggests.

Mr. NEILL: I was not worrying about the legal aspect or the liability for a criminal offence. It simply means that this man after paying, for months, perhaps for years, believing in the integrity of his employer, claims the benefit and is refused with the statement that he should sue somebody who is a thousand miles away and has disappeared. Such a thing will make the act seem horribly unfair to the people it is supposed to benefit. The Prime Minister says that the actuarial basis of the measure might be disturbed, but such a thing will happen very seldom and it will be quite easy to take that into consideration in drawing up the basis. It is one of those things that will be regarded as grossly unfair to the employee, and it is not going to affect to any substantial extent the financial element in the fund itself.