

Mr. GREEN: There is one question I should like to ask about subsection 4. It defines when an insured is to be deemed totally and permanently disabled. I am not clear whether that means that he cannot get payment until he has been disabled for a year, or whether that is an additional definition to the words up in subsection 1—which say when he has become totally and permanently disabled and thereby rendered incapable of pursuing his occupation and so on. It looks to me as though he cannot draw these benefits unless he has been disabled for a full year—and that seems to be going too far.

The CHAIRMAN: It also involves a waiver of premium.

The WITNESS: The intent, sir, is that if a man is obviously totally and permanently disabled he will commence receiving benefits right away. But, if it is not certain, as is the case with many people—for instance those with tuberculosis whom we know are totally disabled but we are not sure they are permanently disabled—they will be deemed to be permanently disabled after one year, and benefits will then commence.

Mr. GREEN: Then should you not have some words inserted in this subsection 4 which would set out that they are over and above the provisions in subsection 1?

Mr. BURNS: That was the understanding when the amendment was brought in.

Mr. GREEN: I think that it would be interpreted the other way.

Mr. BURNS: I am informed, sir, that this was drawn to the attention of the Department of Justice and they were of the opinion that the wording as it now stands would have that effect—that is to say that this is a provision which operates in cases other than those where it could clearly be established by medical opinion that the disability was permanent.

Mr. GREEN: Why does it not say: “in addition to the provisions of subsection 1 the insured shall be deemed”?

Mr. BURNS: We were advised that it was not necessary.

Mr. GUNN: It is merely a declaration there to remove any possible doubt. Doctors might be in doubt about the condition of the insured at a certain time yet this gives certain leeway.

Mr. BROOKS: There are two classes. There are those whom the doctors would know are permanently disabled, and then there are those whom they do not know about, and they say those should stand for a year and after that they are permanently disabled—after that year's time. They will then be considered as permanently disabled. It does not keep the first class from obtaining their rights immediately.

Mr. GREEN: For example, if you had the word “also” it would read: “the insured shall also for the purposes of this section, be deemed to be totally and permanently disabled where his total disability has existed continuously for a period of at least one year.” That would make it absolutely clear that subsection 4 does not restrict subsection 1.

Mr. CROLL: Mr. Green, in reading the section I came to the same view you did and I was going to raise the question too, but now that they have had it before the Department of Justice and Justice has given it consideration, I am a little hesitant about interfering, because Justice had read in the light of all the circumstances. I think we are better off to leave it alone, now that the question has been raised and it has been brought before Justice. I interpreted it the same way you did.

The CHAIRMAN: As a non-lawyer, is it not true there are two groups being dealt with here? There is one group who are determined to be totally disabled immediately the situation arises, and then another group about which the medical people are not prepared to give a decision that the disability is permanent and