

28. *The Chairman.*] Still, you admit that you have a legal claim: you could sue Barton for the amount if there was sufficient money paid to him by the Crown?—Yes.

29. *Mr. Hine.*] Was Mr. Barton in treaty with the insurance company?—No. Barton's connection with us was an exceedingly friendly one, and when we saw him inquiries were passed as to his health.

30. I mean, with regard to giving him assistance to fight the Crown?—No, only with regard to expenses in connection with his appeal to the Court. He wanted to go to Court in order to fight for his rights, and the South British Insurance Company handed him the money to do so. The thing was promised before we had time to consider what should be put in the agreement.

31. *The Chairman.*] At whose solicitation was this promised?—I think it was a collective thing between the Town Clerk, myself, Barton, and all those who took an interest in Barton's case.

32. *Mr. Newman.*] So the company thought he had a claim for £150, even though he had not made his claim within three months, especially as he was a worker for one of your best clients?—Yes, you can put it in that way.

33. It is suggested that you could, although it is a small claim, get the £150 back?—In drawing the clearances I put in all the usual stipulations and conditions, the same as in many other cases.

34. *Mr. Hine.*] Was notice given to your company by the Corporation directly the accident happened?—Yes, I suppose it would be by the Corporation.

35. Within the twelve or fourteen days?—Yes.

36. They intended to hold you liable?—That is a formality.

37. If a man lets a week elapse before he makes his claim he loses his opportunity, and in ninety-nine cases out of a hundred the insurance companies shelter themselves under that?—I have never heard of that.

38. That is the legal position?—Yes, I suppose it is, but I have never known it to arise.

39. Still, the Corporation would notify your company?—Yes.

40. What would the next step be?—I suppose the expenses for the Court. They could only claim under the Workers' Compensation Act. Barton had no intention of claiming under that; therefore everything died.

41. It is not necessary to go to the Arbitration Court, is it?—No.

42. You can agree by a friendly settlement?—Yes.

43. The mere fact of Barton bringing a case against the Crown would not exempt your company?—No.

44. Therefore, why were proceedings stayed against your company?—I do not follow the question. The accident happened, and he had a claim under the Workers' Compensation Act, the time for which elapsed—

45. Why?—Barton did not sue; he hoped to get his case under the common law. He took his option. He could not go for both under the old law. He could only exercise his option either at common law or under the Workers' Compensation Act. He was suing the Crown, and therefore dropped his claim under the Workers' Compensation Act.

46. By Barton suing the Crown you said it did not affect his position?—I did not understand the question. He technically, what we call, exercised his option.

47. *Hon. Mr. T. Y. Duncan.*] Was any instruction given to you by the Corporation, or to the Corporation by you, advising Barton to take this course?—No; I do not think Barton's name cropped up, except in relation to inquiries as to his health, for a few months. The Corporation concluded that he was going to take his case under the common law.

48. I wanted to know, if it is possible, how the three months were allowed to elapse by the Corporation, and how Mr. Barton was permitted to allow his claim against the insurance company to lapse?—The history of the case would be the best reply. After Barton's accident his brother took up the running and informed us that his uncle was going to take the case to the Supreme Court under the common law, and then all rights under the Compensation Act ceased. You cannot sue under both. He took his option. (To Mr. Barton): Is that so.

*Mr. Barton:* That is so.

*Mr. Hammond:* I trust I have made the matter quite clear. I did not at first see the point. And if there is any idea that we intend to pinch anybody hereafter, I may say that that never entered our minds.

49. *Hon. Mr. T. Y. Duncan.*] But under the common law he might have got more money?—Yes, that is so.

50. That being so, the Corporation paid him his wages and kept him quiet. But what I thought was that they expected to get out of their liability. I did not know that it was his brother who advised him?—I never saw Barton until months afterwards, and I did not see the Town Clerk. Our whole attitude, I am quite convinced, is that if Barton offered any payment under the bond, a couple of guineas would cover the whole thing. It is an amateur-drawn deed, and I do not think it amounts to anything.

51. You admitted that he was legally bound?—Yes, but it was an amateur bond. So little value did I put on it that I did not get a lawyer to draw it.

52. *The Chairman.*] If he has legally signed it, he has promised to pay you £150?—Yes, that is clear.

53. And you sent a representative with the document and the cheque to the solicitor's office?—It was only one of the juniors who took the document over.

54. If Barton had not signed the document, would the cheque have been left for him?—Certainly.