leg. During the course of treatment the doctors discovered that the man's heart was very weak, and had it not been for the condition of the heart it was considered that the man would have recovered. The doctors are even now of opinion that if the man would undergo a slight operation the fits of vertigo to which he is subject would disappear; but the man, knowing that he has heart disease, will not take an anæsthetic. The employers in that case have paid full compensation—the Union Steamship Company are the employers—and they might have brought the man before the Arbitration Court. The Court would say that the man could not be compelled to go under the operation. The new provision, however, will place the responsibility on the Court.

10. *Mr. Hardy.*] How would you stop malingering: it is for that?—No, the Act of 1900 has made full provision for that, and this Bill contains the same provisions. The Second Schedule to that Act contains a provision that an employer can require a worker to be examined by a doctor, and if he refuses to be so examined he disentitles himself to compensation (sections 5 and 6). There was a case in Scotland where a man was injured, and the doctors were unanimously of opinion that if he would take walking exercise and allow his leg to be massaged he would recover. He refused to do either, and the Court held that he was disentitled to compensation. That is the only authority I can find on the subject. There is no doubt, however, that a worker is under a moral duty to take care of his injury and to follow medical advice. Clause 15, relating to agreements, ought, in my opinion, to be struck out. That is something entirely new, and, I think, would open the door to very grave abuses. Clause 16 goes with it, because it is the machinery part. In practice it would mean that employers would endeavour to induce their men to sign these agreements, and in my opinion it is not a fair position to place any working-man in. I propose now to refer to some amendments I have prepared which I think would make a very desirable improvement in the Bill, and in order to assist the Committee I have put these amendments into form and have given reasons in support of them. I would first refer to the memorandum giving a digest of the Bill by the Law Draftsman. The last line of the memo. says, "But he cannot sue his employer for damages merely because of the negligence of a fellow-servant." I want to explain to the Committee what that means, and why I think it is a very objectionable principle. The meaning of that is this: At common law, if a claim is made against an employer, one of the defences open to the employer is that the accident which caused the injury to the worker was due to the negligence of a fellow-servant. That is the meaning of the term "common employment." The doctrine of common employment, shortly put, means this: that where a worker is injured by the negligence of a fellow-servant who is in the employment of the same employer, then the injured worker cannot recover compensation from his employer. The great maxim of the common law is *respondent superior*—that is to say, a man who puts another in his place to do anything is liable for all injury caused by the negligence of that person. To this rule the doctrine of common employment is an exception, as if a man is injured or killed through the negligence of a fellow-servant in the same employment the employer is not liable at common law. Now, if this Bill passes into law two courses will be open to the worker: he will be able to sue under the Workers' Compensation Act, to which the defence at common law does not apply; or he will be able to sue at common law, in which term must be included the Deaths by Accident Compensation Act of 1880. The reason why he may prefer to sue at common law is that he may sue for any amount the jury may give him. The sole advantage of the Employers' Liability Act was that within the limits to which the Act applied the defence of common law was excluded. Section 3 of the Employers' Liability Act of 1882, especially the last four lines of that section, says that if an injury occurs to a worker he will have the same remedy as if he were not a worker. Now, of course, the Employers' Liability Act will be repealed, and only these two courses will be open to the worker. The defence of common employment is really a new thing. It is a piece of Judge-made law. It was never heard of in England or anywhere else until 1837, in the case Priestley *v.* Fowler. The doctrine was not finally developed until the year 1892, when Johnson *v.* Lindsay was decided, and the House of Lords decided that where a worker was injured by a fellow-worker who was not working for the same employer the defence did not apply. I may say that the Courts have given a very wide interpretation to the meaning of the term "fellow-worker." The foreman in charge of works would be a "fellow-worker."

11. It would not apply to a case where a man sends a wagon to another place to get a load of straw, and the man in the saleyard employs another man to load up?—No.

12. The two men would not be in common employment?—No.

13. A man is driving a traction-engine with another man, and through the fault of one the boiler explodes: would not the employer be responsible?—No, not at common law, unless it could be proved that he knowingly employed an incompetent man. I may say that no jurist writes in defence of the doctrine of "common employment." But I can refer you to one who condemns it very strongly, and his book will be found in the Library—"Ruegg on Employers' Liability" (Chapter I). The amendment I suggest is this: "From and after the coming into operation of this Act, if and when compensation for death or injury is claimed independently hereof, it shall be no defence that such death or injury was caused by the negligence of any fellow-servant of the deceased or injured worker." I think that will remove a brutal blot from the law and only be doing simple justice. The next amendment I propose is, "In connection with agreements made by and between any claimant and his employer or by and between any claimant and his employers' insurers, in settlement of any claim for compensation, whether under this Act or independently hereof, the following provisions shall apply: (1) No such agreement shall bind any claimant unless or until it can be shown that he signed the same with the approval of a solicitor; (2) no such agreement shall bind the dependants of any claimant unless and until they shall have concurred therein in writing with the approval of a solicitor: Provided that such concurrence shall not be required on the part of dependants who are infants at the date of such agreement." That amendment does not go as far as it appears, and it means no more than simple justice. I will give a case in point: A man is working for an employer in a quarry; a stone rolls from the face of the