

either of the employer or a fellow-servant he can take his weekly payments under the Workers' Compensation Act and then afterwards bring an action for damages under the common law; but if he recovers damages in that action the amount paid in weekly payments goes in part satisfaction of the damages awarded. He does not preclude himself from claiming damages merely by accepting payments under the Workers' Compensation Act. These Bills propose to extend the same principle to mining accidents.

So that the miners will enjoy no other special privileges above other workers than they had before the Workers' Compensation Act came along?—Quite so. The special provisions in the Coal-mines Act and the Mining Act have been in operation all the time since 1874.

*Mr. Myers:* I think you have stated that in your opinion the laws relating to mining and compensation to workers should be brought into harmony: is that your view?—Yes.

What you object to, apparently, in the Workers' Compensation Act is the restriction to £500: you object to the maximum of £500?—Exactly—as the measure of damages for a fellow-servant's negligence.

You are aware, I take it, that there is a Bill before Parliament at the present time having for one of its objects the increase of that maximum from £500 to £750?—I am not aware of that, but I know it has been suggested.

If that were done would that comply with your views?—No, because £750 would still be too low. Take the case of the boy who lost his legs: I got £1,000 for him.

I think you stated that you would be agreeable to the repeal of those sections in the Coal-mines Act and the Mining Act if the maximum compensation payable in the case of an accident under the Workers' Compensation Act were increased?—What I stated was that if the defence of "common employment" was abolished generally I would have no objection to the repeal of those sections.

I will put the question in another way: You would be agreeable to the repeal of section 60 of the Coal-mines Act and sections 267 and 268 of the Mining Act if the amount of compensation payable to miners, in case of accident, under the Workers' Compensation Act was not limited to £500?—Yes, quite so.

You have made a statement that section 60 of the Coal-mines Act and section 267 and 268 of the Mining Act were first made law in 1874?—Quite so.

At that time there was no Workers' Compensation Act in existence?—No.

And no Employers' Liability Act?—Quite so.

And no Lord Campbell's Act?—Not at all.

It was in 1874 that this special legislation in connection with miners was started?—That is quite right.

And since then there has been passed the Workers' Compensation Act, the Death by Accidents Compensation Act, and the Employers' Liability Act (which has been repealed), and the defence of common employment has been eliminated?—Within certain limits, yes.

Within a certain amount?—Yes.

I suppose you will agree that there is not the same necessity for these special provisions relating to coal-miners and other miners now as there was in 1874?—I do, but I say they are still necessary.

You know, Mr. O'Regan, that according to the provisions of section 307 of the Mining Act miners can claim damages before the Wardens' Courts?—Yes.

And that the case would be tried by the Warden and by the assessors?—Yes.

And the panel of assessors is limited to a maximum of fifty?—That is so.

And when the case comes to trial the parties are limited to two challenges?—That is right.

And the assessors, as a rule, are miners, are they not?—Yes, that is specially provided.

Do you think that is fair to the employers?—Yes, I think so. It is much more reasonable than having a special jury composed of, say, land agents and shopkeepers, to try a wharf accident.

I am not referring to a special jury. In the case of a common jury you would have a panel composed of both employers and employees?—Yes.

Well, you do not get that in the Wardens' Courts?—They are practical miners, and some of them are shift bosses or underviewers.

Speaking generally, you do not advocate employers on the panel at all?—Yes, that is correct.

What is the difference between the conditions of ordinary miners and the conditions of coal-miners?—They differ in many respects, but they have much in common.

They have much in common, but they differ in many respects?—Yes. Tunnelling is just the same.

And yet, as you know, by reason of a paragraph inserted in the Coal-mines Act of 1905 coal-miners were then excluded from taking their cases to the Wardens' Courts in case of accident?—That was a paragraph which was evidently inserted in that Act inadvertently.

Do you place any real value upon these sections of the Mining Act which require these claims to be brought before the Wardens' Courts? Would you be prepared to place miners in the same position as any other workers, and have their claims tried in the ordinary Courts of the land?—I would not object, subject to an unlimited right to bring an action for damages without the defence of common employment being allowed. I would then have no objection to the cases being taken in the Supreme Court.

I take it that, so far as you are concerned, you would have no objection to section 307 of the Mining Act being amended by a new proviso something like this: "Provided that no claim for compensation or damages in respect of any accident shall be cognisable by the Warden's Court"?—Yes, something to that effect.

You would have no objection to such an amendment as that in the Mining Act?—No, provided miners can claim unlimited damages in the other tribunals.

I take it that if the amount of compensation would still be unlimited you would have no objection to such an amendment as I have proposed to section 307 of the Mining Act?—No; under those circumstances I would have no objection.

You think that would be quite fair?—Yes, quite fair.

So that really, Mr. O'Regan, I may take it that the main question between us is this: that while you agree that the miners should be brought under the same tribunals as other workers, you claim that miners should retain the right to claim any sum as damages in case of accident, and that they should not be limited to a maximum of £500?—Quite so.

That is really the position you take up?—Yes.