

And you would like to bring all workers into the same position as the miners?—Exactly, in that respect.

You wish to bring the law respecting miners into harmony with the law respecting other workers on that one point?—Yes. I think what I have suggested is perfectly clear. I quite agree that in consequence of the passing of the Deaths by Accidents Compensation Act, 1880, the Employers' Liability Act in 1882, and of the Workers' Compensation Act, 1908, there is not so much reason for these special sections originally provided by the Regulation of Mines Act of 1874, but I submit that it would be unfair to take away from the miners the right granted practically half a century ago of claiming unlimited damages. Preserve their rights in that respect, and I would have no objection to advising the miners of the country to agree to all you suggest.

Presumption of negligence on the part of the miner is not now of such importance?—It is practically of no importance nowadays.

Mr. M. MYERS examined.

*The Chairman:* Whom are you representing, Mr. Myers?—I ask leave to represent the New Zealand Employers' Association.

Will you make a statement?—Yes, sir. The point of view which I desire to submit will have become apparent to the Committee from my examination of my learned friend Mr. O'Regan. It must not be assumed for a moment that the federation which I am representing is in the least degree antagonistic to the miners. The Employers' Federation merely desire to have the law relating to one class of labour brought into harmony with the law relating to all other classes of labour, and to that extent my friend Mr. O'Regan and I are in agreement. Now I will endeavour to show the Committee that what we are asking for is nothing but what is fair and reasonable. Mr. O'Regan has admitted quite frankly that there is not now the same importance in the provisions contained in section 60 of the Coal-mines Act and section 267 and 268 of the Mining Act as there was at the time that legislation was originally passed. He has admitted that there is no practical importance now whatever in retaining those provisions. So we start off with the fact that there is no importance now in retaining the provision to the effect that an accident in a coal-mine or a gold-mine is *prima facie* evidence of negligence on the part of the owner. Now, what I wish to point out to the Committee is this: When this legislation to which I am referring—I am speaking now of the special provisions in the Mining Acts—was first passed in 1874 there was no Employers' Liability Act, there was no Deaths by Accidents Compensation Act, and there was no Workers' Compensation Act; and the defence at common law, the defence of "common employment," was available to the employer. That was the position which the miners had to face prior to the year 1874, and it was in order to remedy that position that this special legislation was passed. But what is the necessity for that legislation now?—Since then there have been passed the Deaths by Accidents Compensation Act, the Employers' Liability Act (which by reason of later legislation became unnecessary and has been repealed), and that humanitarian measure the Workers' Compensation Act, 1908. With regard to the Deaths by Accidents Compensation Act, I wish the Committee to note that it gives the legal representatives or the dependants, as the case may be, of a worker who sustains a fatal accident a right of action against the employer in a case where the accident was caused by negligence for which the employer is liable, and the amount of damages in such an action is entirely at large, irrespective of the common-law defence of "common employment." The miner can claim under two different sets of legislative provisions, and has an additional privilege over any other worker. He or his representatives can claim under the Workers' Compensation Act or the Deaths by Accidents Compensation Act, or he can claim under the Mining Acts. He has retained his privileges under the Mining Acts notwithstanding the passing of the subsequent Acts.

*Mr. Parry:* That is because of the dangerous nature of his employment?—I do not agree with that. The fact is that in 1874, when this legislation was first passed, the question of limiting the amount of compensation was probably not considered or thought of. The object then was to give a general right of action.

In special consideration of the nature of the miners employment?—Oh, no: that is wrong. Mr. Parry wishes to make out that this right of claiming without any limit was given to the miners because of the special nature of their employment. That is not the case. At the time when this right was given to the miners there was no comparison with other workers at all, because there was then no Workers' Compensation Act. A comparison between the miners and other workers did not therefore arise. The object of the Act was simply to give miners the right to bring an action in case of injury and to claim damages, and the question of limiting the amount probably was never considered. So that it cannot be said that it was a special privilege given to the miners because of the dangerous nature of their employment. And the fact that miners have not been given any special privileges since, as against other workers, shows that it has been the intention of the Legislature to adopt the common-sense procedure of placing all workers as far as possible on one and the same footing. The miner now has this right as compared with any other worker: he has the right, in the event of an accident occurring to him through the negligence of the mine-owner, or the mine-owner's employees, to bring an action for damages, without being limited to a maximum of £500. That is the one privilege or right that the miner has over and above the rights and privileges of any other worker. Now Mr. Parry wishes to extend this privilege by his Bill. As I have explained, this privilege was not given by the Legislature to the miners as against other workers, and consequently if Mr. Parry or anybody else desires to extend this privilege of the miners, we are not entitled to say that the miners should be given the extended privilege only on the condition that they are brought into line in every respect with other workers? Are we not now entitled to say that all workers should be included in the same legislation, and that we should no longer have one Act dealing with miners and another Act dealing with workers other than miners? I now come to the question of the tribunal, and in that respect Mr. O'Regan has agreed with me to a certain extent. He admits that it is not fair or reasonable that the provisions of paragraphs (m) and (n) of section 307 of the Mining Act should remain; and, gentlemen, neither it is. The effect of that paragraph, and of all the other paragraphs that operate with it in the Act, is this: that it gives to the Warden's Court an exclusive jurisdiction, and it ousts the jurisdiction of the Supreme Court, in all claims by miners in connection with accidents. This applies when the miner is claiming damages and not compensation under the Workers' Compensation Act, and it applies whether the accident is a fatal accident or not, with one sole