

exception. The sole exception is that, if it is a fatal accident, and the claimant is a person other than the legal representative of the deceased miner then the action has to be brought in the Supreme Court and not in the Warden's Court. But for all practical purposes the Committee may take it that the miners are able to carry their claims to a special tribunal, and, although I do not say it in any way offensively, I say that that tribunal is a biased tribunal. It is biased naturally—it is biased by the very nature of the employment of the assessors, and the fact that the person who is making the claim is a fellow-worker, perhaps an intimate of their own. The bias may not necessarily be a conscious bias: it may be a quite unconscious bias. The assessors are part of the Court, and if the assessors come to a certain conclusion the Warden has no power to reverse that conclusion or to give a judgment of his own. With respect to an ordinary jury, as everybody knows, the panel is a very large one, and it consists both of employers and employees alike, and there is the right of six challenges on each side. When you get a jury in the Supreme Court you get a jury of mixed ideas, but you do not, and you cannot, by the very nature of things, get that under the Mining Act in the Warden's Court. You have a limited panel to begin with. Practically speaking they are all working miners. And not only that, but each side is limited to two challenges. And you also have gold-miners trying matters affecting coal-miners, while the nature and conditions of the gold-mining industry are in many respect quite different from those of coal-mining. The result is therefore that you have a tribunal which Mr. O'Regan himself practically admits is not satisfactory. He has stated candidly that so far as he is concerned he would be quite agreeable to the addition of a proviso to section 307 of the Mining Act reading as follows: "Provided that no claim for compensation or damages in respect of any accident shall be cognisable by the Warden's Court." Very well, that is one of the amendments I ask this Committee to make to the Mining Act, or to insert in the Bills now on the table for consideration. Now I come to a point where Mr. O'Regan and I differ. He says he is prepared to agree to that amendment to section 307, but I go further: I ask that not only should that proviso be inserted in section 307, but that sections 267 and 268 of the Mining Act, and section 60 of the Coal-mines Act, should also be repealed. Section 60 of the Coal-mines Act corresponds to sections 267 and 268 of the Mining Act. I have already explained to the Committee the reason why these sections are no longer of any importance, and Mr. O'Regan has candidly admitted that they are no longer of any importance. He admits that there is no importance now in retaining the provision to the effect that an accident in a mine is *prima facie* evidence of negligence on the part of the owner, which is contained in these sections. These sections entitle the miner, in case of an accident which is not a fatal accident, to claim any amount he likes, whereas if those sections are cut out he would be able to claim in such a case not anything he likes, but up to a maximum of £500 or such other maximum as may be provided by the law for the time being. I believe the maximum proposed in Mr. Howard's Bill is £750. I may say that I have just been informed by Mr. Pryor, the secretary of the Employers' Federation, that the Minister has intimated that he intends himself to bring down a Bill for the purpose of, among other things, increasing the amount of compensation, but to what extent of course I do not know. So that if these sections are cut out, as I ask that they should be cut out, then the miner will be placed in the same position as any other worker. All workers would then have equal rights and privileges, and would be entitled to claim up to a maximum of £500, or whatever amount may be decided upon by Parliament from time to time by appropriate legislation. If the Committee is prepared to make recommendations in accordance with my suggestions, then we are quite prepared to agree to the provisions in these Bills.

*Mr. O'Regan:* They would then be unnecessary?—Yes, you are quite right. They would then be unnecessary, because the adoption of my suggestions would give the miner the right or privilege proposed to be given him by these Bills.

*Mr. Holland:* You are referring to the Mining Amendment Bill and the Coal-mines Amendment Bill?—Yes. They are both practically the same. They both stand on the same footing. At the present time the employer, with regard to miners, is placed in a somewhat difficult position. He can only insure up to £500: that is to say, he can only insure miners up to the same limit of £500 as he can insure any other worker, whether at common law or in any other way.

*Mr. Parry:* That applies to all employers?—Yes, that is my argument. In the case of every employer the maximum compensation he can insure for is £500, and we want that maximum to apply to all employees. We want to place the miners on the same footing as any other workers.

*Mr. Seddon:* With respect to the Watterson v. Westport Coal Company case, what do you suggest with respect to that kind of a case, from your point of view?—If the Committee asks me for a suggestion I should say, repeal those sections I have mentioned and also amend section 307 with respect to the Warden's Court, and then the position will be precisely the same in regard to the miners as in regard to any other class of workers, and the position which arose in the Watterson case could not happen.

And what would be the effect of Mr. Parry's Bill?—The effect would be the same under Mr. Parry's Bill so far merely as Watterson's case is concerned.

*Mr. Horn:* Do the employers really think that £500 is sufficient for a widow and family, say, of eight children?—You have not appreciated my point. If the man dies, then the maximum of £500 does not apply.

Supposing the man does not die, but is most seriously injured and incapacitated: do you contend that £500 is adequate compensation?—That £500 limitation applies to everybody else.

Well, now, supposing the woman and her children get that £500. Her husband may not be dead, but he may be very seriously injured and incapacitated. What is going to happen when that £500 has been paid?—The same as might happen in any case. Take the case of any worker that is injured and recovers damages, say, to the extent of £400, and subsequently finds that his injuries are more serious than he at first thought. Could he claim a further amount?

*Mr. Horn:* I cannot answer a question of that sort. It is a legal question which might arise under the Workers' Compensation Act, and I am unable to answer it. Of course, you understand the position?—Well, our experience—the experience of the legal profession—is that often what we call "common-law" claims are made which should really be made under the Workers' Compensation Act. That kind of thing should not be encouraged. Give the worker compensation by all means; give the worker damages for negligence by all means; but do not unnecessarily encourage the bringing of actions for damages higher than the amount for which compensation should be paid.