

You contend that the assessors are likely to be biased?—That is only part of the reason. The fact is that the Warden's Court is not satisfactory from any point of view. You are dealing with claims which have to be made in a Court of law, and the first thing is to see that justice is done. What we are trying to do is to secure what looks like the fairest possible way of seeing that justice is done.

You say that common-law cases should not be encouraged?—Yes.

If a miner meets with an accident, and brings an action at common law and fails, can he then claim compensation under the Workers' Compensation Act?—I am glad you have mentioned that. There is a difference between the ordinary worker and the miner, and the difference is this: an ordinary worker can bring an action in the Supreme Court for damages, and if he fails the Supreme Court has the jurisdiction, and exercises it, of awarding him compensation under the Workers' Compensation Act. The miner has no such right. The miner brings his action in the Warden's Court for damages, and, as the Warden's Court has no power to grant compensation under the Workers' Compensation Act, that compensation cannot be granted to him.

If he fails in the Warden's Court what can he do?—He can do nothing.

Would not this Bill get over that difficulty?—No; my suggestion would, but this Bill would not. The ordinary worker can bring an action for damages at common law in the Supreme Court, of course, basing his claim upon negligence, and if he fails in that the Supreme Court can still give him compensation under the Workers' Compensation Act. So that my suggestion of striking out the sections already referred to in the Mining Act and Coal-mines Act, and adding the proviso that I have suggested, would give the miner that right. Of course, what I am asking for is a compromise, but I am giving as much as I am getting.

What about the limit of £500?—It may be £500 or more.

It is the amount we know now?—Yes, but the amount will probably be raised.

Mr. O'Regan: When you commenced your statement, Mr. Myers, you made a reference to Lord Campbell's Act. You referred to the right of a dependant to obtain damages under Lord Campbell's Act, but you did not, I think, make it clear that that right of action only applies to the widow or child?—When I used the word "dependants" I did not mean it in any other sense.

The point I wish to make clear is that Lord Campbell's Act is not so comprehensive as the Workers' Compensation Act?—That is so.

Under Lord Campbell's Act, if the worker has been killed by the negligence of a fellow-servant the amount of damages the widow can claim is not limited to £500?—No.

In other words, the £500-limit only applies where a worker has not been fatally injured?—Yes.

And where a miner is not fatally injured, but is seriously injured, in a coal-mine or a gold-mine there is no limitation of £500 by reason of the special provisions of the Mining Act and the Coal-mines Act?—Yes, that is so.

But the effect of the amendments you proposed would limit the miners' claims to £500?—That is so; or such other maximum as Parliament may fix.

You do not for a moment suggest to this Committee, Mr. Myers, that the boy I have referred to, the boy who lost both his legs, would be adequately compensated with £500?—I can only answer that question in this way: that no amount of money can be adequate compensation for such injuries.

I will put the question in another way: whereas that boy can now claim an unlimited amount, if your amendments are adopted he would be limited to £500?—That is practically the difference between us.

Well, if you will agree to abolish the maximum, I will agree to your amendments. My object is to preserve to the miners the right of unlimited damages which they have in their Acts at the present time?—Yes, that is the difference.

Can you tell me how many cases are brought in the Wardens' Courts?—I cannot say.

Not more than two or three every year?—If that is so, perhaps I could give you a good reason.

Mr. O'Regan: The difference between Mr. Myers and myself is this: the practical position nowadays is that the miner can claim unlimited damages under the Mining Acts by reason of the negligence of a fellow-servant, and no other class of worker can. I suggest that the common-law doctrine of the negligence of the fellow-servant should be abolished altogether—that it should not apply either to the miner or to any other class of worker.

Mr. Reed: What is the position with regard to insurance? Do not the insurance companies take over the liability in regard to the payment of damages?

Mr. Myers: I understand that the insurance companies will not insure for an unlimited amount. By the insurance policies they limit their liability to £500, whether under the Workers' Compensation Act or at common law, and there is a good reason for that. Supposing Parliament passed Mr. Howard's Bill, the maximum would then be £750, and every item in the schedule of the Workers' Compensation Act would have to be increased correspondingly, and the insurance companies would then insure up to the higher amount and charge higher premiums; but they would not in any case insure beyond the limit fixed for the time being by the Workers' Compensation Act.

Mr. O'Regan: The position is that the insurance companies take covers up to £500, and any amount over that the employer has to pay himself.

OPINIONS OF LAW OFFICERS.

Coal-mines Act, Section 60; Mining Act, Sections 267 and 268.

THE recent decision of the Supreme Court in the *Westport-Stockton Coal Company v. Watterson* (1819 N.Z.L.R. 177) illustrates the imperfections and disadvantages of the existing provisions as to damages or compensation for accidents which are contained in the above sections. It was decided in that case that an injured miner lost his right to recover damages for the negligence of the mine-owner under section 60 of the Coal-mines Act by accepting weekly payments of compensation under the Workers' Compensation Act. No such acceptance of workers' compensation has any such effect upon an action for damages outside the special provisions of the Coal-mines Act or the Mining Act.