

Mr. MARLEY – Labour MP for St Pancreas

This Bill is to amend that Act in one particular detail. If an injustice to a man arises from an Act of Parliament owing to a legal interpretation which has been placed upon it the fact that the accident to the man happened some time ago should not prevent him from getting the justice which would be extended to a man who had an accident after passing of the Bill. I come now to the question of whether loss in a man's earnings can be put down to his being incapacitated through his injury or is to be attributed to his failure to get employment owing to the state of trade—his own trade or trade generally, and whether his case ought to be dealt with under the compensation law or under the unemployment insurance scheme. Let us look at it in a broad way. If there is no incapacity at all, if the man has completely recovered, we on this side would concede that there can be no claim, and I am quite certain that no county court judge would differ from that view. Incapacity will have to be proved, and it will have to be more or less permanent incapacity before any county court judge will consider that a claim has been established.

Next we come to the question of the employability of the man. No matter what we put in an Act of Parliament, whatever the phrasing may be, each individual case will have to be decided on its merits. Anyone who has any knowledge of the working of the insurance committees at Employment Exchanges knows that when it is a question of establishing whether a man has been genuinely seeking work the decision must depend upon the facts in that particular case; **so no matter what we may put in an Act of Parliament we shall not get out of the dilemma of having to decide whether a man has been unable to get work as a result of his injury or because of the state of trade. It is assumed by a large number of people that there is such a thing as a one-eyed man's job or a one-legged man's job, or a one- [2088](#) armed man's job.** There is no such thing, and that point has to be made clear. **The hon. and learned Gentleman says that there is work available for a man with one leg, but to say that there is a special reservoir or category of jobs for one-legged or one-armed men is to run away from the facts.** In any sort of job one can think of a man so disabled will have to meet the competition of men of full capacity, with all their limbs; and therefore the field of opportunity for the incapacitated man is restricted in every sense of the term.

The hon. and learned Gentleman argues that it would be easy to determine whether a man had been excluded from employment because of his injury when trade is good, but that if trade is bad and large numbers of fully capable men are out of work it is to be presumed that the man will not get work because of trade depression. In other words, he says that the man can get compensation and will find it easy to prove his case when trade is good, but that when there is a more competitive market, when there is trade depression, it is to be made more difficult for him to get compensation. I know that is not the way in which he puts it, but that is what it comes to. He says we are going to give a man more than he would get if he were in employment. He argues that if every industry is going well and there are plenty of jobs for everybody the man will be able to prove that he could not get a job; but that if he does not get a job when industry is going badly it is because there is no employment, and therefore he must resort to unemployment, benefit. I think that is an injustice which we have no right to put. on a man who has been disabled.

Now I come to the last point, whether a workman should have to prove whether he has made reasonable efforts to obtain employment of the class specified as suitable for him. When you assess a man as being able to do a certain class of job like that of a messenger, you conclude that he will get between 35s. and £2 a week. Who is responsible for assessing that man's capacity? In every case a compensation claim at the commencement is a claim for total disablement, and there is never a case of partial disablement. Any man who is disabled so as to be taken out of industry has a [2089](#) claim for total disablement. The question naturally arises as to whether the man is fit for some light work or whether he will be able later to pursue his own occupation. If a man in the first instance establishes the fact that he has sustained an injury which has incapacitated him, and has a right to compensation, then you say to him: "You have not only to prove that, but you must prove that you are unable to do light work." That man has also to prove that he has been searching for that kind of work, and has failed to get it on account of the depression in trade. Who has to decide whether the man has made reasonable efforts to find other employment? I am afraid that it will be extremely difficult to prove that the man could have got the class of job which was suitable for him.

I would also like to point out that at the present time industry is carrying the maximum number of its own victims, and they cannot carry any more. **Consider the position of an employer who is prepared to take on a one-eyed man. You cannot expect people to be searching about for one-eyed men simply because they are prepared to take on light work.** In very restricted circumstances we should take the responsibility off the shoulders of the workmen. The onus of having to prove that he has sought light work only depresses him to such an extent that he is not able to make out his own case. I think we ought to provide that the employer or the companies should prove that there is a job available, that the man has not sought it, and then they might be able to get out of paying compensation.

Some hon. Members are under the impression that this Bill will cause a huge increase of liability in regard to incapacitated men. I would like to ask if that occurred when there was a rebate of premiums. As far as I know it did not. If you are just going back to the conditions which existed before rebates you will not increase the burden above what it was before rebates were given. I agree that all these are little quibbling points. We are all agreed upon the main issue that these men ought to be protected against being placed upon an allowance of a few shillings per week. We have heard a lot of talk about getting rid of the responsibility of maintaining these men, but somebody has to provide for them. [2090](#) They have to be provided for somewhere, and why should we throw upon the rest of the community and charitable institutions a responsibility which in nine cases out of 10 ought to be placed on the back of the employer or the workman. Why should we place the responsibility in doubtful cases upon the community?

[WORKMEN'S COMPENSATION BILL](#), Commons November 14, 1930