LORD CHANCELLOR (LOREBURN)—I think that this appeal must fail. The facts are short, and not disputed. Certain conditions are laid down in the Act which must be fulfilled in order that a person may be entitled to a pension. If any question is raised as to whether the conditions continue to be fulfilled, then under section 7 (1) the question goes first to the local pension committee, who are to give their decision, and the pension officer may appeal to the central pension authority. If there is not an appeal, then the local committee's decision is final. But if there is an appeal, then the central committee's decision is final and conclusive. In this particular case, after the local committee had decided, and no appeal followed, the question was raised whether one of the conditions—namely, that relating to age—continued to be fulfilled. The point was taken to the local committee, who thought that the condition was fulfilled, or at all events that they were not entitled to reverse the previous decision. Then the case went on appeal to the central committee, who decided that the applicant was not entitled to any pension. Now it is clear that the decision of the central committee was final and conclusive so far as that question went, if they had jurisdiction. The real argument put forward by counsel, whose brevity added force to his argument, was that the words in section 7, "whether those conditions continued to be fulfilled" could not apply to the condition of age, because when a person is once seventy he must be always seventy, and there is no part of the United Kingdom so fortunate that people grow younger in it. In my opinion that is not an accurate view. Section 9 evidently contemplates the possibility of error, and the claimant being obliged to recoup the Treasury for what has been paid in error, it would be very unlikely indeed that there should be no machinery in an Act like this to provide for a case like that. If the argument of the appellant is right this strange result might ensue, that an applicant would be continually entitled to be paid, and the Crown continually entitled to be repaid. That is a conclusion at which I cannot arrive unless I find no other way of construing the Act. I think that the true view is that if any of the statutory conditions are not fulfilled then the machinery can be put in motion and the question brought before the local committee, and then there may be an appeal to the central committee. It is true that the result of so holding is to allow the question of age to be raised repeatedly by the Crown. The same is also true of the claimant, who can repeatedly renew his or her application. I cannot see that there is any injustice in that. I can imagine no other way in which we can prevent the perpetuation of wrong payments or of wrong exclusions. I think that this is the way which the Act of Parliament has provided. It is impossible to prevent by Act of Parliament unreasonable process or litigation. All we can do is to provide means for redressing errors which may be made under those circumstances. I think that the decision of the Court of Appeal was right and ought to be upheld and this appeal dismissed.

LORD ASHBOURNE—I am of the same opinion. The case has been argued with force, ability, and ingenuity, but the task set before appellant's counsel was extremely difficult. It would really require the Act of Parliament to be drafted differently to give force to many of their contentions. I do not think that the Act is drawn in the most satisfactory way. Some things might have been stated more clearly. But Acts of Parliament must be interpreted as they stand, and no real force can be given to the contentions addressed to the House by the appellant. The governing condition of the whole statute is age. The contention put forward was that once age has been found by the local or central pension authority, that was final and conclusive, and it could never be interfered with. Would it not be an element of absurdity, if it were found that a wrong decision had been arrived at, that the pensioner should go on receiving on the one hand and disgorging on the other?

LORD ALVERSTONE and LORD ATKINSON concurred.

LORD SHAW—I am of the same opinion, and if it had not been for the ingenious argument addressed to the House by the learned counsel for the appellant I should have thought the point incapable of argument.

Appeal dismissed.

Counsel for Appellant—James O'Connor K.C.—Edmond Lupton. Agent—George Gavan Duffy, Solicitor.

Counsel for Respondent—Attorney-General for Ireland (Barry, K.C.)—Ronan, K.C.—W. E. Wylie. Agents—Beveridge, Greig, & Co., Solicitors.

HOUSE OF LORDS.

Wednesday, May 30, 1911.

(Before the Lord Chancellor (Loreburn), Lords Atkinson, Shaw, and Robson.)

WALTERS *v.* STAVELEY COAL AND IRON COMPANY.

(ON APPEAL FROM THE COURT OF APPEAL IN ENGLAND.)

Master and Servant—Workmen's Compensation Act 1906 (6 *Edw. VII, c.* 58), *sec.* 1—"*Accident Arising Out of and in the Course of the Employment*"—*Workman on Way to Work—Short-Cut through Employers' Lands.*

The appellant's employers made a pathway over lands belonging to them by which their workmen obtained access to their work by a route shorter

than the public road. The workmen were permitted, but not bound or entitled, to use this short-cut. The pathway at a point three-quarters of a-mile from the place of work contained some steps, down which the appellant fell, injuring himself.

Held that the County Court Judge was right in deciding that the accident did not arise "in the course of the employment," and that there was no evidence upon which he could have decided the contrary.

A workman sought compensation from his employers for accident arising out of circumstances stated *supra* in rubric and in their Lordships' judgments. His claim was refused by the County Court Judge and the Court of Appeal (COZENS-HARDY, M.R., FLETCHER-MOULTON, and FARWELL, L.JJ.).

The workman appealed.

At the conclusion of the argument for the appellant their Lordships gave judgment as follows:—

LORD CHANCELLOR (LOREBURN) — The question here is whether the Court of Appeal and the learned County Court Judge were wrong when they said that there was no injury by accident arising out of and in the course of this man's employment. He was going to his work, and used some steps on his employers' land, by his employers' permission, as a short-cut to his work and he fell on the steps. He was then three-quarters of a mile from the place where the works were situated. The County Court Judge was quite entitled to find as he did. I think that he could not have found otherwise. In applying this Act one has to look at the words of the Act itself and see if the injury by the accident falls within the words of it. Did it arise out of the employment, and did it arise in the course of the employment? Other cases are only useful as illustrations of the way in which these words are applied, and I think that nothing is more fruitless than to attempt to argue by analogy from one set of facts to another set of facts. In my opinion there was no evidence in this case which would have justified the County Court Judge in finding that this accident arose in the course of the employment. The man was merely going to his employment and was not employed to be on the steps. I also think that there was no evidence which would have justified a finding that it arose out of the employment. The passage cited from an opinion which I expressed in a previous case in this House has really no bearing on the present case, because it related to the facts of that case, and it is not unimportant to bear in mind the old maxim that what is said in the course of a judgment is said *secundum subjectam materiam*, unless indeed it is intended expressly to lay down a general principle of law.

LORD ATKINSON—I agree.

LORD SHAW — In this case there was a circuitous public road, and there was a short-cut from one part of that public road to another. It was optional to the workman to take the short-cut or not to take it. Only when the point was reached where the short-cut was at an end, and the workman had gone either by it or by the circuitous public road, and not till then, did he become in the course of his employment. There was no contract or obligation direct or indirect on his part that he should use the short-cut or the steps conveniently provided there. He might reach the place of his employment in any manner he liked. It was not arising out of his employment, and not in the course of his employment, that he met with this accident. I fear to make any general proposition in these cases when I see the use which is made by ingenious and able counsel of propositions laid down in this or in some other court. I would venture, however, to say one thing, which is, that analogies in matters of fact nearly always fail, and I think that it is a dangerous thing in the sphere of law to conjure out of analogies a principle or proposition arising from judicial dicta which are in any respect in conflict, or to be cited as in conflict, with the clear propositions and text of a modern statute.

LORD ROBSON—I think that it is scarcely contended seriously in this case that the accident arose out of the employment, and certainly it did not arise in the course of the employment. But the appellant attempted to found an argument upon this, that there have been cases in which accidents have been held to have occurred in the course of the employment when they occurred at some point or other or in some circumstances which came within the contract of employment. Now, without saying whether or not it is a sound general principle that accidents which occur at some place which comes within, or in the exercise of some privilege which comes within, the contract of employment arise in the course of the employment, it is sufficient to point out here that the right to use this particular pathway was no part of the contract of employment. It was a licence given by the employers to the men who were coming to their work, but they cannot be said to have contracted that they would always give that licence. It was revocable at any moment and without reference to the conditions of any contract.

Appeal dismissed.

Counsel for Appellant—Astbury, K.C.—Atherley-Jones, K.C.—W. Shakespeare. Agents—King, Wigg, Robertson, & Brightman, Solicitors.

Counsel for Respondents—C. A. Russell, K.C.—T. E. Ellison. Agents—Cooper & Company, Solicitors.