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Legislative Assembly of Manitoba

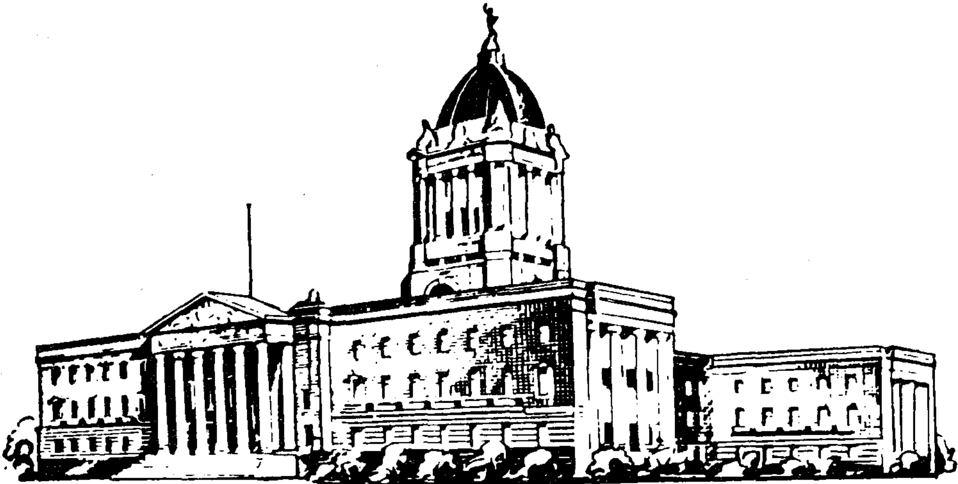
STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

Chairman

Mr. J. Wally McKenzie
Constituency of Roblin



Wednesday, June 13, 1979 8:00 P.M.

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Hearing Of The Standing Committee On Industrial Relations

Wednesday, June 13, 1979

Time: 8:00 p.m.

CHAIRMAN, Mr. J. Wally McKenzie.

BILL NO. 35 — AN ACT TO AMEND THE WORKERS COMPENSATION ACT

MR. CHAIRMAN: We have a quorum. Bill No. 35, An Act to amend The Workers Compensation Act. I have one group. Mr. John Bordush is going to speak on behalf of the Injured Workers Association. Are there any other people here who would like to make a presentation to the committee? Mr. Bordush, please.

MR. WILLIAM BORDUSH: My name is William Bordush. I'm representing the Injured Workers Association on behalf of Mr. Huta. Unfortunately, Mr. Huta can't make it tonight; he had a death in his immediate family so he can't make it and wants me to represent him.

MR. CHAIRMAN: I'm sorry to hear that, sir. Give Mr. Huta our regards; we all know him. Carry on.

MR. BORDUSH: Thank you. Presentation to the Industrial Relations Committee on the Workers Compensation Act, Bill 35, June, 1979, by the Injured Workers Association of Manitoba, Inc.

Mr. Chairman, Honourable Members, it gives us great pleasure to have this opportunity to bring before our elected representatives the position of the Injured Workers Association of Manitoba, Inc., on this very important issue of Workers Compensation and Bill 35.

For several years3 our Association has presented our position on compensation at least annually, and while some improvements have been made over the years, there is still a great deal to be desired. We trust that our recommendations will receive prompt attention and action on several important matters, which in our opinion, are the crux of most of our problems in trying to achieve a greater degree of justice for the victims of industrial accidents, diseases and other disabilities suffered in the course of their employment.

We welcome the recent action of the Legislature on the amendments in Bill 35 as a modest step in the right direction, but believe you me, it is far from being adequate and before we can relax comfortably.

The injured workers have suffered far too long with inadequate legislation which does not provide sufficient compensation for disabilities to allow them to support themselves and their families at a level consistent with their potential earning capacities prior to becoming disabled.

Workers Compensation Board, WCB, has not be functioning satisfactorily, and substantial administrative changes are required to ensure that the injured workers submitting claims are dealt with in an efficient and humane manner. The provisions for appeals within the Act are most inadequate and require a new approach. The recommendations which we are outlining in our brief are aimed at resolving some of those problems which contradict the intentions and spirit of the Act itself.

Our basic problems are: Access to medical files at the WCB. This important issues causes us a great deal of concern. The restrictions to the accessibility to medical reports which is currently in effect at the WCB allows the board and its medical department to hide behind the guise of medical confidentiality and privileged communication which is in their favour, but a great disadvantage to injured workers. We feel that as a result of this, we injured workers receive nothing but negative controversies, bickering and unjustifiable excuses without references, decisions not adequately stated in an objective and reliable method, which puts the board in a position of power and control whereby, whenever they choose to — pardon the expression — screw the injured workers.

Because of the lack of access to medical files, the WCB takes advantage of the whole situation. We feel that all medical reports and medical files should be made available to the claimant and

his or her representative upon request. With all due respect to the medical profession and its ethics we believe a worker has the right to know what is in the file. Presently, our feeling is that the doctc tells one thing to the WCB and another thing to the claimant. We are also of the opinion, an to avoid any further problems, an amendment to the WCB Act should be made, that the doctc shall give a carbon copy of the medical report which he is sending to the WCB, to the claimar and his or her representative. This, gentlemen, should avoid any bad feeling between the doctc and the claimant which currently exists.

In December, 1975, the Manitoba Law Reform Commission published a working paper, makin the case for a provincial Bill of Rights. The report makes an important contribution to furthe developing an awareness of how we might better protect basic civil liberties in a period when the are being diminished and destroyed. We find further evidence of how the power and influence c large organizations, such as the WCB, are being used to invade areas of individual privacy.

The right to know is a vital requirement for today's citizens. Many decisions are made behin closed doors; vital information is locked away. Actions are taken on the basis of knowledge thε is not available to the ordinary citizen. As a result, we are faced with a myriad of governmer decisions that are explained only in a manner to suit the WCB with no reasons given for rejectio of a claim. The impact becomes disastrous. The injured workers are powerless in the face of th closed bureaucratic shop.

Employment — There is a great deal of problem which the injured workers experience afte they sustain an injury on duty. When the WCB medical doctors discharge the claimant as fit t return to work, whereby the attending physicians recommend light duties, the employers seem t object very strongly, claiming there are no light duties. The claimant does go back to work, wit no choice, to his regular duties. In a short time, the claimant aggravates his original injury an is forced to lay off work again. This carries on for several such occurrences, but finally the compan fires the claimant with an excuse that he/she cannot produce to company specifications.

When the claimant files an application with a new employer, it takes the claimant half an hou to complete the application, where it takes the company manager two seconds to tell the claiman "We will call you once we have interviewed all the applicants." This injured worker never hear from the employer. Once the employer sees that the claimant was on compensation, and he/sh has a disability, his/her application is automatically filed in basket thirteen.

We feel that the original employer should have more responsibility for that injured worker. W also believe that there shall be a Section in the WC Act to stipulate that the employer is morall responsible for the injuries of their employees. This would certainly alleviate many of such instance and on the same token, the injured worker would not be thrown out of the scrap heap of society
Independent Appeal System — Under the current appeal system, information regarding the cas is not made freely available to all who need it. A summary of evidence, including a medical summary is not made available to the parties involved in each case. The complete file, including medica reports, is made available only on a selective basis. That is, providing the WCB personnel feel th privilege will not be abused, and if the representative is deemed to be a responsible person. I our opinion, selectivity in this matter is indefensive.

We believe it is a matter of basic right that each claimant, in the words of Mr. McRuer "shoul be entitled to know, on what material a decision involving his rights is based". The current practic of keeping the applicant ignorant of relevant facts regarding the case cannot, in our opinion, b sustained on any justifiable grounds.

We agree with Mr. McRuer's opinion that the Section of the Act, which describes medical report "to be privileged communication of the person making or submitting the same, and unless it i proved that it was made maliciously, it is not admissible as evidence, or subject to protection i any court, in an action or proceeding against such person", is unclear.

We agree that it fails to effect the intention of the McGillivary Report that Medical reports shoul be made available.

We must make it clear that the disclosure of medical information does not necessarily mea the claimant would seek to appeal the Board's original decision. Logically, if the reasons for benefit refused are found to be acceptable and satisfactory, the worker's representative or doctor woul advise him/her of the futility of further appeal. However, open access to medical documentatio would allow the claimant a concrete foundation on which to build a case for appeal, should he/sh so choose.

To quote the Reports of the Task Force on the Workers Compensation in Saskatchewan i 1973:

> "Lack of adequate communication to individual workmen, about the reasons for acceptance or denial of a claim has been responsible for encouraging a great deal of suspicion and distress, which presently seems to exist within certain individuals about the procedures of the Board".

We feel that all decisions of a Tribunal, concerning a claim, should be in writing and should ;ontain adequate explanations as to the basis on which the decisions were made.

The McRuer Report further recommends that decisions be made available not only to the jovernment services but to the public as well. At present, these practices exist in British Columbia, Alberta, Saskatchewan and Ontario. We feel that they should also be applied in Manitoba. We also)elieve thatat the same time a decision is issued, the claimant should be advised of all steps open o him/her in the appeal procedure. In this way, the claimant can then decide if he/she has reasonable jround for appealing and how he or she should go about it.

In April, 1978, the federal government saw fit to enforce a bill in the House of Commons to iave all federal departments release such files to the public. Therefore, if we have the rights under he federal jurisdiction, why can't we have it in Manitoba? To have uniformity in the country it)ecomes a must.

According to Dr. W. L. Parker, Chief Medical Examiner, who stated: "Justice should be done nd should be seen to be done."

As it now operates, the WCB functions as judge, jury and prosecutor in their own cause. This ituation has occurred because the board has been allowed to rule on appeals as well as on the riginal claims. Under these circumstances, the injured workers cannot expect to receive objective 'eatment. Our association would therefore want an independent appeal structure established in imilar fashion as our sister provinces have, which is not bound by decisions made by the VCB.

In this regard, we would also want major changes in the medical review panel system which tilizes physicians to obtain medical evidence which will have a very strong effect upon an injured 'orker's life. Evidence submitted by chiropractors is often treated with disdain even though many ijured workers as well as others have received excellent results from chiropractors when medical pecialists had failed to ease their pain.

The injured worker is often labelled as a neurotic when physicians are unable to detect medical vidence for the very real agonies which they suffer. Very often these cases are referred to the eurosis Review Panel for their ruling. We find that this procedure is very wrong. The Neurosis eview Panel was established in July, 1976, at which time we felt it would be satisfactory. But now e find that this is the worst that could ever happen. Now the board hides behind this section nd further rejects the claims even though the attending doctors have stated that the claimant is ıffering from neurosis as a result of the injury.

The board often rejects the claim, stating that the decision of the board is that it is not work elated and the decision is final and binding on the board and claimant. This places the claimant a more serious predicament. Not only the pre-existing or underlying conditions, we also have ie Neurosis Panel to contend with, which does not alleviate the situation at all. When injured workers ɔ decide to appeal a decision of the board, they find themselves confronting the same people l over again and surely this is not a just system.

In our opinion, the right to know and the right to written ecisions with easons is equally important. is quite obvious that every Tom, Dick, and Harry at the WCB knows what is in our files except e claimant. In keeping the relevant facts pertaining to the case away from the claimant, the board kes advantage of the whole situation. We feel that the board should not have the power above e Canadian Law, whose actions and decisions are unquestionable. In our opinion, this is scrimination.

Educational Programs: We find it very difficult to understand why the government does not ıforce the law whereby each company explains the rights of each employee in case they should ecome injured on the job. There are many employees, when injured, do not even know that they ıould file a claim for compensation, but they are left holding a bag in their hand, not knowing ıat to do. This should be on a compulsory basis. This should be the duty of the WCB Rehab. fficers to have these training and educational programs for the benefit of the entire labour force Manitoba.

Legislation should be immediately introduced. On April 24, 1979, according to Star Phoenix porter, Mr. John Hample that Labour Minister of Saskatchewan, Hon. Gordon Snyder, has troduced a bill intending to maintain the income level of permanently disabled Saskatchewan ɔrkers and index their benefits to inflation.

It states that the Workmen's Compensation Board would pay 75 percent of the difference between worker's income at the time of the accident and his income following the accident' in the event e worker's injury has compelled him to take a lower paying job.

For example, an iron worker who initially earned $1,000 a month, but was subsequently forced take a $600 a month job as a filing clerk due to injuries would receive a monthly $300 supplement, th provision for adjusting the net sum up or down to reflect inflationary trends.

With this bill, Mr. Snyder says that the injured worker's Canada Pension Plan payments and

Old Age Security benefits will be integrated and should not cost any more than existing plans

We urge th government to follow suit whereby many of the hardships injured workers are currentl experiencing may be alleviated. Injured workers have suffered far too long with inadequate legislatio which does not provide sufficient compensation for disabilities to allow them to support themselve and their families at a level consistent with their potential earning capacities prior to becomin disabled.

Pensions. Our Association is totally convinced that the disability ratings shall be reviewed annuall and determine the compensation levels be adjusted annually to reflect increases in the cost of livin according to the Consumer Price Index.

We cannot visualize why it has not been legislated long before this in order to offset inflationar costs. We are also suggesting to the members of this committee and to all members of the Legislativ Assembly that legislation be immediately enacted that pensions be upgraded according to the curren wage scale of our job classifications. This is also to include increases tied in with Consumer Pric Index since the loss of our jobs. We feel that injured workers have been discriminated against a far as pensions are concerned and the way the entire Act is set up. It is time that something i done to alleviate the financial hardships injured workers are experiencing.

Furthermore, Sections 31(1) and 31(2), dealing with increase awarded by the assessment of th Board. The increases awarded through legislation. The disabilities which the Board has assesse at 10 percent or less is nothing but discrimination because these claimants whose disabilities ar rated 10 percent or less are not entitled to any of these increases. We feel that the last paragrap in each of these sections should be deleted "but this section does not apply — 10 percent", an claimants should be entitled to receive the same increases as those whose disabilities are assesse above 10 percent.

In regard to Section 51, which gives the Board exclusive jurisdiction to examine into, hear an determine all matters and questions arising, and the action or decision of the Board is final an conclusive and is not open to question or review in any court. We understand that Ontario ha introduced and passed "New Civil Rights Protections for Ontario" in March, 1972. This gives ther an opportunity to appeal any Board, Tribunal or Commission decisions and the right to writte decisions, with reasons upon request. If the Board did not have this power over and above th Canadian Law, they would deal with cases of injured workers more effectively, efficiently an adequately.

Section 52 protects the Board and its members or persons employed by it in respect of anythin done by it or them within or beyond their jurisdiction. Under this section we cannot claim fo damages, pain or suffering under the WC Act nor under any other Act of the Legislature. We fee that the WCB should not have the power over and above the Supreme Court of Canada. Thei decisions should be open to question and review and the Board, its members or persons employe by it should be open to question for anything done by it or them. This is the only Board in th entire world that cannot be questioned for its actions. Why? This is nothing but discrimination agains the injured people of our province. We feel that Sections 51 and 52 should be both totally deletec No person, body or member of the Board, tribunal or commission should be given the power c God.

It is a known fact that other Boards, such as tenants and landlords, etc., have representative from those respective groups sitting on their boards. It seems that the WCB is the only Board tha does not allow a representative from the Injured Workers Association to sit on its Board. We firml believe that the IWA has a very strong role to play and is the closest body related and most familia with the problems dealing with the WCB and there should be one of their representatives on th Board to represent the injured workers. The injured workers would be more satisfied ho have the own representative represent them.

The Injured Workers Association is representing its members before the WCB because the boar has failed to deal adequately with the claims and for this very reason there is a great need fc this service. Our service is free to our members because they have been forced to live below povert level and could not afford to pay for such a service. We feel we are serving the entire province and therefore, we are of a firm opinion that the government should set up some form c reimbursement to the organization for the service. We receive hundreds of calls each month askin for our assistance.

We realize the unions should be giving this service but the unions are so involved with agreements working conditions, etc., that their time is limited. Many do not have full-time stauf, nor financia resources or expertise to do it. This is where our organization comes in and this is a great hel to the smaller unions who are unable to make this service available. There are many non-unio injured workers who have no place to turn for assistance. We are of the firm opinion that th government should recognize the Injured Workers Association for the work it's doing to the entir province and the community.

In conclusion, Mr. Chairman, this Association feels very strongly that the accessibility to medical iles at the WCB should be made available to the claimant and his or her representative when ippealing a board's decision. Keeping the claimant ignorant of the relevant facts pertaining to his ›r her claim, in this day and age, is not justifiable under any conditions. It is a known fact that nany decisions are being made behind closed doors on facts that are not made available to the :laimants.

To avoid any bad feelings between the doctors and the patients, an amendment should be made o the W.C. Act, whereby the doctor shall give a carbon copy of the medical report which he is ending to the board.

The sister provinces have seen fit to pass legislation, whereby the decisions of the board are ippealed to an independent appeal body, and this is certainly a big step forward. Currently, the :hances to have a previous decision reversed under present system is nil.

We want to thank the government for giving us this opportunity to present our views and ecommendations on this very critical subject. No subject receives more attention, or is more nportant, than the subject of Workers Compensation to the labour force of this province.

We strongly recommend that the government bring in legislation that all pensions be upgraded ccording to the current wage scale of our job classifications and that it also include increases ied in with the Consumer Price Index.

We urge the government for its immediate attention. We are looking forward to working with 1e government, towards a common goal, the betterment of the injured people, and those who 1ay be injured in this province. We urge the government to bring about the necessary legislation 1 line with our neighbouring provinces, Ontario, Saskatchewan, Alberta and British Columbia. Thank ou.

IR. CHAIRMAN: I thank you. Thank you, Mr. Bordush. Would you be prepared to answer some uestions, if there are some from the Committee, sir?

IR. BORDUSH: Well, I'll try and do my . . .

IR. CHAIRMAN: Okay. Are there any questions for Mr. Bordush? Mr. Jenkins, the Member for ogan.

IR. WILLIAM JENKINS: Yes, Mr. Chairman. You state in your brief here that — I understand 1at you're not happy with the performance of the present Medical Review Panel, which is being et up to review cases for appeal — the Medical Review Panel, that is presently in place under 1e Act, I understand from your presentation, that your association is not happy with the performance f this review panel.

IR. BORDUSH: No, we're not very happy about it, because they claim they have three stages f the appeal system. But this appeal system — you've got the same people sitting on those three ifferent boards of directors, and they are all under the WCB. So, you haven't got a chance to iake any headway. If you would have an appeal system out of the Workers Compensation Act, n independent appeal system, where two or three people sitting on the medical board, and then e would be happy about it.

IR. JENKINS: Then, in other words, you're suggestion to the Committee and to the government, ecause they are the ones that would have to make the changes, would be that this review panel, ' an independent panel . . .

IR. BORDUSH: Yes.

IR. JENKINS: . . . since the panel that we have now, the Medical Review Panel, is supposedly dependent, because it is formed by, on request from the Workers Compensation Board by ipplying of three members from the Manitoba Medical Association to sit on this review panel. ll right, I understand that you're not happy with the performance. Who would you suggest then, 1 this independent panel — should form this panel for review?

R. BORDUSH: The government should elect somebody on the outside, say another medical doctor 1d maybe a judge and maybe one of the people from the legislation to sit on the board when ere is an appeal.

R. JENKINS: In other words, you would suggest then, that this new independent appeal panel

that you're suggesting, would not be strictly a medical panel, it would be a panel covering all walks of society.

MR. BORDUSH: No, no, we would like a medical doctor; one from the Workers Compensation and one from the outside, to sit.

MR. JENKINS: And you said a judge and . . .

MR. BORDUSH: And a judge outside of the Workers Compensation — they can have their own judge, like they have the Board of Directors. They have three or four people on the Board of Directors at the Workers Compensation, but they are under the Workers Compensation. We want somebody outside the Workers Compensation.

MR. JENKINS: And then you said, you would also recommend someone from the Legislature si on this Committee?

MR. BORDUSH: Well, maybe one of the MLAs.

MR. JENKINS: Thank you. Another question I would like to ask you is, would your association be in favour of a worker's advocate with more independence, than the present one? One, who would perhaps have the power of an ombudsman, you know, the office of the ombudsman . . .

MR. BORDUSH: Yes, I understand. Yes, we would appreciate . . .

MR. JENKINS: . . . to review decisions of the Workers Compensation Board.

MR. BORDUSH: Apparently there is one.

MR. JENKINS: And maybe make recommendations that the Medical Review Panel would look a some of the decisions that they make. In your experience with the Medical Review Panel, which is the final appeal, how many cases have you been successful in winning an appeal?

MR. BORDUSH: Well, I haven't been to any of the appeal system. Mr. Huta was doing all tha work.

MR. JENKINS: You wouldn't know how many appeals have been won by appellants appearin before the Medical Review Panel to . . .

MR. BORDUSH: Well, apparently he won quite a few cases, but how many, at the present, I don know.

MR. JENKINS: Okay, thank you.

MR. CHAIRMAN: Any other question? Mr. Cowan, the Member for Churchill.

MR. JAY COWAN: Thank you, Mr. Chairperson.Just one question, in the last page of the brie it has been said that The Injured Workers Association is urging the government to bring abou necessary legislative changes in order to bring the legislation in the province of Manitoba aroun to be in line with the neighbouring provinces of Ontario, Saskatchewan, Alberta and Britis Columbia.

This is a subject that we hear quite a bit about in the Legislature from the government, . sayin that they wish to be competitive with other provinces in many areas. And I would just ask if th Injured Workers Association believes that we are not competitive in this area with our neighbourin provinces; in other words, the legislation in the Province of Manitoba is not as far-reaching c progressive as the four provinces that they had mentioned in their brief — Ontario, Saskatchewar Alberta and British Columbia?

MR. BORDUSH: No, Manitoba isn't as competitive as these other provinces are, because Mr. Hut has worked with them on different appeal systems, and when he represented a claimant, he ha a better response from them in the appeal system than what we have in Manitoba.

MR. COWAN: Thank you.

MR. CHAIRMAN: The Honourable Minister.

MR. MacMASTER: Yes, first I want to thank you for the presentation. How long has your organization been in effect? How many years has there been an Injured Workers Association of Manitoba?

MR. BORDUSH: Since 1971, we've been organized.

MR. MacMASTER: And have you been making presentations to governments ever since then?

MR. BORDUSH: No, not me. I just took over as the President of the Injured Workers two years ago.

MR. CHAIRMAN: But Mr. Huta has, hasn't he?

MR. BORDUSH: Yes, Mr. Huta has been representing all the claimants.

MR. MacMASTER: I understand he's been very active in presentations to the Board and to governments for many years.

MR. BORDUSH: Yes, he has.

MR. MacMASTER: In your presentation, on Page 1, at our meeting — and I'm sure it's been discussed many times — the workers and their representatives do, in fact, have access to all files, except the medical files.

MR. BORDUSH: That's right.

MR. MacMASTER: That's the point that you're making, the medical file.

MR. BORDUSH: This is the most crucial point because when we represent a claimant, they always reject the claimant because they say that we haven't got enough medical evidence on that claimant. And if they have more evidence that they don't produce to us, how are we going to establish the case?

MR. MacMASTER: On the independent appeal system, I said to your group the other night when we had our meeting that we were going to review the appeal system in its entirety. I made you that pledge.

I've only looked at things rather quickly since I talked to you but it's my understanding that the appeal system such as you're talking about is really only in place in Canada in Nova Scotia, the true type of appeal system that you're talking about. That's not totally complete; in my looks at the different types of appeal systems in the country I have determined that Nova Scotia does, in fact, have the type of appeal system you're talking about.

I've also determined that British Columbia has what they call an intermediate appeal system, where you start with the Board, you get out of the Board — which is what you're asking — to the intermediate, the outside Appeal Board; but the final decision, the third appeal, is back to the Board.

So, just for your information, that's two types of systems that I have located that are in effect in Canada today, but not the total type of appeal system in the western part of our country, as is proposed. But we're looking at what they're doing in Nova Scotia with the type of appeal system that you're talking about. I don't know how many years that's been in effect, but I've asked for a report on their experience as to how it works.

Another question — on your Neurosis Review Board, that board was established, and what happens, the way the Board is formulated, the way it comes into being, is the Manitoba Medical Association — the MMA — recommend professional people to sit on that Board, and the Board itself picks from that board of three people; that's the make-up of that particular Board. You know, honestly to you, I don't know a better way to select that Board, you know, keeping government right out of the selection, but I can certainly have a look at that Board.

MR. BORDUSH: I understand what you're trying to explain, but I haven't got any idea of what the Neurosis Panel is, and what the medical doctors consist of, because I never dealt with them.

So, really, Mr. Huta can explain more clearly than I can.

MR. MacMASTER: I promised Mr. Huta I'd have continued conversations with him during the nex few months while we review. The Appeal Board, of course, the one that the Honourable Membe for Logan was talking about — that Board, you're permitted, your doctor can select the specialis who sits on that Board. And that specialist, and your doctor, have an opportunity to review th entire medical portion of your file. I'm not sure if you are aware.

At one point, you, as a claimant, can review all portions of your file, except the medical part But, at the appeal procedure, your doctor, plus the specialist your doctor picks to sit on that Board they can review that.

MR. BORDUSH: They've got the authority to review it.

MR. MacMASTER: Yes, at that stage, at that stage. And there's just one other point. You've talke about Saskatchewan here, on Page 5, and you take the example of an iron worker earning $1,000.00 I'm going to write you about that particular procedure, because, without totally being absolutel conversant with all portions of the Act, I really believe that that's the exact identical situation t Manitoba.

MR. BORDUSH: Is it?

MR. MacMaster: Yes, I believe so. I'm going to determine that for my own satisfaction, but I haven' dealt as extensively in the last few years as I did a few years ago with the Compensation Boar but I'm sure that that's the identical situation to Manitoba. But I'll write you a letter on that, outlinin the exact comparable procedures.

MR. BORDUSH: Thank you.

MR. CHAIRMAN: Any more questions? The Honourable Minister of Health.

MR. SHERMAN: Thank you, Mr. Chairman. I'd like to ask, is it Mr. Borish?

MR. CHAIRMAN: Bordush — B-O-R-D-U-S-H.

MR. SHERMAN: I'm sorry — Mr. Bordush. Can you tell me, has the Injured Workers Associatior change in makeup over the past . . . well, it would be eight years now of its existence? Has i grown in size, or has the membership changed in number, or do you keep having new injured worker added to the membership, or has it been pretty much a constant figure?

MR. BORDUSH: Well, when I joined the Association, there was just a handful of people' and ther the members, in the last six years, it's risen up to, well, over 700 members.

MR. SHERMAN: Over 700 members now.

MR. BORDUSH: Yes. And we get calls every day, like, whenever Mr. Huta can be in the office or at home, he gets calls every day from different people that they've been injured and they canno get any claims with the Workers Compensation, that they've been rejected. But we have over 70C claims right now, sitting, and we cannot review them, because we haven't got any funds to hire full-time staff.

MR. SHERMAN: Would you know ofhand whether most of those people would be members o organized trade unions or would they be non-union personnel?

MR. BORDUSH: Union personnel and people that weren't in the unions, like the small companies where they were injured and they didn't have a union in there. And we do get even from the big unions, where the big unions haven't got enough time to review the claimants' cases so they refer them to us.

MR. SHERMAN: But would the Injured Workers Association not, for example, take an issue case of principle like this to the organized trade union movement — either the Manitoba Federation of Labour or the Winnipeg and District Labour Council — for consideration, at least in principle, not necessarily the individual cases but at least in principle; have you done that?

MR. BORDUSH: Yes, we work hand in hand with the unions.

MR. SHERMAN: What sort of reaction have you had from the organized trade union movement?

MR. BORDUSH: Well, when they come to a blockage stop, that they cannot proceed anymore, then they work with us to see if we have any different line of procedure.

MR. SHERMAN: Would you know whether in these other provinces that you've made reference to, the counterpart of the Injured Workers Association, works with the organized trade union movement in those provinces to achieve the things that you say have been achieved?

MR. BORDUSH: No, we don't work with them but we get pamphlets from them, brochures, on how they work; we work directly with the Workers Compensation in other provinces.

MR. SHERMAN: How do they work in the other provinces; do you know?

MR. BORDUSH: Well, my case in Ontario — and we had a very good response in Ontario.

MR. SHERMAN: But how would the Injured Workers Association of Ontario work? Would they work on their own or would they work with the trade union movement in Ontario?

MR. BORDUSH: I wouldn't know that.

MR. SHERMAN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Any more questions. I thank you, sir, for your presentation.

MR. BORDUSH: Thank you very much.

MR. CHAIRMAN: Mr. Coulter.

MR. ART COULTER: Thank you, Mr. Chairman, gentlemen. Well, I'm here to speak on Bill 35.

MR. CHAIRMAN: Do you have a brief or just a . . .?

MR. COULTER: Well, I have a page or two with some observations of my own which I will be referring to but I think you'll be able to get to them.

MR. CHAIRMAN: Proceed then if you have the bill.

MR. COULTER: I didn't come prepared to make a complete submission on The Compensation Act or the procedures and practices or whether there's proper appeals or not. We've made many many submissions over the years. Our position has been that it's long past time that we had a complete review of the Act and how it functions, and we would hope that that would be entertained by this government before too long. I'm very pleased to hear that the Minister is looking into some of the questions that have been posed by the injured workers, and there is nobody more sympathetic to The Injured Workers Association and their members than I am in our federation. They happen to be, in our minds, the products of the system that is failing in many respects; that's regrettable, and there's no question there are injustices.

The main one, I think, is pre-existing conditions for a lot of the people who have been in that organization for a long time. They were prohibited from getting a redress of their case because the legislation had a prohibition going back far enough to get their case. But I'm sure that we'll get the opportunity to discuss the Act with the Minister some other time when there's more opportunity and rather than take up the time of this committee, I'm sure you want to get this bill out of the way.

There's a few sections here that we wish to make some comment on:

No. 1 is just a tidying-up of the Act. It was evidently missed. The 10,000 was left in instead of inserting the section 37.1, which subsequent to that time was dealing with the ceiling, so that although that part hasn't been followed, I think that that's just a corrective measure. The only

we have with this section, and we deal with it later, and that is that we'd prefer to see sectior 37.1 in there instead of the ceiling 10,000 or 18,000, or whatever you wish to put it, because w(think that the formula for the ceiling is the most appropriate. But we'll be getting back to tha a little later.

No. 2. We are pleased to see that there has been an increase in these allowances to widow: 310 to 400 and the children as set out there, so naturally we support that.

No. 3 is somewhat similar with the adjustment on the minimum from 310 to 400, although i can go higher than that with the other allowances added to it. That's similar to No. 2.

No. 4 is just a little different in that the way the Act is written now, the foster parents are treate(similar to the widow of a deceased workman or an invalid widower; they would be responsible fo bringing up the family of the deceased workman. At the present time, they would get the sam(type of compensation that the injured workman would get himself if he was totally disabled. Wha this amendment is doing, it is taking that away and reducing it to the bare amounts of a widov that happened to have had her spouse killed prior to 1964. So that we think that this is a ste| backwards and we don't know why it would be justified and changeable.

The Act in other respects is not being changed, just in respect of foster parents, and we haven' found, in our minds, why they're picking on the foster parents that are picking up the responsibilit of raising the family of a deceased workman, when he has no other dependants to take up tha role. So that's one we would like you to have another look at in real conscience as to whethe that is the proper thing to do.

No. 5. This is a payment on death of a workman from 750 to 1,050. It's sure in the right directior we support that wholeheartedly. No. 6. This is one we have some difficulty with. This provisio increases the present disability pensions; that is, if the accident happened before January 1, 1977 the adjustment of 16.2 percent and 7.8 percent do not reflect the full period that should be appliec In previous years adjustments were made to compensate for the cost of living factor and havin the adjustment applicable to those who have been on the same benefit for more than 18 months In this bill, there will be no adjustment for any individual who has not been on benefit for mor than 30 months.

In other words, you are welching on providing the proper adjustment in that it has been thre years since adjustments were made, and you are not providing a three-year adjustment for th cost of living, as you are only recognizing the two years. We think that that really should be looke at again.

It is our position that the same pattern of making adjustments should be continued as had bee applied heretofore, which would mean that those who were on benefit prior to January 1, 1976 should be getting and entitled to 25.9 percent increase rather than 16.2 percent. Those prior t January 1, 1977 by 15 percent rather than 7.8 percent; and for those prior to January 1, 197 by 9 percent. Otherwise, you will be withholding for the previous 30 months the cost of living facto rather than the previous 18 months. And we think that these people are not the type that shoul be subject to an action of this kind. They should have had an adjustment last year and the yea before, as a matter of fact. We support the concept that it should be automatic. I understand fror hearing the Injured Workers, they thought it should be on the cost of living automatically, that i our minds, would be a better way of dealing with it.

The only thing, in speaking on this question of pensions, we're not satisfied that the curren pension level is adequate at all. And I think you should keep in mind that the pension, even thoug if it's at the full rate, it's at only 75 percent of what the wages were back when the accident happenec plus whatever cost of living factor was given. So that when they lose the 25 percent and then the start losing and the fact that they're not being given an adjustment for over 30 months, it's a littl much, we think.

And, maybe going a little beyond this and that is that our position has been that pensions shoul be applicable and tied to the wage level of the individual worker, that are current wages of th worker in the category that he was in when he had the accident. And this provision, even thoug it is of some assistance, it sure doesn't go as far as justified, in our minds.

The other aspect that's not touched here and we've raised this each year that we've been dealin with bills of this nature, when they've been increasing by cost of living, that the 10 percent leve and below are not given any cost of living adjustment at all. And there's no reason in our min why that doesn't apply, because some of these people are in need of it, there's no question abou it.

And the other factor to me — and it's a little disturbing, and maybe I'm not being proper i dealing with some of the people that come before us — but when one looks at this, if this is goin to be a continuing practice, that you get a 10 percent or less percentage pension, that it's far bette to apply for a cash pay-out and invest that money yourself.

I understand that the actuarial rate that the Board is using at the present time for putting mone

aside on this is 6 percent. And if you get that money out and invest it at 10 percent, you can get a better pension than you do by leaving it in and getting the pension and you still maintain the total amount in the first place. In other words, you don't deplete the sum that's given in the first place, if you manage it properly.

Now I know, and I guess most other people know, that everybody doesn't handle their money problems prudently. And that's why I say, maybe I was a little off-base in suggesting to some people that it was better to apply and get the money out. At least you can keep pace with inflation and the cost of living by investing it yourself.

This way, they don't. They're losing ground all the time and I think that that's very unfair for these people. And that's one of our reasons that we've come to, to suggest that these people should be given that full adjustment, and really back for those two previous times that adjustments were made for the cost of living; that those should be adjusted as well. They've got computers now; there should be no problem of making those calculations. So it can't be on that ground. I don't know what grounds it is on, why they are discriminated against in not being treated the same as the other people. I think that they deserve another look at it, in this respect.

No. 7 — This again ties in with Section 37.1, and is dealing with the average earnings, another corrective measure that wasn't attended to previously — $10,000 to the $18,000 — and we're suggesting not the $10,000 or the $18,000, but Section 37 should be referred to in that section of the Act.

No. 8 is getting down to the crunch of our main concern here tonight and that is, this amendment calls for the elimination of Section 37.1 previously referred to; and this being the formula that has changed the ceiling on the experience of claims on a year-to-year basis. This has been only a partial way of recognizing wages within industry and in our view wages that should be compensated for in full.

Now, here again you must remember that the 75 percent is applicable, and the problem of setting that in the Act at $18,000 now; and it seems to be the practice at least back over the years, the many that I can remember, that once they're in the Act in that way it is some time before they're changed. And we have the experience here with the cost of living factor; it's been three years since any adjustment was made there. Now, you know when you leave an $18,000 figure in the Act in this respect now, it may not be changed for another three years and then it has to be belaboured at no end in the House, and by lobbies such as ours from time to time.

We think that the formula that is there now, which is a proven way to establish what the actual wage levels of people are at, and having claims, we can't see any fairer way to do it, and I would seriously urge that you give some consideration to changing your minds on that particular factor because it would be a real retrogressive step, in our view, if that was changed now. We can't speak too strongly in support of retaining the 37.1 formula provision and we would trust that this committee, and the Minister, will give that serious consideration.

No. 9 — This is just a minor technical one to make sure it's the Minister of Labour, and not some other one. And No. 10 is the same as 8 above. We are suggesting here again that rather than fixing the ceiling at $18,000, that Section 37.1 be inserted in there instead. .

No. 11 — This really doesn't affect us it affects employers and we have no strong views on it. We can see what the intent is. The intent is that rather than adjusting the penalty percentage on a half month basis at 2-½ percent, it's going to be at 5 percent for the full month. But we do question as to whether succeeding months, where it's indicated here that the penalty will only be 1 percent, that that really is a deterrent for not paying, because when individuals get into this type of a situation, I would suggest that most likely they have outstanding loans probably at higher than 12 percent — 1 percent a month or 12 percent per annum — and all you're doing is pushing it on us, so you're going to have a lot of continuing payables on your books that may not be advisable. So I just suggest that you look at that as to whether the 1 percent per month is really a sufficient deterrent for people paying up.

No. 12 — This allows for the Board to amortize the cost of the pensions over a seven-year period. That has been past practice and we agree with it, that it is one way of doing it. We're satisfied that the reserve accounts that the Compensation Board have are generating sufficient income, far more income than their ectuarial factors were in setting those up that there has to be surplus there on that account to help pay for upgrading pensions. And we think it is proper that they be used in this respect, and recognizing the fact that inflation is the cause of our concern — why we want the cost of living adjustment factor — and inflation has brought pretty handsome interest and returns for reserve funds . So we're suggesting here that one of the things we would like to do in our major review on one that was taking place , is get some further insight on exactly what is happening in this area.

We do know that assessment on employers in this province is one of the lowest in the country, and some of the reasons for that is that the injured workers are not really getting a square deal

in our view, and we would seriously want to have an opportunity to have a major review of th legislation.

Nos. 13 and 14 are your time of implementing the changes that you're going to put in and naturall they are part of the bill.

Maybe in conclusion we're looking for a major review of the Act. There has been much sai about the appeal system and I can't quite agree with the previous speaker in that respect becaus we've had a lot of changes that have made improvements. We're still not satisfied that there ar not cases where there is a denial of natural justice.

We have indicated to the Chairman o the Board that it would be far better if the appeals wer taken away from the Compensation Building altogether; taken downtown to some independen building. After all, it's a panel of medical practitioners that are making the review and it is no right in our view no matter who those three people are, and we're satisfied that we now have th opportunity of naming one of them and we have a full-time — not a full-time but a regular chairma — that is becoming more conversant with the Act and knows what benefits should derive to a claimant.

But nevertheless, those three closet themselves with the doctors of the Compensation Boar up in the Compensation Board premises and have a dialogue on the case, and our concern is tha they may predetermine the disposition of the case by hearing the one side of it' And we're disturbe in that; it's one of the things we objected to before. We think by maybe taking it away from th Compensation Board, the medical record is there; they shouldn't be present at all in our view, an what's on record should be all that is before the medical panel.

I had the opportunity when we had the first hearing before the new panels and asked for a opportunity to speak to them, and it was allowed and I suggested to them that why we had aske for the change and suggested that in our view — and this was after sitting outside of the roor for better than half an hour while they were closeted with the compensation doctors — and I said You know, I'm not happy that this is taking place; that why should the compensation doctors hav an opportunity behind closed doors to discuss the matter with the appeal panel? And the claiman is not there; the representative is not there. The opportunity can be that the claimant can hav an advocate there if he asked the Minister for one. That's in the Act now; we're appreciative o that, but that doesn't happen very often.

But I was surprised that the Chairman of the Board says: "Well, we appreciate them being her because they bring us right to the point of the issue; you know, they've got a file this thick". Well we're satisfied they do that, but they do it to prove their case. They've already made a decisio against the claimant and they bring the Board to their position and we think that that's complete wrong. That's where we say there's a denial on natural justice; that there has to be the opportunit for those that are dealing with a case to know what evidence is being placed before an appea panel. And you can't do it when they're doing it behind closed doors of that nature. We suggest take the panel out of there altogether; take it downtown. Leave the compensation to doctors u on Maryland Street and let an independent panel deal with the question properly. That's ou suggestion. And we had some indication that the Chairman of the Board was going to try to mov it but it hasn't been done to date and that must be over a year and a half ago.

But I don't want to get into those things because we're not here to make a submission. Bu the fact that some of these things have been raised, I thought I should just make a word or tw on them.

MR. CHAIRMAN: Thank you, Mr. Coulter.
Mr. MacMaster.

MR. MacMASTER: Thanks, Mr. Coulter, for coming and raising some very valid points. How many years have you been working with the Injured Workers Association?

MR. COULTER: Well, I guess since the day they were born.

MR. MacMASTER: That was the early '70s.

MR. COULTER: Yes, some time then.

MR. MacMASTER: What would your thoughts be individuallyoor collectively as the organization you represent, if one of their organizations was put on the Compensation Board as a member.

MR. COULTER: Well, that's sort of an unfair question, but I can give you my feelings . I spoke previously about the reason for the organization. . .

MR. CHAIRMAN: The Honourable Member for Kildonan on a point of order.

MR. PETER FOX: On Page 9, the Minister , as Mr. Coulter stated is asking an unfair question. We're dealing with Bill 35. We're not dealing with the Injured Workers Compensation being 'epresented on the Board or not. If the Minister has that in mind, I'm sure that the committee would)e prepared to discuss it and look at the merits of it, or having other people on the Board as well, besides the Injured Workers Compensation.

I had no objection to the presentation by the Injured Workers Compensation; I think they're doing a very worthy job. But I do believe that we are not on the point of procedure in respect :o whether they should or should not be represented, and whether the Federation of Labour believe :hey should or should not.

MR. CHAIRMAN: Well, I maybe should apologize to the members of the committee, because I did let the first witness wander quite widely from the bill that is before us. There's certainly a large)art of the presentation to be made, that he should have been asked to not make the presentation at this time but I saw fit to hear, and so we've broken that ground already, and I find it very difficult ιow I can rule out of that position now, when we've already had the presentation from the honourable witness. So, I'm left at the mercy of the committee.

The Honourable Minister.

MR. MacMASTER: I'll take back the question. I thought we were just having a very . . .

MR. COULTER: Fatherly chat.

MR. MacMASTER: It had gone that way so far this evening, and I didn't mind that, but we will)et back to the particular bill in front of us.

You may not be aware, but the formula portion of the bill, in bill form, certainly gives rise to /our concern that the formula would be amended out. I've made it very public that we intend to de-amend the amendment and put the formula back in, as is.

MR. COULTER: Pleased to hear that, Mr. Minister.

MR. MacMASTER: The portion dealing with the foster parents, we intend to put that back in as s. And that's not a secret; the amendments been out, and I've said this in the House, and I've ;aid this . . .

How do you feel we compare, in general, with our pensions and our system, compared to other)rovinces? Are you at liberty to comment on that?

MR. COULTER: Well, we think that there are areas for improvement. As a matter of fact, we would ike to see some changes in concept, and whether that's going to come about across the country, ;omewhere else or not, I don't know. But we think that the New Zealand system of a two-part ;ystem, where a person gets compensated in an award — a cash award — for the disability that ιe has and suffers, and has to go through life with.

And then, there will also be the other aspect of it, and that is, an income loss factor, which s basically what we have now. And there's no compensation for the individual that becomes a)araplegic, for instance, and has to — he hasn't got the pleasure of life that he had before and here's no compensation for it. We think that that's one of the things that should be looked at, ınd that's one of the reasons, just one of the reasons that we're suggesting a review may bring ;ome more enlightened ideas forward, and some practical ones, too.

If you look at settlements in the court, then you can see what's happening in those cases, that he person gets disabled and his life is affected; but then he gets a pretty handsome cash settlement, ınd cash award. And we think that that aspect of it should be brought into the system.

MR. MacMASTER: You made reference to the 10 percent and under . . . I'm not sure what Saskatchewan is, I think it's 10 percent and under, too, and I know Alberta's 15. I can only say o you that I'll certainly consider that. I know that statistics, as I recall them, somewhere in the ıigh 90's, people under 10 percent take the cash settlement. Whether that, over the years, has ıad an effect on the 10 percent and under hasn't ever been adjusted, I can't really tell you, but 'm prepared to certainly look at that.

You make mention to the 5 percent initial, the new system we're proposing, rather than the ›ther. The other system compounded to something like 60 percent.

MR. COULTER: Right. I realize that.

MR. MacMASTER: And you know that there's latitude in the Act for the Board to start negotiating with the employer, and really what they found was a great deal of difficulty. With the very few employers they had difficulty with, the percentage of recovery on a normal procedure basis is about 98 percent. So you're dealing with a very small . . .

MR. COULTER: Very small.

MR. MacMASTER: . . . small number of people, contrary to what some people would have us believe. The 5, 1 and 1 is a compounded figure of 18 percent, which in itself annually is possibly heavy, but maybe not too heavy for an employer who isn't prepared to pay. There should be a fairly stiff penalty there.

And the last thing, when you're talking about the review, it is, in fact, a fact that I intend to review the Act, the procedure, and the entire . . . the whole procedure of The Compensation Act and the Board, and the appeal procedure, in the next few months. And you individually, and your organization, will be not just welcome, you'll be invited along with the Injured Workers Association. I've told them that . . . I want to talk to the MMA, too, and see what, professionally, they feel about it, and talk to industry and find out how we can improve the system.

You know, it's a good system, it's a good Act, it's — I think Manitoba is ranked as good, possibly as any in the province, in the country, but that doesn't mean that we couldn't have some improvements. Obviously, there's some flaws.

Thank you very much, Mr. Coulter.

MR. COULTER: Well, I appreciate those remarks, and what you intend to do with this bill. And just the one, I would hope you'd have another look at that cost of living adjustment factor, and maybe pick up that other year. It shouldn't be that much, and the 10 percent or less maybe could be looked at after, you know, down the road. But I'd like to know, really, what the experience has been. Because I know today, I advise people to take their money out, because it's . . .

But the sad part of it is, though, you see, when you can see that as an advantage today, the person that is left there is in, and is only getting the same, and without any adjustment. Not even the six percent, or anything of that nature. Then there is an injustice there, I think. I think it's pretty obvious — to me, at least, that that proves that there's something wrong with the system.

MR. MacMASTER: And you're correct in going into the 30 months, and I think part of the review will have to take in the fact that, instead of keeping on the even years, as we have, fine, we can stay with the even years by reviewing the pensions upgrading in 1980, if we decide that it should be every second year, keeping on the even years. But you're quite correct when you say it's running into the third year, and that shouldn't have happened.

MR. CHAIRMAN: Mr. Jenkins, the Honourable Member for Logan.

MR. JENKINS: Mr. Chairman, after my colleague's objection, I don't know whether I dare ask this question or not. —(Interjection)—

I would like to ask Mr. Coulter, since the Minister has also brought it up now, too, that he is considering a review of the legislation has the Federation given any thought to how this review of the Act should be set up? I've already raised this with the Minister in his Estimates, so it won't be anything new to him. But, do you feel that there should be a Legislative Committee set up to review the Act, or another type of committee of interested people set up in conjunction with the Minister, to review the Act, presentations and hearings can be made? And I agree with the Minister, I think we have one of the best Acts in the country. But the fact that — and I welcome the remarks that the Minister made this evening, that he's prepared to review the Act and make it even better.

But what would be the preference, or has the Federation — maybe it's an unfair question — has the Federation — I'm sure they must have heard the Minister had made this statement before. He made it in the House, I know that, that he was going to review the Act. Has the Federation come to any conclusion of what type of . . . ?

MR. COULTER: Well, we've asked for an independent appeal body. As a matter of fact, we went so far, at one time, to name one of our people to act on such a review board, committee, or whatever you want to call it. We would look at some sort of a neutral Chairman that could look at things

bjectively. And naturally, you have to have the counterpart to the labour person on such a review anel, or committee, board, whatever.

But, we think that it's important to have people that are somewhat conversant with the legislation nd the problems on the Board. It'll be a time-consuming thing, and it's very difficult, I think, to xpect even a committee of the Legislature, or the Minister and his department to do it justice ecause of that fact. So that we would look with favour to an independent panel of some ort.

IR. CHAIRMAN: Any more questions? The Honourable Member for Churchill, Mr. Cowan.

IR. COWAN: Thank you, Mr. Chairperson. Just a brief question to Mr. Coulter. Seeing as how ı the amendments before us, Bill No. 35, the pensions are increased on the standard procedure f pensions accidents happening before 1976 being increased by a certain percentage, and accidents appening after December 31, 1975, being a different percentage, I'd just like this opportunity to ive Mr. Coulter an opportunity to expound on what the federation feels towards this process, and they have given any consideration to having pensions based on the average industrial composite rage for a job classification, and having the increases in pension occur in that manner, rather than ıe manner that is presently incorporated into the legislation.

IR. COULTER: Well, I think that that would be coming closer to what we've been asking for, nd that's the industrial composite average wage for that classification. That's pretty well identical ɔ what we're talking about. The only difference would be if a person was in a classification, and /ith an employer that paid reasonable wages, they may be a fair bit ahead of the industrial ompositive average for that particular classification.

We're saying that the job wage rate for the type of work he was doing at the time at that employer hould be maintained so that it's close. It's a lot closer than what we've got now. We've just got ɔ touch a little flare to the thing with the cost of living this last time. But you know it went for ıany many years without giving an adjustment at all. So we have some of them away back when, he only way that they get any degree of justice is when the basic minimum is established, the oor, and then that brings them up. You know, that has helped a lot of people, but it's not anywhere ıear what industrial composite average for their position would be, I don't think. But it would be ı step in the right direction. Far better than the cost of living, no question about that.

IR. CHAIRMAN: Any more questions of the committee for Mr. Coulter? If not, I thank you, Mr. ;oulter.

IR. COULTER: I'd just like to have one more thing to say, and it is this; that I think I started ıff by saying that my sympathies are with many of the people that are in the Injured Workers ıssociation. And myself particularly, I spent many days and hours on the case of Mr. Huta and /e came to a dead end, because the pre-existing condition factor was not recognized in the ɘgislation. A change in the legislation is the only way to get at Mr. Huta's case.

And I think that he has got one case, without a doubt; it's the fact that they're not recognizing ıre-existing conditions at the time that he had his subsequent injury. And the difficulty that we ıet in this area, where people have not felt that they've had a just cut, and I've referred to the lenial of natural justice, the fact that they go to the Compensation Board to make an appeal. And hey say, "Well, you know, I'm going to the same place. It's just a rubber stamp." So that the ıresence of the thing as it meets them, they say, "Well, you know, what's the use?" Everybody's 'agin 'em". If they had an opportunity to go to an independent panel, where they could see that t was different people, that they were starting from scratch, and say, "Okay, we're going to have ı proper look at it" — we wouldn't have so many neurotic people that fall into the membership ıf the Injured Workers.

And that's the basis of it, I know them, and I've said I've worked for lots of them. And we can ıo so far and we do and this is the fact, I've never referred one person there yet and I don't know ıf a union that has, because we've got expertise galore to deal with it. But we can only do what's n the Act, and I can say that we have made good strides.

The change in the appeal system has been a considerable improvement. The trial case, that ve had to prove that, we finally had a third medical appeal with the new panel, and the third panel ıpproved the case, while six of the same specialists, the same type of medical doctor had turned hem down, because the system didn't produce the opportunity of getting at the details. Now, we ;an get at the details at least, if you have a competent doctor to be an advocate, to get into the ecord and bring it out and prove the case for the individual. The compensation doctors are not ıoing to do that, because they have already made their ruling, you know, and this is the type of

thing — but I don't want to spend any more of your evening because it's hot and you want t get out of here, but we'll look forward to having the opportunity with the Minister some other time Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Coulter.

Now, we'll review the bill on a clause by clause basis. Are there any amendments for th bill?

(Sections 1 to 3 were each read and passed.)

Section 4 — the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman I move that Section 4 of Bill 35 be struck out and sections 5 t 14 thereof be renumbered as sections 4 to 13 respectively.

MR. CHAIRMAN: The Honourable Member for Kildonan.

MR. FOX: Yes, Mr. Chairman. I wonder if the legal counsel could explain to us what this would do, whether this would reinstate what was in there before.

MR. BALKARAN: Well, Mr. Chairman, it would leave Section 25.3 as is in the Act now.

MR. ORCHARD: That's fine, as long as we know what it does.

MR. CHAIRMAN: Then Section 4 as amended—pass; Section 5—pass; Section 6—pass — Mr Balkaran.

MR. BALKARAN: These sections are going to be renumbered and if the Committee is going to look at them as printed, that's fine, but would I have the permission of the Committee to change these numbers?

MR. CHAIRMAN: Agreed? (Agreed)

31.3(a)—pass; (b)—pass — the Honourable Member for Kildonan.

MR. FOX: On this point, Mr. Chairman, I wonder if I can ask the Minister — he indicated tha he was amenable to having another look at this — is he prepared to consider this before we go to third reading, to increase these percentages, or is he going to leave them as is and look a them in the fall?

MR. MacMASTER: Mr. Chairman, it was my intention to review the Act and the procedures in the appeal procedures in the next few months. If conclusions cannot be reached, then the year 1980, instead of going for two years will go one year this time and next year, we'll review and bring it up, and I would hope that whoever is reviewing the entire procedure, the entire Act, may have other ideas that could be favourably considered, even before we get into 1980. It's always been on the even years — every second year now. I don't know who on earth can tell us why We can all question why a thing has been as it is, but the fact is that it certainly should be reviewed next year, rather than waiting, using this as a base year and going two years to '81. I've no intention of doing that, and I think that relieves what you're saying.

MR. FOX: Thanks, Mr. Chairman.

MR. CHAIRMAN: 31.3(b)—pass; 31.3—pass; Section 7—pass; Section 8 — the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that Section 8 of Bill 35 as printed, Section 7 as renumbered, be struck out and the following section substituted therefor:

Section 37.1 of the Act is amended by striking out the figures "1975" in the first line thereof and substituting therefor the figures "1979".

MR. CHAIRMAN: —pass; Section 9—pass — the Honourable Member for Kildonan.

MR. FOX: Mr. Chairman, I just want assurance from the legal counsel that this again replaces the section in its entirety.

MR. SHERMAN: Are you talking about the new Section 8?

MR. BALKARAN: No, Mr. Chairman.

MR. FOX: The one we just amended.

MR. BALKARAN: Section 8 as printed now will become Section 7, and all that will happen is that Section 37.1, the year "1975" will be changed to "1979" so that the ongoing review will start and continue after 1979.

MR. FOX: So that means, Mr. Chairman, that the formula is reinstated?

MR. BALKARAN: That's right.

MR. FOX: Thank you.

MR. CHAIRMAN: The Honourable Member for Churchill.

MR. COWAN: Mr. Chairman, thank you. I just wanted to confirm that that would not have any retroactive impact or effect, because we just got the amendment before us now and haven't had time to study it very carefully. The changing of the one year, 1975 to 1979, will have no impact whatsoever in the process as it now stands, there'll be no negative impact to the workers receiving these pensions?

MR. MacMASTER: None whatsoever.

MR. CHAIRMAN: Section 10—pass; Section 11—pass; 71(2)—pass — the Honourable Member for Churchill.

MR. COWAN: Mr. Chairperson, yes, the Minister mentioned, when he was speaking with Mr. Coulter during his presentation, that the cumulative interest for each of the different amendments — one, the old amendment 2.5 percent every half month and the new amendment 5 in the first and 1 percent each month thereafter. I'm wondering if you would repeat those figures for us, please.

MR. MacMASTER: The previous system was 2-½ on the 1st and the 16th days of each month, and that compounded I believe, to 60 percent over the course of the year. We now propose 5 percent initially; 1 percent per month compounded, which I understand is 18 percent annually.

MR. COWAN: Thank you, Mr. Chairperson. My figures are just a bit different than the Minister's. It's the cumulative average or the compounded average is 80.9 percent under the first section. I believe I'm close, if not absolutely correct, and that he is indeed right. It is around 17, 18 percent under the new system in the first year only. In the second year . . .

MR. MacMASTER: I should correct — the statement I had was, over long periods of default penalties could increase on a compounded nature, up to as high as 60. Now, it made a general reference, you're right, if you carried it on, you could get 80. I don't know what it could go, if you kept going. You're right.

MR. COWAN: And it would be 18 percent or 17 percent roughly in the first year, but in the second year, it drops down to 12.68 percent, which is, I think the point that Mr. Coulter was trying to make. Now, if the recovery rate is 98 percent, this is not a major problem, unless, when an employer decides to stop paying the assessment they decide in the normal course of events that they don't pay the assessment for a lengthy period of time. In other words, if they paid it within the first year — yes, the compounded interest would be 18 percent. But if the normal course of events is that they don't pay it in the first year, then you don't usually receive it till the second year. Then, the interest rate drops down. So, my question to the Minister would be, what is the average length — and I don't know if he has this information — but what is the average length, on the 2 percent that do fail to pay their assessments, what is the average length of time that they fail to pay those assessments for it?

MR. MacMASTER: Action is taken within the course of the first year, if they're in default. I can't give you an average, but if through frustrations by the board, it goes eight or nine months or ten

months, or in that particular area, they go to court.

MR. COWAN: So we would normally then expect to see the assessment paid within the firs year.

MR. MacMASTER: Yes, you wouldn't be running into a second or third year. We would have tha particular company in court before the year was out.

MR. COWAN: Will the Minister give a commitment to monitor the impact and effect of thi amendment, to ensure that we don't next year see a recovery rate of 97 percent or 96 percen — that employers, for whatever reasons, feel that because it has been dropped down to 18 percen that they are not under the same pressure to pay the assessment. So, would the Minister give u that commitment to monitor it and if that seems to be the case, to bring back in amendment to put it back to the level at which it would have the effect of forcing employers to pay thei assessments — so we don't create a problem that we needn't create, because of thi amendment.

MR. MacMASTER: I certainly will and the amendment wasn't meant to be kind to employers. I was an administrative thing, because they carry on negotiations with employers who are in arrears and if we find that it is being abused, we can find a better system to bring down the 2 percen to 1 percent then we'll certainly consider implementing it.

MR. CHAIRMAN: —pass — the Honourable Member for Logan.

MR. JENKINS: Mr. Chairman, I just wanted to ask a question in regard to this 2 percent tha don't pay. Is there any of these that we fail to recover at any time, even if they go to court — some of them 8 may go out of business8 And what I wanted to really know was, what happens to a workman that is injured?

MR. MacMASTER: The fund pays.

MR. JENKINS: The fund pays .

MR. MacMASTER: The fund will pay him.

MR. JENKINS: Yes, fine, thank you.

MR. CHAIRMAN: —pass.

MR. COWAN: Mr. Chairperson, could the Minister put a dollar amount on the assessments that are not paid on time in an average year? Can you give us an average amount as to what kind of figures we're talking about in this matter?

MR. MacMASTER: Out of many millions, we might collect $30,000 of penalties during the course of a year.

MR. COWAN: If I understand you correctly, at any given time you would be approximately $30,000 behind what you should be had you collected 100 percent of . . .

MR. MacMASTER: Let's say 20 to 30, and I think it's a safe statement, in there .

MR. COWAN: 20 to 30, so, we're not talking about a substantial sum.

MR. MacMASTER: No.

MR. CHAIRMAN: Section 12, there's un amendment, I guess —(Interjection)— Oh, yes, 71(2)—pass — I'm sorry. Now 12 — the Member for Pembina.

MR. ORCHARD: I believe the amendment is for Section 13(1).

MR. CHAIRMAN: Oh, I'm sorry. 12(1).

IR. ORCHARD: 12(1) as renumbered?

IR. CHAIRMAN: 12(1) as renumbered, yes. es.

IR. ORCHARD: We have to pass Section 12 first, don't we?

IR. CHAIRMAN: Well that's the section we're dealing with — 12.

IR. SHERMAN: Yes, but the Honourable Member is right, Mr. Chairman, we haven't passed Section 1 yet. We've renumbered Section 11, have we? We've passed 71(2)? —(Interjection)— then did we pass renumbered Section 11

IR. BALKARAN: I asked the indulgence of Committee members to consider the bill by section umbers as printed, with leave to change the numbers later on, so that the Chairman is correct hen he says Section 11 is passed. Eleven is printed as 11, renumbered as 10.

IR. CHAIRMAN: The Honourable Member for Pembina.

IR. ORCHARD: Well, Mr. Chairman, I believe that — and I will stand corrected if I'm wrong — ıat the amendment is to apply to Section 13(1) or Section 12 . . . so we should pass Section 2.

IR. CHAIRMAN: Oh, I see, yes, okay, we'll pass 12 then. Section 12—pass; Section 13 — the onourable Member for Logan; I apologize. 13(1). The Honourable Member for Logan?

IR. JENKINS: No, I didn't ask. . .

IR. SHERMAN: Well, 13(1) is just to be consistent with 4, eh?

IR. CHAIRMAN: That's right. So that's amended.

IR. BALKARAN: 13(1) is 12(1) renumbered, Mr. Chairman.

IR. ORCHARD: Mr. Chairman, the amendment for Section 13(1) as printed?

IR. CHAIRMAN: Right.

IR. ORCHARD: I move that subsection 13(1) as printed of Bill No. 35 be struck out and subsection 3(2) thereof as renumbered be renumbered as Section 12.

IR. CHAIRMAN: Okay. As amended—pass; 13(2)—pass; Section 14 — the Honourable Member ır Pembina.

IR. ORCHARD: Mr. Chairman, I move that Section 14 of Bill No. 35 as printed; Section 13 as ·numbered, be amended by striking out the figure "6" where it appears in the first line thereof, ıe second line thereof, and again in the fourth line thereof, and substituting therefore in each case, ıe figure "5".

R. CHAIRMAN: Pass. Title—pass; preamble—pass. Bill be reported—pass.
Committee rise.