Second Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

INDUSTRIAL RELATIONS

40 Elizabeth II

Chairman
Mr. Jack Penner
Constituency of Emerson

VOL. XL No. 12 - 9 a.m., MONDAY, JULY 22, 1991

MG-8048

Printed by the Office of the Queens Printer, Province of Manitoba

ISSN 0713-9608

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Thirty-Fifth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Monday, July 22, 1991

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Jack Penner (Emerson)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Praznik

Mr. Ashton, Ms. Cerilli, Messrs. Edwards, Helwer, Hickes, Penner, Reimer, Rose, Sveinson

Substitutions:

Mr. Lathlin (The Pas) for Mr. Hickes (1010)

Ms. Barrett (Wellington) for Ms. Cerilli (1222)

MATTERS UNDER DISCUSSION:

Bill 59—The Workers Compensation Amendment and Consequential Amendments Act

* * *

Mr. Chairman: Order, please. The Standing Committee on Industrial Relations, please come to order. As was previously agreed during last Friday's meeting, the committee will commence clause-by-clause consideration of Bill 59, The Workers Compensation Amendment and Consequential Amendments Act. Did the minister—

Point of Order

Mr. Paul Edwards (St. James): On a point of order, I notice that our colleagues the representatives of the New Democratic Party are not here this morning as yet. I would ask the indulgence of the committee to—they do not have a representative as yet on this committee—take a few minutes perhaps and find out if they are planning to arrive and if they will be here shortly. I think in fairness we should do that.

Mr. Chairman: What is the will of the committee?

Hon. Darren Praznik (Minister of Labour): Yes, Mr. Chair, we have had tremendous co-operation, I think, in this committee in the last couple of days, and I think we should give them a few more minutes to arrive.

Mr. Chairman: Could we then ask staff to inquire with the NDP caucus to see whether they will be here in a minute or two? Thank you.

* * *

Mr. Chairman: Committee, I will ask the minister responsible for Bill 59 whether he has an opening statement.

Mr. Praznik: Yes, Mr. Chairperson, I will try to be very brief. I first of all would like to thank all of those who have had the opportunity or who have come forward to work on this bill over the last number of months, whether it be in consultation with the steering committee or with myself as minister or here to these hearings over the last few days.

I appreciate that not everyone agrees with every change proposed by this bill, that there are some obvious differences of opinion. I think, though, when one analyzes the presentations that we have had made to us, particularly by those who have opposition to the bill, one will see that there are areas where there are differences of opinion, and they rest primarily in the payment of wage loss.

I do not think anyone disagrees with the change to a net system as opposed to a gross system. There was some opposition to that. The argument boils down to primarily whether it should be 100 percent of net which no other jurisdiction in North America currently provides or 90 percent of net with the 80 percent after 24 months and a pension life insurance to the value of about 10 percent.

Another area where there was some concern expressed was with the impairment pension awards. The comments that were made to this committee dealt primarily with the reduction, or what was viewed as a reduction, in those impairment awards, but what was not mentioned was that they are in addition to a wage loss provision. Many of those who complained about that difference did not include in their calculation or their observation that the new impairment lump sum award also came with

a wage loss provision. That is why it is a dual-award system. Although there were some differences, the principle of a dual-award system was recommended by the King Commission and is in place, I believe, in six or seven other jurisdictions across Canada.

One other area of disagreement was in the area of definition of occupational disease. I think our presenters said very clearly that it is the multifactoral nature of occupational disease that makes it so difficult to define, and there are obviously trade-offs when one does that.

Currently, for members' information, if we assess a portion of cause of the disease to the workplace, then the award is apportioned. That is a very difficult process to undergo, that calculation. The preference of the government at this time was to move to a dominant-cause test, but with payout at 100 percent if you can establish that the dominant cause—and the dominant cause is not entirely related to 50 percent or some number, but if the dominant cause of that illness, then 100 percent is covered as opposed to the old apportioning system.

* (1005)

As one presenter who was not in support of this particular definition outlined, it by and large provided a line around the status quo. I say this to this committee that our intention was to have a definition that drew a line around the status quo, so that people would know what they are covered for and what they are not covered for and can take appropriate action to ensure they have coverage. Obviously, the ideal for any individual is to have some form of 24-hour noncausal coverage should they find themselves in difficulty, and that is something we would encourage. The question is who is, in fact, responsible for that and where does one divide the line.

The intent of this definition was to divide the line between what employers were responsible for and what individuals had to find other means for, whether it be through their collective agreement, whether it be through expanding their insurance coverage to 24-hour or whether it be through the provision of their own 24-hour coverage. That was our intent.

There are a few other areas. One in particular was that of pre-existing condition. That seemed to be somewhat controversial. As I indicated to presenters on a number of occasions, the intent of our move in this act was not to do anything different than to change the legal structure in which we maintain the status quo because on the advice of our legal counsel, the current wording of the provision in the act was just unworkable, as I believe Mr. Mesman from the Federation of Labour—we had a chance to speak with him after—is aware of the struggle and helped to come to grips with that struggle as to how best we could accommodate maintaining the status quo in this existing bill. We hope to do that a little bit later.

By and large, when one does some separation, there are three, four or five major issues where there is a disagreement, but none of those issues, I think, are out of line in terms of the government's action and what is happening across North America or across Canada. By and large, this piece of legislation completes or reforms our workers compensation, brings it into line to the reform effort that began with the New Democrats in Saskatchewan in the '70s and has spread to six or seven other provinces. It brings us in line.

The areas where we had disagreement with the labour movement are areas where if we were to adopt their position, we would be the most expansive workers compensation program in the country. It was the government's intention to bring us into line to maintain the status quo in as many positions as possible and maintain the structure, and that is in essence what we are doing.

I recognize those differences of opinion, and I recognize it is the role of the labour movement to continually advance the cause of labour to the highest degree possible. That is what was happening here and I accept that. I appreciate that. We have made decisions to by and large maintain the status quo on the basis that this is a fund that is 100 percent employer-funded, and we wanted to have a scheme that was by and large in tune with what was provided across the rest of the country. I appreciate that difference and we will from a government's perspective have to continue to agree to disagree. Thank you, Mr. Chair.

Mr. Chairman: Thank you very much. Did the opposition critic have an opening statement?

Committee Substitution

Mr. Steve Ashton (Thompson): Prior to that, Mr. Chairperson, I would like to ask, by leave, that the Standing Committee on Industrial Relations be amended as follows: The member for The Pas (Mr. Lathlin) for the member for Point Douglas (Mr. Hickes), and that will be ratified in the House.

Mr. Chairman: Is there leave? Leave granted. Is the substitution agreed to?

Some Honourable Members: Agreed.

Mr. Chairman: Agreed and so ordered.

* * *

* (1010)

Mr. Ashton: Prior to my comments, I am just wondering if the minister was able to provide a copy of the costing that had been requested, the workers compensation estimates of some of the changes involved?

Mr. Praznik: Mr. Chair, if the committee will just bear with me for a moment, I will provide that information.

Yes, Mr. Chair. If the member would, I will provide these numbers to him. These are approximations obviously, based on the calculation of staff, and I do put estimates because no one will ever know what will happen, and the other caveat that I put on this was our intention to get into a better scheme, and I am sure no members here would argue that a payment of gross, based on gross salary, is better than the payment of net salary.

I would point out as well that payouts from Workers Compensation are tax free. The other caveat I put on these numbers are that these are not savings that would be realized right away or costs that would be realized right away, but will take a number of years as the system is implemented. The adoption of a 90 percent, or a net income basis for payout, will, over a number of years, result in an expenditure of somewhere between seven and eight million dollars, less than what is currently being paid out, primarily because of the overpayments where we are paying over 100 percent of net income under the current gross system.

The adoption of a lump sum impairment system, which I would indicate clearly, is on top of the wage loss, in the case of impairment, would be a similar number, primarily because dollars will not have to be set aside to guarantee a lifetime pension in the person's life, which requires a huge amount of dollars as the member would appreciate even for a small pension. The adoption of indexed wage loss until retirement will add to the cost side some four million dollars or more. The provisions respecting collections, increasing maximum insured wages, et cetera, third-party actions for auto accidents will add—if I may, provisions respecting collections, increased efficiency, increased maximum insured wages which will bring in additional revenues, third-party actions from auto accidents will result in a savings of about four million dollars. The actuarial cost of indexing, the proposed additional indexing over what we are normally doing now, which is the biannual bill, will add over a million dollars in additional costs.

* (1015)

Mr. Chair, I would point out as well that this additional cost is over and above what the estimated cost would be if we carried on with our indexation biannually by the Legislature as we normally do now. So it has certainly added to our costs.

Mr. Ashton: I appreciate the minister providing that information. It is certainly consistent with my analysis, in a general sense, and certainly confirms my analysis of this bill. That is, it is a cost-saving bill.

It is a bill that is aimed at reducing the unfunded liability, and the reduction will occur at the expense of injured workers today and, in more particular, injured workers in the future.

I know by the minister's own figures that we are looking at balance here of somewhere in the neighbourhood of four to one in terms of reductions versus increased expenditures. That is no surprise because this bill has clearly from the start been aimed at placating those in the business community that have been arguing this for some time. It shows, I think, the bias of this government, in terms of workers compensation.

I just want to deal with a couple of statements that the minister made and that have been made throughout this bill because I think they are indicative of the biases of this government and the bias, in particular, in regard to workers compensation. I want to deal with the statement made by the minister, and it repeatedly has been made by employer groups, that this is an employer-funded program.

Well, indeed, it is employer funded and there is a reason why it is employer funded. It is, in essence, an insurance program. An insurance program for the benefit of employers in the sense that employers are not subject to legal action in regard to workplace injuries, the trade-off being, at the time in the second decade of this century, that employees would supposedly receive the benefits of having a more guaranteed system of payouts, a more expedited

system of payouts. That was the trade-off: court action for the convenience of employees. That court action is no different than any type of liability insurance, in this case, the liability for workplace injuries.

Should that not be employer funded? Indeed, Mr. Chairperson, it should be employer funded. It would defy logic to expect employees to pay for insurance against the negligence, for example, of employers. That would not only not be logical, but not be consistent with what this program is all about.

What this government is doing is now shifting that balance. There is an unfunded liability. The government could have chosen a number of directions to deal with that, and I find it interesting that they are now using the terms that when they were in opposition they had great objection to. "Unfunded liability" was treated as a terrible, terrible phrase when the Tories were in opposition. I know there are some who remember the lengthy debates. Well, now they use that term.

But what this government is doing through this bill is now asking injured workers and their families to pick up the tab for the unfunded liability. These measures here are, on balance, significantly weighted towards cost savings, towards reduced benefits for both current and future workers compensation claims.

So, indeed, if this is an employer-funded program, in this case it is the employees that are being asked to pick the tab for the unfunded liability. Let us make no doubt about that.

I also want to deal with the statements by the minister that this maintains the status quo. I submit that this does nothing in that area. It does not maintain the status quo. This moves workers compensation in Manitoba towards the type of programs we have seen in some other provinces, but it moves it very clearly away from some established principles that have been accepted the last decade or longer in terms of workers compensation in this province, and moves it in a direction that is aimed, once again, at cost containment.

* (1020)

I want to deal with that because I want to deal with some of the specific concerns that have been expressed throughout these hearings, to explain our position in regard to workers compensation. First of all, this bill will affect the existing benefits paid the workers, and indeed in the future as well. The minister talked about the shift to 90 percent of net. In fact, it is a shift to 90 and then later, to 80 percent. The minister says, well, no one can object to that. Mr. Chairperson, I will say to the minister: I do object to this very significant reduction in overall benefits to workers and a significant reduction to certainly every single worker and to virtually all married workers depending on their particular circumstances earning over the wage of $24,000. This is aimed at reducing costs. It is not being moved out of concern for injured workers and their families—no ifs, ands, or buts.

I note for the minister again, in terms of these committee hearings, one of the most interesting presentations came from the union representing the City of Winnipeg workers, which has one of the most innovative programs in terms of workers compensation, in terms of rehab, et cetera. This is also probably the one union in its collective agreement has established 100 percent, through collective bargaining, of benefits. So it has been proven categorically, to my mind, and if the minister would care to reread their presentation, that there is nothing inconsistent with a significant compensation package in terms of benefits that can provide, in that case, 100 percent of protection against loss of income and other programs and get people back to work, get people rehabilitated, do the kinds of things that we should be doing in terms of workers compensation.

I note that because the minister trots out the argument that nobody else has 100 percent. Let us not ignore the fact that not only is the minister refusing to move to 100 percent, by this move he is reducing benefits significantly overall for workers and up to $3,000 per injured worker in terms of people earning in the $40,000 range—up to $3,000. The minister knows that is the intent of this particular move.

Mr. Chairperson, similarly, expressions have been put forward to this committee about the impact of the lump sum for impairment which, once again, reduces the overall benefits being paid by a significant amount. In fact, for some claimants, if you were to compare those who will be impacted by this bill and those impacted previously, one will see just how significant the changes are. It will be a huge difference in terms of benefits paid over a lifetime period because of this bill, once again, reducing those benefits.

I want to refer to—and that is part of the strategy of this government, Mr. Chairperson, is to reduce benefits. There is another strategy as well, which is quite clear in this bill, and that is to reduce the number of people who will qualify in the future for workers compensation. It is evident in a number of sections. In terms of occupational disease, we heard from a physician who presented before this committee, who stated very clearly from his experience as a physician, that the current definition, the restrictive definition the minister is going to be putting in place, will reduce the number of people in the future who will be able to establish that they have a work-related illness or disease. That is clearly part of the strategy in reducing the number of future workers compensation claims.

* (1025)

Mr. Chairperson, there are also other aspects in this bill: the changes in terms of pre-existing conditions—deletion, one of the areas of the most progress, to my mind, in the last decade. The minister's reference, these assuring words in terms of dominant cause—once again, a great deal of concern expressed about how that will be interpreted. In fact, there are a whole series of moves in this bill that go beyond reducing benefits and will reduce the number of claims in terms of definition of those particular areas.

It is not just that, Mr. Chairperson. There are other aspects of this bill that will go even further in that regard, and introduce an adversarial nature into this process that will be far greater than the current level—once again, something that will only work to the detriment of workers compensation claimants and will, in this case, reduce the number of claims, Mr. Chairperson, that will be successful, and will increase the adversarial nature. I refer, in this particular case, to the changes in this bill that will open up the medical records to access by employers, something I consider to be of very serious consequences—very serious consequences.

I say to the minister who used the Charter arguments, I remember in this House, where recently we had to deal with the situation where everybody assumed the Charter would apply, in this case electoral divisions, where we were told—and indeed, when the electoral divisions came in, Mr. Chairperson, it was indicated that we could not move to a 25 percent variance. I note in Saskatchewan they did move to a 25 percent variance and that was ruled by the Supreme Court to be valid. So I do not accept, in this particular case, that this is a Charter argument. This is an employer argument; employers want access to those medical files. I feel that is a dangerous precedent and I believe that information will be misused against employees by employers—not all employers—but by a significant number.

I point, in this regard as well, to the concerns expressed that there may be more involvement in this particular case for tort action, and for court action that once again will increase the adversarial nature of the process. In this category, I also express the concern that once again has been referenced in terms of the contracting-out provisions of this bill, and point to the fact that, once again, when one has employers handling workers compensation claimants, to my mind there is a distinct conflict of interest that has been introduced into this process. That is another area in this particular case that is a major concern.

There are other concerns in this bill as well. This once again will reduce, to my mind, in this case, the number of injuries that are reported—period. I refer in this particular case to the entrenchment of experience rating in this bill as part of legislation, something that has been policy of the board basically since this government was elected. Experience rating, Mr. Chairperson, will lead to the kind of situations we are seeing at the City of Winnipeg and other self-insured employers.

I point to the presentation by the representative of the transit union, and I point to the fact, and it is no coincidence, that the most significant number of presentations before this committee were of employers from self-insured systems, and also employees, because there is a greater adversarial relationship in that area. I refer, in this case, to the railroads, which are self-insured, and the City of Winnipeg. I remind members of this committee of the presentation from the transit union, where he indicated that employers routinely contested workers compensation cases, even where they are successful only in 5 percent of cases.

I believe it was the member for Portage (Mr. Connery), the former minister responsible for workers compensation, who described that as harassment. Indeed, Mr. Chairperson, it is harassment, but that is what you get when you have a direct relationship between the number of cases that are accepted and the rates that an employer

paid. That is what self-insurance is about and that is essentially what experience rating is going to do in terms of employers generally. It is going to increase the conflict of interest, if you like, in this particular case. It will encourage employers to contest more and more claimants and, not only that, this minister is now giving them the tools to do it in terms of access to medical records in particular.

* (1030)

There is another section in here that is, I think in dealing with that, going to also create difficulties: the section that refers to frivolous claims. We have heard presentations before this committee that once again have said that this is going to create a great deal of concern. It will either do one of two things. It will either be considered so unenforceable that it will have no impact whatsoever, in which case it should be taken out. The alternate possibility is that it will provide a disincentive to employers and employees, but in particular to employees, because of the significance of a $250 potential penalty to go to either medical review panels or through the appeal process. Mr. Chairperson, that is unacceptable. This is a user fee and the same principle should apply, in this particular case, as it would in terms of medical user fees. Employees should not be faced with that type of disincentive to merely ask for their rights to be enforced.

I point to the presentations by people at this committee, who said that in their experience—many of them had dealt with hundreds of cases—there were very few, if any, frivolous claims. I can say, in the 10 years I have been an MLA, in the last few years that I have been the workers compensation critic for our caucus, I can truthfully say that I am not aware of one claim that is frivolous that I ever dealt with.

Mr. Chairperson, this type of clause in this, I think, shows something of the mind-set of this government in assuming that there are a significant number of frivolous claims. That is not true; it is unfair to the many claimants who are involved. If there are frivolous claims processes involved—it is essentially employers such as the City of Winnipeg, who are routinely appealing cases. I want to make it very, very clear, if the minister wants to deal with employers who are doing that, let him do so, but let him not also net in the employees, because that is unacceptable.

So what is the bottom line with this bill? I have mentioned some of the negative consequences; let us deal with the few positive aspects to it. Index wage losses: in terms of the indexation, well, we have been doing that de facto over the last period of time. This brings in not complete indexation but institutionalizes—legislates—legislation which basically does not require the passage every two years. I agree with that. That has been consistent with everything that has been developed in the last few years in terms of that. This also brings in an increase in the maximum insured earnings. I think that is logical as well. It brings us in line, really, with other provinces—nothing more, nothing less.

So what it is, is what we should be doing anyway, and to a certain extent what we have been doing anyway. So let the minister not mislead workers compensation claimants or the people in the general public about the impact of this. This is not any great generosity on the part of this government. If one adds up, once again, the impact of those few positive changes in this bill, and weighs that against the reductions in benefits, by the minister's own figures, for every dollar that workers compensation claimants will be receiving in additional benefits through this, there will be another $4 that will be taken away somewhere else. That is the ratio, Mr. Chairperson, we are dealing with.

I want to indicate what our position, and the NDP caucus, is in terms of this bill. We looked at this bill, Mr. Chairperson. We saw it for what it was, which was an attempt to balance the budget at the expense of injured workers. We went through this bill in some detail. We sat through these committee hearings and heard the many concerns about this particular legislation and, quite frankly, when it came to the question, the decision as to whether we were going to move amendments or not, the course of action we would be following became clear.

This bill is, to my mind, essentially unamendable. Whatever amendments the minister can bring forth and whatever we might have suggested are essentially going to be cosmetic. They will not change the bottom line of this particular bill, in that it is going to reduce the budget at the expense of injured workers and their families. So we will not be moving amendments but we will be going one step further.

I have outlined what this bill does. There is one other thing that needs to be recorded about what this bill does. What this bill does is essentially ignore the significant number of recommendations that were brought in by the Workers Compensation Review

Committee in 1987, Mr. Chairperson, and the spirit of those recommendations. It is not sufficient for the minister to sit back and quote those recommendations that were implemented without referring to the many that were not, and also the many other changes in this bill that completely go against the spirit and the recommendations of that Workers Compensation Review Committee.

Mr. Chairperson, I want to note what that Workers Compensation Review Committee did. It went across this province. It met with members of the public; it met with injured workers across this province. It was a significant process in terms of consultation. I want to note further what the recommendations did. The vast majority of the recommendations, Mr. Chairperson, were unanimous. What was this board composed of? A neutral chair, an employer representative, and an employee representative. There was consensus amongst the people who developed those proposals.

Let us compare that to the process that this government is following. First of all, there is no consensus on a significant number of the recommendations in this bill. Every employee representative before this committee has condemned significant parts of this bill. The Chamber of Commerce is happy with it, surprise, surprise, but employee representatives and injured worker representatives have indicated this bill is not in keeping with the spirit that was developed by the so-called King Commission in 1987.

Well, let us put that in perspective. What about the process we are following? Are we going across the province? Are we meeting with injured workers? Are we going out of our way to invite that input on this significant piece of legislation that is going to impact on injured workers for decades to come? No, we are not. We are dealing with this at a committee, here in Winnipeg, a committee that is of limited focus in terms of its scope, and we are today dealing with clause by clause.

I am convinced, Mr. Chairperson, after looking at this bill, that what we should be dealing with is a two-stage process, first the tabling of this piece of legislation that does not reflect any consensus and does not reflect any true degree of consultation. When I say consultation, I do not mean, here is the bill, tell us what you think about it; I mean real consultation. This bill has been a fait accompli for injured workers in this province. What we really need to be doing is tabling this bill, is dropping this bill and going back to the drawing board.

This bill is a bad bill. It is bad in terms of some of the drafting problems; it is bad in terms of the implications for the system itself in the future, and most importantly, it is bad for injured workers and their families. That is why we will not be participating in bringing in cosmetic changes to this bill.

Mr. Chairperson, we will vote against section after section in this bill that we feel need to be dropped entirely; we will vote against sections in this bill that, regardless of whatever intent, are going to have negative implications for the system itself and for workers compensation claimants, and we will be introducing a six-month hoist, which is the only way in this Legislature, essentially, to table this bill and ask the minister to go back and start again and come in with a bill that truly reflects the spirit, the type of consultation that had taken place, certainly up until 1987.

I want to make a few final comments, Mr. Chairperson, by indicating, as I said, surprise, surprise, the Chamber of Commerce liked this bill. Surprise, surprise, indeed. Did anybody expect this government with its so-called benefits package to do anything other than come in with a bill that reduces benefits for injured workers? Did anyone expect the government really to live up to the commitment of the Premier (Mr. Filmon) in the last election to have all items to do with labour legislation, and this indeed is labour legislation, subject to full consultation between all parties involved? When we have seen other changes such as Bill 70, announcing in Bill 59 that is not the case?

* (1040)

Surprise, surprise, we are seeing the anti-labour, the anti-worker agenda of this government once again in action. I want to say, Mr. Chairperson, that Bill 70 has received a lot of profile in this particular session, and Bill 70 will indeed hurt workers in this province for a year, and Bill 70 will sow the seeds of discontent in terms of labour relations for many years to come.

It is a significant bill, but this particular bill is significant as well, because it is going to affect injured workers for many years to come. It is going to reduce their benefits. It is going to result in fewer of them receiving benefits. It is going to result in more of them being harassed by their employers because of their filing of workers compensation

cases, and it shows the true mind-set of this government.

I want to say one thing, Mr. Chairperson. While indeed this bill probably has potentially more long-term significance than even Bill 70, it should be treated in that light. There is at least one consolation and that is, and I can say this to the minister, that if the New Democratic Party forms government, one of the first items on our agenda will be to reverse many of the regressive changes in this bill and bring in the true benefits package, the true consensus decisions of the Workers Compensation Review Committee -(interjection)- and the minister says he will wait and see, Mr. Chairperson. We will do everything we can to change this bill, to drop this very, very negative bill.

I want to finish on that note. While this is indeed a sorry day for workers compensation in Manitoba, and workers compensation claimants, injured workers and their families today and future injured workers and their families, I want to say on the record that this bad bill will stay in place only as long as this temporary government, as indeed all governments are temporary, has a majority and remains in government. The day this government is defeated is the first day, the first day that we aim to get a truly fair workers compensation system in this province, something this government has never understood the basis of, and as shown by this bill, has shown it will not understand in the future. This bill is anti-worker, anti-labour. We will be voting against it.

Mr. Edwards: Mr. Chairperson, I have listened to most of the presentations that have been made to this committee. I have studied the comments made by the minister, both in the House and out of the House and I have looked at the bill in some detail. We were the benefactors of some very substantial presentations which were made, some very detailed presentations which have greatly benefited this committee and I want to say at the outset a vote of thanks to the presenters for their efforts.

I think I was probably unique in coming to this bill with an open mind. The fact is that both of the other parties have in their history bought into one or the other side of the labour relationship and that has coloured everything they have ever done in labour legislation.

This bill, on my assessment, is more wrong than it is right and substantially so. I must agree with the member for Thompson (Mr. Ashton), the New Democratic Labour Critic, when he assesses this bill as a bill to save money for employers. That is what it is. There are some very small parts of this bill, some positive changes my friend has mentioned. One is the automatic indexation on an annual basis; secondly, the increase in maximum insurable earnings.

But, Mr. Chairperson, there is dramatically more that is regressive and wrong about this bill and it stems from a view of workers compensation which I do not share. That is that workers compensation is to be seen as a burden on employers, a tax on employers; that is the theory behind these amendments: that it is one more item to remove from employers so that they can be free to expand and profit.

Now, I am one who believes in free enterprise in our system insofar as it does not unreasonably incur on the people of this province, but it is important to recognize how workers compensation came to be. It was not a gift from employers to employees. It was not that. It was a bargain, it was a trade-off. We have heard that time and again and if one looks at the history of workers compensation, one will see that, and both sides won.

There was not a winner and a loser. Both sides won. Employers got the right not to be sued. That is a significant gain that they have received. They do not have to face the courts of this country and the types of awards that would be handed out in cases where negligence was found, millions and millions of dollars potentially. They do not have to go out and insure themselves and face that type of unsuredness in their financial planning.

In return for that they have given what should be reasonable, fair compensation for injuries in the workplace. This is not a tax on employers. That is the way it has been cast on a number of occasions in these hearings; very interesting to hear that. It has been cast as a tax on employers. It is not a tax on employers. It is a trade-off and it should be seen as that. This bill goes out to relieve employers of that financial burden, and it is from that fundamental wrong-headedness that almost everything in this bill takes its genesis.

The bill is partly founded on a desire to increase efficiency, and I applaud that. The Workers Compensation Board was for lack of a better term, out of control at the end of the reign of the NDP. While many of the benefits were certainly far superior to what will be paid under this bill, it was not

a financially stable enterprise and that is not in the best interests of workers. It is important to have a financially sound Workers Compensation Board. To the extent that this bill rectifies that, and it is in a very minor extent, it is positive.

However, most of the savings will result from a reduction of benefits to the workers. Now, Mr. Chairperson, I want to go through a list, and I have drawn it up here, of some eight amendments in this bill which I perceive to be particularly regressive.

First of all, the definition of occupational disease and the tying it in to the test of dominant cause is in my view a recipe for exclusion of workers. As we learn more and more about occupational diseases and we are learning more every day, this bill takes us in exactly the opposite direction. Instead of opening ourselves up to what may be occupational diseases, we are shutting it down, because we fear what may be down the pipe. We fear that there might actually be occupational diseases out there that we do not know about and that are going to come up and are going to cost us money. Whether or not they are tied to the workplace and are in fact occupational diseases is not the issue. The issue in this bill is to try and limit what the expenses will be, and the expenses in this case of the unknown.

Mr. Chairperson, the doctor who presented before this committee told us very clearly that this would be a recipe also for ongoing medical disputes, expensive time-consuming medical disputes. We are going to spend months and thousands and thousands of dollars pitting doctor against doctor, but what does dominant cause mean, and where is the worker going to be in all of this? The worker is going to be probably on welfare.

Another regressive change is the $250 disincentive to appeal which the minister has built in. I noticed over the course of these hearings that the minister did not question on those issues, and it was raised many, many times. I am hopeful that the minister has seen the light.

There is no real reason to bring in this type of a disincentive, albeit tied to only where the appeal is found to be frivolous. There is not a rash of frivolous appeals being taken. There has been no evidence of that. The evidence is to the contrary. Very few if any appeals are actually frivolously taken, and I think it is an insult to most workers contemplating an appeal that we would suggest that those appeals might be taken frivolously. These people are usually on the street or close to it when they are taking these appeals and waiting months for the result, with no income.

So I am hopeful that the minister will on his own withdraw those penalty provisions which will very clearly act as a disincentive to appeal, which is a claimant's right.

The $45,500 limit to dependants of deceased workers is too low. That has been stated on various occasions. That, I believe, in this day and age, is clear as well.

* (1050)

The impairment awards are another major facet of this bill which is regressive. The lump sum settlements spelled out in the award are ridiculously low and, in my view, build in an assumption of liability against the worker. I am sure the minister is aware, having been knowledgeable in the law himself, looking at other areas where awards are given, in particular MPIC awards, that these do not start to qualify as reasonable awards when someone has suffered a permanent impairment to their ability to work.

We had, in Mr. Mesman's report outlining the amounts as it was and as it will be, and we see that this is going to be a cost-saving measure for the board at the expense of workers who have suffered permanent disability, lost legs, lost arms, lost eyes. We are saving the employers money in the workers compensation scheme at the cost of permanently maimed and injured workers. Is that the type of workers compensation scheme that we should have in this province?

I believe that this bill misses what really is the answer and should be the way of the future for workers compensation, and that is to build in a right to rehabilitation and retraining if it is workable in any given situation. That is the answer. The answer is to work with injured workers in order to rehabilitate first, and if rehabilitation is not possible, to retrain.

The City of Winnipeg, through the efforts of the individuals involved, has given us a blueprint which I think bears looking at. I reiterate what my friend the member for Thompson (Mr. Ashton) has said, that it is interesting that the one most innovative rehabilitation return-to-work program in this province is done by an employer that has a 100 percent net program.

Mr. Chairperson, there is also a provision in here which really, I must admit, I was unsure of the purpose but which has been made clear to me and

has not been denied by this minister, and that is the provision that allows the government to contract out services done by the workers compensation scheme now. That is again, I think, part of the theory that this is a burden and a tax on employers and so Workers Compensation must do everything possible to reduce costs and, if it means reducing benefits, so be it.

In this case I think the government also adds to that the theory that whatever can be done by the Workers Compensation Board can be done cheaper by someone else. It is a theory that the Workers Compensation Board is fundamentally inefficient and costly beyond what it has to be. That is wrong, Mr. Chairperson; that is a wrong-headed theory. The government, I think, risks—well, maybe it assumes that risk and wants that result—losing the trust of workers in the workers compensation scheme, what little they have left, and it also risks, in my view, getting wrong results when it seeks to contract out the adjustment services done by the board now.

If we go that route of privatizing workers compensation, we will have lost what was achieved back at the beginning of this century in terms of the trade-off between employers and injured employees in workers compensation. It is a wrong-headed, regressive move. The government should turn away from it.

Mr. Chairperson, as well, there are provisions which allow employers access to medical information, and I have looked at those in some detail and struggled with them, because I believe that two parties should have, as much as possible, at least equal access to information if not full access to each other's information, but I have been persuaded that that is a wrong-headed view of this, because this is not worker against employer, this is not a pitched battle in which we are both fighting, in the employer's case to reduce benefits and in the employee's case to get benefits.

This is not a fight with the Workers Compensation Board in the middle as the arbiter. That is not what workers compensation is about. Rather, workers compensation was the giving over by employers and employees not just of the right to finally adjudicate as opposed to a court, but the right to investigate, the right to be the adjuster, the right to be the body that looks to rehabilitation, assesses retraining possibilities. It is a complete package.

To increase in this case the ability of the employers to gain information which may be harmful to employees, both in the appeal process and later on, is in my view to further pit employers against employees in a compensatory relationship, and it is wrong-headed again, and it stems from a fundamental misapprehension by this government of what workers compensation is about.

Mr. Chairperson, this bill, in my view, does very clearly open up new doors, new opportunities for tort action. It introduces concepts of fault in a no-fault system. The government is going down a road, and I do not think they know what the result will be. I think they may perceive their doing what is in the best interest of employers, but I do not even think they are doing that.

If they are opening up the door to access to courts, which we have heard on many cases they may be doing, some by legally trained individuals, including Ms. Ram from the Injured Workers Association, they may be heading down a path that not even employers want them to head down in their fundamental undercutting of what the workers compensation scheme is about, a no-fault, no-litigation, complete compensation system.

Mr. Chairperson, I think it is important in conclusion to set out as well what our party believes the thrust of workers compensation should be beyond the fact that it is a trade-off and should be viewed as such, in which both sides won. Benefit of the doubt in workers compensation claims must go to the worker. We must be prepared and employers were prepared traditionally, I believe, and should be prepared still today to give the benefit of the doubt in compensatory arrangements to workers.

Why? Because, Mr. Chairperson, they have nowhere else to go. The fact is, the member cites CPP, UIC as fall-back positions, MPIC in the case for car accidents. He knows that is not realistic. He knows as well as I do. We have all seen the pathetic circumstances that injured workers are put to in this province. I have heard from too many people who say to me, my doctor says, if I go back to work, I injure myself. The Workers Compensation doctor says I should go back to work, I am fit. What do I do? Do I go against the advice of my own doctor, risk becoming further injured, or do I go back to work and take the job as the Workers Compensation Board does?

The temptation is to go back to work because, added to the medical debate, is the fact that someone is at home, stressed enormously because they are unable to provide for the family, losing esteem and dignity in their own home and in the community because they are questioned in terms of their injury, and facing the daily ritual of frustration in dealing with the board. The benefit of the doubt has to go to the injured workers. Mr. Chairperson, we know the pathetic circumstances, the minister does, that this government will increasingly force upon workers, and it is a mistake.

I want to conclude by saying that, as I went through this bill on the weekend, well over half of it should be deleted. That led me to the conclusion that the entire bill must be withdrawn by this government, must be rethought by this government, and that is the only possible way that the bill can be dealt with fairly and we can come forward with a legislative package which is even possibly acceptable to the labour movement, to the workers of this province.

To this extent, I agree with my friend the member for Thompson (Mr. Ashton), I do not think that it is a particularly worthwhile thing to try and go through this bill and amend it, because it is beyond amendment. The principle behind the bill is wrong-headed. It has to be rethought, and I think we have to look back to the King committee. We have to look at some of the things they said on a unanimous basis. Why we did not work on that bill on that basis, I will never know. I suppose, Mr. Chairperson, because it was struck during the prior administration, this government arbitrarily decided it was a worthless venture. Some of the things which they have indicated have been built into this bill. -(interjection)-

Well, the minister says 80 percent of the King Commission is in this bill. Mr. Chairperson, I most strenuously disagree with that assessment. I have read the King Commission Report; I have read the act. I do not see 80 percent of the King Commission in this bill. The fact is that the assumption the King committee took with respect to workers compensation was different than the view this minister takes and this government takes. They take the view that it is a burden on business to be reduced, plain and simple. That is what this bill is about. Because that assumption is incorrect and is behind almost everything in this bill, the bill is wrong, is bad and is regressive. It should be taken back by this government and rethought. Thank you, Mr. Chairperson.

* (1100)

Mr. Chairman: We will now proceed to consideration of the bill. What is the will of the committee? Should we move in blocks of clauses?

Some Honourable Members: Agreed.

Mr. Chairman: Agreed.

Mr. Praznik: Mr. Chair, I have provided you with a list of the amendments that we are proposing, by and large, technical amendments. I would appreciate, if we are going through block by block, that you would stop at the appropriate blocks to incorporate those amendments.

Mr. Chairman: Noted and agreed. During the consideration of the bill, the Title and the Preamble will be postponed until we finish consideration of the bill, so we will proceed then.

Clauses 1 and 2(2)—pass.

Mr. Ashton: I would assume we are going clause by clause when you say—

Mr. Chairman: We had just agreed that we would go in blocks of clauses.

Mr. Ashton: Yes, but there are whole blocks involved in one clause. I assumed that we would start with 1, then go to Clause 2. I would like to identify some of our significant concerns as we go through.

Mr. Chairman: We had just agreed, Mr. Ashton, that we would proceed in blocks of clauses, 1 to 2(2).

Mr. Ashton: Well, then, if that is the case, Mr. Chairperson, the problem we have once again is where we want to register our objection. I took it that we were going to deal with sections, subsections as a block, rather than each subsection.

Mr. Chairman: No, we had just agreed.

Mr. Ashton: Mr. Chairperson, that was different interpretation. What I am suggesting is, for example, Clause 1—Clause 2 stretches through two and a half pages, and I would rather break those up -(interjection)- Yes, I would suggest clause by clause.

Mr. Chairman: I am sorry, the committee has just agreed that we will go through the bill in blocks of clauses—

Mr. Ashton: Difference of interpretation as to what that meant. I thought that the committee wanted to take 2, for example, and deal with 2 in its entirety,

but I do not think you mix in 1 and 2 together, or 3 and 4. That is not standard procedure.

Mr. Chairman: Well, Mr. Ashton, it is normal procedure in committee that when the committee agrees to a pass, for instance from Clause 1 to Clause 10, and you consider them, when there is no objection that they be passed in that manner.

Mr. Ashton: I am just saying there was a difference in interpretation, Mr. Chairperson, of what you were suggesting. If that is the case, I would object to it. I would suggest we go through Section 1, Section 2—deal with them that way, which does deal with items as a block rather than deal with each subsection separately.

Hon. Glen Cummings (Minister of Environment): I was going to say that it does not preclude the member from raising any concerns -(inaudible)-

Mr. Praznik: Yes, Mr. Chair, I appreciate the comments from the member for Thompson (Mr. Ashton) as he has indicated that there are certain sections they wish to vote against, and some they wish not to vote against. Obviously, one has to appreciate that difficulty and I would hope that if we are going to be doing that, perhaps we could deal with it that way, and the two opposition parties could agree to appropriate division on those votes as opposed to going through the repetitive actual taking of a hand vote.

Ms. Marianne Cerilli (Radisson): I have to make a comment here. This is one of the few times I have been on a committee that has not been in my critic area. I have learned a lot about workers compensation from being on this committee.

I would just have to say that this government has time and time again, tried to push through legislation quickly to meet its own agenda on a variety of bills that are currently before this House. They have subverted the process. They have shut down committee hearings on other labour legislation that have come before a committee. They have not permitted people to speak, and now they are not allowing both opposition parties to consider this bill clause by clause, which I understand is the usual procedure. I just find it amazing and appalling that—

Mr. Chairman: Ms. Cerilli, I note your criticism of the procedure that was just agreed to by the committee and you were sitting right there, so was your member of your committee and so were all the members of the committee. I respect the wishes of the committee. As Chair, I respect the wishes of the committee. The wishes of the committee clearly indicated that they were agreed to moving through this bill in blocks of clauses, and that was the agreement of the committee. I will abide by that agreement.

Mr. Praznik: Yes, Mr. Chair, I take some exception to Ms. Cerilli's comments because I think I indicated to the Chair just a moment before she spoke that I appreciated the position of the New Democratic Party and opposition members who wanted to vote against specific clauses.

I have no objection to that, the committee changing that consensus. All I asked for, because I am sure they all ask for recorded votes on those specific clauses. I have no objection to what the member for Thompson (Mr. Ashton) is asking for. I appreciate that difficulty going block by block, and I would hope the committee would accommodate that. I was not trying to stifle anything and I resent Ms. Cerilli's comments because I was supporting their position.

The second comment that I asked for was if we got into hand votes on issues, if we could do it in some form of division instead of going through it each time—speed up the process.

Mr. Ashton: As I have indicated, if we in the opposition feel a recorded vote is necessary, we will call for it. If we do not feel it is necessary, we will not call for it. All I was saying, and I object, Mr. Chairperson, to your interpreting that the committee had agreed to this. The government majority on this committee may agree with something.

I want to register that my understanding, when you said block by block was going to be that, for example, 2 which has a whole series of subsections would be dealt with as a block, instead of each subsection. All I was suggesting is that we go Clause 1, Clause 2, Clause 3, which is block by block. But I want to indicate that does not mean we will not have hand votes, if necessary.

Mr. Chairman: I respect the wishes of the committee and we shall proceed as agreed. Will Clause 1, I will ask the question again, will Clauses 1 to Clause 2(2) pass?

Mr. Ashton: First of all, in terms of Clause 1. The Workers Compensation Act is amended by this act and I think The Workers Compensation Act is gutted by this act is probably a better term, Mr.

Chairperson, in terms of some of the principles that have been expressed.

In terms of Section 2, I want to register our strong objection to the occupational disease definition. This, Mr. Chairperson, will restrict future workers compensation claimants severely. We heard a presenter before this committee who indicated very clearly that is going to be the case, that future claimants will have difficulty. We also heard very clearly that this will restrict the ability of the workers compensation system to reflect the advancement of medical science in recognizing occupational diseases.

We particularly have a problem with the ordinary diseases of life, because there are ordinary diseases of life that can be significantly caused by occupational factors. I want to indicate clearly on the record that this definition of occupational disease is not acceptable and will handcuff workers compensation in the future and will result in individuals not receiving compensation, even though they have a disease that is occupationally influenced or occupationally based. I want to indicate that in the strongest of terms.

I also have concerns, and if we are dealing with other aspects of Clause 2, the restriction on the definition of an accident, which once again restricts that matter. I also have other objections. Those are the two major ones in this point, and we will not support this clause, period.

Mr. Chairman: All those in favour that Clauses 1 to 2(2) be passed, would you indicate by saying yea.

* (1110)

Some Honourable Members: Yea.

Mr. Chairman: All those opposed, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairman: I declare the two clauses passed.

Mr. Ashton: I request a recorded vote, Mr. Chairperson.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare the two clauses passed. Subsection 2(3), I understand that there is an amendment.

Mr. Praznik: I understand from our drafts people that there was an error found in the French translation in this section, so I would move

THAT the proposed clause 1(3)(b), as set out in subsection 2(3) of the Bill, be amended by striking out the French version and substituting the following:

b) les membres de la famille de l'employeur ou de l'administrateur d'une corporation qui:

(i) sont employés par l'employeur ou la corporation,

(ii) vivent avec l'employeur ou l'administrateur à titre de membre de sa maisonnée,

à moins que la Commission n'approve, en vertu de paragraphe 74(4), une demande de l'employeur ou de la corporation;

(French version)

Il est proposé que l'alinéa 1(3)b), énoncé au paragraphe 2(3) du projet de loi, soit remplacé par ce qui suit:

b) les membres de la famille de l'employeur ou de l'administrateur d'une corporation qui:

(i) sont employés par l'employeur ou la corporation,

(ii) vivent avec l'employeur ou l'administrateur à titre de membre de sa maisonnée,

à moins que la Commission n'approuve, en vertu du paragraphe 74(4), une demande de l'employeur ou de la corporation;

Motion agreed to.

Mr. Chairman: Are we agreed to amending Clause 2(3) in the said manner? Agreed and so ordered. Section 2(3) as amended—pass; subsection 2(3) as amended—pass.

Mr. Edward Helwer (Gimli): Mr. Chairman, we did not pass Section 2.2.

Mr. Chairman: Yes, we did.

Mr. Helwer: We passed that?

Mr. Chairman: Yes.

Mr. Helwer: 2.2 and 2.3? Okay, carry on, sorry.

Mr. Chairman: Clauses 2(4) to 4—pass. Shall Section 5, I understand there is an amendment, 5(1)?

Mr. Praznik: Yes, I appreciate that this particular clause is not supported by some. It is the provision with respect to wilful misconduct, but it is suggested by our drafts people that it would be better laid out with some changes and what in essence this does

with respect to medical aid is has the cost borne by the health care system in cases of medical misconduct for the first three weeks as opposed to workers compensation, so no one is going without medicare.

I would therefore move

THAT the proposed subsection 4(3), as set out in subsection 5(1) of the Bill, be amended by striking out "wage loss benefits and medical aid are not payable for three weeks following the accident." and substituting the following:

(a) wage loss benefits are not payable for three weeks following his or her loss of earning capacity; and

(b) medical aid is not payable for three weeks from the day the worker requires medical aid.

(French version)

Il est proposé que le paragraphe 4(3), énoncé au paragraphe 5(1) du projet de loi, soit amendé par substitution, à "n'a pas droit aux prestations d'assurance-salaire ni à l'aide médicale pendant les trois semaines qui suivent l'accident", de ce qui suit:

n'a pas droit:

a) aux prestations d'assurance-salaire pendant une période de trois semaines suivant la perte de la capacité de gain;

b) à l'aide médicale pendant une période de trois semaines à partir du jour où il a besoin de cette aide.

Again that being picked up by the health care system—and both in English and French versions.

Motion presented.

Mr. Edwards: Specific to this section in its entirety, my concern, and I am sure the minister notes it, and I simply want it noted on the record, is the cause of occupational disease provision which builds in the dominant cost test. This is a very problematic section. The minister has noted that. It has been brought to our attention by medical practitioners and numerous presenters.

My suggestion is that it would be far more equitable to build in what is a contributory cause of the occupational disease rather than the dominant cause. I think that it is a mistake and a recipe for increased frustration of workers and increased hostility between the parties at the Workers Compensation Board and in particular, at the appeal level. It is a very problematic term. I know he has laboured over it, to coin a phrase. He has the wrong term, dominant cause. That is clear. That is clear to me and that was clear to the presenters. There is a better way. Contributory cause would be far more equitable in my view.

I simply put that on the record because I do not agree with the definition in the earlier section of occupational disease which is restricted in and of itself. The entire occupational disease portions of this bill are not adequate and I do not think are going to be in the best interests of either parties in the long run. Thank you.

Mr. Ashton: First of all, on a point of procedure, I ask what sections we have passed and what we are dealing with.

Mr. Chairman: 5(1), on page 5.

Mr. Ashton: Have we dealt with 3 and 4?

Mr. Chairman: Yes.

Mr. Ashton: I want to put on the record, and this is why I have problems with this process, our concerns about Section 3 which entrenches—

Mr. Chairman: I am sorry, Mr. Ashton. We have dealt with 3, 4, and we are now dealing—

Mr. Ashton: I realize that. Mr. Chairperson, I merely put on the record that—

Mr. Chairman: —with an amendment—

An Honourable Member: Let him, Mr. Chairperson.

Mr. Ashton: I would suggest that members just relax a bit and understand it is a very complex bill in terms of numbering. It is a very lengthy bill. I am merely trying to do my job as opposition critic in this particular case.

I indicated that I have problems with the procedure. I would prefer to be going section by section, but if one looks at the numbering, one will find that it is rather confusing because you have sections, subsections, previous sections and subsections. It is difficult when we are proceeding at such a rapid pace to deal with that.

I merely put on the record an objection in terms of the previous sections and was going to address the current section. I am just suggesting that people slow down a bit here and understand it is difficult for us as critics here. That is all I am doing.

Mr. Chairman: Mr. Ashton, your objection has been noted. I also indicate to you that there is every reason and every opportunity given to raise the objections or to raise your comments on any one of

the sections that are contained within a block at the time we are considering that block of subsections.

There is absolutely nothing wrong with your doing that at that time. I will, however, not allow continually going back to subsections and entering into debate on subsections that we have already passed.

Mr. Oscar Lathlin (The Pas): Mr. Chairperson, I too was under the understanding that—you know, following 2, we were going to go to 3, 4, 5 and so on.

Mr. Ashton: Mr. Chairperson, quite frankly, in terms of this, when I am just registering a concern, I run into these procedural difficulties because of the dictates of the government majority. I am sorry, you can have me ejected from the committee if you want.

All I did was say that I have objections in terms of Section 3, that it passed and I was going to reference Section 5. I want to state again that I think we should be proceeding section by section. If one looks at the bill, I mean, we are dealing with Section 3 amended, 4, subsections 4(2) to (4), 5(1), 4(2), 4(3)—it is very difficult to follow when we are running through at such a pace. All I am asking for is that we proceed in an orderly manner, and I believe we can avoid some of these disputes about where we are at and where comments are in order, Mr. Chairperson.

Mr. Praznik: Yes, Mr. Chair, I have to take great objection to the comment of the member for Thompson, because what I think my remarks tried to make clear was we wanted to be as accommodating as possible. Our suggestion to the Chair was to go through the bill in such a manner so that the concerns raised by the opposition party in voting against certain provisions are allowed for.

Mr. Ashton makes comments about the government in majority. I put it on the record, that we want to go through to allow them to deal with each clause. We recognize it is a bill and we would urge Mr. Chair to do so.

Mr. Chairman: Thank you. We will now proceed with dealing with the amendment to subsection 5(1).

* (1120)

Mr. Ashton: In terms of the amendment, Mr. Chairperson, it does nothing to deal with the major problems in this particular section. I echo some of the comments made by the member for St. James (Mr. Edwards) that this section entrenches the concept of dominant cause, introduces provisions in terms of fault.

We believe these are negative moves, and I want to indicate that once again, all we are seeing from the minister are cosmetic amendments, technical amendments. We are not seeing in this case an amendment that deals with the substantive problems in this particular section. I want to indicate once again it is going to result in reduced benefits for injured workers and their families in the future because of a concept that really is not appropriate in terms of the spirit of workers compensation in this province.

Mr. Chairman: I pose the question, all those in favour of amending subsection 5(1) as proposed by the minister, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed, would you indicate by saying nay. I declare the amendment 5(1) passed.

All those in favour of subsection 5(1), as amended, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed to subsection 5(1), as amended, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairman: I declare the subsection 5(1), as amended, passed.

Mr. Ashton: Request for recorded vote.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare subsection 5(1), as amended, passed.

We will now deal with subsection 5(2) to subsection 8(1). -(interjection)- Subsection 5(2) to subsection 8(1), inclusive.

Ms. Cerilli: Can I ask the committee to explain to me the logic of doing it in this manner rather than in considering blocks.

Mr. Chairman: These are blocks. I am sorry, Ms. Cerilli, we are considering blocks of clauses.

Ms. Cerilli: It seems to me that a number of the amendments that we are going to consider as a section right now are going to have nothing to do with each other. From my somewhat limited experience of going through this process and proposing amendments or examining a bill, it makes

it very difficult to vote on a whole block or go by two pages if those sections have no relationship or are not dealing with the same kinds of problems with workers compensation.

I think that this is part of the difficulty we are having here. If our party is wanting to object to certain parts of this bill, and we are lumping together sections of the bill that do not deal with the same problem, we are going to run into difficulty.

Mr. Chairman: What is the will of the committee? It appears that there is a tremendous amount of confusion from not properly understanding what we are about to do. There seems to be even a lack of understanding as to what the various clauses in the bills mean.

Could we proceed then clause by clause, so that everybody is clear as to where we are? Okay? Is that agreed?

Clause 5(2)—pass; Clause 6—pass; Clause 7—pass.

Clause 8(1), shall it pass?

Mr. Ashton: I just want to comment again on the fact that this is the essential trade-off, this item of legislation. I reference this. The member for St. James (Mr. Edwards) referenced this earlier, and this is the bottom line with workers compensation.

I believe this should be noted as the essential trade-off, the social contract that workers compensation involves, the limitation of right of action and the fact that indeed all the references to "employer funded" are only logical because this is an employer insurance scheme.

I want to indicate again that I believe that while this section remains in place and indeed should remain in place, that other sections of this bill are moving away from this essential social contract.

Sorry, I also had some comments on 8(2).

Mr. Chairman: No. We are going to deal with 8(1) first.

Clause 8(1)—pass. I understand that we have an amendment to 8(2).

Mr. Praznik: Yes, Mr. Chair. This amendment rose out of the presentation by the Manitoba Trucking Association, and they pointed out a flaw in the way the drafting of this clause is in place, and we would like to clarify it. We would like to clarify that and make it more workable, and so I would move

THAT the proposed subsection 9(7.1), as set out in subsection 8(2) of the Bill, be amended by striking out "that is registered or required to be registered under that Act" and substituting "by a person other than the employer of the worker or a worker of that employer".

(French version)

Il est proposé que le paragraphe 9(7.1), énoncé au paragraphe 8(2) du projet de loi, soit amendé par substitution, à "qui est enregistré ou doit l'être aux termes du Code", de "par une personne à l'exclusion de l'employeur de l'ouvrier ou d'un ouvrier de l'employeur".

This will allow this act to carry into other jurisdictions as well where the trucking firm may be operating. Also, I would make this motion with respect to both the English and French versions.

Motion presented.

Mr. Praznik: Mr. Chair, by way of explanation, what this amendment clarifies is two things; one, that the election to pursue an action in respect of a motor vehicle accident is available against all motor vehicles, not merely those registered in Manitoba. I think their concern was that the accident may take place while their employee was in Ontario, Saskatchewan or other provinces.

The second thing is the action remains barred against a worker's own employer or another worker of the employer. So it is the classic case of a third party who has paid for Autopac insurance hitting someone who is covered by Workers Compensation Board, and giving the employee, the claimant, the election to choose under which system they would seek compensation, which currently was not done, and I must admit I was totally surprised by the position of the Manitoba Federation of Labour who would oppose giving a claimant an option to pursue a method of compensation that may be substantially better than workers compensation. Even they admitted they would sacrifice some for principle.

Mr. Ashton: Mr. Chairperson, I think the minister should also recognize why the concern was expressed, the sense of offloading these areas in terms of workers compensation costs. It is significant that the minister, for example, indicates that other employees of the same employer, and if he had two trucks from the same employer collide that would not be dealt with, as the minister has said, and that is a particular concern at a time when,

within Workers Compensation other benefits are being restricted, and the limitation of right of action is being dealt with.

We are having a sort of piecemeal—in some cases you could pursue other action; in this case, when you are dealing with Autopac, you are dealing with the potential for the right to sue, which is the reason why there is a higher, a better likelihood in a lot of cases of a better set of claims. That is exactly the point though, the fact that on the one hand we are watering down the worker's compensation, that trade-off we talked about earlier, and on the other hand, we are in some cases piecemealing where people can pursue court action, and it does result in two different classes of workers compensation, or potential workers compensation claimants.

We just indicated before when we passed Section 8, the limitation of the right of action applies for everybody else, except for people in this circumstance. That is the real concern that I know has been expressed by employer organizations and that is where this leads us. Indeed, Mr. Chairperson, I will note that I believe there is going to be greater pressure for dismantling of the social contract through the reduction of benefits, and particularly as people see, for example, in the private insurance—and I include Autopac, even though it is publicly owned, as a private insurance company that deals with insurance principles, et cetera.

We are going to see a great deal of pressure, because if a trucker receives double the type of settlement than somebody else working in a different set of circumstances, but a comparable set of circumstances, this is going to start the pressures that are going to tear apart the seams of Workers Compensation. I think what the minister fails to acknowledge on the record is the fact that the concern is that in this particular case all workers compensation claimants should be entitled to the equivalent, additional benefits. That was the concern expressed by employer organizations, and I want to indicate again on this particular section, our strong concerns about the new course that this minister is charting.

* (1130)

Mr. Chairman: Thank you. All those in favour of Section 8(2) as amended. I am sorry, all in favour of the amendment as proposed by the minister?

Some Honourable Members: Agreed.

Mr. Chairman: All those in favour of Section 8(2), as amended.

Some Honourable Members: Agreed

Mr. Chairman: Agreed and so ordered.

Subsection 8(3)—pass; Clause 9—pass; Clause 10—pass; Clause 11(1)—pass; Clause 11(2)—pass; Clause 11(3)—pass; Clause 11(4)—pass; Clause 12(1)—pass; Clause 12(2)—pass; Clause 13—pass; Clause 14—pass; Clause 15—pass;

Mr. Ashton: I would note the concerns expressed, particularly Section 15, in terms of the uncertainty as to the term "promote his recovery." I take it the minister does not have any amendments to deal with that and want to note once again the concerns that were expressed by presenters in that regard.

Mr. Chairman: Clause 16—pass; Clause 17—pass; Clause 18—pass; Clause 19(1)—pass.

Mr. Ashton: My comments are on the next section.

Mr. Chairman: Clause 19(1)—pass.

Clause 19(2)—

Mr. Ashton: I want on 19(2) to note again the concerns about the uncertainty regarding members and one member; I take it the minister does not have an amendment in this regard, so once again note the concerns of presenters that were introduced.

Mr. Chairman: Clause 19(2)—pass; Clause 19(3)—pass; Clause 19(4)—pass; Clause 19(5)—pass.

Clause 19(6)—

Mr. Ashton: I want to note again concerns on 19(6) that were indicated by presenters in terms of the lack of entitlement in this regard and would note that once again there are not amendments in this regard and that this should be the type of principle that is dealt with in this particular section.

Mr. Chairman: Clause 19(6)—pass.

Clause 20—

Mr. Ashton: I note once again concerns that were expressed about the fact that these clauses were not linked, and I would ask the minister if he is not introducing an amendment essentially why that was not considered in this particular case, because there are concerns in this particular section about whether these are clauses or subsections that are taken as a whole, or taken individually.

Mr. Praznik: Yes, Mr. Chair, I would qualify, for the edification of the members of the committee that

both the dictates of English grammar and legislative drafting laid this clause out in this manner. I do not think we say we go to the store to buy Coke and cornflakes and bread, we say Coke, cornflakes and bread, and that is why they are laid out in this manner. They are In fact linked, and both the English language and drafting dictate that they be laid out In this manner.

Mr. Chairman: Clause 20—pass. I understand that we have a number of amendments on Clause 21.

Mr. Praznik: Mr. Chair, I would move

THAT the proposed subsection 30(1), as set out In Section 21 of the Bill, be amended by striking out "subclause 29(1)(a)(ii)" and substituting "clause 29(1)(a)".

(French version)

Il est proposé que le paragraphe 30(1), énoncé à l'article 21 du projet de loi, soit amendé par substitution, à "du sous-alinéa 29(1)a)(ii), de "de l'alinéa 29(1)a)."

Mr. Chairman: I would propose to the committee that we deal with them as individual amendments.

Motion presented.

Mr. Praznik: Mr. Chair, under the current drafting of the bill, the apportionment of either lump sum or monthly payments where there are two or more spouses would only apply in the case of monthly payments, and this all payments to be apportioned between spouses, and there are cases where there are more than one spouse, for example, where you would have a legal separation and a common-law spouse and the person passes away. -(interjection)- No, we are not changing the bigamy provisions of the criminal code.

Mr.Chairman: Shall the amendment pass? Pass.

The second amendment was

THAT the proposed subsection 30(3), as set out in section 21 of the Bill, be amended by striking out "subclause 29(1)(a)(li)" and substituting "clause 29(1)(a)".

(French version)

Il est proposé que le paragraphe 30(3), énoncé à l'article 21 du projet de loi, soit amendé par substitution à "du sous-alinéa 29(1)a)(ii)", de "de l'alinéa 29(1)a)".

All those in favour? Agreed? Passed.

Then we have another amendment Section 21, 40(3).

Mr. Praznik: I would move

THAT the proposed clause 40(3)(a), as set out In Section 21 of the Bill, be amended by striking out "basic personal exemption and exemption for dependents" and substituting "basic personal tax credits or exemptions, and tax credits or exemptions for a person who Is a dependent of the worker, under the Income Tax Act (Canada)".

THAT the proposed subsection 40(4), as set out in section 21 of the Bill, be amended by striking out "and exemption".

(French version)

Il est proposé que l'alinéa 40(3)a), énoncé à l'article 21 du projet de loi, soit amendé par substitution, à "l'exemption de base et l'exemption pour personnes à charge de l'ouvrier", de "les exemptions ou les crédits d'impôt personnels de base de l'ouvrier et les exemptions ou les crédits d'impôt pour les personnes à sa charge, prévus par la Loi de l'impôt sur le revenu (Canada)".

Il est proposé que le paragraphe 40(4) énoncé à l'article 21 du projet de loi, soit amendé par suppression de "et d'exemptions".

Motion presented.

Mr. Edwards: I would like to hear the explanation first.

Mr. Praznik: This is a technical amendment to allow calculation of both tax credits or exemptions depending on the federal tax system at the particular time. This now makes it current. The current section that we are dealing is based on the drafting of the Saskatchewan legislation of Mr. Blakeney, which is now not current, given changes in the Income Tax Act. So that was to make it current. Also, dependency is determined under The Income Tax Act, and it is a broader definition today than it was, so this allows for that.

Mr. Edwards: A brief question for the minister. Is the GST tax credit included as a credit which would be deducted from the net earnings?

Mr. Praznik: No, it is not a basic personal exemption, I am advised by staff, so It is not included.

Mr. Edwards: Is the theory behind this, just so we are clear, that only those items will be deducted which would have been deducted from the person's pay in the first place?

Mr. Praznik: Exactly, exactly.

* (1140)

Mr. Edwards: I think that is important because we are now with GST into a regime where people are getting benefits, and they do provincially as well, which would not be deducted from their income but are simply based on their salary levels and in recognition that they cannot afford the other taxes. They are consumer taxes, consumer tax rebates and credits. As long as it is clear and the board is clear that those should not be deducted as they would not be deducted from pay in the first place, then it makes more sense.

Mr. Praznik: Yes, Mr. Chair, that is exactly correct. It was to take into account a limited number of deductions in determining net income. For example, in calculations, deductions for union dues, et cetera, are not included, or an employer-employee sponsored additional benefits would not be included in that calculation for net. Just basic personal calculations.

Mr. Chairman: Thank you. Shall the amendment pass? Pass.

It has been moved by the minister

THAT the proposed subsection 40(4), as set out in section 21 of the Bill, be amended by striking out "and exemption".

Shall the amendment pass? Pass.

The next amendment.

Mr. Praznik: Yes, Mr. Chair, and obviously a very complex section. I would move, in both the French and English versions.

THAT the proposed subsection 45(3), as set out in section 21 of the Bill, be amended by striking out "the worker was learning a trade" and substituting "the worker was an apprentice in a trade".

(French version)

Il est proposé que le paragraphe 45(3), énoncé à l'article 21 du projet de loi, soit amendé par substitution, à "apprenait un métier ou une profession", de "était apprenti".

Mr. Ashton: We are asking if the minister could perhaps explain the amendment.

Mr. Praznik: This clarifies the deeming provision, and I believe that it was suggested by the Federation of Labour in that wage loss, for example, a journeyperson's rate is based on experience, and this provision takes that into account for apprentices.

Mr. Chairman: Shall the amendment pass? Pass. The next amendment 45(4).

Mr. Praznik: I would move

THAT the proposed subsection 45(4), as set out in section 21 of the Bill, be amended by striking out "sum" and substituting "average".

Il est proposé que le paragraph 45(4), énoncé à l'article 21 du projet de loi, soit amendé par substitution, à "somme", de "moyenne".

Motion presented.

Mr. Chairman: Mr. Edwards asked for an explanation. Mr. Minister, would you explain, please.

Mr. Praznik: I believe this is again a technical amendment. Sometime ago, average industrial wage was always referred to as the sum of the average industrial wage divided by—it was a convoluted way of determining the average, and since that has been changed in its reference, and we are making this current with the current definition of average industrial wage. So I am advised by staff.

Mr. Chairman: Thank you, Mr. Minister. Shall the amendment pass? Pass.

The next amendment is 49(2) of 21.

Mr. Praznik: These were all together. There are three of them. This is the last set for Section 21. I would move

THAT the proposed subsection 49(2), as set out in section 21 of the Bill, be amended by adding "or special additional compensation under subsection 40(2), as that subsection is immediately before this section comes into force," after "permanent disability". And,

THAT the proposed subsection 49(3), as set out in section 21 of the Bill, be amended by striking out ", or special additional compensation under subsection 40(2), as that subsection is immediately before this section comes into force,".

THAT the proposed subsection 49(5), as set out in section 21 of the Bill, be struck out and the following substituted:

Time of adjustments under subsections (3) and (4)

49(5) The adjustments referred to in subsections (3) and (4) shall be made at the end of the month

that is two years after the date on which this section comes into force, and at the end of that month in each year thereafter.

(French version)

Il est proposé que le paragraphe 49(2), énoncé à l'article 21 du projet de loi, soit amendé par substitution, à "résultant", de "ou à titre d'indemnité additionnelle spéciale en vertu du paragraphe 40(2), tel qu'il existe au moment de l'entrée en vigueur du présent article, par suite".

Il est proposé que le paragraphe 49(3), énoncé à l'article 21 du projet le loi, soit amendé par suppression de "ou à titre d'indemnité additionnelle aux termes du paragraphe 40(2), tel que ce paragraphe était au moment de l'entrée en vigueur du présent article,".

Il est proposé que le paragraphe 49(5), énoncé à l'article 21 du projet de loi, soit remplacé par ce qui suit:

Moment de l'ajustement

49(5) Les ajustements visés aux paragraphes (3) et (4) sont faits à la fin du mois tombant deux ans aprés la date d'entrée en vigueur du présent article et, par la suite, à la fin de ce mois annuellement.

Motion presented.

Mr. Chairman: We will vote on the first one first. Shall the section 49(2) be passed, the amendment—pass; 49(3)—pass; 49(5)—pass.

We will now go back to Clause 21 as amended. Shall it pass?

Some Honourable Members: Pass.

Mr. Ashton: It is a fairly lengthy section, and I just have a couple of comments on it. While there are a few positive changes, once again this is part of the overall agenda of the government which brings in indexing. It does have a few improvements in terms of dependent children, dependent spouses, but essentially, Mr. Chairperson, results in reduced benefits.

I would note, as I have in my initial comments where these reduced benefits are involved in terms of—in fact, as the minister himself pointed to—some of the lump sum payments, I note that we are also dealing with the new formula in terms of the 90-80 percent of net which as the minister indicated will result in a reduction for payments to workers.

I would note that this section, Mr. Chairperson, involves the fact that at the age of 65, wage loss benefits will be terminated, something that I think quite legitimately has been expressed as being a problem.

It does deal with indexing in the monthly payments in adjusted indexed portion. There are some other problems in some of the other sections, 43(d), in terms of other deductions the board may establish by regulation. I note the concerns expressed in terms of collateral benefits payable to workers by collective agreement. Once again, another effort on the part of the government to reduce the degree of collective bargaining in this province, the ability of workers to influence, in this particular case, the whole question of workers compensation and additional payments.

I would note the removal of the pre-existing condition aspects that I expressed in my opening comments which will restrict the number of workers compensation claimants who will receive benefits. Once again, while there are a couple of clauses that will result in additional benefits, the general trend of this particular bill, in this particular section, is going to be reduced benefits for workers, and if we are dealing clause by clause it puts us in the difficult position of not being able to vote for the few positive changes that are in this particular bill.

I want to indicate that there are a few sections that we might support separate of that, particularly the indexing section, some of the sections that deal with deeming, but that we oppose those ones that I indicated before, the removal of the pre-existing condition, the new wage-loss benefit formula, the restriction of coverage after the age of 65, and the overall reduction in benefits that is involved with the new system the minister and the government are bringing in.

So, on balance, similar with this bill, we have difficulty and cannot support this section as a whole because the net bottom line is, we lose benefits.

Mr. Praznik: During the course of the hearings comment was made, and I know both my critics—I have had the opportunity to speak about this to the provisions with respect to pre-existing conditions, and the intent of this legislation, as was told to stakeholders and discussed with stakeholders in consultation, was to remove the existing provision which was found to be uninterpretable, unworkable and to replace it in the general scheme with what is in essence the common law.

* (1150)

We looked at how that has been handled across the country. Most provinces are silent on toeing the line to allow the common law to function. I just put on the record that following Mr. Mesman's presentation we had our legal people meet with him to discuss the ways of handling it, and it was found that there just was not a means of writing it into the act that suited the purpose. That has been found in other jurisdictions.

So what I would like to do today, Mr. Chair, is table the legal opinion for this committee on that particular provision, what, in fact, is operative with its removal, which maintains in essence the status quo in terms of practice and just indicate for the benefit of the committee that our understanding is:

One: Where the pre-existing condition is not deteriorating but is static, the worker will receive compensation for the full extent of the disability resulting from the workplace accident.

Two: Where the pre-existing condition is deteriorating, (a) compensation will be allowed where the condition has been permanently aggravated, accelerated or enhanced by the compensable disability; (b) compensation will also be allowed during the acute phase where the pre-existing condition was not disabling but has become disabling by reason of a workplace accident; and (c) where a worker has recovered from the workplace accident to a point that he is no longer disabling but the deteriorating pre-existing condition has become disabling, the disablement is not compensable and entitlement to compensation will end.

Three: If the effects of an industrial accident are much more severe by reason of a pre-existing condition—example: a worker who is blind in one eye, loses sight in the other, or if the acute phase of disability is prolonged by reason of a pre-existing condition, e.g., the worker with degenerative disc disease suffers a back strain—the costs associated therewith may be transferred to the relief-of-cost fund referred to in Clause 81(1)(c) of the proposed act.

That was the intention, to basically maintain the status quo in practice, and I table our legal opinion to that effect.

Mr. Chairman: Thank you, Mr. Minister. Shall we proceed then? Are we agreed that 21 as amended pass?—pass.

Mr. Edwards: I wanted to—the entire Clause 21, that is what we are now dealing with?

Mr. Chairman: As amended.

Mr. Edwards: Mr. Chairperson, I do not have an amendment, but I would like to add brief comments on Clause 21, which of course is the largest section in this bill and includes a whole host of new sections. I simply want to indicate to the minister that as I indicated in my earlier statement, I believe that the compensation payable to dependants, the limit of $45,500 in my view is low. I am not sure what the comparison is with other provinces. In my view that is not the final word. The final word is what is fair to the dependants, and I think that is low.

On the other aspects, the new proposed Section 38(2), calculation of impairment awards, again I have indicated in my view those are unreasonably low and do indicate a view that the worker is at least in part responsible. That must be the view taken to set the amounts in that number, which are just, in my view, way out of sync with what the courts are awarding in personal injury claims where liability is not an issue in the courts.

Mr. Chairperson, as well, this includes the 90 percent net, which then becomes 80 percent of net. I must say that the argument that reducing it by the 10 percent for the things that it is reduced for are positive steps in the sense that the additional 10 percent goes to valuable things—pension contributions—but I do not believe that it should be at the expense of taking the workers' payment from 90 percent to 80 percent. I also bring to the attention of the minister the Canadian Manufacturers' Association, which stood before us and asked for compensation for actual lost earnings and agreed with me that was 100 percent of net—period.

Mr. Chairperson, this section embodies much of I think what is most important in this legislation and I believe embodies as much as any section the wrong-headedness of the approach of this government which it is taking in this bill, which is to cut the cost to employers, even though the cost to employees who are injured have been going up and will increasingly do so.

Thank you, Mr. Chairperson.

Mr. Chairman: Thank you. Shall 21 as amended pass? All those in favour that 21 as the amended version pass, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed to 21 as amended, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairman: I declare that the Yeas have it.

Mr. Edwards: Recorded vote, please.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare 21 as amended passed.

Could we recess for a few minutes to allow Hansard to change the tapes? Agreed. We will recess for a couple of minutes.

* * *

The committee took recess at 11:56 a.m.

After Recess

The committee resumed at 11:59 a.m.

Mr. Chairman: Would the committee come back to order.

Ms. Cerilli: Part of amendments to Section 21—

Mr. Chairman: I am sorry, Ms. Cerilli. We have dealt with this and it is passed accordingly.

Ms. Cerilli: I know. Just bear with me one moment. I am really not going to raise anything that should not be raised.

Mr. Chairman: Okay, proceed.

* (1200)

Ms. Cerilli: It did not deal with an issue that I do want to bring to the attention of the minister. I realize that amendment was dealing with people who were apprentices and working in a workplace. The wording change alerted me to something that I am familiar with because I have worked at a vocational high school; I have worked with young people who are placed into very dangerous workplaces on work experience without being part of an apprentice program as we know it. Oftentimes, there is hesitation for an employer to take these people on because they are afraid, what if these people are hurt? They are often being paid wages that are at minimum wage or lower; sometimes they are not even paid.

I would ask the question: What happens when one of these workers is injured? Could there be some other kind of an amendment that would be part of the workers compensation legislation that could deal with these people?

Mr. Praznik: The member for Radisson and I do not often agree, but this is one case where we do. Section 77 I believe of the act, which we are proposing an amendment to in this bill, provides for an increase of those benefits to more suit the conditions. So the concern that she raises is a valid one and is dealt with under a different provision of the act. So I appreciate her comments.

Mr. Chairman: I would remind committee members that if you have a concern with a given clause or a certain section of the bill that those concerns should be raised during consideration of those clauses or sections. I would ask you very kindly to raise those questions at that point. I will not again allow debate or discussion to ensue on a section of a bill or a clause of a bill that we have already passed.

Clause 22—pass; 23(1)—pass; 23(2)—pass; 23(3)—pass; 24—pass; 25—pass; 26—pass.

Shall 27 pass?

Mr. Edwards: Mr. Chairperson, this is the section that builds in the new Section 60.8(7), which indicates that the appeal commission can make an order against a person who makes an appeal which they feel is frivolous to pay costs of not more than $250. This is a regressive, unnecessary step and one which clearly, I think, more clearly than any other provision shows what the government is doing. It has no basis in reality or need and it is just there to harass workers. I cannot fathom another reason.

I ask the minister to defend this provision and the one which comes further down with respect to the new proposed Section 67(4.1). Tell us how many frivolous appeals have been had that there is this problem we have to deal with by building in the possibility of a $250 penalty for a worker. It is a very, very, in my view, destructive clause. It is not a lot of money perhaps to the members of this committee, but keep in mind who we are dealing with. We are dealing with people who have lost their income and who have no money and who mostly live pay cheque to pay cheque. Building in this is just unconscionable in my view and I think it really needs rethinking. I think the minister has probably given it some thought from the presentations. I asked for his views on it, whether or not he is going to insist that it go forward.

Mr. Ashton: I too want to register my objection to this particular section. I look to the minister to see

if on reflection the minister is going to be bringing in any amendments to this group of sections which deals with the frivolous appeal provisions.

As I said earlier in my comments, I have not in the 10 years I have dealt with workers compensation claimants ever seen a case that has come forward to me that I would have considered frivolous in any way, shape or form. Whether indeed those cases were finally accepted by Workers Compensation or not, in each and every case that I have dealt with and there have been many, the claimant legitimately believed that they had a legitimate claim and accessed their rights under Workers Compensation legislation in the form of appeals or medical review panels.

So I want to raise that and ask the minister directly whether he has reconsidered, particularly in light of presentations to this committee which seem to indicate that if there are frivolous appeals being filed, it is from employers who are harassing employees. I am wondering if the minister is prepared to delete this section insofar as it affects employees, if that is the intent, and apply it to employers. If that is the case, we have far less concern, although there is still the question of definition of "frivolous," but is he prepared to remove under subsequent sections the penalty as it impacts on employees?

Mr. Praznik: A number of points because I certainly appreciate this is somewhat controversial provision. It is designed, by and large, for a number of scenarios—just to put it in context. One is a scenario that was clearly identified at this committee hearing. In the case of some employers who, as a matter of course, appeal compensation matters without any cause for appeal—and I think the transit union said that this was a suitable way to deal with those matters and the CUPE representative from the city would not give me an alternative. So that was one area primarily that it was designed to deal with.

The other is raised by people who, at the board in terms of appeal administration, et cetera, tell me that every time there is either a change of government or a change of administration or a change of appeal commissioners, there are a number of people who come back for an appeal. This is one of the few areas where there is an unlimited right to appeal. In other words, you can continue to appeal, even though your matter has been adjudicated, even though you have no new evidence or grounds to launch that appeal. The concern—and I must admit I struggled with this one because I have some discomfort that I share with members opposite.

The commitment that I make here is I have had some discussion with staff, and what is noted is the—I would point out to members that the penalty or the administrative charge would only come into play if the Appeal Commission, hearing the matter, decided that it was in fact frivolous. That is one. Two, that they could set a charge up to $250, and I am going to ask the board who has that ability in their policy to take into account the comments that were made here by various labour organizations with respect to a maximum on that and certainly hardship provision.

Again, I respect the comments that were made and we will take them into account that way, but the mechanism still provides some relief in those cases that were outlined by the transit workers.

Mr. Ashton: Mr. Chairperson, the minister says he struggled with this. I would suggest he struggle a little bit more, because the minister still has not dealt with the problems with this section and the subsequent sections. First of all, the $250 amount is up substantively, up to, he says, but it is still substantively different whether it is an employer or an employee.

Let us not forget whom we are dealing with. He references people who made appeals. I will you who probably files the greatest number of appeals. They are people who indeed have been denied compensation for many years. I want to put on the record the kind of circumstances they are in. They are often on welfare; they have often lost their house; they have often lost their family. These are not people who have $250. These are people without resources. The people who have filed appeals are people who have been denied workers compensation, and many of them end up on those circumstances. So $250 or even the "up to"—any amount of money to file the appeal is a significant amount.

In terms of employers, we are talking about in the case of the frivolous—if it is considered frivolous—and if the minister does not understand, Mr. Chairperson, that having this threat there is going to restrict the bill, that is the intent of this section. He just indicated by his own statements it really is a way of limiting the number of appeals, directly or indirectly. I want to compare that in terms of the burden on the employers. For an employer that has millions of dollars of resources, say, Inco or

the City of Winnipeg or whoever has a multimillion-dollar budget, $250 is not a great deal of money in comparison to somebody who is on welfare. That is the key bottom line.

I say again to the minister if he is struggling, let him struggle some more because either this section will be so meaningless because the board will not attempt to deal with frivolous appeals that nothing will happen, or else it will be so broadly used to my mind and used with such open-ended discretion that it will, I think, create serious problems in terms of the appeal process.

* (1210)

What bothers me the most, Mr. Chairperson, about these specific sections is the mind-set it represents. It represents the idea that a significant number of workers compensation claimants are in some way, shape or form putting forward fraudulent claims. It represents a mind-set that feels -(interjection)- if they are filing appeals and they are considered frivolous, obviously at some point in time there would be the feeling to deal with that, that there was either fraud or misrepresentation involved or no just cause.

I want to stress the mind-set this reveals about this minister and this government about workers compensation. In this particular case, this is probably—if they were going to restrict appeals up-front, Mr. Chairperson, we would have difficulty with that, but at least it would be clear the intent. This thing is so subject to abuse that this to my mind is a fundamental breach of the ability of employees in particular to access their rights under this. Each and every employee now is going to have to deal with the question, well, what if they consider this frivolous? What if they consider this frivolous, Mr. Chairperson, can I afford the $250? In fact, as I indicated, many people cannot afford that. The people who are most likely to appeal are the people who have got nothing.

I want to say to the minister this backdoor, open-ended discretionary way of dealing with people reveals a lot about the mind-set of this minister and this government about workers compensation claimants. It is something that is reflected by some in the business community. I have heard this from people directly, feeling that a significant number of people on compensation should not be on it.

Well, I have dealt with workers compensation cases for 10 years. I am sick and tired of this kind of misrepresentation about who the classic person on workers compensation is, and I am also fed up with this kind of mentality about those that appeal. People do not appeal their cases on a frivolous basis, but what I am afraid of is that what is not in their minds frivolous will be deemed frivolous in the eyes of the appeal commissioner. That is why this section is, while it may or may not have a great deal of impact, probably the most objectionable section in this entire bill because of the objectionable way in which it represents people, in this case, people denied workers compensation in their claims.

I want to indicate, we will oppose each and every one of these sections. If the minister is still struggling, I remind him, if he does not have an amendment on these sections today, we have Report Stage in the House. I would strongly urge him to delete the application of this section, at least in terms of employees, because it will have potentially serious impacts on workers compensation.

Mr. Edwards: Mr. Chairperson, I have listened to the minister. I was hoping that he might have seen the wisdom of some of the comments made during the process and be willing to withdraw this as well as the proposed subsection 30(2).

He gives reasons for this, which are deterrents. It is there to deter. It covers both employers and employees. It will have the effect, yes indeed, of deterring employees from bringing appeals, not just frivolous appeals. It is a prospect of payment to people who are desperate and have absolutely no money, and it will serve as a psychological deterrent. The only reason you would want to deter would be because there was a problem, we had to deal with it. There is not problem. Where is the problem? In fact, the evidence we have before us is that there is not a problem with frivolous workers' appeal.

With respect to employers' $250 fine, the prospect of it will be a drop in the bucket. If they are insistent on appealing frivolously, they will do it; $250 will not act as a deterrent to employers in that situation.

Mr. Chairperson, there is only one other reason, and it is frivolous in and of itself, which is that the Workers Compensation Board is out to make some money, needs some money. They are going to make $250 off of workers frivolously appealing their claims. They are going to save the Workers Compensation Board on the backs of workers

looking for additional finances so that they can take away some of the burden of the employers. That I know cannot be the reason. That is a ridiculous reason. What else is there? There is no justification known at this time by any committee member for this provision.

I said in my opening comments that I would not be bringing amendments, but I also indicated that I was hopeful the minister would be giving this some second thought. He obviously is not prepared to do that, and I therefore move in English and in French

THAT the proposed section 27 be deleted.

(French version)

Il est proposé que l'article 27 soit effacer.

Mr. Chairman: Mr. Edwards, it is simple, I will not accept the motion. You can in fact choose to vote against, but the motion that you have put will not be allowed.

Ms. Cerilli: Mr. Chairperson, the minister has said that he has struggled with this section and has considered that there will be some ability for the board to not ask for the full $250. I challenge the minister to put that in the legislation, to amend it himself. I can see thatthat could be done by adding the two small words that he said "up to" the way that the section reads, but that does not imply that there will be some kind of a sliding scale, if the words "not more than" do not imply that there will be some consideration for socioeconomic status and ability to pay.

So I would challenge the minister to add those words. It could be done very simply—cost of up to and not more than $250. I would think that, if that was done, then in legislation there would be some provision for the board to consider not charging the fee, or charging perhaps a 50-cent fee or something like that. I would challenge the minister to put in the legislation some type of assurance.

Mr. Praznik: Mr. Chair, that amendment suits me. We will move it, and I will so move. It is just being drafted now.

Mr. Chairman: We are going to have to recess then unless the committee would agree to setting this aside, Clause 27 aside, and we will continue on then with 28. Once the amendment is drafted, then we will proceed to come back to 27 and consider the amendment at that time.

Clause 28—pass; Clause 29—(pass); Clause 30(1)—pass; Clause 30(2).

Mr. Praznik: Mr. Chair, I would like to move

THAT section 30 of the Bill be struck out and the following substituted:

Subsection 67(4) amended

30 Subsection 67(4) is amended

(a) by "affecting entitlement to compensation" after "in respect of a medical matter"; and

(b) by adding "before a decision by the appeal commission under subsection 60.8(5)" after "the board in writing".

(French version)

Il est proposé que l'article 30 soit remplacé par ce qui suit:

Modification du paragraphe 67(4)

30 Le paragraphe 67(4) est amendé:

a) par adjonction, après "question d'ordre médical", de "touchant le droit à une indemnité";

b) par adjonction, après "la demande par écrit", de "avant que la Commission d'appel ne rende une décision en vertu du paragraphe 60.8(5)".

Motion presented.

* (1220)

Mr. Praznik: Yes, Mr. Chairman, of the two clauses with provision for cost in frivolous matters, this is the one I had the most difficulty with, and following the presentations that were made here, I asked staff to revisit it. The intention here was in terms of what was frivolous, or where medical review panels were called for matters to be determined—and it happens from time to time—that do not affect: (a) the entitlement to compensation; or the amount to be paid. It had to do with comment and report, et cetera.

By defining medical review panels, or the entitlement to a medical review panel to those cases that deal with matters of entitlement—an amount to be paid, degree of injury, et cetera—then there would never be a frivolous appeal. In that case, there is no need for a penalty section. So this amendment satisfies, I think, the concerns presented to this committee.

Mr. Chairman: Mr. Minister, I would ask, before I allow the amendment, for some clarification. You indicate that Section 30 of the bill be struck out and the following substituted. Actually, what you are asking for, as I understand it, is the removal of 30(1),

and 30(2) be struck out, and replaced by Section 30 to the bill. Is that correct?

Mr. Praznik: Yes, Mr. Chair.

Mr. Chairman: Then I would propose that it is moved by the minister

THAT Clauses 30(1) and 30(2) be removed and substituted by Section 30 of the bill

(a) by adding "affecting entitlement of compensation" after "in respect of a medical matter"; and

(b) by adding "before a decision by the appeal commission under subsection 60.8(5)" after "the board, in writing".

Agreed? Agreed and so ordered.

Section 30 as amended—pass; Clause 31—pass.

Committee Substitution

Mr. Ashton: Yes, I just have a committee substitution. I move, by leave, that the composition of the Standing Committee on Industrial Relations be amended as follows: the member for Wellington (Ms. Barrett) for the member for Radisson (Ms. Cerilli), on the understanding it will be moved in the House.

Mr. Chairman: Is there leave? Agreed? Is the substitution agreed to?

Some Honourable Members: Agreed.

Mr. Chairman: Agreed and so ordered.

Clause 32—pass; Clause 33—pass; Clause 34(1)—pass; 34(2)—pass; 34(3)—pass; 35(1)—pass; 35(2)—pass; 36—pass.

Clause 37—is there an amendment to 37?

Mr. Praznik: Yes, Mr. Chair, I would move

THAT the proposed clause 77(3)(b), as set out in section 37 of the Bill, be amended by striking out "sum" and substituting "average".

THAT the proposed subsection 77(3.1), as set out in section 37 of the Bill, be amended by striking out "sum" and substituting "average".

(French version)

Il est proposé que l'alinéa 77(3)b), énoncé à l'article 37 du projet de loi, soit amendé par substitution, à "somme", de "moyenne".

Il est proposé que le paragraphe 77(3.1), énoncé à l'article 37 du projet de loi, soit amendé par substitution, à "somme", de "moyenne".

Again, a more current and workable phraseology in the bill.

Motion presented.

Mr. Chairman: Clause 37 as amended—pass; Clause 38—pass; 39(1)—pass; 39(2)—pass; 39(3)—pass; 39(4)—pass; 40(1)—pass; 40(2)—pass; 40(3)—(pass); 40(4)—(pass); 40(5)—(pass); 40(6)—(pass); 40(7)—(pass); 41(1)—pass; 41(2)—(pass); 41(3)—pass; 41(4)—pass; 42—pass; 43—pass; 44—pass; 45—pass; 46—pass; 47(1)—pass; 47(2)—pass; 48—pass; 49(1)—pass; 49(2)—pass; 50—(pass).

Just for clarification, there was a question whether 40(8) was passed. Shall we pass 40(8)—pass; 50—pass; 51—pass; 52—pass; 53(1)—pass.

Shall 53(2) pass?

Mr. Ashton: No, Mr. Chairperson. We object strenuously to 53(2), employer's access to information, and I notice the minister has a number of amendments. We will be satisfied with nothing less than restricting this access.

I want to point out that what this does is, it multiplies the adversarial relationship—

Mr. Chairman: Mr. Ashton, might I interject? I understand that the minister has an amendment and you might want to hear the amendment before you—

Mr. Ashton: It does not deal with the concern.

Mr. Chairman: Okay.

Mr. Ashton: Mr. Chairperson, the only amendment that would be acceptable in this particular case is the deletion of the section involving employer's access to information. I just want to stress the major concern we have about the adversarial relationship that this government is encouraging to a much greater degree through this information.

I want to stress again also the potential for abuse by employers for this information. I do not believe in this particular case there is any rationale policy-wise in the context of Workers Compensation to allow for this access of information. I want to stress why.

First of all, to my mind, it destroys the concepts we have in terms of medical information, the privacy between a doctor and patient, something that was referred to earlier by a medical practitioner who made presentations to this committee.

Second of all, I want to stress again the adversarial nature that this encourages. This will

lead to more and more employers using this section and will lead to more and more appeals against what otherwise would be routine cases. I think that is fundamentally clear.

The third is the abuse of this information, the potential for it. That is not properly dealt with in this particular case. I believe there will be abuse because of the access to this kind of information. This is once again an example of this government following the Chamber of Commerce agenda, in this case introducing something that to my mind is very destructive of the relationship in the Workers Compensation context between employers and the board and now employees and the board.

I really believe, Mr. Chairperson, the minister is going down a path in this particular case that even he will come to regret very soon, and I really object in the strongest possible way to this section, and we indeed will be voting against this section.

Mr. Edwards: I reiterate some of the concerns the member for Thompson (Mr. Ashton) has about this. As I indicated in my opening comments, I think on the face of it it appears equitable, that there be a sharing of information, there be equal rights to information, but that is as far as it goes.

If you scratch the surface and start to understand what the Workers Compensation Board is about, this does create a more litigious, more adversarial arrangement between the parties, the employer and the employee. This system is not built on the adversarial model. It is built on the investigatory model and adjudication model, which says that the board does more than simply sit back and let the parties bring their case and then adjudicate.

* (1230)

The board investigates and puts together its view of what the claimant should get, and it is both the initial adjudicator and the appeal body. There is no appeal to a court. This is it, and the board takes the place of the employer. The employer has no role to play, in my view, in putting together a case as it were, taking it to the board and treating this like a normal trial.

They certainly have a role to play in making comment, but this furthers the role of the employer as a defender of the fund held by the Workers Compensation Board, and I am not sure that this is appropriate. I think the minister should rethink this, and I hope, although I do not see it in these amendments, he will understand the role of the board which is not the same as the role of the court. That is the reason for the board's existence in the first place.

Mr. Praznik: Yes, Mr. Chair, the amendment that I move was one that came from our members of the board when they had a chance to review the package—

Mr. Chairman: Mr. Minister, I would entertain an amendment.

Mr. Praznik: Mr. Chair, I would so move

THAT the heading preceding subsection 53(2) of the Bill be amended by striking "(1.6)" and substituting "(1.7)".

THAT the proposed subsection 101(1.1), as set out in subsection 53(2) of the Bill, be amended

(a) by striking out "who requests a reconsideration of a decision or appeals" and substituting "who is a party to a reconsideration of a decision by the board or an appeal"; and

(b) by adding "respecting the claim of the worker or the dependent" after "possession".

THAT the proposed subsection 101(1.2), as set out in subsection 53(2) of the Bill, be amended by striking out "who requests a reconsideration of a decision or appeals" and substituting "who is a party to a reconsideration of a decision by the board or an appeal".

THAT the proposed subsection 101(1.5), as set out in subsection 53(2) of the Bill, be amended by striking out "conclusive." and substituting "conclusive except where a panel, in hearing the main appeal, determines a document to be relevant to an issue in that appeal, in which case the person referred to in subsection (1.2) may examine and copy the document."

(French version)

Il est proposé que le titre du paragraphe 53(2) du projet de loi soit amendé par substitution, à "(1.6)", de "(1.7)".

Il est proposé que le paragraphe 101(1.1), énoncé au paragraphe 53(2) du projet de loi, soit amendé:

a) par substitution, à "demande la révision d'une décision ou qui interjette appel", de "est partie à la révision d'une décision ou à un appel interjeté";

b) par substitution, à "et que celle-ci", de "relativement à la demande d'indemnisation de l'ouvrier ou de la personne à charge et qu'elle".

Il est proposé que le paragraphe 101(1.2), énoncé au paragraphe 53(2) du projet de loi, soit amendé par substitution, à "demandent la révision d'une décision de la Commission ou qui interjettent appel", de "sont parties à la révision d'une décision ou à un appel interjeté".

Il est proposé que le paragraphe 101(1.5), énoncé au paragraphe 53(2) du projet de loi, soit amendé par adjonction, après "sans appel", de "à moins qu'un comité, au cours de l'audition de l'appel principal, juge qu'un document a rapport à l'appel, auquel cas la personne visée au paragraphe (1.2) peut examiner et copier le document en question".

Motion presented.

Mr. Chairman: Explanation, please.

Mr. Praznik: Yes, Mr. Chair, this, as I indicated, rose from discussions with appeal commissioners and board members. It has been run by Mr. Mesman of the Manitoba Federation of Labour. Although he objects to the clause, I do not think he indicated an objection to this particular change.

It does two things. It clarifies that access permitted to both worker and employer, not just person who requests, or therefore requested by one party gives rise to access by the other, subject to relevancy for employer's access, and it clarifies that the Appeal Commission, if it determines an issue is relevant at hearing the full appeal, can permit access to that particular document.

Mr. Chairman: Are we agreed to pass 53(2), as amended? Agreed?

Some Honourable Members: No.

Mr. Chairman: All those in favour that we pass subsection 53(2), as amended, indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed, indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairman: I declare that the Yeas have it.

Mr. Edwards: I would ask for a recorded vote, Mr. Chairman.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare the subsection, as amended, passed.

Clause 53(3)—pass; 53(4)—pass; 54—pass; 55—pass; 56—pass; 57—pass; 58—pass. Clause 59, pass?

Mr. Edwards: Mr. Chairperson, this is the provision by which the board seeks to allow itself to, in effect, contract out of its obligations, and I have reservations about this and have come to the conclusion that it is unnecessary.

We have not had an explanation from the minister as to the intent behind this section, but it seems clear that, as was pointed out by the employees who presented before this committee and numerous other presenters, this is an attempt to contract out on the part of the board the essential services they provide to workers and to employers.

Let me just draw to members' attention the matter sub(f) of the proposed 109.5(1) which includes "such other matters as the board may determine." This is a free-for-all for the board to contract out everything and anything. Mr. Chairperson, that is not only unnecessary but unconscionable and speaks, I think, toward the general feeling by this government, without reason or without substantiation, that the board is inefficient. Anything run as a hand of the government could surely be run better by the private sector.

It is absolutely wrong-headed. There is no proof of that. In fact, contracting out stands to undercut the very essence of the board itself, which is as an independent investigator and arbiter in decisions of injured workers' claims.

Mr. Chairperson, without any explanation to the contrary by the minister, the impact and the intent of this is clear. It is to privatize the workers compensation system in this province. That, again, I think, stems from a fundamental misapprehension of what this system is all about. Thank you.

Mr. Chairman: Shall Clause—

Mr. Ashton: Yes, I have some comments, but I am wondering if the minister has any amendments in this area?

Mr. Chairman: Mr. Minister, the question was asked whether you have any amendments coming forward in this section.

Mr. Praznik: I did not catch all the comments by the member for St. James (Mr. Edwards). Is he referring to Section 109(4) or 109(5)?

Mr. Edwards: 109(5) sub.

Mr. Praznik: Sub (5)(1)?

Mr. Edwards: Yes.

Mr. Praznik: No, I have no amendments.

Mr. Ashton: Mr. Chairperson, I am extremely concerned if there are no amendments to deal with this very broad clause, unless the minister has amendments in other sections. Quite frankly, my understanding was that there was going to be an attempt to restrict its application so that the section that the member for St. James (Mr. Edwards) so correctly points out cannot be used as broadly as it is. I mean, "such other matters as the board may determine"—that is everything, anything, everything. In terms of who the agents or local representative might be, companies, who are also parties to a process, have access now to medical information as well? Are they to be eligible for other matters as the board may determine—adjudication?

What limits will the minister put on this to avoid a conflict of interest situation? I think it is incumbent on this minister, and what I feel is a bad precedent to begin with, to at least say that you cannot have an employer be judge and jury in this particular case, using the quasi-judicial context of this particular framework, and be the prosecutor as well, because the board has the ability to do that under this particular act.

If that is not the intent, if it is not to deal with that, then why will the minister not put that in legislation? I would still have difficulties, given the major impact it is going to have on board morale, and we heard from the representatives of the employees how concerned they are about this particular section. But I ask the minister again, what is the intent of this section? Why is it drafted so broadly, and why will the minister not amend it at least to make it more restrictive in its application?

* (1240)

Mr. Chairman: All those in favour of—

Mr. Ashton: I am sorry. I asked the question. The minister does not have to answer it, but I am asking the minister what the intent is because, to my mind, Mr. Chairperson, this is very open ended, and it could lead to those situations.

If the intent is not to have agents designated who have a party to a particular matter as an appellant, why will the minister not put that in legislation?

Mr. Praznik: Just very briefly, I have outlined the intent of this section a number of times, but it is only in cases of primary positive adjudication. In other words, if whoever would have that delegation—and of course this is only an empowering section, that we may choose never to use it all. But the intent is to give the board the power to delegate, but only in cases where a positive primary adjudication is made, i.e.—

An Honourable Member: Why do you not say that?

Mr. Praznik: We do because Section 109 sub .5 sub (4) indicates very clearly that anyone who disagrees with that adjudication has a right to go back to the board, first instance.

Mr. Chairman: All those in favour, shall Clause 59 pass?

Mr. Ashton: Before the government majority pushes through this clause again, I want to stress my concerns about the wording and my concerns about the concept. This is a very, very dangerous precedent. I do not want to see workers compensation piecemealed out to the private sector and, quite frankly, you know, the minister says it is an enabling section. Well, if it was not intended to be used at some point in time, it would not be in this act.

It is clear in my mind that the minister has clear intention of privatizing sections and, once again, I have difficulty in the process. I do not believe it is properly reflected in the wording but, even given that, I think a lot of workers are going to have major concerns about this significantly increased role for employers on everything, including this case in terms of adjudication even if the minister says that the intent, or the wording of the act, says that they can still refer it to the board.

These are employees who are going to have access to medical records. They are now going to potentially be dealing with adjudications in addition to that. We are going to have these provisions in here in terms of frivolous appeals. I mean, I think the minister has potentially put employees in the vise grip of employers, some of whom, not all, but some of them will use the combination of powers to suffocate the workers compensation system and deny benefits to injured workers.

This is a very, very serious section. There is no reason for having this section in the bill. This is a complete violation of a social contract that involved trade-off between employers and employees. This particular section is odious in the extreme and has no place in any Workers Compensation bill, whether

it be in this province or any other province. We will oppose this.

I warn the minister, this is one section he will regret because if it is implemented, he is going to destroy in a way he cannot imagine the kind of system that we have developed up to this point in time.

If he is not going to implement it, he should drop it as he should have done with other sections of this bill.

Mr. Chairman: Shall Clause 59 pass? All those in favour of Clause 59, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed, would you say it again by saying nay.

Some Honourable Members: Nay.

Mr. Ashton: Recorded vote.

Mr. Chairman: Recorded vote. I declared the Yeas have it. We have been asked for an indication by hand.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare 59 passed.

Clause 59—pass; Clause 60—pass; Clause 61—pass.

Shall Clause 62(1) pass?

Mr. Edwards: I just have questions and perhaps the minister can give very quick answers. What provisions of The Freedom of Information Act are affected and need to be amended; and secondly, maybe he can answer at the same time, what provisions of The Workplace Safety and Health Act need to be amended by this act?

Mr. Praznik: Yes, Mr. Chair, I am advised that we make no change to current provisions other than the section number to bring it up to date with pages to this particular bill. It is The Freedom of Information Act.

Mr. Edwards: I am sorry. This reads that The Freedom of Information Act is amended by this section. What is amended by this section?

Mr. Praznik: Mr. Chair, currently The Freedom of Information Act adopts The Workers Compensation Act, and what this does is change the appropriate section numbers. So it is not a substantive change.

Mr. Edwards: Is that the same explanation for The Workplace Safety and Health Act?

Mr. Praznik: No, and we will just have that for you in a second. The changes, Mr. Chair, to The Workplace Safety and Health Act change it with respect to the method of payment, and currently those monies are levied as a charge as opposed to a grant. By changing that provision in this act to those monies being a grant, it allows those costs borne by The Workplace Safety and Health Act to be deemed administrative costs and so borne by the entire rate base using the workers compensation system, including federal industries, et cetera, as opposed to the current system, which just levies them against the general employers of the province as opposed to certain ones in federal jurisdictions.

Mr. Chairman: Clause 62(1)—(pass); 62(2)—(pass); 63(1)—(pass); 63(2)—(pass); 64(1)—(pass); 64(2)—(pass); 64(3)—(pass); 65(1)—(pass); 65(2)—(pass); 65(3)—(pass); 66(1)—(pass); 66(2)—pass.

I remind you that we have to return to Clause 27.

Mr. Praznik: Mr. Chair, I certainly would be prepared to move the amendments as recommended by Ms. Cerilli, and that is, I would move

THAT the proposed subsection 60.8(7), as set out in section 27 of the Bill, be amended by adding "up to but" after "pay costs of".

(French version)

Il est proposé que la version anglaise du paragraphe 60.8(7) énoncé à l'article 27 du projet de loi soit amendée par adjonction, après "pay costs of", de "up to but".

Motion presented.

Mr. Chairman: Clause 27 as amended.

Mr. Ashton: On Clause 27 as amended, we oppose fundamentally in principle this section, Mr. Chairperson, and on the vote we will be opposing it. The amendment really just clarifies the intent of the minister. It may make it one small miniscule iota less objectionable, but the basic principle is still objectionable.

Mr. Chairman: Shall 27 as amended pass?

Some Honourable Members: No.

Mr. Chairman: No? All those in favour, would you indicate by saying yea?

Some Honourable Members: Yea.

Mr. Chairman: All those opposed, by saying nay?

Some Honourable Members: Nay.

Mr. Chairman: I declare the amendment passed.

Mr. Ashton: Recorded vote, Mr. Chairperson.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare the clause as amended passed.

Preamble—pass; Title—pass. Shall the bill as amended be reported?

Some Honourable Members: No.

Mr. Chairman: All those in favour that the bill be reported, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairman: I declare the Yeas have it.

Mr. Ashton: Recorded vote, please.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare that the bill will be reported as amended. Is it the will of the committee that I report the bill as amended? Agreed?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Chairman: All those in favour of reporting the bill as amended, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairman: All those opposed to reporting the bill, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairman: I declare that the Yeas have it.

An Honourable Member: Recorded vote.

A COUNTED VOTE was taken, the result being as follows:

Yeas 6, Nays 4.

Mr. Chairman: I declare that the bill should be reported. The time is now eleven minutes to one o'clock.

Committee rise.

COMMITTEE ROSE AT: 12:50 p.m.