LEGISLATIVE ASSEMBLY OF ALBERTA

Monday Evening, October 29, 1973

[Mr. Chairman resumed the Chair at 8:00 o'clock.]

COMMITTEE OF THE WHOLE (CONT.)

Bill No. 70 The Workers' Compensation Act (Cont.)

MR. CHAIRMAN:

The Committee of the Whole Assembly will now come to order.

[Section 25 was agreed to without debate.]

Section 26

MR. FRENCH:

With respect to Section 26, I appreciate the remarks of the hon. minister, but I don't think he quite answered some of the inquiries I made. I am a little concerned, Mr. Chairman, with respect to the section, where it says, "... with the consent of the Board ...". We have a situation now where the review board will be appointed by the Compensation Board, as I understand the situation. Then, for anyone to bring the matter to the review board, they must get the consent of the board. From there we go on.

It seems to me it's sort of a buddy arrangement. Maybe that's not a good term. But is there any particular reason why this review board should not be a board independent of the Compensation Board?

DR. HOHOL:

Mr. Chairman, I suppose, theoretically, there is no reason. On the other hand, there is no precedent. The matter of reading and interpreting claims takes job competence, as any other occupational competence would. This isn't the kind of thing that would normally be expected from citizens at large.

MR. CHAIRMAN:

Mr. Minister. I wonder if we could have a little more order in the Assembly, please.

DR. HOHOL:

It's up to you.

MR. CHAIRMAN:

As you see, Mr. Drain, you haven't got the monopoly on this.

DR. HOHOL:

So that would be the answer. It takes a particular kind of background, experience, and competence. It must be done over and over to be able to do the work that is intended under Section 26 (1).

I believe, Mr. Chairman, that the term "with the consent of the Board" might still continue to bother some of the members of the Legislature. It could be in the wording because "... the consent of the Board ..." refers to the wording in Section 26 (1) but not what follows after. So that the review committee can hear representation on behalf of the employer and the worker or dependant. The

committee can independently of the board, confirm, vary or reverse any decision made in respect of the claim. That is independent of the board. The reference to the board in the first instance is to the setting up of the review committee, a review committee of senior staff of the Workmen's Compensation Board. The awkwardness comes into the reading of "... the consent of the Board ..." to what comes before and what comes after when the reference is, in fact, only to what comes before.

MR. HENDERSON:

Mr. Chairman ...

MR. CHAIRMAN:

Mr. Taylor, and then Mr. Henderson.

MR. HENDERSON:

I thought I adjourned the debate.

MR. TAYLOR:

Well, we tried to get you to speak before. Mr. Chairman, I was going to say we were trying to get the hon. Member for Wetaskiwin-Leduc to speak, but he was too busy talking to somebody. We couldn't even get his attention. However, I won't be very long.

I would like to suggest, Mr. Chairman, that one could argue with the interpretation just made by the hon. minister. Frankly, I think there is too much "board" in this clause - "... the Board shall cause the record of the claim ... to be reviewed ..." - so nothing can happen until the board says the claim is going to be reviewed. Then "... the Board [may] ... hear representations on behalf of the employer ..." with consent of the board. "The Board which may, with the consent of the Board, hear representations ..." when you analyze it, you say, which may hear representations with the consent of the board. And if you want to analyze a little bit further, which may "... vary or reverse any decision ..." with the consent of the board. Yes, you could argue this in English. That clause is attached to everything to which "which may" is attached. Certainly without "which may" you couldn't vary or reverse any decision, so it could well be argued that this board couldn't even vary or reverse any decision without the consent of the board. I can't see what "... with the consent of the Board ..." really adds to it because the board causes it to be heard and the committee is appointed by the board. So why we need "... with the consent of the Board ..." there is really beyond me. I think it is ambiguous and I think it weakens the section.

I would like to move that "with the consent of the Board" be struck out, seconded by the hon. Member for Cypress.

MR. HENDERSON:

Mr. Chairman, I wonder if the minister could clarify to what "... with the consent of the Board ..." applies because I fail to see how it follows his statement that it applies to all the words that precede "... with the consent of the Board ..." when, the way I read it, it doesn't say the board "may" cause the record for claim of compensation of this act reviewed, but "shall" cause. I read it that when a complaint comes in or a request from an employer or a worker, it is mandatory that the board appoint a review committee. So it is obvious that the words "... with the consent of the Board ..." do not apply to the part of the clause that precedes the words "... with the consent of the Board ...".

The question is, what does it apply to afterwards, as the hon. Member for Drumheller said. If the consent of the board is simply required to confirm, vary or reverse a decision with respect to the claim, why have the review committee? Quite frankly, because it short circuits the procedure the minister outlined to us about first, the claims officer, then the review committee and, in the final, the appeals to the board. In my mind that doesn't make sense either. So, by a process of elimination, figure the only thing it can apply to is "... hear representations on behalf of the employer and the worker or dependant ...". I can't see what else it would apply to. On the other hand I can't see what is significant about having board approval to do that.

Accordingly, on the basis of the debate that is heard thus far, I have to concur with the amendment proposed by the hon. Member for Drumheller that the clause must be redrafted to clarify what "... with the consent of the Board ..."

means; what it means to members of this Legislature and not what it means to some lawyer sitting back with a bunch of precedents before him. I am thinking back to The Occupiers' Liability Act which, in my mind, doesn't spell out that it applies to the house and the building. The act mentions everything else but that.

I have to concur with the proposed amendment because I haven't heard as yet any explanation of what "... with the consent of the Board ..." applies to in that particular section. It can't apply to the first part because it is mandatory: shall cause to be held. If the consent of the board is only required to confirm, and I repeat, "... confirm, vary or reverse ...", it makes a farce of the procedure we are going to go through; the claims officer, the review committee and then the board. So what does it apply to?

DR. HOHOL:

I admit that language provides problems peculiar to arrangement of words horizontally as distinct from putting them in a straight line. That is part of the problem we have here.

The reference to "board" in the first instances: it will cause the record of the claim for compensation under this act to be reviewed by a review committee.

MR. HENDERSON:

Shall.

DR. HOHOL:

Yes. So I don't think there is any question about the meaning of that.

I think the ambiguity is in the second one. The intention of the use of the term "... with the consent of the Board ..." is important, and if we can agree on the intent - although someone makes a point that the Legislature should be able to read it, not just the Legislative Counsel, and I agree - the "... consent of the Board ..." here is important because it would be important that - it is not so much the consent that the board will not permit someone, but that the employer or the employee doesn't go directly to the review committee and gain access for his review in that way. It's important that it does go to the board. Ladies and gentlemen, Mr. Chairman, I think there is an important principle involved here.

In the debate, I attempted to reflect the attitude of the committee and of the government, that the Workers' Compensation Board, that is to say, the chairman and the commissioners, are intended to be given a great deal more responsibility under this act, if it passes, than the one under which they work at the present time.

Part of that kind of responsibility is reflected in Section 26 including subsections (1), (2), and Sections 27 and 25. In setting out this kind of procedure, the board will be aware of the case at the point where the injured worker is unsatisfied with the claims officer's assessment, and wants a review by the review board, which is consented to by the board, in the language of statute. The commissioner is aware of the case, so that it becomes important that that term stay in. This is in no way to do anything more than to have the board, through the act, meet the requirements of the report of the legislative committee with respect to claims and appeal procedures, which is the heart and the soul - if one can put it that way, in a poetic sense - of the act before us.

I would be very loath on those terms to have it removed. I just wonder, in conferring here, if it would not be acceptable to the mover, the seconder, and the floor, if, Mr. Chairman, in Section 26 (1), in the second last line, where it says: " ... on behalf of the employer and the worker or dependant and [such review committee] ... may confirm...".

The intent is that once the board turns this over to the committee, the committee may confirm, vary, or reverse any decision made in respect of the claim. If this were to clear up the meaning of the use of the term "with the consent of the Board", and reflect the independence of the committee in making its review, then I will be prepared to 'quid pro quo' on the use of language, because I agree with the floor that it should be clear.

I would suggest that we have after the "and" in the second last sentence, "... and such review committee may confirm ...". This then takes away the buddy concept that the hon. member mentioned, or the fact that the review committee

was not independent of a board decision, because it would be. Its responsibilities, if the worker were not to find the judgment of the review committee satisfactory, would then be to set a panel of commissioners. This is where the final appeal would be heard.

Excuse me, Mr. Chairman, for taking this extra time, but it is a most important clause, and I'm pleased that we are working at it to be agreed on at this meeting.

MR. TAYLOR:

I would like to make one or two comments in connection with the hon. minister's explanation.

Following Section 26 in sequence, first of all, either the employer, the worker, or the worker's dependant, must request the board for this review in writing. Then the board decides whether or not it will have a review.

AN HON. MEMBER:

No.

MR. TAYLOR:

Except, ... correction. The board then has no alternative. It must have a review. Upon getting a written request, the board shall cause its record of the claim for compensation under the act to be reviewed by a review committee appointed by the board.

Now, if we just stop there for a minute. The request has come in and the board has acted. It has set up the committee. If the committee is not to hear representations of the employer and the employee, what is it to do? Why does it have to have the consent of the board a second time? The board just got through appointing it for this purpose.

Then we say "... reviewed by a review committee ... which may, with the consent of the Board ...". The boards just got through setting up this committee. If it wasn't to hear representations and review this claim, why was it appointed at all? Why are we going through this exercise? Why is the consent of the board necessary to hear representation from either the employer, the worker or the dependant?

Secondly, if it can't confirm, vary or reverse, again why would it be set up? Certainly we don't want "... the consent of the Board ..." in there which is ambiguous. It might well be put in by saying "... which may ... vary or reverse any decision ... with the consent of the Board ...". There is nothing here saying the board has to accept the decision of this review committee. It is not mandatory upon the board. The board might reject it. The board is the final authority.

So, why do we have "... with the consent of the Board ..." in there at all? In my view, it simply weakens a set-up that already has some indication that it is going to be open to criticism because its employees are reviewing the decision of the main board, which weakens it in the first place. But then if they have to have the consent before they say, we think we should do this and then have to go out and get the consent. It makes it entirely a farce.

I really think that if you want to strengthen it at all, take out "... with the consent of the Board ...". It is not going to weaken it in any way. It is not going to take any authority from the board. The board has already caused this committee to be set up. The board doesn't have to accept the decision after it's given. So, why do we have "... with the consent of the Board ..." there? It really means nothing. I would suggest to the hon. minister that if he wants some time to look over this and have the Legislative Counsel look over it, let's hold it. But let's not weaken a section that is already prone to pretty severe criticism.

MR. HENDERSON:

Mr. Chairman, as the hon. members seated opposite know I don't grasp these things too readily so I beg their indulgence in examining it.

One of the two ways which I interpreted the ministers remarks, and I just raise this for further clarification, that upon request, I inferred that the request had to go to the board and not to the committee. Is that what the words "with the consent of the Board" mean? Is that what the minister meant? I don't

quite understand what it meant when the minister or the board didn't want people going directly to the committee with complaints. I think the minister said something to that effect. I gather "... with the consent of the Board ...", does it mean upon the written request to the board by the employer, the worker or his dependant and the rest follows. If that is what it means, again, I don't know what "... with the consent of the Board ..." is in there for. If that is what it means then I'd like to suggest in reexamining the clause with Legislative Counsel - if it means the initial request must go to the board. If that is what "request" means let's write it that way. I just can't understand, in light of what the minister himself has said, what the words "... with the consent of the Board ..." really mean because they appear to be meaningless when one analyses what the intent was.

MR. KING:

Maybe it would be helpful if I just reviewed, very quickly, what the committee considered when they were writing the report and when they were concerned about the question of the first determination of the board or its employees and the process of appeal. Then we can try to relate the conclusions that the committee arrived at to the legislation which is in front of us.

The Act which presently exists had the first level of decision and a total, one way or another, of six avenues of appeal thereafter, so that there was a possibility of seven different steps to be gone through altogether. One of the things that the committee wanted to do, when they were working on the report and considering the legislation, was to reduce considerably the number of steps that would be gone through.

A second important thing that the committee considered at that time was that, in fact, it is the ultimate responsibility of the commissioners of the board to adjudicate these cases. The terminology we used, for example, when the committee was meeting, was that there would be no appeal from the claims department to the review committee or from the review committee to a panel of commissioners of the board. Rather than calling these appeal levels we would call them levels of review. In point of fact, when you got to this panel of commissicners of the board, they wouldn't be a panel of appeal against a decision that had been made inside the same program or process. They would be a panel of review and only that final decision would actually be the decision of the Workmen's Compensation Board.

Mr. Taylor has a small misunderstanding here when he suggests that the review committee is reviewing a decision which has been made by the board, if the terms "board" and "panel of the commissioners of the board" are synonymous in his mind.

In point of fact, when a person suffers an accident, his first contact is with the claims department. It is there that the initial decision of the Workmen's Compensation Board is made. If a person is unhappy with the decision that is made there, then he can go to a review committee.

Anybody who requests consideration by a review committee, Section 26 (1), says that the board shall cause a review committee to hear their complaint. In other words, there's no discretion. If you are unhappy with the decision made by the claims department, the review committee shall consider your case.

But, at the same time, the committee thought, as I said earlier, that it should be a panel of the commissioners of the board making the final decision. Actually, this intermediary step, the review committee, wasn't designed to be a level of appeal at all. It was simply designed to be a method by which senior, experienced people in the Workmen's Compensation Board could look at the written evidence in front of them, make sure that it was complete and straightforward, and present it in the interests of the workman.

To use what I think is a legal term, it would be a kind of an ex-parte hearing, with neither the injured workman nor his employer present under normal circumstances. It wasn't conceived by the committee to be their responsibility to consider new evidence, just to consider the completeness of the evidence already available to the board.

From the information that was presented to us by the Workmen's Compensation Board when we were considering this, something in excess of 80 per cent of the claimants are happy with the initial decision that is made by the claims department. Of the 20 per cent who remain, three-quarters of them are unhappy as a result of some technical deficiency in their original application and in the original disposition of the case.

It was thought that the review committee, just dealing with the application and the evidence available to the board, could satisfactorily handle three-quarters of the remaining complaints. It was thought that of the one-quarter left, these were the kinds of cases that should be adjudicated by the commissioners of the board themselves, that that was ultimately their prime area of responsibility to the government and to the people of the province.

Generally speaking, it was conceived that the review committee wouldn't hear oral presentations from one party or another, wouldn't receive additional information; they would just judge whether or not the information in the hands of the board at that point was sufficient. In my interpretation and if it's consistent with the recommendations of the select special committee, this says that the board shall constitute a review committee and that generally speaking, they will not hear new evidence or oral presentations by one party or another. But it does provide that under some exceptional and special circumstances, with the consent of the board, they could.

To go back to remarks that the minister made earlier, if there's any ambiguity at all about the independence of the review committee in confirming, varying or reversing a decision made in respect of the claim, then I think that ambiguity should be cleared up, because the committee always had it in mind that they should be completely independent at that step. I think the idea of consent of the board was only in what were conceived to be a very few cases when representations by one party or another would be essential to the primary function of the Review committee. But the review committee in no case was considering the actions of the board itself, by which I thought Mr. Taylor actually meant the commissioners of the board or a panel of the commissioners of the board.

MR. NOTLEY:

Well, Mr. Chairman, first of all, I don't think any of us on this side quarrel with the steps that are outlined in the legislation. The concern that I would have is just that as it is presently worded, it seems to me that we do have a rather ambiguous phrase here, "... with the consent of the Board ...". I have yet to hear from the other side an argument against removing this particular phrase from the clause.

I certainly agree that when the review committee meets to assess the claims officer's decision, the board should very clearly know that it is meeting and should authorize its meeting. But it seems to me that it should be, as we've all agreed, an independent procedure, that it is a step that is taken. No ifs, ands, or buts about it. But "with the consent of the Board", as I read it, gives a measure of discretion there... a certain permissivness in the language which would lead me to believe that if the board chooses not to allow that step, then it won't take place.

I think that this is what is concerning most of us on this side. It's not that we have any quarrel with the steps that are outlined. In view of the ambiguity in Section 26(1) perhaps it might be well if we did hold it over, as Mr. Taylor suggested. The minister would have an opportunity to discuss it with the Legislative Counsel and there may be a way of drafting it so that it is perhaps a little clearer.

MR. TAYLOR:

Rising out of the comments made by the hon. Member for Edmonton Highlands, I would point out that under Section 25, the board has made its decision, has given the reasons for its decision.

Then we come to Section 26; were the employer or the employee not happy, he writes to the board and says he is not happy with the decision. Now the sequence of the act would lead me to believe that he is not happy with the decision the board made and for which it gave its reasons in Section 25.

We've been told that Sections 25, 26, and 27 should be taken together and I think that was logical. If the decision is made in Section 25 by the board, and then we come to Section 26, it's logical to feel that the worker is dissatisfied with the decision of the board and is wanting the review. So the board then appoints a review committee.

Now if there is nothing to this sequence in the act, then I would suggest, in the light of the comments of the hon. Member for Edmonton Highlands, that the order be reversed so that there won't be that feeling that the decision has been made, and the worker wants to appeal the decision. Why else would he be

appealing? If he is appealing the decision, not of the board, but of the committee of the board, it should be made very clear. It shouldn't be put in immediately after the board has made its decision and where it's required to set out the reasons, including the medical reasons for its decision. That's what the act would lead you to believe is the reason for the dissatisfaction.

However, in the light of what the hon. member has said and in the light of the fact that "... with the consent of the Board ..." is so ambiguous and needless, I would think that Sections 25, 26 and 27 should be held for further review by the Legislative Counsel.

MR. KING:

Just very briefly. Looking at Section 25 were it says the board, you should go back to Section 1(4), which defines the board as meaning The Workers' Compensation Board. What I was trying to say here was that the practise has been and would continue to be, administratively, that were you read "the Board" in Section 25, you would actually be referring to a decision of officers of the board, that is, the claims department. That's the way it has been. There is a difference in the act between the board where you read that word, and commissioners of the board. They are two different things.

MR. TAYLOR:

You'd better change the definition then. Board means the Workers' Compensation Board in the definitions.

MR. MOORE:

Mr. Chairman, in reading Sections 25, 26 and 27, it seems to me very clear if you go on to Section 27 it states that where an employer or the worker or dependant is dissatisfied with the decision of the review committee, he may appeal to the board. Section 27(2) goes on to say that "In considering an appeal from a decision of the review committee, the Board ..." shall give the employer and the worker or dependant an opportunity to be heard. I would submit that that would clear up any concerns that the hon. members might have about a worker or his dependant not being able to be heard by the board. Clearly in Section 27 he has the right, after a decision is made by the review committee, to ask for an appeal, which shall be granted.

MR. TAYLOR:

Mr. Chairman, we have no quarrel with that. The board has given its decision in 25, then in 26 the worker or the employer is dissatisfied, the board sets up a review committee and they hear both sides with the consent of the board. This review committee may confirm, vary or reverse the decision and that decision apparently then goes out. If the employer or the dependant is still dissatisfied then they go to the board and the board may set up another. I have no dissatisfaction with 27 at all, but it is in 26 where we have some concern.

MR. DIXON:

I was wondering, Mr. Chairman, when we are having a larger board, if the committee gave any thought to - if the original case was discovered and either the employee or the employer or a dependant wishes to appeal it, couldn't we make it such that the whole board would sit? We could do away with the review committee because you are never going to be able to satisfy a workman or, in that case, an employer, because he will say the same people who are making the decision are also reviewing it. It would seem silly to me if I were a workman; unless I got 100 per cent of what was coming I would automatically appeal it because I would have nothing to lose. They say it could be reversed but I doubt whether they would ever reverse it. He would automatically appeal.

I feel that this Workmen's Compensation Board is going to have so many reviews and appeals going on that you never will get a decision.

If you are going to enlarge the board, my opinion would be that if three or four members of the board had made a decision then if a man appeals and wants to appear in person, he should appear before the whole board. Because in my experience over the years with workmen, they have never been satisfied with just being before a review committee if they want to appeal their case, and I am sure every member in the House has had the same experience. Whenever a workman wants to appeal his case, he wants to be heard before the board. You can talk all you want about review committees and everything else, they won't mean anything unless they give a decision in his favour. If they don't give a decision in his favour, he is going to carry it to the next stage in any case. So I think that

we should maybe review this whole thing and see if we can't have the board do more of it in the final analysis.

MR. NOTLEY:

I certainly accept the arguments that the government presents for review committee. In my view, there are going to be a number of cases, as Mr. King pointed out, where you are really talking about technical questions and where this review committee can probably solve many of the cases that were unsatisfied by the claims office's original decision.

If we can cut down the final number of appeals that go to the board, I think that's good, and I can see the argument for a review committee. But my concern is still that we haven't got it written clearly in the act that this review committee will be set up, because we still have this very uncertain phrase, "... with the consent of the Board ...". Exactly what does that mean? While I accept the minister's answer that it will proceed automatically, are we to be sure that in every instance it will proceed automatically? That's the intent of the Legislature. If that is the intent of the Legislature, as Mr. Henderson said, why don't we say so?

DR. HOHOL:

Mr. Chairman, I sure appreciate the help. The Select Committee on Workmen's Compensation grows by the minute and by the hour, and simply reflects the importance of it. I accept the criticism, but I am not accepting the amendment, Mr. Chairman.

When we speak of the board, let me put it in lay terms and use analogous boards. When we talk about the school board we don't always necessarily mean the board. What we mean is its administration. We mean that the responsibility for that administration rests with the board.

I mean it kindly when I think the Legislature still misunderstands the point of the review committee. It is not easy to [make it] compact. We may have too many ideas and too many processes in Section 26, but the idea of a review board is that it will be selected on the basis of matching senior staff with the nature of the worker's injury. The review committee could be different from accident to accident. Therefore the board must exercise ...

MR. TAYLOR:

... [Inaudible] ...

DR. HOHOL:

All right. If the board is going to put together the review committee, the application for the review has to be to the board. On that basis, I just can't move off the language of Section 26. I felt that the important thing was for the Legislature to understand the meaning of Section 26 (1).

The hon. Members for Spirit River-Fairview, for Wetaskiwin-Leduc, and for Drumheller are now saying they do understand it. If we understand the clause, then I think the argument ends. If there are other concerns, then, of course, the argument doesn't end.

It is difficult for me, as sponsoring minister, to sponsor a bill which is relegated to the responsibility of the board and take the term "with the consent of the board", which is the language of legislation, which is understood by all of us, which recognizes the stature, the status, and the responsibility of the board. There is no way that an employer or an employee can go directly to the review board, not with the intent to cut off the interference by the board, but because the board sets up the review committee in the first place.

Let me conclude this for my part, Mr. Chairman, by again restating the function of the review committee. One of the things that I found as an MLA, and later as minister responsible for the act, is that injured workers said, "But the board hasn't got this information, and it doesn't know this, and it doesn't know that. Yet it made this decision without this kind of information."

The whole point of that review committee, as the Member for Edmonton Kingsway tried to explain, is to examine the file and to make certain that all information on which the decision is made is consistent with that decision having been made. In the absence of certain data that decision could not logically be arrived at.

Should the committee reach that conclusion, it would then go to the board and say to the board, "We need additional information, or you need additional information, or the claims officer needs additional information." We recommend that this worker be examined by an outside doctor who then examines the injured worker and completes the information in the file on which further judgments and different judgments conceivably could be made.

Ladies and gentlemen, the intent here is to make certain, up to human capacity to make certain, that the worker is examined to the fullest extent possible, that his file is reviewed, and that the review committee is satisfied that the decision made is consistent with the data. Or if the data and the decision are short or inconsistent, they can ask and require more. We think this is a reform into the next decade, much less today. If the language is awkward, and I don't admit that it is, if we are clear on its intent I would like, Mr. Chairman, to get that kind of agreement and if you wish, now, or after further discussion, vote on the amendment. I cannot, as the responsible minister, take out the "... with consent of the Board ...".

Let me recall that we have had representation not to have the advisory committee to the ministry - let it go to the board, indicating the Legislature's respect and concern for the stature of the board. We have had recommendations that the investment portfolio stay with the board, again reflecting the respect and concern, which I share, in an overwhelming way, for the board.

Once we understand the meaning of the clause - if there is any misunderstanding; I have no difficulty - if we understand what the clause is, from this point on I would have some difficulty understanding the term "with the consent of the Board" when we have a board of commissioners appointed by this government, and other governments, to see that there is the full measure of review for the worker.

Let me remind you, Mr. Chairman, that in saying, let the whole board hear the case, to the present time and to the end of December, the board has never heard a case as a board, nor as a panel of the board. We are extending the appeal right to the level of the commissioners, and view that as a major function of the board.

It is difficult to feel that there is valid criticism when we say that the panel of the board - we will increase the number of commissioners, and panels can sit in two or three places at the same time in Alberta to catch up on appeals which are way behind. Two members of the board might make the same judgment on the file and on the case and the hearing as a full board may, but this is extending the appeal procedure right to the board.

Mr. Chairman, should this pass this Legislature, this will be the first attention of its kind to an injured worker in our nation, not just in Alberta. This places a worker into examination and judgment of the board itself.

On this basis, I believe I have done all I can to explain Section 26(1). I am prepared to accept, after discussion, the vote on the amendment.

MR. STROM:

Mr. Chairman, could I have a run at it. I have listened very carefully to the explanations that have been given, and I think that I understand what is written in the particular sections.

To go through it very quickly, the first is a decision by the board which is not accepted by the worker or employer. It goes to a review panel that is simply to review the record, as the hon. Member for Edmonton Highlands has suggested.

The third process that follows is that if the board consents, they will permit that review committee to hear representation from the employer or the employee.

Then the following section says again that if the employer or employee is not satisfied, they can call for a review. The board will then hear representations.

Now it seems to me what has happened, is that Section 26 is merely saying that the board does want the review committee to hear representation from the worker or the employer.

It seems to me that there is an implication here of trying to cut out the review board from gaining further information, because in Section 27 the review board does not hear it.

I gather, from what the hon. minister is saying, that he doesn't want the review board to hear additional information, simply to review the record. I think that in that area, I have to disagree, because it is placing limitations as to how far the review board can go. I cannot understand why they will not permit the review committee, if they feel it necessary, to hear representation.

I think that's where the argument has now centered and what my view is. I'm happy to support the hon. Member for Drumheller in removing the words "with the consent of the Board". Otherwise, I'm afraid that you have placed an implication here that would be rather difficult for the worker to understand.

MR. HENDERSON:

I had to leave the room for a few minutes, and at one point the minister had suggested, leave the words "with consent of the Board" in, and he would go back to Legislative Counsel with a view of putting some other words down, starting with the words "which may confirm" just to clarify that the "with consent" did not apply to that portion of it. I suggest, Mr. Chairman, that the matter probably isn't as clear as the minister would like to lead us to believe. He led off by saying that the words "with consent of the Board" applied to all the words preceding those words and not the latter part, so it's not surprising there is a fair bit of debate and discussion over what the words apply to.

If it's intended that they apply to only the words "... hear representations on behalf of the employer and the worker or dependant ..." there may be some valid arguments that favour that. But if there are, I think its desireable on the part of the minister or some of the members of the committee, regardless of which side of the House they're on, to outline to the House why they think that should be in there.

Because the minister has stated it earlier, we know that it was incumbent upon the board to make its decisions known to the parties involved to justify their actions, and so forth. If it is narrowed down to the argument that they shouldn't hear the representations of employer, worker or dependant without the consent of the board, I'd like to know why the minister feels it should be that way. There must be some logical explanation for it.

Of course, the difficulty in accepting the recommendation of the minister, now we all understand and as we proceed, the minister may understand, but unfortunately I can't read his mind and what the minister says isn't law anyhow. What is down here becomes the law.

Before we put the question on the amendment, I would like to come back to the proposition that the minister had outlined earlier, about clarifying, that it doesn't apply to most of the last two lines in the clause. Also, if the recommendation follows the committee report, why the members of the committee, regardless of which side of the House they sit on, felt that that stipulation should be in, the requirement that employer and employee or his dependant could only go to the review committee with the consent of the board. Otherwise all it can do is review what's already on file.

The minister is saying, the committee is not allowed to entertain any new evidence in its decision without the permission of the board. That's the way I interpret the basic proposition. There may be sound reasons for that. If there are, I'm sure if the minister could explain them, it might clarify a lot of the confusion on this side.

MRS. CHICHAK:

Mr. Chairman, although we've been referring that we should follow or treat Sections 25, 26 and 27 at one time, to get the sequence of the appeal procedure or the sequence of the claim, I think we really need to go back to Section 23 of the act. It starts from there where it outlines the procedure that's to be followed. Section 23 reads:

> 23. An application for compensation under this Act shall be dealt with and determined in the first instance on behalf of the Board by one or more claims officers employed by the Board.
>
> 24.(1) Where a permanent disability results from an accident the evaluation of the worker's disability shall be made on behalf of the Board by one medical and one non-medical employee of the Board.

This sets out the steps. It goes on to say in Subsection 2, "permanent total disability" and how this shall be dealt with. I'll not read each one of those. If we follow Section 23, it sets out that the determination, first of all, will be by claims officers or the first step of how the disability shall be arrived at, or the decision on the results of the disability.

Section 25 indicates that the board shall, where it makes the determination, whether it is in step one or whether it would follow under Section 26 which is step two or Section 27 which would be step three. It directs how the board must notify the injured worker or the employer. There it says "The Board shall, where it makes a determination ..." under whatever step "... as to the entitlement to compensation of the worker or a dependant, in writing advise the employer ..." - in writing - "... and the worker or, in the case of his death, his dependant, as soon as practicable of the particulars of its determination, ..." whichever step it falls under, "... and shall provide a summary of its reasons, including medical reasons, for its decision, upon request." That really sets out how the board should make its notification of whatever stage the decision is at.

Section 26 deals with the second step of the procedure. Following Section 23, the first step, where the report is done by the claims officer, if the worker is dissatisfied then the worker applies to the board for a review, which is what Section 26 deals with. It doesn't say that the board may make a decision whether it wants to appoint a committee or not. It says that if there is a complaint or an appeal to the board for a review then the board shall, it must - it's not at its own discretion - it must take this step. If we remove from within Section 26, where it deals with regard to "... with the consent of the Board ..." as to whether this review committee may hear additional representations or not, then we are changing the function of that particular review committee.

It is intended that the review committee should have two functions. One, as it is originally intended, to really review the information or the material on which the claims officer made his or her decision. If there are extraordinary circumstances, Section 26 provides for the ability or the capability of the board to say that the circumstance appears such that your function may vary from that which is originally intended. I think this is a very important aspect of the procedure. As I read it, it is not intended that this review committee really act as an appeal committee, as one normally interprets an appeal committee. It is intended as a review to see that normal procedures and information that would be required and should be dealt with basically were considered and only in extraordinary circumstances. Unless we want to totally change the function of that committee, it would not be proper to remove that portion of Section 26 which you are requesting.

Section 27, of course, deals with the final appeal procedure. If an injured worker is not satisfied with the initial determination, with the review committee's following up or the review committee feels all the material, as far as they could determine, was there in its report, and the officer made his or her decision in the proper light all of the material gathered, and they recommend that the report be upheld, then the appeal procedure is really to the board proper. That's your third step under Section 27.

So I think that we really need to take all of those into consideration to have a clear understanding of the whole procedure. I think it's important to keep the function of the review committee as it is intended, with the opening that where circumstances warrant, that provision be allowed that they may hear further representations.

MR. TAYLOR:

Mr. Chairman, anyone who has ever had anything at all to do with the Workmen's Compensation Board knows that the board now has authority to hand a file over to its employees for a review. This is done every day. That's the very basis of the act. We don't need a special section to say the board can pass a file over to a committee for review any more than we need a special section to say a minister may pass a file over for the comments of somebody in that department. It's entirely superfluous if that's all it's there for.

Secondly, when the hon. minister says that the board sometimes means a committee of the board, I take it from the definitions contained in the act that the board means the Workmen's Compensation Board. Wherever that word appears in this act, it means the Workmen's Compensation Board. It doesn't mean a committee, it doesn't mean anything else except Workmen's Compensation Board. If it means something else, let's change the word, or change the definition.

As far as "... with the consent of the Board ..." being legislative language, I think legislative language has to make sense. This doesn't make sense. It doesn't make sense at all. If it means, as the hon. Member for Cypress suggested, that the committee may hear representations on behalf of the employer or the employee after the committee is set up, if it can't do that, why set up the committee at all? Why set it up? The board can hand the file over to review of its employees, any employees it wants to name, any time.

I'm quite prepared to accept the word "review", but it really is an appeal against the decision of the board in Section 25 and not 23. If it is an appeal against 23 and 24, it should have been back in there, not after the decision and the determinations made by the board.

There hasn't been one reason given why or how "... with the consent of the Board ..." adds anything to this section. I would again suggest to the hon. minister that this section be discussed with the board and with the Legislative Counsel. We're simply weakening the committee. That's what we're doing, weakening the committee by putting that in. If the committee isn't going to have the right to hear the worker then why set it up at all. It's just a mockery of the act. With "... with the consent of the Board ..." removed I think it's workable. Even then it may have some difficulties, but at least it's workable and it makes sense. But the way it's written now, it just doesn't make sense.

MR. HENDERSON:

Mr. Chairman, I wonder if you could ... [Inaudible] ... once again? I don't want to see this thing tackled in a partisan sense. Being the only member here with a sense of complete objectivity in this whole exercise I want to ask a point for clarification.

I think Mrs. Chichak said something that's probably significant to the particular words what the intent is regarding "... with the consent of the Board ...", so far as relating to the board hearing representations from the employee or the employer. It seems to me that that probably has some logic in the basis of the fact that the purpose of the review committee is to review the decision that the officer arrived at, review the facts, and see whether the conclusion he arrived at was valid on the basis of the facts that he considered.

It also seems logical to me, therefore, that if the board did consent to representation from the employer or employee, and new information became available which had a bearing on the case, the review committee would step out and refer the matter back to a claims officer by saying, here's some new information. Basically they're not fulfilling their original function of simply reviewing the evidence on which the claims officer made his original assessment.

If that's the function, then the restriction as outlined by the minister makes sense. The way I understand what's going on here is that this section is saying that the review committee can only consider this possibility of additional information and so on being presented to the committee - other than what's already on record in the file - if the board approves of it. Is this the purpose of this restriction? That is the only purpose I can see for its being in there. The case would go back to a claims officer if there is new evidence. I would like to know, because, quite frankly, I haven't made up my mind how to vote on the amendment. I want to ask the minister again, is he prepared to consider putting these other words in this particular section, as he outlined earlier, to make it plain that it does require the consent of the board for the committee to confirm, vary, or reverse any of the decisions?

DR. HOHOL:

Mr. Chairman, I couldn't make it any clearer. That's exactly the case. I was trying mightily to make that point just before the 5:30 recess; and please understand that this is not superfluous, because no review committee can exist under this legislation unless the board puts that review committee together. For each case the review committee could be a different permutation and combination of the senior staff of the board. The language may be in reverse, but no committee, no review committee, can exist unless the board nominates and names the officials, the committee, to hear the case.

Having done that, the committee, with the board's consent - and in answer to the question from the hon. Member for Cypress to make sure that there is no misunderstanding because his review of the appeal procedure was exactly the same as we intended in this legislation - can hear representations on behalf of the employer and the worker or his dependant; not the appellant himself, but his representative, or the employer's representative, or both. They may, or the

committee may, without advice and consent or anything of the board, on its own volition confirm, vary or reverse any decision made in respect of the claim. Or if they find that new infcrmation is necessary or additional, they can assign another medical and then include that information and return it to the initial decision makers and say, here is new information for you that you didn't have when you made the initial one.

So the independence of the review committee, having been given the initial authority to hear the case, is clear, that they may confirm. As I suggested some time ago, in the second line from the end, I am prepared to accept language which would have the intent of saying "... and such review committee may confirm, vary or reverse any decision made in respect to the claim ...".

MR. HENDERSON:

Mr. Chairman, it would be desirable, as a matter of procedure, for the minister not to put the question on the proposed amendment now. Let the minister take the section back and come up with the proposed amendment, and let's have that before we consider the voting on the motion.

DR. HOHOL:

I'm sorry, Mr. Chairman, I'm not prepared to do that. I said I am if the House accepts my proposal, but not if the House wants to refer it. I'm prepared to stand on the language of subsection (1) in Section 26 as it stands, now that the House is clearly of the understanding of the meaning of that particular subsection.

MR. DIXON:

A question I want to ask the minister before we vote on this. Where does this appeal end? I can see where even if the review board and the board reversed a decision on behalf of, say, an employee, couldn't the employer come along later and demand that he be heard since he was of the opinion in the first place that the settlement was right. Shouldn't there be something in there that if a workman does appeal, and the board rules in his favour, then it can't be appealed again by his employer. Because the way this is written, I think he could.

MR. TAYLOR:

Mr. Chairman, we've been trying to persuade the hon. minister to at least take this back to the Legislative Counsel. Surely when we discuss it for an hour, there is a lot of concern about it. The hon. minister hasn't given one reason yet why "... with the consent of the Board ..." should remain in, and there have been several reasons to show that if it's left in there it just weakens the section and makes a mockery of the review. Why would the hon. minister refuse to even take it back and discuss it with the Legislative Counsel in the light of the arguments made here tonight? The hon. minister is reasonable most of the time and I would think he would be reasonable in this request to discuss it with the Legislative Counsel and the board. If they both say, we have to have it in there, we'll have to live with it. In the light of the arguments advanced tonight, I just can't see that being said, but at least we should go back and see what they have to say about it.

DR. BACKUS:

Mr. Chairman, I wonder if I could come into this because there seems to be a point that is being missed in this. I think one must not look at the board or the review committee as an antagonistic point of view towards the workman. There seems to be a tendency to think that they all are antagonistic to the workman and therefore the workman has to have all the support to get it through.

First, where the appeal has occurred, undoubtedly an appeal will not just be a simple appeal but will provide a letter of information saying that they do not feel that certain aspects of their review were properly considered and therefore they would like to appeal the decision. This information will go with the records to the review committee. The review committee will, therefore, as its terms of reference, have to review the records to see if the reason for the appeal is justified or not, if the claims officer failed to consider a medical report, an X ray or some opinion expressed by somebody in the appeal. These are the terms of reference for the committee when it is appointed.

Now, if that committee feels that its terms of reference should be expanded, that it should, in fact, try to get further information by interviewing the workman or the employer, or having another medical examination, then surely if

it is appointed by the board it is given terms of reference. If it wants to expand those terms of reference, surely it should refer to the board again for expanding its terms of reference. I think this is very important because, as long as they are reviewing the records and the points brought out in the appeal letter, it is not an additional cost to the Workers' Compensation Board.

On the other hand, if you give this review board complete freedom, they may decide - we can't guarantee that they wouldn't find it a lovely day, and a nice day to go down to Drumheller to interview the worker, to have a discussion with the employer and, perhaps, dash over to Calgary and interview the doctor who was seen there, and maybe if the man had his job moved up to Grande Prairie, they could also take a trip up there. Nor is there any reason why the review board couldn't, in fact, ask all these people to come in from these different areas to make their report.

Now, anybody who is brought in before the review board is paid for. Their expenses are paid, and this is throwing an additional cost on the review of this. Now this may be necessary and it may be recognized as necessary, but before these additional costs and before these additional terms of reference should be given to the review committee, surely they should go back to the people who appointed them and gave them set terms of reference to review the records.

This is all that means and I think the significance of it, if you can't see the significance of that, is that are you giving the review committee carte blanche as far as expenses are concerned or do you just say: before you do this, before you expand your terms of reference and expand the cost of this review, you should come back to the board which has appointed you to expand your terms of reference. This seems very straightforward.

MR. HENDERSON:

I concur with the words just uttered by the Minister of Public Works. I, with not as much clarity, assumed this is what the particular words related to.

I suggest there is nothing to be gained on the part of the House and the minister by forcing the vote on the motion now. Surely it is not unreasonable to ask the minister to simply go back to Legislative Counsel. I come back to the minister himself, who has firmed up his own opinions here rather suddenly because I heard him distinctly say the words "with consent of the Board" didn't apply to the words following that phrase, they applied to the words preceding the phrase.

There has been confusion, and I think as a procedural route, that when it is clearly understood "... with consent of the Board ..." applies to the words "... hear representations on behalf of the employer and the worker ..." to restrict expanding the terms of reference to the review committee, that, in my mind, makes sense. I am prepared to go along with it.

I don't think there is anything to be gained at this point by ramrodding the vote on the amendment that is before the House, because when the minister comes back with the amendments he thinks would help clarify it, it may resolve the dilemma and we don't need any major issue or confrontation over it.

DR. HOHOL:

It is not my intention to be unreasonable this late in the season. The amendment is about an hour old and I think that is the height of reason to entertain an amendment for that long.

The reference to the independence of the committee has to do with the words, and this is what I tried to say at 5:25 p.m. and thereafter, "... may confirm, vary or reverse any decision made in respect of the claim." That is the reference to the independence of the committee, reduced to its most logical terms.

Somebody said, the minister hasn't given one reason why the term "with consent of the Board" is there. I thought I had, but the use of language is difficult and someone may feel that I have not.

Reduced to its lowest common denominator, the review committee cannot exist unless it is appointed by the board. And let me emphasize this, Mr. Chairman, that in the basic and initial thinking of the board, the sole function of the review committee was just that, to review the file as to the adequacy of data on which the decision was made, and to find the two consistent.

Then we said, as a committee, in addition, in some few cases and with the consent of the board, the review committee may do one other thing. It may hear representations on behalf of the employer or the employee. But that would normally be the function of the panel of a board or the board, and therefore with the consent of the board.

But I repeat, its basic and nearly sole function is to review the evidence on which the decision was made and to make the judgment that that decision could, in fact, be drawn from that evidence. I submit that is very forward and formidable step that we have taken.

Suppose all the evidence isn't there, what can the review committee do? We said, all right, if the board agrees, it can do one other thing. It can hear representations on behalf of the employee or the employer. That's why the term "with the consent of the Board".

I don't want to be hung up on it any more than you do, any more than anybody else does, but I just wonder why we are. We think this is very forward legislation. I don't want to hold it up.

We've spent hours with the committee and with the Legislative Counsel, with labour, and with management. It is not as though this is a creation of a moment. It is not a matter of not being reasonable.

I have done the best I can, Mr. Chairman, to explain over and over in different ways the meaning, intent, spirit and attitude. I have tried to be very specific. I will continue because that's what I have to do. But it is not a matter of being unreasonable. I think once everyone understands what it means, then our case has to rest at that point. I see no gain in referring this beyond the floor of this House at this time.

MR. CHAIRMAN:

The question has been called on the amendment with regard to Section 26(1).

MR. BENOIT:

The amendment moved by Mr. Taylor, not the one ... [Inaudible] ...

MR. CHAIRMAN:

That is right. Moved by Mr. Taylor, and seconded by Mr. Strom that the words "the consent of the Board" be struck out. This is the amendment that has been moved by Mr. Taylor and seconded by Mr. Strom.

[The motion was lost.]

MR. TAYLOR:

This is making a mockery of the review committee. That is what it is doing. It is making a mockery ...

MR. HYNDMAN:

Order. Order.

MR. CHAIRMAN:

Any further debate on Section 26?

MR. HENDERSON:

The minister agreed to hold the clause in committee while he brings back the other amendments he proposed earlier.

DR. HOHOL:

I am sorry ... [Inaudible] ...

MR. HENDERSON:

That the minister is going to hold the clause in committee to bring amendments in to make it plain that the words "... with consent ..." don't apply to "... may confirm, vary or reverse any decision made in respect of the claim". That is what, I concluded, the minister said he was prepared to do. In fact, he said it about three times. Or did I misunderstand him on that point?

DR. HOHOL:

Mr. Chairman, I said we were prepared to offer for consideration to the House the language which would have three words following "and" in the second line; to read "... and such review committee which may confirm, vary or reverse any decision made in respect of the claim."

If it is in the Rules of Order, I am prepared to make that amendment at the present time.

MR. CHAIRMAN:

As soon as I get the amendment I will read it.

The amendment moved by the hon. minister with regard to Section 26(1) in the second last line you delete the word "... which ..." and replace it with "... such review committee ...".

[The motion was carried.]

[Section 26 as amended was agreed to.]

Section 27

MR. DIXON:

Mr. Chairman, I wonder if the minister could give an answer to the question I asked. I am wondering where the appeal ends. Because, in other words: the worker has appealed, the review board has looked at it, the board has looked at it and they have reversed a decision. Now the employer could come back and say he would like to appeal the decision they have made. What would prevent that from happening?

DR. HOHOL:

Mr. Chairman, in Section 27(2) - if we just look at the actual language - the content has the answer to that question.

> In considering an appeal from a decision of the review committee, the Board or a quorum thereof shall consider the records of the claims officers and the review committee relating to the claim and shall give the employer and the worker or dependant an opportunity to be heard and to present any new or additional evidence.

The whole basis of the appeal is based on "... new or additional evidence ...".

While I'm on my feet, Mr. Chairman, in the matter of definitions, to which the hon. Member for Drumheller properly drew our attention, the term "board" refers to matters of administration and policy as conducted by the board. The quorum of the board has one limited definition, and that is to hear appeals with respect to decisions in the decision process.

[Sections 27 through 29 were agreed to without debate.]

Section 30

MR. NOTLEY:

At the risk of precipitating a debate on the so-called permissive society, I'd like to ask the minister what was the rationale for the five years and the two years. It seemed to me, particularly with respect to Clause (b), that this could pose some hardship. It's theoretically possible there could be two or three offspring from a common-law relationship and, as a consequence, neither the woman nor the dependants would receive anything. So I'm wondering what the committee used as a rationale for arriving at these particular figures and whether any consideration had been given to reducing these figures. I think, for example, the Federation of Labour talked about two years and one year.

DR. HOHOL:

Well, it's a value judgment, I suppose, or a judgment decision. If I recall correctly, the existing legislation recognizes the intent of Clause (b) where there are children as a result of a common-law arrangment, and does not recognize a common-law spouse without children. So our major consideration was the recognition of a relationship of the duration of five years and that one or the other spouse would benefit in relationship property: that was the

overwhelming principle. Then the matter of time seemed reasonable to us, in the ratio of something like two to one, and certainly two years and one year would do it; five years and two years are also close. It's a matter of judgment; the committee arrives at [a decision] and the government accepts this.

MR. NOTLEY:

Mr. Chairman, at the risk of alienating the women's libbers, I'm not that concerned with Clause (a) but I think that Clause (b) is a little more troubling, because if there are dependants from a common-law relationship it seems to me that we're being rather unfair, in a sense, in using a value judgment for society as a whole, and applying it in such a way that the dependants will not be given the benefits which ordinarily they would if there had been a legal marriage.

MR. TAYLOR:

This is a point that I dealt with in the principle of the bill. I believe that comon-law people could have a child or more in one year, and it's the children that we are most interested in protecting. Consequently, I would think that, at least, two should be changed to one, but I would prefer it to be changed so that if there are children those children are going to be protected. Surely, whether they're born two years, three years or four years after the common-law arrangement isn't the criterion that should determine whether compensation should be paid or otherwise. I think the determining factor is that there is a child, and that child should be looked after.

MR. CHAIRMAN:

No further questions?

MRS. CHICHAK:

In that proposal of diminishing the two years down to one year, I think that making a shorter period of time can create even greater problems because for a shorter period of time it may not necessarily be a common-law arrangement where there may be offspring. I think we have to look at the situation that in fact this is, and I think that if we are making it there has to be more than just the basic consideration of simply within a very short time, that we embark on the very permissive kind of legislation that is being suggested now. I think that there are other methods, there should be other areas in which to cope with some of these responsibilites but, surely, I would not favour supporting that this be minimized.

MR. BENOIT:

Mr. Chairman, no one has suggested that any standard is going to be used to determine who these common-law spouses are. I can foresee some people opening up a real can of worms by lowering it to one year because at that point, when a man is dead and can't prove anything one way or the other, there will never be a man die without a common-law wife who claims his inheritance. I think that this is, as has been suggested, going a little bit too far. We ought to at least know that they were living together.

MR. TAYLOR:

The board isn't that naive. They know the real facts of life, they know that this is going on. I think that all we want to do and all the committee wanted to do was to protect the children who come out of that arrangement. Surely the child that comes out of that arrangement in the first year should be protected just as the child who comes out of the arrangement the second year. That is all we're arguing. It wouldn't be hard to fix it up in Clause (b).

MR. NOTLEY:

I really don't think that there is much point in getting into a long debate. Just suffice to say that this again is something which I'm sure that the advisory committee should look at very seriously because I think, as Mr. Taylor has quite properly pointed out, the children are the ones we are concerned about. I think that we must make some allowance for that.

DR. HOHOL:

I think that some of these contentious issues are properly elaborated because there is a lot of new material in this that wasn't in the other one. I would not want to be held to it, Mr. Chairman, because I'm going back a long

time and this is detailed, but I know that we reduced it but I don't recall ... my memory suggests that it might have been from five years to two, or four to two, or three to two, but there is a reduction. The point made by the Member for Edmonton Norwood is valid and the two years seems to be reasonable. Why should we refer it to the committee? Certainly the concern has to be for the children.

MR. HARLE:

Mr. Chairman, I think that it was only Section 36 and that was a two-year provision.

MR. TAYLOR:

That being the case, along the lines the minister just said, we're saying that the board may not even consider the child who is born the first year. Surely, there might be a very genuine case. All that we are asking is that the board have a chance to consider whether or not that child should have some consideration. Surely that's not unreasonable.

[Section 30 of the bill was agreed to.]

[Sections 31 through 33 were agreed to without debate.]

Section 34

MR. RUSTE:

There is a proviso in here, permission to leave Alberta for one who has been granted a pension. Under what circumstance would a refusal be made in Section 34 (1), Mr. Minister, where it says,

> When a worker to whom compensation is payable leaves Alberta, he is not thereafter entitled to receive compensation until permission to reside or remain outside Alberta is granted by the Board.

My question is, under what circumstances would he be refused permission to reside outside?

MR. DRAIN:

I think, Mr. Chairman, the intention of the committee was in a a case where a workman is under treatment and the treatment is not completed, and where his claim is not finally assessed. Now, where a workman has had a final settlement, a permanent settlement made, in relation to disability, then of course the board is no longer interested in this particular subject, but when this man is under treatment, the intention of the legislation is to have him available for treatment.

[Section 34 of the bill was agreed to.]

[Sections 35 through 39 were agreed to without debate.]

Section 40

MR. RUSTE:

Mr. Chairman, on this section, which relates to the additional compensation be given to widows and dependent children, is any consideration given to backdating this? Many of these pensions were at a level much lower than even those under the Department of Health and Social Development, which if you recall, are welfare payments?

DR. HOHOL:

One of the important aspects of the benefits legislation is to update the legislation. It is in this area that the general revenue would be used to update the benefits. When that is done there will be a termination of government funding and these would become the direct responsibility of industry assessment.

MR. RUSTE:

Was there any consideration given to backdate this even further than January 1, 1974? Many of these people have been living [in a situation] where a mother

is looking after her family. She's been living under some pretty terrible conditions [and has difficulty] even to exist on the payments she was getting.

DR. HOHOL:

That's part of updating the payments to the end of 1973.

MR. NOTLEY:

Mr. Chairman, in view of the fact that in some of these back pensions, such as widows' pensions and permanent disability pensions, we are really supplementing the pensions with general revenue funds. It seems to me that once we establish that point, then I would ask whether or not the committee gave any consideration to some sort of cost-of-living indicator which would mean that the pensions would go up as the cost of living goes up?

If we're looking at past pensions and we reject the concept of using public funds, then it may well be that they are just stuck with the pensions they've got. Once we use public funds to supplement these pensions, is there not some argument for tying it directly to the cost of living, or at least making provision for more regular review than we have had?

In fairness I have to point out that in 1972 the permanent disability pensions were raised as per the provincial budget. Now they're going to be raised again.

At this particular time when you have rapidly increasing prices, it seems to me that there is an argument for some cost-of-living indicator in the pension.

DR. HOHOL:

Mr. Chairman, as you personally, and other members, know, we spent considerable time on this matter. Our final judgment was that the principle of tying the cost of living into our compensation formula was bad in principle. However, the fact of the cost of living, inflation and increased costs had to be accommodated in some way. It was our judgment that one of the major responsibilities of the advisory committee to the minister will be to examine and study the matter of cost of living and advise him, and through him the Executive Council, on that and other matters.

I think there's something basically wrong in tying something that fluctuates on even a quarterly basis - sometimes significantly on a monthly basis - into a formula. Those provinces which have done this are in some considerable difficulty and are likely intending to change their legislation. Those that we examined were pretty arbitary, on a sliding scale. These can be out a great deal in a short period of time. We felt that if we adjusted these once a year in advance by looking at the past 12 months and adjusting for the next 12 months, we would be closer.

MR. NOTLEY:

... [Inaudible] ... location then, the advisory committee to the cabinet or to the Executive Council will be meeting then, presumably early in the new year, so that a submission can be made to the cabinet for the budget. What we'll be looking at then is an annual review - or at least the people who get these permanent pensions can anticipate at least an annual review - and that as the cost of living ... I beg your pardon?

DR. HORNER:

Section 54 says that.

MR. NOTLEY:

Okay.

[Sections 40 through 58 were agreed to without debate.]

Section 53

MR. HENDERSON:

I wonder if I may beg the indulgence of the committee to ask the minister a question on Section 53?

I presume the figure of $275 has some relationship to - well, that's what I'm not sure it has relationship to - is to how the committee arrived at the figure $275? Also just in explanation by the minister. A constituent called me with the proposition that under that proposal, a person injured 10 years ago in a given occupation would be limited to $275 per month, whereas a party in the same occupation today would receive a pension considerably higher than that amount. Is that correct?

DR. HOHOL:

Yes.

MR. HENDERSON:

How was the figure $275 picked out of the hat? Has it some relationship to minimum wage law, or is it rationalizing the cost of updating and just a judgment figure?

DR. HOHOL:

Yes, it certainly has nothing to to with the minimum wage or the welfare payments or any kind of public allowance scheme. It's a pragmatic, eclectic approach to updating. I believe that this was $175 when we became responsible for this act and its services. We raised it in the spring of 1972 to $255, and presently to $275, fairly consistent with other benefits that we attempted to make reasonable for these times.

It's again a kind of judgment that you make in the economic circumstances; the total amount of money that industry and government would at this time have to put into the fund, the nature of funding, the long term approach to capitalization, and a lot of factors that go into working out a figure. But in bringing up the old disabilities that were very small, we set the total disability at $275. Of course, in the future, after the January 1, 1974, that's the maximum, or any portion, depending on the percentage or the proportion of disability as assessed by the board. In the future, of course, following January 1, 1974, future 'injurees', if I can put it that way, with high income, their rate could be higher, could indeed be a lot higher than $275, based on 75 per cent of $10,000.

[Sections 59 through 79 were agreed to without debate.]

Section 80

MR. TAYLOR:

Mr. Chairman, just before we leave assessments. The hon. minister will recall that we presented a submission to the committee on the assessment of coal mines, not the deep seam but the domestic coal fields. I hope that something was done with reference to this type of mine, which has an excellent safety record and where any additional cost may well put the operation completely out of business, in separating that from other types of coal mines.

A few years ago arguments were given that you couldn't separate coal fields from strip mines, that they were both coal mines. But the time came when this was done and I hope we won't wait until we have killed the goose that is laying the golden egg, that we have thrown the domestic mines out of business before we recognize that they can't carry the load of the steam-coal mines, and that they are two entirely different operations.

The domestic coal fields have their safety programs to the point where there are practically no accidents at all in the few mines that are operating, in the domestic coal field. But the record in other mines is very, very bad. The domestic coal fields just can't carry the burden of the steam-coal fields. I am hoping that the Compensation Board - and I think it has the authority to do so if we can carry their judgment - will be able to separate the coal fields into another class, the same as they did a few years ago in separating the coal mining from the strip mining operation. In this matter of compensation, one thing we have to be careful about is that we don't kill the goose that lays the golden egg and make it impossible for industry to carry on. Of course, then there are no injuries, but there are no jobs either.

[Section 80 of the bill was agreed to.]

[Sections 81 through 87 were agreed to without debate.]

MR. NOTLEY:

Before we go on, the minister indicated on second reading there was going to be a committee set up to assess the whole question of safety committies. I wonder, perhaps, if he could just give us a very brief rundown of what that committee is, who is going to be on it and whether it is appointed yet, et cetera.

DR. HOHOL:

Mr. Chairman, I hope to have the announcement with respect to the Industrial Health and Safety Commission before the House adjourns. It depends on how much longer we are in session. In any case, this will be a commission of some consequence to look into all the responsibilities of government as they are and as they might be, and to recommend to the Executive Council on matters of safety as the government is responsible for it. The representation will be from labour, from management, from the medical profession, from general safety. The chairman, who is a journalist with a great deal of background, but who is not identified with any of the other groups I have mentioned, will have about half a year, more or less, to do his job and to report to the Executive Council. His frame of reference will be all-encompassing, to look into the affairs and to recommend with respect to industrial safety.

MR. NOTLEY:

Just to follow that up, then. I take it that once this commission makes its report the government may be considering amendments dealing with this particular section, which could be introduced next fall?

DR. HOHOL:

That is correct, and it is necessary to underline that that is why the government did not act on that one section of the special legislative committee's report; that is the one that has to do with accident prevention. We felt we wanted to do a profoundly comprehensive study and review of the very important matter of accident prevention and safety so that we make every site and every shop as [safe] as possible; that it would be reasonable, and that the committee and the Legislature, would accept the reason for not moving in this particular area. But that doesn't mean that we will not do everything we can in the meantime to upgrade and improve the safety provisions and performance of those areas for which we hold responsibility.

[Sections 87 through 90 were agreed to.]

Section 91

MR. HENDERSON:

Mr. Chairman, I wonder if I might ask the minister, relative to 91, whether there are any of these employee associations established for the purpose of accident prevention? Whether there are any functioning now, either officially or unofficially?

DR. HOHOL:

There are some employer associations, Mr. Chairman. These are voluntary. They are usually at the management level within industry or across industry.

What we are concerned about in addition to what is in 91, is that a particular site or a particular shop have joint management-employee safety committees, because the employee who knows exactly how safe or unsafe equipment, the floor, can assess carefully any kind of circumstance in which he works. So in the long term, that is the overwhelming objective.

There are some excellent programs of safety by some companies. On the other hand, there are some that are noteable in the absence of any real safety program, and pretty well everything in between. This is why we are moving to a commission to advise us on the best possible way to deal with this. In the meantime, certainly employers and employees are encouraged and we would give them every assistance to set up safety programs through the Workmen's Compensation Board, through the Department of Manpower and Labour, and other departments of government.

MR. HENDERSON:

One further question, Mr. Chairman. Do I gather then at the moment there are really only two tools, if you might put it that way, which the board has at its disposal to encourage the formation of action and prevention committees within companies, within industry? It is either by virtue of the high compensation rates they may be faced with because of the absence of meaningful accident prevention measures involving employees, or using this particular method here where employers collectively, within a given field of endeavour, can provide the wherewithal to enforce some basic minimum action and prevention rules on the rest of industry who don't comply. But there is no way, at the moment, where employees within a given industry field can organize to enforce that particular?

DR. HOHOL:

That's correct.

[Sections 91 through 96 were agreed to.]

Section 19

DR. HOHOL:

Mr. Chairman, during the break between the afternoon session and the evening session, we have given Section 19(4) close and careful deliberation. We should like to hope that we might get the support of the Assembly to stay with the legislation as it is for one year, to watch it carefully and to be very open to change. Should the intent of the legislation and the fact of its enforcement by the board and cooperation by the employers be the kind that we should change, then we would not hesitate to do that.

In saying this, I again recall that the real penalty on industry is in the offence in the assessment area rather than in the reporting of an accident. That is often done by a doctor after an employee reports to him. It is often done by the employee himself. When the doctor examines the employee he immediately writes to the board and asks the board for a report. I can see the argument. I would simply assume that the ethics of management would really make a fine unnecessary. If the fines, as indicated here, the education program and enforcement by the board don't do the job, then we would be prepared to make the point a little more pointedly, if I can put it that way. For this year, after review, I would ask support for the section to remain as it is and watch it for next year.

MR. CHAIRMAN:

We have an amendment on Section 19 that I believe wasn't voted. Am I right? Or was there no amendment made on it?

My notes indicate, if I am right, that Mr. Taylor moved, and Mr. Notley seconded that Section 19(4) be changed, but I am waiting for the exact wording of it.

MR. GHITTER:

Mr. Chairman, I had discussed the idea of putting forward an amendment. I considered it and decided not to do it, so I think the amendment of the hon. member still is alive.

MR. CHAIRMAN:

That is what I am waiting for and I have given it to the minister.

DR. HOHOL:

...[Inaudible]... until the House finds it. I should make the other point that our concern here is that a fine of that kind wouldn't hurt a big company if they chose to be capricious. If they did choose to be capricious, the area on super, double and other kinds of assessments is where this kind of company would be dealt with. But fines such as recommended, and I repeat that I agree with the intent and the spirit offered, would have the effect of hurting a small or marginal business with a few employees. This is the concern I would have.

Again, we commit ourselves to watching this particular clause next year on that basis, and on that basis only, not because I don't agree with the intent and the spirit. We would vote against the amendment.

MR. CHAIRMAN:

The amendment, for members of the Assembly, was moved by Mr. Taylor and seconded by Mr. Notley that $50, where it appears in section 19 (4), be changed to $500. All those in favour of the amendment as moved.

[The amendment was lost.]

[Section 19 was agreed to.]

Title and Preamble

MR. BENOIT:

Just two brief observations, if I may Mr. Chairman. The first one is the matter of regulations, which, as the minister explained very well to us, needed to be made by the Lieutenant Governor rather than by the board. With this I agree.

For those who object, I think that they should know full well how regulations come. It could very well be that they will be made by the board or by other administrators of the Workers' Compensation Board. In the final analysis, they may originate at the same source even they go through the Lieutenant Governor in Council.

The other is an objection that I still wish to voice with regard to the open end on the number of people who are members of the board. There is a bottom limit of three but there is no limit so far as the upper limit is concerned. There are more and more boards being established by the government now with this type of open end on them and I do not think that this is necessarily a healthy sign.

I say this especially in the light of the discussion we had tonight with regard to Section 26. I think that the board can appoint itself to be the review committee, so that a worker who is looking at the situation finds himself in the position where he appeals the decision of the board, and then is informed that the board's own members have now become the review committee, and it is the same ones, only maybe a larger number of them, who are looking at the same situation. Any further evidence to be brought in is to be brought in with the consent of the same board which appointed itself the review committee. It seems to lack a little bit of objectivity, so far as appearance is concerned, for the worker who is being considered.

Mr. Chairman, I wanted to make those two observations, before we conclude.

MR. HENDERSON:

I wonder if I might just bring one matter forth, one further question to the minister. In the act we now have before us, and other actions that the government has taken, a number of things have been done that don't necessarily, in themselves, seriously affect the autonomy of the board.

The financial control over the financial reserves to the board has now been brought under the purview of the administration. The regulations relating to the board activities are now under the Lieutenant Governor in Council, as opposed to previously.

I don't necessarily disagree with that, but the question has been raised to me, with these actions taken collectively, as well as with the general opinion of the government that a number of these boards and commissions should be brought more directly under the purview of the government per se, is it the intention of the government to gradually, or otherwise, further erode the autonomy of the board with a view to bringing the whole exercise of compensation more directly under the purview of the department of government?

I think this question is not unreasonable in the light of the growing public contribution that is coming out of the public coffers into the operation of the board. I don't disagree with that in principle but I wondered if the minister has any comments in that regard that, I guess, might relate to the philosophy of the government in relationship to the board's overall autonomy as it would stand in relationship to the act that we have before us now, as well as the other actions they've taken. Is this the sign of a continuing trend or do you see this is as far as the government is going at this point in time?

MR. TAYLOR:

Mr. Chairman, I just want to make ...

MR. CHAIRMAN:

I believe Mr. Miller, and then Mr. Taylor.

MR. D. MILLER:

Mr. Chairman, I allowed this part, PART 4, Section 37 to go by. That plays on me. I can't help but feel that we should give consideration to this where an accident happens and it is the breadwinner who is taken by death. I feel that the sum of $500 is minimal even with the $450 for memorial expenses. I think this is a very small sum when you consider, at $25 a day, that would only mean not much more than one months pay, four weeks pay, for the father of a household who is gone - and the shock of it all. A little extra money at that time would, perhaps, make things a little easier. Where they have to scrimp from the word go, it isn't much more than Social Assistance would pay for one who was destitute. I would feel better if we would give a more liberal consideration when an accident occurs than just that small amount.

MR. TAYLOR:

Mr. Chairman, there are just two comments I'd like to make. One is on the advisory committee. The way that the advisory committee is used will be a test of this administration. If the advisory committee is set up to advise the minister in connection with regulations and does not erode the authority of the board, then I think it is a very good thing.

If, however, it starts making decisions for the board and the board is obliged to accept the decisions of the advisory committee, then I think that it is going to be a very serious mistake. It will mean that the board will become more and more useless and, eventually, unnecessary.

The other point that I would like to make and the big thing about the act as I see it, is that other factors are going to be considered in compensation more than the medical report. For years, in this province, the only thing that determined compensation was the medical report. If the doctors made a mistake the workman was the one who suffered the rest of his life if it happened to be a PPD or a very serious injury. Again, I want to commend the goverment on the point that other factors are to be considered.

The board is now going to have a more difficult time determining PPDs and TPDs and actual compensation. I think the board is quite capable of doing that if it has the scope within the regulations to so do. I certainly hope that the regulations will amplify the other points which may be considered.

For many years, the bane of many workmen in this province was to receive a letter after an injury saying he was now fit for employment, when as a matter of fact, the worker could not return to the job, the only job he knew, and was told to accept lighter appointment. Because a person is injured I don't think he should get out of the labour market entirely but there has to be some ordinary, everyday horse sense used in realizing whether a workman is trained to take other jobs or whether he is able to do other work. If the injury is such that he is unable to do other work, then the payment of that injury should be a charge on the industry where he got his injury.

I think we will certainly be watching the operation of these other factors very, very carefully. I think it's an opportunity to provide benefits to workers; benefits that have never been given any consideration before.

MR. HENDERSON:

Mr. Chairman, I would like a statement of the philosophy of the government as to where they are going in the future with the board.

DR. HOHOL:

Mr. Chairman, if I could deal very rapidly with some of the questions raised by the hon. members.

One had to do with the size of the board. I have to say this: as Alberta becomes more industrialized the labour force is going to grow exceedingly rapidly. The work in the policy of the board and indeed, as the gentleman himself pointed out, in the area of regulations and the appeal procedure where

they are adjudicating personally, will require the board to grow with some relation to the growth of the labour force in Alberta. Certainly the matter of regulations is going to be aided and helped to the Executive Council by members of the board and its staff. It would be unusual if that were not the case.

The relationship of government to the board is reflected through linkages with the minister responsible and the advisory board, and in that sense the government and the board will be closer together. This does not mean that the government will have any intent or fact whatsoever of influencing decisions of the board with respect to adjudication. The term "erode" would be an unhappy one if that were the impression that the new act would leave with anyone. It is our contention that this act places more responsibility, more accountability by far than did the old one. The old one was too prescriptive. It didn't have a zone of tolerance sufficient for a board of the stature of the Workmen's Compensation Board. The chairman was a senior commissioner; he was not the executive officer, on the contrary.

One would make the point too, that if the linkage of a Crown corporation with government is a bit shorter than before then this is not to reduce the stature of a board, or what are we saying about government.

In the case of death benefit, I agree with the hon. member. I would only point out we have raised the death benefit considerably. It's a difference in how much one might have done so.

With respect to the advisory board to the ministry, I would simply point out that the minister responsible for this legislation, whoever he might be from time to time, is a lay minister who has to advise the Executive Council with respect to policy on workmen's compensation. The advice of the board, made up of representatives of the Workmen's Compensation Board, the trade unions, management and of the Legislature from both sides of the House, is the kind of counsel that would get in the way of the board if given to the board directly. The commissioners of the board have the job specifications their functions require. The Council is more in the policy area of laymen who have this kind of responsibility and the statutes of those of government, and they have to be changed from time to time by elected people. So the council has to be laymen, not appointed and hired professionals and commissioners. That can occur in a linkage between the minister and the board.

Those were the questions put. Let me say again, as I did in second reading, that this has been a tremendous undertaking. The debate was excellent and the clause by clause was simply outstanding, if I may presume to say so. Of all the legislation that faces the floor of the House - there's a lot of it and it's all important - this is the one piece of legislation that has to do with people entirely. It's the one humanitarian, the one piece of legislation that has completely to do with people. The debate, the criticism was excellent, and we've learned a great deal.

We'll watch the reforms and the new moves that this legislation provides. We'll monitor it closely, and we'll certainly hear from people like the Federation of Labour, the management people, individuals and members of the Legislative Assembly, and we will be instructed, directed and guided in future amendments.

I thank the Assembly for the excellent discussion here tonight.

[The title and preamble were agreed to.]

DR. HOHOL:

Mr. Chairman, I move that Bill No. 70 be reported as amended.

[The motion was carried.]

Bill No. 79
The Alberta Property Tax Reduction Amendment Act, 1973

[All sections of the bill, the title and preamble were agreed to without debate.]

MR. RUSSELL:

Mr. Chairman, I move that Bill No. 79 be reported.

[The motion was carried.]

Bill No. 86
The Municipal Taxation Amendment Act, 1973 (No. 2)

[All sections of the bill, the title and preamble were agreed to without debate.]

MR. RUSSELL:

Mr. Chairman, I move that the bill be reported.

[The motion was carried.]

Bill No. 83 The Rural Gas Act

MR. CHAIRMAN:

Could the committee have the minister move the amendments?

MR. FARRAN:

Mr. Chairman, I move the amendments. There is an amendment to the amendment on a small typographical error on page 5. The top of page 5, paragraph (j) should read Section 39, subsection 3, Clause (b), not Clause (a).

[The motion was carried.]

MR. CHAIRMAN:

I'm sorry, the Chair didn't get your reference to page 5.

MR. FARRAN:

You will find in the amendments, Mr. Chairman, right on the top, paragraph (j) should read Clause (b), not Clause (a). Right on the very top.

[All sections of the bill, the title and preamble were agreed to without debate.]

MR. FRENCH:

Mr. Chairman, I thought we were dealing with the amendment. I would like to ask the minister a question under Section 36. It actually deals with PART 3, Gas Alberta. But, in particular, in Section 36, "... shall supply gas at a reasonable price to Gas Alberta ...". Has the price been determined at this point in time? On page 16.

MR. FARRAN:

Mr. Chairman, a reasonable price means just what it says. Gas Alberta will endeavour to buy at the lowest, most reasonable price and resell to the gas co-ops at the wholesale level. It doesn't necessarily mean a uniform price. It must be allowed flexibility in this regard.

MR. FRENCH:

Mr. Chairman, the reason for my question is some of the co-operatives may get their gas directly from the Alberta Gas Trunk Line or from other sources in different parts of the province. So, as I take it, the gas will depend on the source of supply and there may be other factors. But at this point in time there is no definite price. Some of the co-ops, I believe, will be ready to supply gas within the next month or so and I was just wondering what position this ...

MR. FARRAN:

Well, Mr. Chairman, when I say no uniform price, we'll endeavour as far as possible to equalize the price. I would imagine that in the regulations there would be allowed a margin of 10 per cent up or down according to the source of supply. There will be some equalization taking place though.

I cannot give you a firm price for any particular area at the present time but if you would like to ask that question in the House for your particular co-op, I can probably give you an answer that will be near enough.

MR. BUCKWELL:

Mr. Chairman, might I ask the minister, on page 6, Section 6, Clause (a), the rationale behind the thinking on the extra charges. Now I can realize that there could be quite a number decline and the cost would go up considerably. The way it is written it is almost a form of blackmail, in a sense. If you don't take it now fellows, you're going to really pay for it when the time comes. There could be good and valid reasons why a person didn't take it even though the opportunity was there, maybe financial circumstances, or they maybe want to move their home the other side of the quarter section, or various reasons that a person wouldn't have it.

I can understand, for example, in the REA, the ones that didn't take it at the time, and I was one who didn't take it at the time, we paid the same charge or extra. Or, we paid the same charge as anybody else had paid and maybe, in fact we paid a little more. There may have been a rebate to some of them, I've forgotten now.

I just don't like the idea that if a person has been offered it and he refuses to take it, or declines, that if he wants it in the future he is really going to pay through the nose, so to speak.

MR. FARRAN:

Mr. Chairman, that is the very reason for having the word "may" in there instead of "shall". There may be mitigating circumstances. However, it is a fact of life that if they don't tie on at the time the crews are in the area it is going to cost more to send them back later. It is not fair to charge the rest of the members of the co-op that extra charge. Unless the person who has caused the higher cost of a bypass charge has a good excuse, he should pay a premium for the crew to go back again.

MR. BUCKWELL:

Mr. Chairman, to the minister. I agree with his rationale, but you don't do that in AGT. If somebody wants a phone you don't turn around and say: well fellow, you could have had the phone here two years ago but they have to come back and put it in, and now we are really going to sock it to you. If it is good for one, it should be good for the other.

MR. FARRAN:

Mr. Chairman, fortunately AGT is in the happy circumstance of being able to cross-subsidize across the province. It has long-distance revenues, business revenues, and so on.

These rural co-ops have pretty well got to stand on their own feet. These systems are being built so late in the day there is no opportunity for cross-subsidization. They've got to stand on their own feet in rather limited cost-of-service areas. The only assistance they get is from general revenue by way of grants.

MR. RUSTE:

Mr. Chairman, there has been a lot said on the program, The Rural Gas Act, and the legislation we have before us. I don't think we want to forget the fact that over the years we have progressed. We had our REAs; I think there has been a lot of organizational work put into those over the years, a lot of hard work. Maybe the work was a lot harder than they'll have to do today under the modern circumstances with modern equipment.

The minister mentioned Alberta Government Telephones. We look in their annual report for 1972. I think there is a total of some $76,000,000 that has been expended on a voluntary basis to a consumer. If he wants it, you take it. If you don't, you just leave it. AGT ploughed in extra cables so if there was any hook-up later then certainly that consumer was able to get it.

I have had references made to me about this fact that people may not want to oblige themselves to paying in an amount of money. I worked out the amount it would cost if you borrow the maximum amount that you can borrow under the system. It would come to some $2,800 or $2,900 that you pay by the time you pay the initial payment, pay the interest, your capital back. On top of that, of course, you have got conversion of whatever system it might be to use that.

Then we have the minister here not in a position tonight to give us a price, as I understand it, for the overall picture that the farmer is going to have to pay when he buys his gas.

I think there is another thing that bothers me too. That is the fact that over the years we have been supplied, I am thinking mainly of propane now, but there are others, maybe getting propane for 30 years. We got a couple of burners or we got a fridge with propane, and these have served us well.

What is going to happen to these people who have a substantial investment in their plant and equipment? Are they going to be asked to go out and serve those that this set-up can't serve? We are going to be out in sparsely populated areas; we are going to be a long way from supply.

I think these are things that have to be looked at. I think a tribute has to be paid to them for providing these services over these years.

I was rather disturbed when the minister made a remark, something about gouging their customers. I think that if we look at that maybe we should look at it as legislators gouging our citizens of Alberta when we increased our pay.

I think several things out of the overall program have good objectives. I think there are several edges here or several factors that have to be looked at and cleared up before it really becomes operative.

DR. BUCK:

Just a question to the minister along the line of going back and hooking up people who did not take it at the outset, the people who come in later. How will they be handled? I just want to know how that will work.

MR. FARRAN:

Are you talking about those who have been by-passed, whom we were talking about earlier? New ones, oh.

To start off, the plan is to have as wide as possible a franchise area based on a boundary which adheres as far as possible to municipal boundaries, roads, rivers, and so on, but which also has a financial contour of where gas can be delivered at a per capita price of $3,000. Having established that boundary, they canvass the whole franchise area in the hope that in the first crack they will tie on enough people to go over the whole franchise area in the first fell swoop.

If they don't succeed, then we are prepared to consider retracted service areas within the franchise area where they can go if 66 per cent of the people agree to take the gas. Then they go on in orderly steps to reach their ultimate horizon, which is the $3,000 contour. It will be phase two, phase three, phase four and so on. They will get grants on each service area. Say they start with a central-service area and then the extra phases will be treated as they come along.

MR. HENDERSON:

Mr. Chairman, I just want to make one comment and ask the minister one question.

I don't think the surcharge is unreasonable in this legislation in light of the fact that there is the government subsidy. I don't see why the taxpayer should be expected to pick up an additional subsidy because somebody wants to sit back on the sidelines and watch the game played first in hopes of saving a nickel or two. If the subsidy is below the $1,700 figure, there might be a valid argument about the surcharge. But when it is over that, the extra funds are to come out of the taxpayer's pocket. I can't find too much sympathy in my heart for the guy who wants to stand on the sidelines and watch the show go by and then expect to get a bigger subsidy for the same service. It is not costing him anything, it's over the $1,700, it's going to cost the public.

I want to ask the minister one question. Under Section 35 of the act it spells out that everything after May 1, 1973, all co-ops, new ones, extensions to old systems or additional supplies for co-ops will have to deal with Gas Alberta. I just want to be sure - I don't see anything in the act - two questions. Is there authority in the act for an established co-op to deal with Gas Alberta? One that is operating, functioning now that could come in as soon as Gas Alberta is set up and say, we'd like to buy from Gas Alberta as opposed

to our existing supplier. Nothing precludes that possibility as the act is written now.

MR. FARRAN:

Gas Alberta is set up and operating. Any gas co-op has the right to buy from it. You will notice that one of the amendments on the printed sheet refers to Gas Alberta. On page four it says, any

> ... rural gas utility is subject to The Gas Utilities Act and who
> (i) requires a new or additional supply of gas for the utility,
> (ii) proposes to obtain the new or additional supply from a field or pool or other source ...
> (iii) has not, at the commencement of this section, entered into a contract for the purchase of that new or additional supply of gas,
> direct that that distributor shall purchase the ... gas from Gas Alberta ...

Now that is "may". It doesn't mean to say that we force the private utilities necessarily to buy from Gas Alberta. But it gives the minister power to direct that this shall be done. Of course, it doesn't give power to break a contract. That would be a question for the courts. If an existing gas co-op had entered into a contract which had not yet expired with a producer, then, of course, I think it would be a different question. I don't know that we could aid or abet the breaking of an existing contract.

MR. HENDERSON:

Mr. Chairman, what I had in mind relates to the question of equalization. I am not suggesting breakage of contract. I think it is possible to consider circumstances wherein it isn't going to matter to the supplier whether he continues to sell under existing terms to the co-op with whom he now has a contract, or to Gas Alberta. But it could be beneficial, in view of the equalization principle contained in the bill, to the existing co-op, if it can avoid the complications of contract, to simply purchase from Gas Alberta. Physically, the whole hook-up would remain the same. They'd keep getting it from the same supplier as far as the mechanical connections and so on and so forth.

There is nothing specifically in the act which says it can't be done. On the other hand, there is nothing in the act which says it can be done. I find from my experience in drafting legislation, just because it doesn't say it can't be done, it doesn't mean in law you can do it. I am asking a general question of the minister just to be sure that, in the view of the solicitors, it can be done in this act, notwithstanding the fact it isn't specifically provided for.

MR. FARRAN:

I have to look at it, but in general principle I would say that, probably, if both sides consent to it, it could be done, unless this general objective of equalizing, to some extent, the gas prices for rural consumers across the province would take place.

The hon. Member for Wainwright was castigating this humble little soul for not being able to give a firm price for Gas Alberta selling to every co-op in the province. I will just give him a rough range. The prices being quoted at the moment are between 28 cents and 32 cents per m.c.f.

MR. HENDERSON:

Mr. Chairman, I mentioned the point of where both parties agree under an existing contract that they had no objection to Gas Alberta. It is also possible that there could be a case where a co-op would break the contract because it is so attractive to deal with Gas Alberta. It is in their interest to do it even if they have to arrive at some settlement with the supplier. The act would at least allow, regardless of the with or without agreement, for the co-op to come into Gas Alberta and say, we would like to buy from you instead of the existing supplier.

MR. FARRAN:

That is a tough one. If they break a contract with somebody and they have to get gas from someone, I don't know that we can really turn them down. That is a very hypothetical case and I would have to judge it on its merits. I don't

visualize that people are going to go round breaking contracts everywhere and having to pay the consequent compensation.

MR. HENDERSON:

Mr. Minister, I want to come back specifically to the wording because the act deals specifically with, after May 1 they shall deal with Gas Alberta for extensions or new supplies, and so on. I gather the minister isn't certain that they would have authority in the act to accept a request from an existing co-op. In my view they should have, and I just want to be sure that there is no question about it so far as the legislation is concerned. I gather from the minister it is the intent of the act to be ...

MR. FARRAN:

Would you call it an additional supply?

MR. HENDERSON:

Pardon?

MR. FARRAN:

Would you call it an additional supply?

MR. HENDERSON:

I don't think so, Mr. Chairman. It could be, for example, that a co-op has a contract with a small supplier related to one or two gas wells and, because of the nature of the operation, they are paying 50 cents or something a thousand for it. Under the equalization price with the minister, they could get something in the order of 28 to 32 cents. Obviously, as long as the supplier can still get his 50 cents from Gas Alberta it is going to be a good deal for the co-op to go into Gas Alberta and get the benefit equalization. The reason I raise it is because I am a little bit concerned that in the way it is written, after May 1, 1973 shall, the act might just prove restrictive in that regard.

MR. TAYLOR:

Mr. Chairman, I have one or two comments but not on this point. Do you want to finish that point?

I would like to make two comments, Mr. Chairman. I would like to support the hon. Member for Macleod on the point he has raised. I am glad that this bill does say "may" because, while we are in an affluent society, there are a lot of people who just can't raise $1,500, $1,800 or $1,000. This is an awful lot of money to some people. I don't think these people should be penalized if it is no fault of their own. If a man is sitting there with the money and stubbornly refuses to get in, well then, that is a different point. But I think we have to give some consideration to those who just can't raise the first payment up to $1,500 or $1,800 before the government subsidy even takes place.

There are at least, they say, a third of our people living below the poverty line. These people don't have the assets to raise the money, and so on. I think the duties are of some consideration, so I am glad the hon. minister has put "may" in there. We're not going to shove them all into one basket and say, you're all going to be penalized.

The second point I would like to raise is that I hope that there's going to be some possibility of considering a co-operative or franchise within a large area. The hon. minister mentioned the other night that he could see no reason why Gleichen couldn't be like some other towns. Well, Gleichen is in a peculiar position. It's right on the shoulder of an Indian reservation. While they don't want any special privileges, if it is possible to save the government money and save the people money by having a small co-operative area within the town and not interfering with the larger co-operative outside, I would hope that there would be authority for them to go ahead and proceed with that type of arrangement.

MR. FARRAN:

Mr. Chairman, I see no difficulty really over Gleichen. I think that perhaps the hon. members have got the wrong impression about this by-pass penalty. It's envisaged that it will only be in the neighbourhood of $150, of which two-thirds goes to reimburse the government grant which, of course, has had to increase to by-pass them, and $50 goes back into the co-op fund as an

incentive reward for in-filling, because it makes the whole thing more viable if you get closer to the 100 per cent contribution.

The "may" is certainly pertinent because there are sometimes mitigating circumstances. But it's not a terrible penalty and the $1,700 initial payment can be raised in many ways. It doesn't have to be paid in cash, it doesn't even have to be paid in monthly instalments. It can be paid by a surcharge on the gas. For anybody who is burning propane now, it would be well worthwhile to convert if their propane charge is in excess of 14 cents a gallon. So, if they're already paying an excessive charge for propane, I can't see that there is a financial obstacle to convert to gas.

[All sections of the bill, the title and preamble were agreed to.]

MR. FARRAN:

Mr. Chairman, I move this bill be reported as amended.

[The motion was carried.]

Bill No. Pr. 10
An Act to Incorporate Westbank Golf & Country Club

MR. KOZIAK:

I move the amendment as contained in the sheet that is before everybody.

MR. DIXON:

I wonder, Mr. Speaker, if the honourable sponsor of the bill could just outline, does this overcome the problem we had in private bills where they wanted to limit what the person who signed up was responsible for? I wonder if the hon. member could just enlarge a little bit.

MR. KOZIAK:

Mr. Chairman, the existing Section 9 has been changed by a comprehensive Section 9 which is set out in the amendment. It permits the shareholder to turn in and surrender his shares and thereby avoid any further liability on those shares for future assessments. The previous Section 9 didn't provide that.

MR. HENDERSON:

Mr. Chairman, on a point of order, I'm wondering whether there is any compulsion on the part of amendments to private bills which change significantly the matters in the bill, to first go back to private bills committee before they come before the House. Otherwise the bill goes to private bills in the first place.

MR. KOZIAK:

Well, on that point, Mr. Chairman, I believe the amendment that is before the House now flows from the recommendations of the committee, and is an amendment that is agreeable to those individuals who are shown in Section 2 as incorporating the club. So it's covered that particular direction.

[All sections of the bill, the title and preamble were agreed to.]

MR. KOZIAK:

Mr. Chairman, I move that the bill be reported as amended.

[The motion was carried.]

MR. HYNDMAN:

Mr. Chairman, I move the committee rise and report progress and beg leave to sit again.

[The motion was carried.]

[Mr. Chairman left the Chair.]

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[Mr. Speaker resumed the Chair.]

MR. DIACHUK:

Mr. Speaker, the Committee of the Whole Assembly has had under consideration the following bills: Bill No. 69, 79 and 86 and begs to report same, and also Bill No. 70, 83 and Private Bill No. 10 and begs to report same with some amendments, and begs leave to sit again.

MR. SPEAKER:

Having heard the report and the request for leave to sit again, do you all agree?

HON. MEMBERS:

Agreed.

MR. HYNDMAN:

Mr. Speaker, I move the amendments be read a second time.

[The motion was carried.]

MR. HYNDMAN:

I move, Mr. Speaker, the House do now rise and adjourn till tomorrow afternoon at 2:30 o'clock.

MR. SPEAKER:

Having heard the motion for adjournment by the hon. Government House Leader, do you all agree?

HON. MEMBERS:

Agreed.

MR. SPEAKER:

The House stands adjourned until tomorrow at 2:30 o'clock.

[The House rose at 10:39 o'clock.]