



## **Legislative Assembly of Manitoba**

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### **HEARINGS OF THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS**

Chairman  
William Jenkins, M.L.A.  
Constituency of Logan



**12:00 p.m., Monday, June 7, 1976.**

THE LEGISLATIVE ASSEMBLY OF MANITOBA  
STANDING COMMITTEE ON INDUSTRIAL RELATIONS  
12 p.m., Monday, June 7, 1976

Chairman: Mr. William Jenkins.

MR. CHAIRMAN: . . . sick husband and she's not able to make it back this afternoon. Mrs. Ross.

BILL 16 - THE WORKERS COMPENSATION ACT

MRS. ROSS: Yes, I wish to speak out on the rottenness and injustice in The Compensation Act. What recourse does a person have except to go back to the same people that have cut him off? This is a hard thing to do.

MR. GREEN: Do you want me to read it?

MRS. ROSS: Yes . . .

MR. GREEN: Mrs. Ross says that her handwriting is such that I can read it. Will that be acceptable? Would that be agreed?

MR. GREEN FOR MRS. ROSS: Benefits are very seldom on time. Mostly you get payment for two or three weeks at a time after waiting. November 28th we were paid and then nothing until January 1st when he was told he would be cut off on January 3rd.

MRS. ROSS: 23rd.

MR. GREEN: On January 23rd. Also tell about the welfare . . .

MRS. ROSS: The welfare, they told me if I needed the money that bad I could go on welfare and when my cheque came, pay it back.

MR. GREEN: Mrs. Ross is speaking for her husband who for health reasons can't appear. After his accident he has had a hard time remembering and gets quite disoriented. I think the whole Act should be amended and put in more rights for the injured person. She would like you to put yourself in their position for a while. I think things would be different if we did that.

MRS. ROSS: . . . don't have to put that in.

MR. GREEN: Her husband worked for 18 years and went from fourth class to first class at Winnipeg schools for 16 years. She asks what do you do at the age of 60 when the doctor says there is nothing that can be done for you. Medicines, etc., will help. She asks you to put yourself in his place. You get 15 weeks unemployment, it takes five months for disability from Canada Pension at \$154 a month. That is what she would like to say.

MR. CHAIRMAN: Thank you, Mrs. Ross.

MR. GREEN: Mrs. Ross, I think that what we have indicated to other people is that what you're really suggesting is that there should be a change in The Workers Compensation Act.

MRS. ROSS: Absolutely.

MR. GREEN: As far as your husband's individual case is concerned, the committee can't really deal with individual . . .

MRS. ROSS: I realize that. But if nobody comes up here to tell you, how are you going to know?

MR. GREEN: We appreciate your coming up here and the Minister is aware that you think the Act should be changed so that there is an appeal provision.

MRS. ROSS: I apologize for being so emotional but what are you going to do?

MR. GREEN: That's all right. Thank you very much.

MR. CHAIRMAN: Just a moment, Mrs. Ross.

MR. GREEN: Mrs. Ross, there's a gentleman that would like to ask you a question.

MR. CHAIRMAN: Mrs. Ross, Mr. McKenzie would like to ask you a question.

MR. MCKENZIE: Mrs. Ross, I'm not familiar with all the details of your husband's injury. Could you tell us when he was injured?

MRS. ROSS: March 18th, 1975

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MR. CHAIRMAN: Order please.

MR. GREEN: Mr. Chairman, I think that Mr. McKenzie was not here on Saturday, and perhaps he was.

MR. MCKENZIE: I was here until four o'clock.

MR. GREEN: We did indicate at that time, Mr. Chairman - and I do not indicate it's going to be of value, dealing with an individual case of Workers Compensation. There are several people who have such cases which can be dealt with by the Workers Compensation Board. What we are dealing with is changes to The Workers Compensation Act and she has indicated that she believes that there should be an appeal procedure. I do not think it's going to be productive of dealing with legislation if on legislation we permit people to make their complaints vis-a-vis the injustices that they feel that they have suffered by the Workers Compensation Board. Mr. Paulley is aware of many such complaints.

MR. PAULLEY: The only question I would ask of the lady: has she been in touch with the Workers Compensation Board and if so, the last time, and have you or your husband been in touch directly with the Department of Labour on your case?

MRS. ROSS: Well we got the letter - Mr. Art Coulter has that - just saying that we're struck off.

MR. PAULLEY: Mr. Coulter, he doesn't mean anything as far as the - I don't mean this derogatory but I mean have you been directly in the . . .

MRS. ROSS: I have nobody to tell me what to do.

MR. PAULLEY: I see, okay.

MR. GREEN: I could tell her to go to Mr. Wright.

MR. PAULLEY: That's what I'm . . .

MRS. ROSS: Who is Mr. Wright?

MR. PAULLEY: If we don't hear of the cases at the ministerial level and they're handled by some third or fourth party, we don't have the opportunity then . . .

MRS. ROSS: I realize that but you don't realize that I can't go and leave him.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, it's a very legitimate complaint that this lady has to offer to the committee here. If it's the Workers Compensation Board that's at fault or if it's the legislation that's at fault or the schedule of benefits, I would think that it's up to this committee to find out what the basic problem is that this lady is facing today.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, Mr. McKenzie might feel that that is a very good way to proceed. I don't think that is a very good way to proceed. The lady has a complaint; she can go to her MLA. I've indicated that I would have her taken to the Department of Labour. She can also go to the Ombudsman. There are various ways of doing this but not appearing before committee on the consideration of a bill. If the honourable member says that that's how they would operate, they did not operate that way and I do not think that we should.

MR. CHAIRMAN: I would say to Mrs. Ross, Mr. Art Wright is just leaving the room right now. He is the person . . .

MRS. ROSS: Okay, thank you.

MR. CHAIRMAN: Thank you. On Bill 16 I'll call out these names and perhaps we should call those who don't have a lengthy brief, given the time limit that we have right now. Mr. Edmund Case.

MR. EDMUND CASE: In relation to Bill 16 there are no provisions that I can apply to the Workers Compensation Board. I feel I should be entitled to a hearing which I was refused by the Board. I feel that I have been unjustly treated by the Workers Compensation Board due to my accident. I have written to the Compensation Board stating that I wish to make appeal which they refused.

Due to my first accident I had been accepted for a period of six weeks, then I was rejected after an examination. The Workers Compensation Board had given me a physical examination and told me I was to report back to work the following day if I wanted to get paid. I was unable to walk at that time and was refused compensation, claiming that this is a pre-existing condition. I was refused an appeal which I had

(MR. CASE cont'd) . . . . applied in writing to the Workers Compensation Board. I feel I was unjustly treated by the Workers Compensation Board. My doctor has stated I was entitled to compensation due to cause of my injury which resulted in a spinal operation. I feel that this is not a pre-existing condition but a result due to the injury.

I feel the Workers Compensation Board should be responsible for my injury. I feel I should have the right for an independent body to review my case of rights. My condition is the result due to the accident, not a pre-existing condition. I feel the Workers Compensation Board unjustly treated my case, unfair and unjustly.

The Workers Compensation Board and my company claims I have not made a claim for my injury, that they have no record. I have asked for a copy of an affidavit of my injury and the foreman said I would be given a copy of the affidavit of my first injury and then refused me saying if he had given me a copy that I would get him into trouble and the company into trouble. I feel I was unjustly treated. Thank you.

MR. CHAIRMAN: Thank you, Mr. Case. Are there any questions? Hearing none, thank you very much.

Mr. J. Hudak. Is Mr. Hudak here?

MR. HUDAK: Yes. Mr. Chairman and honourable members. I wanted to report how I got treated by the Compensation Board. I was injured in 1961 in my back and was in hospital for three or four weeks and not working about for six months. I have had nothing, no disability pension since that time of the work. Finally I got light duty work from the company who took me back to work. I work as the carpenter - put me to the bench as the cabinet maker because from doctor I got a report I was not supposed to lift anything heavy.

In 1965 I was working on the bandsaw, you know, I lifted a 2x6 and the bandsaw bent it and that wood went flying and I got hurt in the lower - how you call it? . . . or something like that. I work on the light duty until my retirement.

But the retirement you know I don't take it. Just got \$125 my pension from the retirement from the company. I not receive yet old age pension. I got my family . . . that time. I got to look a little bit for a job. I went to the company and work - the Trident Construction Company. It was easy job.

One morning we went to the work, it was in November, I think the 24th and the first snow was falling and covered it as high, below the floor, you know, the plastic. The snow covered that hole, we couldn't see which way to walk because everything was barricaded. I stepped on that plastic and slid down about 10 or 15 feet, fell on the floor and I carried my tool box - oh it's about 25 to 30 pounds heavy. I fell back on the back and that tool box falling right on my foot. It crushed my toe and ankle and heel as they told me in the hospital about in six places my bones was crushed. I was in hospital about three or four weeks and the bandages. After that I work whole year on crutches because the doctor told me - Dr. Bruser told me - he can't do an operation because I am too old for that and I got to suffer it.

They cut my compensation right down the same year November 24, 1969 and cut me on October 24, 1970, that payment will be on your partial disability, this to be monthly, \$8.74. I come in on the crutches - at that time I was still walking with crutches, I couldn't put my shoe on the foot. I write to the Compensation Board and applied for some help because I got the family to feed. They said we can do nothing for you, this is final decision. You could go on unemployment insurance. I went to Unemployment Insurance, the Unemployment Insurance wanted from the doctor, because I was injured and a year not working, wanted a report from the doctor. The doctor sent a report to the Compensation Board, I can't work because . . . in my foot and pinched in the back. I got no unemployment insurance or compensation.

I come in 1971 to the Board again. Still I working on crutches. At that time I come in, it was about in April, I still ask them to do something. I come in to the doctor complaining about this. He said there was nothing to do no more and I from that time not working. Because the . . . in my foot, it's painless you see. I could work maybe half hour around.

1973 I applied something to do with my foot or give me shoes. They make me the shoes but nothing raised on my disability pension. In 1975 I went again to them. Same thing. I complained at that time, my back. I write to the compensation doctor and officials down there and one time they tell me we got nothing to do with you no more.

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(MR. HUDAk cont'd) . . . . That's my complaint and I not work from that time till now according to my foot because I can't support it at my work. This is my complaint.

MR. CHAIRMAN: Thank you Mr. Hudak.

MR. HUDAk: And I ask that something be done because . . .

MR. CHAIRMAN: You want an appeal mechanism.

MR. HUDAk: . . . \$8.74. I work at that time for \$1.10 an hour, my last wages was \$174.00 a week. And I lost everything.

MR. CHAIRMAN: Mr. Barrow has a question.

MR. BARROW: Do you live alone? Do you live alone or are you married?

MR. HUDAk: Beg your pardon?

MR. BARROW: Are you married? Are you married? Are you married?

MR. HUDAk: Yes . . . married, got the seven kids and still got the one . . . \$250.00.

MR. BARROW: Thank you.

MR. CHAIRMAN: Any further questions? Hearing none, thank you, Mr. Hudak.

MR. HUDAk: That's all. Thank you very much.

MR. CHAIRMAN: Mr. Walter Jackson - not here. Mrs. M. Galevich. Mrs. Kutryk.

MRS. KUTRYK: Mr. Chairman, members of the committee and guests. This is in relation to Bill 16. I feel that there is no recourse and also there is no provision under which my husband can appeal to an independent body that would reopen his case. As far as his injuries are concerned the board has accepted responsibility for any medication or treatment which he may require from time to time but nothing more. Although I do feel he is entitled to some degree of pension from the board at present he is not receiving any pension and I feel there should be changes made.

MR. CHAIRMAN: Thank you Mrs. Kutryk. Are there any questions any members of the committee may have? Mr. Paulley.

MR. PAULLEY: Mr. Chairman, may I ask one. Did I understand from the lady that her husband had an injury, the injury was accepted by the board but he is not receiving any money because he had an injury?

MRS. KUTRYK: Pardon me?

MR. PAULLEY: But he is not receiving any money. Did he have a broken leg or . . .

MRS. KUTRYK: Severe spinal injury. There was a bone broken and the doctors refused to operate. They said his age was against him for one thing and another thing, ten years earlier they wouldn't have even thought about it twice. So he has to live with this the rest of his life. It is going down his legs and attacking his arm and mentally. All they feed him with is valium and you know what valium does. There are side effects from the valium.

MR. CHAIRMAN: Any further questions? Hearing none, thank you Mrs. Kutryk.

MRS. KUTRYK: Thank you very much.

MR. CHAIRMAN: Mrs. O. Neufeld. Frederick Bennett. Lloyd Preston.

MR. LLOYD PRESTON: Mr. Chairman, Mr. Paulley, members of the commission. Under Bill 16 relating to The Workers Compensation Act I feel I have been unjustly treated by the Workers Compensation Board. In 1961 in my case the Workers Compensation Board completely disregarded the medical evidence and the findings and recommendations of Dr. C. D. Lees, Chief Medical Officer of the Workers Compensation Board. Right to this day the Workers Compensation Board is carrying on and continues to perpetuate this practice. I believe that a complete revision of the Workers Compensation Act is long overdue. Mr. Paulley many many years ago promised me, when we were both working for the CNR, that when this government came into power that the first thing they would do is to revise The Workers Compensation Act. It's still with us today. Thank you, gentlemen.

MR. CHAIRMAN: Thank you, Mr. Preston. Are there any questions? Mr. Patrick.

MR. PATRICK: Mr. Chairman, Mr. Preston, can you indicate to the committee what is the difficulty, when you say the Act has got to be changed, where do you find the difficulty? Because of no appeal procedures? Where does the difficulty arise?

MR. PRESTON: Well the one particular thing - I was assessed a damage of 50 percent by Dr. Lees, then I drew the 50 percent for a short period of time then I went back at 11 percent. Now why should the board supersede the doctor's decision. If a doctor says you are 50 percent disabled then you are 50 percent disabled. For instance, honourable gentlemen, you go to a dentist to have your teeth done, I'm sure you don't go to a blacksmith, do you? This is just in the reverse every time. The board has the final say. It should be just the reverse, the doctor should have the final say and the first say.

MR. PATRICK: Is that your own medical doctor or the doctor . . .

MR. PRESTON: Dr. C. D. Lees from the Workers Compensation. Also four other doctors from the City of Winnipeg, I can name them. Dr. Robert T. Ross, Dr. Dwight Parkinson, Dr. Fisher and Dr. Guttman. They told me at the time that my disability would be permanent yet the Compensation Board takes it on themselves to reduce the doctors' findings from 50 percent back to 11 percent. I call this archaic, I think it's outdated this kind of legislation and it's still with us today.

MR. PATRICK: When the board changed from 50 to 11 percent compensation, did you do anything about it? Did you appeal to anybody?

MR. PRESTON: I appealed to them last and they told me when I was speaking, well he said, "it sounds like you've got a lawyer at your side." "No," I said, "I haven't, it's just common sense." I went to see them many many times, couldn't do anything about it. I'm not worried so much about my own case but they are doing this to other people. I was working 1960 and there's a lot of water under the bridge since then but they are still doing this to other people and it's time this Act should be changed.

MR. CHAIRMAN: Mr. Dillen.

MR. DILLEN: Mr. Preston, have you had an opportunity to consider what is being done in other jurisdictions particularly New Zealand with regard to the manner in which injured workmen are being treated in that country?

MR. PRESTON: In a slight way. There are many boards of appeal that you can go back to and their rate of compensation is altogether different from ours in this country. That is the extent of the knowledge I have of the New Zealand Compensation Act.

MR. DILLEN: Are you aware that under the New Zealand system it does not refer to a Workers Compensation Act but it refers to an Accident Compensation Act and that people are covered regardless of where their injury occurs.

MR. PRESTON: That is correct, practically all the population.

MR. DILLEN: And regardless of pre-existing condition.

MR. PRESTON: Correct.

MR. DILLEN: Are you also aware that under the New Zealand system that the accident compensation fund is funded through driver licences and automobile registration?

MR. PRESTON: Yes, I have read that and been informed that that is so.

MR. DILLEN: And that there are no private accident and sickness funds available except for extended coverage?

MR. PRESTON: Definitely no private funds at all.

MR. DILLEN: Are you also aware that under the New Zealand Act that there is a portion of the Act that is funded through the Consolidated Revenue of the country?

MR. PRESTON: Yes.

MR. DILLEN: Now there is an appeal process in Manitoba and the appeal process is to the same people who made the original decision. Do you find that difficult to live with?

MR. PRESTON: Very much so.

MR. DILLEN: I don't know what your understanding of law is but I know that in the case of Manitoba if you receive a judgment from a lower court you have the right to appeal to a higher court the judgment that was made by the lower court. The same person who made the original judgment under law does not sit on the appeal court.

MR. PRESTON: That's right.

MR. DILLEN: But in the case of injured workmen, the same people who made the original decision are the people who sit in the appeal process. Now I want to try and clarify for my own understanding, sir, that the manner in which injured workmen are being treated before the board, I want to know from you whether you are satisfied in the

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(MR. DILLEN cont'd) . . . . attitude - and I underline that - of people who are in the employ of the compensation system, whether you feel that the injured workmen are being treated humanely and with dignity? Can you expand any on that?

MR. PRESTON: I don't think they have been treated very humanely and I don't think they've been treated with too much dignity. For the simple reason that I think a person should be able to go into the Workers Compensation and ask for a board of reference and name his own doctors even if he wants to go outside the province. For instance, I know of a case here between Mayo Brothers and the compensation doctors. They are of an entirely different opinion. I think that in all fairness the Mayo Brothers Clinic is recognized all over the world. I think they should give some consideration to their findings. Again, the problem here is to get medical reference.

MR. DILLEN: I want to know if you've had any experience with the medical profession, whether or not they are willing or hesitant to appear on behalf of an injured workman in a compensation case, or whether there is any resistance on their part because, as you know, if they are operating in their clinic in the period of time that they are appearing before a board they are losing money. Does there appear to be any hesitancy or reluctance on the part of the medical profession to appear on behalf of an injured workman before an appeal process?

MR. PRESTON: Well I find that a lot of the doctors, two or three of the doctors that I know personally, they don't seem to want to get involved because there is so much red tape involved. They find that other doctors have maybe put a report in and they were scared to bring a report in that may show differences between the two doctors.

MR. DILLEN: So what you are really saying is that one doctor may differ in the findings of another doctor and they will not contradict one opinion over another.

MR. PRESTON: That is correct. That's why I say there should be a board of reference, which I would refer to as a board of reference, and be able to choose your own doctors. This should be tabled and somebody else such as a lawyer or a representative of the injured worker come in and thresh this out on a table. But this is too much under the table deal. That's what it has been in the past in my experience.

MR. DILLEN: Are you aware that we are introducing amendments to the Legislative Assembly Act in Manitoba at the present time which will allow the Industrial Relations Committee or any other committee to meet intersessionally to deal with specifics like the problems that you are presently raising now?

MR. PRESTON: Well I have not known of this but that's the best news I have heard for a long time if they will bring this about.

MR. DILLEN: If we are able to have this committee meet intersessionally, between sessions, would you feel that it's a good idea not only to concentrate in the City of Winnipeg but that this committee should be meeting throughout the province to hear reports from people who are treated very shabbily by the Workers Compensation Board.

MR. PRESTON: Yes, very definitely so. Because there is a lot of people in this province here that's worked in small shops, they are not too well informed, not too well educated and nobody to represent them. They have just been sloughed off by the Workers Compensation Board as far as I'm concerned.

MR. DILLEN: Just let me get my questions straight here so that I can clarify in my own mind. How many workers would you estimate, of the 45,000 claims roughly that are being processed in the province annually, are workmen who received less than adequate compensation for their injury or for treatment.

MR. PRESTON: I haven't seen any figures on that lately, Mr. Dillen. I wouldn't try to elaborate on it at this time.

MR. GREEN: I would raise this point of order as if it was raised with any other member. I raise it with the Member for Thompson. If he has a particular position that he wants to enunciate with respect to having the committee meeting intersessionally I don't object to that, and I expect he will find the way to do it. I doubt whether it is the appropriate procedure to get merely a person who is here apparently speaking on a bill, merely to endorse the member's ideas as to what he wants done.

MR. CHAIRMAN: I think the point is well taken.

MR. GREEN: He's gone considerable distance already, Mr. Chairman.

MR. DILLEN: Well I hope to get much much more.

MR. GREEN: It's past 12:30

MR. CHAIRMAN: Thank you, Mr. Preston.

MR. PRESTON: Thank you for the hearing.

MR. CHAIRMAN: The hour of adjournment having arrived, Committee rise.

