

Mr DEVINE (Denison) - Mr Speaker, I wish to congratulate you on your election to that very high office and I pledge my loyalty to Her Majesty the Queen.

I wish to speak on the subject of workers compensation as, to my mind, this area has not been given sufficient attention by past Parliaments. There are several shortcomings, anomalies and abuses of the Workers' Compensation Act 1927 which I wish to bring before the House. These include the administration of the Act. There are many which I will not be dealing with today.

Firstly I speak on the subject of industrial deafness. In Tasmania a lump sum disability payment is not payable in the case of industrial deafness, unless the claimant for compensation can show that his working capacity is lost or diminished as a result of his deafness. This was decided by the Full Court of the Tasmanian Supreme Court in 1976 in the case of Boucher v Motors Pty Ltd. However, in the case of an incapacity of a limb resulting from an accident, a lump sum disability payment is payable irrespective of the capacity of the worker to earn a full wage. Is this justifiable? Should there be a distinction? In my opinion all hearing loss caused by industrial noise should be subject to the same judgment as is the case with the capacity of a limb.

My second point is the non-payment of interest on lump sum payments which are withheld for any time up to 12 months. There is no statement in the act that an employee or his dependants are entitled to interest on repaid workers compensation moneys. This means that an employer can, within the terms of the existing act, take unlimited time to make a payment. This time can be extended under the guise of making sure that the claim is genuine and/or having insurers instruct him to deny liability, which is usually the case.

Only last year there was a case involving one of Tasmania's largest companies. The company withheld payment of workers compensation lump sum payments. Remember that under the Workers Compensation Act the employers are obliged to pay compensation. In this case a claim was made requesting that a disability payment be paid to the Public Trustee in September 1978. The usual procedure went on. There were independent medical examinations, letters backwards and forwards and finally, after court action, payment was made in June 1979 - nine months later. For nine months this worker and his family had to survive on social welfare and, when payment was finally made he received no interest. Is this a fair situation? A provision should be added to the act so an employee or his dependants are automatically entitled to interest on all forms of payment which would provide an incentive to employers to settle claims more speedily.

The next point is that surrounding agreements to redeem compensation payments. There is no requirement in the act for a worker to sign a release before payment of an accepted disability. Further there is nothing in the act which requires an employee to release the employer from liability at common law in the case of a redemption. It has been brought to my attention that there has been a practice where insurance companies, insurance assessors, and others, seek out injured workers and obtain a release of payment of a disability allowance. In many cases these releases exclude the employer from all the liabilities, including the payment of future weekly compensation, medical expenses and the employer's liability for negligence. This practice is widespread and is material in disadvantaging many workers. This practice could be easily overcome by inserting in the act a clause detailing an agreement between an employer and an employee whereby, if a case is challenged, the burden should lie on the employer to prove that he is complying with the act. I would suggest a provision to be inserted in the act that would read thus -

'An agreement made between an employer, its representative, or workers compensation insurer and any worker, representative and/or dependant of a deceased worker shall not be binding on that worker, representative or dependent unless, before making the agreement, he has had competent and independent legal advice as to any legal and medical questions arising in connection with a claim for compensation and understood the agreement. In any case where such an agreement is challenged the burden shall lie on the employer of proving compliance with this subsection'.

Another point regarding the act is that for money payable by way of a lump sum on the death of a worker, any redemption of a weekly payment of a lump sum payment must be paid to the Public Trustee. The Public Trustee then pays the money out to the worker and out of that money deducts \$10. The deduction supposedly covers the administrative expense of holding and disbursing the money. This deduction is authorised by law. It appears to me, however, that no deduction should be made from a worker's entitlement under the act. The payment is made to a man because he is injured and is suffering an incapacity. The act itself acknowledges that payments made to the Public Trustee are made in circumstances where injury is serious - that is, death or permanent incapacity - and redemption which is appropriate where a man is unlikely to return to work. There are two or three courses of action which could be taken in this particular part of the act. The one which appeals to me most is to press for legislation that would require the employer to pay the Public Trustee's office charges.

The last point I would like to bring to your attention this afternoon is the worker's obligation to submit to a medical examination. A worker who claims compensation is obliged to submit himself to a medical examination if and when required. There is no obligation on an employer to serve on the employee a copy of the medical practitioner's findings. I believe that this section of the act is open to abuse. In a case where an employer disputes a compensation claim, sometimes he requires a worker to submit to a number of medical examinations. If a report is prepared by a doctor engaged by the employer and is favourable to the worker's case, the employer may - and in practice his solicitor often does - claim privilege in respect of the report and the worker is not entitled to obtain that report from either the employer or the doctor. Assume the worker sustains a disability to his arm and a doctor, engaged by the worker himself, assesses the disability at 20 per cent, the employer engages two doctors who assess the worker's disability at 30 per cent. The employer in such a case has no interest in disclosing the report and would endeavour to settle a worker's claim by making a payment on the basis of 20 per cent. Furthermore the doctor engaged by the employer may, in the course of his examination, discover a serious disability requiring medical treatment. The employer may not wish to disclose this to the worker, as it may result in a worker making further claims for compensation. To overcome the anomalies of the act, I believe the employer should be obliged to serve a copy of all medical reports.

From my previous remarks you can see that the Workers' Compensation Act 1927 is not satisfactory in many respects. The wording of the act is such that abuses have arisen over the years. The inadequacies and anomalies of the act have caused so much argument and suffering over the years that it would seem that the time has come for a close review of it.

In closing I wish to make some general comments concerning the Parliament. During my campaigning the most common comment was that politicians contribute very little to our society. In other words, politicians are held in very low esteem by a large percentage of the community. From my own observations it seems that politicians have lost touch with the everyday person. We are here to represent the people and it is important that, in matters concerning them, they are not treated as just statistics, as many feel they are. It is my hope that we, on both sides of the House, can get on with the job and work to serve the people and forget about the seemingly predominant business of scoring political points. I have much pleasure in supporting the motion.

Mr BRAID (Wilmot) - Mr Speaker, I rise to support this motion which was so ably moved, but before doing so I would like to congratulate you, Sir, on your elevation to the office of Speaker. I am confident that you will endow that Chair with the same dignity with which it has been endowed over a period of time and I am sure that, as always, you will be fair in all your decisions. I wish you every success in the position. We will try to make it as easy as possible for you, Sir, but in the cut and thrust of political debate you realise that there are problems as Speaker.

I would also like to pay my respect to Her Majesty the Queen. It is good to see the members of this House paying respect to Her Majesty the Queen. I believe that everyone, irrespective of belief, was shocked at the recent tragedy in Ireland concerning Earl Mountbatten, who was a great statesman of the world.