(Chairman: Mr. Diachuk) (1 p.m.)

MR. CHAIRMAN: Good afternoon, ladies and gentlemen, and welcome to the organizations that are here. We have allocated a half-hour for the presentations, but because we now know there are four submissions, with the courtesy of the ones that are later we will try to provide a little more time if time is needed, another 15 minutes. I think it will be welcomed. We hope Alberta Forest Products doesn't mind the 15-minute delay and Lethbridge Chamber of Commerce, maybe a half-hour. I'm just saying this may happen. Those are the only four submissions we have here today: the Alberta Iron & Steel Safety Council, the Alberta Forest Products Association, the Lethbridge Chamber of Commerce, and the Lethbridge Personnel Association.

There may be some other employers or people here. At the end of the day, when we have some time, we would welcome some employers or any other representation. If there is anybody present that has a claim with the Board and has problems with the claim, we have staff here, and my executive assistant is available to help out. I would only ask that in the intermission, you let us know if you are interested in speaking to the committee on either the Workers' Compensation Act or the Occupational Health and Safety Act. If it's with regard to your own assessment account or your own claim account, we would really welcome it if you would let the staff look into your claim, rather than have you make a submission. But at the end of the day, we will try to look after everybody that is present.

Alberta Iron & Steel Safety Council

MR. CHAIRMAN: Gentlemen, who is your spokesman?

MR. CLARKE: Joe Clarke.

MR. CHAIRMAN: Very well, Joe.

MR. CLARKE: Thank you, Mr. Chairman and members of the committee. First of all, I'd like to thank the select committee for giving us the time to examine our brief. I believe you all have had a copy of our brief. Unfortunately in the translation of the draft to the finished product, we have some minor changes. If you have the brief handy, we'll mention them now; if not, we could do them.

The changes are minor. On page 3, under Proposed Change, "the rest of section 19 to remain intact" should have read "the rest of section 19 to be deleted". That is the line just before the title Pension Awards.

MR. CHAIRMAN: That's quite a difference.

MR. CLARKE: Yes, sir.

On page 4, paragraph (a) — again we're discussing the pension awards — under Proposed Change we say:

> If a worker is totally disabled, as described in Section 38 . . . the present compensation rates and indexed to the cost of living, shall be paid until the pensioner reaches age 65.

The rest of it is a bit ambiguous. We put in:

> The pension would then be reduced by the amount of Canada Pension and any other scheme the government, at that time, would have in force.

What we are really trying to say here is that compensation or pension in lieu of compensation is paid, we understand, for lack of wages at 65. Normally our wages stop, and then what remaining provisions there are to look after people like me next year would be under the aegis of the government.

The other one is on page 5, paragraph 6, under Present Financial System. We said: "The average compensation claim paid last year was in the neighborhood of $23,000." We recommend changing the compensation ceiling to $26,000, not $20,000. That was a pretty hysterical error, and it would be ridiculous to ask for a ceiling that's less than the average pay.

I apologize for the errors in the brief, but those are the corrections. I must admit that I'm not too familiar on how you feel about acting on this. We would be prepared either to talk very shortly to each proposal in the brief or to answer any concerns our proposals may have generated.

Before we get into this, I'd like to introduce Mr. Garth McGibney, general manager of Western Canada Steel; Mr. Ken Roberts of Stelco; and Mr. Dennis Palmer, general manager of ATCO Metal. There is no connection between ATCO and myself, except that I am employed by the firm; I wanted that cleared up. They represent classes 8-02, 8-03, and 8-05, which make up the bulk of our Alberta Iron & Steel Safety Council.

MR. CHAIRMAN: Please proceed. You may want to go, as you indicated, Joe, section by section. If we can fit it in in that time, so much the better.

MR. CLARKE: Maybe we can go section by section, or maybe we can condense briefly.

MR. CHAIRMAN: Good.

MR. CLARKE: We believe that under the present scheme of things, compensation payments and rates are a little too high. In our council, we pay anywhere from 4.6 per cent of payroll to a maximum of 5.5 per cent right off the top of the payroll to look after the things that happen to our people.

We have found that compensation has changed, inasmuch as instead of compensating a man for loss of wages and the rest, it is extremely possible to make more money on compensation than you did employed. An example of that statement is that we have people who have had a minor disability award and who have gone back to work in the same job and in the same place with a disability pension in the neighborhood of $600 to $700 a month more than his fellow worker who has not had the unfortunate experience of having an accident and going on. We have documents where, in various companies, up to $85,000 has been paid on disability awards, yet none of these people have lost 1 cent of income from the company. We feel that this is unjust and, on the surface of the thing, it sort of looks like we're getting pensions as a reward, if you will, for having accidents.

MR. CHAIRMAN: Joe, on that, could I just ask you: is that the only time that you as employers see the difference, or is there a concern that claimants can receive more on full compensation than they were receiving in wages while working?

MR. CLARKE: Certainly. This is what we're trying to say.

MR. CHAIRMAN: But I am saying before they return to work.

MR. CLARKE: No, we are talking of after they return to work.

MR. CHAIRMAN: After they return. So it's a permanent partial pension.

MR. CLARKE: It's a permanent partial pension, whereas whatever caused the man's particular disability has in no way impaired his earning capacity, his chances of promotion, or his or her increases in wages and things.

Our other concern is where we have — and we've had a considerable amount of concern about this — people not engaged in the sort of master/servant relationship. People living in our construction camps, people driving down our access roads, and the rest, have received compensation for injuries suffered under those, where the only control we had over the particular operation of this chap was the fact that he was in our particular camp. We notice that if the chap did not choose to stay in our camp but stayed in a motel nearby and had a certain amount of disability or an accident, it would have been free; we would have had no concern over it.

We certainly do not argue with the concept that if a man is working for us, doing his tasks for us, and he is hurt, we are extremely liable. We do argue the fact that the man who is not working for us at this time but happens to be in a location where we are, gets compensation. It's a funny thing, but living in a construction camp, you're compensable; living in a company town, you're not. The subtleties of that difference escape us.

Speaking briefly about it, our third big concern is that we've had various cases where a doctor has pronounced this man disabled because of . . . and we've gone to the compensation board and said that we do not agree that we should be liable for this disability because of . . . and the Board has agreed with our stand and said, right, we will relieve you of costs, and then has paid these particular costs from the general fund. That gives us some concern, that as an employer we're not responsible for the accident or the compensation due to the individual, but we're still paying it from the general fund which we contribute to. In other words, we have a place where a guy can have it both ways, and we're going to be stuck both ways.

That is basically the main thrust of our concerns. By and large, if someone is working for us, doing things under our control, and an accident occurs or he has an accident, we certainly have no quarrel about his being compensated and rehabilitated so that he becomes a useful member of society. This is certainly not the intention of our brief to say so. The intention of our particular brief is to still be able to treat that worker in that manner without what is now becoming, particularly in the iron and steel business, a depressed industry, so that we can still afford to pay our share and look after this particular individual without definite hardships on our payroll. Right now we're experiencing a definite hardship, with surtax in eight and five and a maximum of 5.5 per cent of $100 worth of payroll, and some of it is going to claims that we deem are suspect. I don't mean by "suspect" that this chap is malingering for the rest; I mean it is suspect under the master/servant relationship of the original Workers' Compensation Act as set up by the Honourable Justice Meredith.

MR. CHAIRMAN: Any questions on the general?

MR. THOMPSON: Mr. Chairman, Mr. Clarke has brought up a point originally there that we've heard before, that they feel the assessment rates are too high. Can you give me some idea how much the assessment rates have increased in the last three years, as far as your industry is concerned?

MR. CLARKE: One hundred and fifty-seven per cent.

MR. THOMPSON: That was really off the top of your head.

MR. CLARKE: That was not off the top of my head. Somebody said, they're going to ask that.

MR. THOMPSON: Secondly, Mr. Chairman, if I could, on the last point you were making there, maybe you could clarify it for me. I followed it to some degree. But as I understood it, there are some cases where the worker gets compensation, yet in the Workers' Compensation Board's position the individual employer is not responsible, so therefore it is paid out of the general fund of the Workers' Compensation Board. Is that accurate?

MR. CLARKE: This is not only accurate; this is extremely well documented, if you wish . . .

MR. THOMPSON: Well possibly you could give us a case or two of that — not right now, but maybe send it in to the Board.

MR. CLARKE: I can say this now, without names or talking of individual cases. We had an interesting one — and this was not in the iron and steel industry but another industry — where this particular man went down for breakfast. He was waiting for breakfast, and he dropped dead. It was in a camp, and the claim was accepted by the Board. I am sure that even if the protest went through against the claim, the company would have been charged $500, as they are, and the payment for fatality would have been picked up from the general fund. Now this isn't one isolated incident, but these are the things that give us concern.

My argument is that whether you're taking it from the pot, saying this is the general fund with a class balance, in the end we are still paying. Our rates have gone up because the class balance has gone down, and a certain amount of the class balance has been — I was going to use the word "pirated" by the general fund, but that's too strong a word. In other words, I think we're trying to do all things for all people, which is very laudable, but we have gone away from the principles of an employers' co-insurance company to the realms of a socialist welfare company.

MR. THOMPSON: Thank you, Mr. Chairman.

MR. CHAIRMAN: I wonder if on John Thompson's suggestion, Joe, you could forward that example to my office when you have an opportunity. But I do have a comment to make. In the last couple of years, the Board has received a large number of appeals from employers. I gathered from the tone of your comments that it was not of any purpose to try to appeal a decision. But the appeals are numbering almost 100 per cent more now from previous years because of employers' involvement. That example you've given is a good one, and I think as per Johnny Thompson's request, the committee would welcome that example. We would take it up with the claims department of the Board because, by example, we are able to address it better. So please feel free to send it to my office.

MRS. FYFE: Two questions, please. Firstly, have you done a comparison between the assessments you are paying within Alberta compared to your competition or other branches within other provinces?

MR. CLARKE: Do you want to know the ceiling on every province in Canada?

MRS. FYFE: No, I just want to know a comparison.

MR. CHAIRMAN: What you pay and what it costs.

MR. CLARKE: Oh, our particular cost assessment.

MRS. FYFE: Yes.

MR. CLARKE: In our particular company — which is the only one I can speak for — we're running 42 per cent claims cost to assessment. We get a maximum rebate every year by that system.

MR. CHAIRMAN: What about your company's experience in other provinces?

MR. CLARKE: Our company, working in Alberta, pays $4.65 per $100 of payroll. If we moved our operation to Saskatchewan, we would pay $2.80 per $100 of payroll.

MR. CHAIRMAN: Do you have a merit rebate program in Saskatchewan?

MR. CLARKE: I beg your pardon?

MR. CHAIRMAN: Is there a merit rebate program in Saskatchewan?

MR. CLARKE: No, there is no merit rebate program to our particular industry.

MR. CHAIRMAN: No.

MR. CLARKE: However, we looked at the merit rebate program, and the merit rebate program is about 12.5 per cent overall of the basic assessment base.

I think the big problem — and it may be hidden or obscured sometimes. There are two problems. One is: to guarantee a pension for life to an individual, certain amounts of moneys have to be invested at a particular sum to make a return. The amount of return against inflation, which is no control of the Board, has helped put us in a deficit state. It isn't only the province of Alberta's Board that is in this trouble. Deficits have been running over $1 million, $1.5 million. Our friends in B.C. are in a great deal more trouble than we are, in paying out some of these great and elaborate pension awards when this individual, who is still working for us, is drawing full salary.

We have no control or no argument with the person who is totally disabled and getting a pension. There is no argument there. The chap is totally disabled and he's been unemployed; we are honor bound to look after him. But we have a great deal of argument with this chap that has been hurt in our plant and goes back to work and makes $800 to $1,000 more than his fellow worker because he was hurt.

MRS. FYFE: I would like to ask a question on pensions, and that relates to the person that reaches 65, the person that was on a full disability pension. You suggested in your submission that that be reduced by the Canada pension and whatever government programs he might receive, old age assistance or whatever. What about the loss of company pension, the contributions that he would have made over the last 10 or 15 years that he would have potentially been employed?

MR. CLARKE: The one on full disability, which we haven't a great deal of argument with, during that time with the present indexed pensioning and with the lower cost of living — and by a lower cost of living, i.e., they don't have to go to work and the rest — has been pretty well l^^ked after.

The person we're concerned about, when we're coming back to this, is this chap, this machine operator who is getting the $800 a month, contributing to the company pension and the rest, who reaches age 65 and still gets his $800 a month forever. Because remember, there is a permanent partial disability award, and it means exactly what it says, "permanent".

MRS. FYFE: That's what's in existence now. What you're proposing is that that be reduced.

MR. CLARKE: I think any pension should be reduced by Canada pension. Even when you retire, your legislative pension will be reduced by Canada pension and the rest, and surely you're as deserving as a worker.

MRS. FYFE: Right, and I'm not arguing the point with you.

MR. CHAIRMAN: You're not arguing with Mr. Clarke on that point.

MRS. FYFE: I never work, so I mean I can't argue that.

MR. CLARKE: I want to start a little dissension among the committee.

MRS. FYFE: I mean, this is fun. What I wanted to clarify in the submission was that you are suggesting that the pension be reduced by the Canada pension and any other government program that would plug in, but not the amount that he would still receive, the net amount that's left. We have received some submissions to say that the disability pension should cease completely at age 65 and the person should receive only the government programs, the Canada pension. Now that would be a vast reduction in income for the individuals. I want to clarify what your position is, that's all.

MR. CLARKE: Yes. Well let me point out that I'm getting mighty close to 65, and when I reach that, you can rest assured that my income is going to take a drastic nose-dive.

MRS. FYFE: Most pensions do, I agree.

MR. CLARKE: I'm not talking about pension; I'm just talking about income.

MRS. FYFE: Yes

MR. CLARKE: However, if I'm fortunate enough to organize an industrial accident just prior to that, I can look at 90 per cent of $40,000, which is about 67 per cent of my base pay, until I die.

MR. CHAIRMAN: Mr. Clarke, I've got to correct you. It's not 90 per cent of $40,000.

MR. CLARKE: That's what I said, 90 per cent of $40,000, which is about . . .

MR. CHAIRMAN: No, it's 90 per cent of the net.

MR. CLARKE: All right. That's about 67 per cent of $40,000.

MR. CHAIRMAN: Yes, okay.

MR. CLARKE: That's what I meant to say. Okay?

MR. CHAIRMAN: Yes.

MRS. FYFE: It's the gross figure. There's a difference. It's gross at 40 per cent. Forty thousand is the gross figure, not the net.

MR. CLARKE: That's right.

MRS. FYFE: Ninety per cent of that would bring it down to about $27,000, something in that range.

MR. CLARKE: That's a fine pension.

MRS. FYFE: I think it's important, when we're discussing these figure, to assure that we're talking about actual. There's quite a difference between the net and gross.

MR. CHAIRMAN: You're only talking about the pension being reduced at the age of 65, Mrs. Fyfe. We've had some submissions that it be totally discontinued at 65. When I read your submission, you're only saying reduced.

MR. CLARKE: We did say reduced. But as I said, we wanted to change it by drawing that out and saying, shall be paid until — what we wanted to say was . . . There's a big argument here. One, because we're talking total disability, the person did not have the opportunity to contribute to a company pension plan. But the rewards of total disability are still enough to contribute to an RRSP or the rest, like many of us who do not work within pension plans.

So you get one picture. Here's this chap that is totally disabled. The point is, he's not impoverished and he may well be in a better financial position than he was before the accident.

MRS. FYFE: He certainly may be but, as I said, all I wanted to do was clarify your point. I think I've got the gist of it now.

MR. CHAIRMAN: You've got it clarified. Okay.

MR. PALMER: If I might just add to that. We weren't totally in agreement; it's a very gray area. I think if any consensus at all was reached, it was reduced rather than terminated.

MR. CHAIRMAN: That's the consensus. Okay.

MRS. FYFE: That's the point I wanted to get across. Thanks.

MR. MARTIN: Just to follow up and philosophize a bit, if we can, because I think that's what we're doing. To go back to your statement about no payment for permanent partial disability without confirmed loss of earnings, that point that you made, my understanding is if we did not have the Workers' Compensation Board, we'd be dealing in the courts if

workers felt that they were injured on the job. And there are examples of that, as you're well aware, in North America.

The only question I would ask you — and I'm not sure of the answer; maybe you are. Let's say that a person loses some fingers, gets burned, or whatever, where he eventually can go back to his job, as you said. But I suppose some people in the courts say there's some mental anguish, perhaps permanent disfiguration, and all the rest of it. I take it that in this sense, you're saying that they should not be compensated for that.

MR. CLARKE: I'd like to point out that the loss of fingers — and I don't get compensation for these — has certainly not in any way impaired my powers, capabilities, of doing my job. Remember, when I lost these fingers I had a certain — if you'll excuse the pun — hand in doing it. Okay? I contributed to these finger losses. Somebody up there didn't say: Clarke, it's your day in the barrel; and pow, pow, you've got a maimed hand. I am quite willing to take the responsibility for the loss of my fingers, as I have a certain amount of responsibility as an individual. And I am quite willing and capable of earning my living with or without them. I know the reason everybody goes to court is that we have too many lawyers, and they're out drumming up business. But that doesn't mean that his honour the judge in the court is nearly as generous as the Board in its wisdom, not by the kind of handouts they're putting out.

MR. ROBERTS: Let me add something here, Joe. If you turn to page 4 of the submission, part (b) indicates that there should be no pension where it does not reduce the ability to earn an income. Part (c), the proposal is that if a guy is maimed or disfigured, it would be a lump-sum payment (inaudible).

MR. CLARKE: Well, this is fair.

MR. ROBERTS: That may answer the question that you have.

MR. MARTIN: Yes, it does.

MR. McGIBNEY: Could I comment on that?

MR. CLARKE: Go ahead.

MR. McGIBNEY: My basic understanding of compensation, of course, is to protect the worker so that his income comes in. We had some good examples last year. We had cases that were brought forward from as much as seven years back, cases in which the employees lost no time or, if they did lose time, they were compensated for it. There was nothing that bothered them in doing their job, or they could move to other jobs. We paid out something like over $80,000 in pensions. A big part of this was retroactive for several years. These were costs that we had no inkling were coming. We had no idea that this could even happen. They involved a crushed hand, some burns on the face, and several other things. But some of the employees never even lost a day's work, yet under I guess what's affectionately called the meat chart, they were entitled to a certain amount of money.

I don't think the system was doing there what it was supposed to do. It was awarding the individuals for getting hurt, and I don't think anyone at any time every intended the system to be set up for that purpose. It all happened in a series of events last year. I don't know why last year, but before that we never did see retroactivity like that. We would see someone who probably would have a reoccurrence of an injury, lose some time because of it, go in with a claim, and he justifiably would be paid. But we

never ran into the situation where if I had a sore finger, a sore thumb, or whatever, or lost the end off a finger five years ago, I was entitled to a block of money. That's what came out of the woodwork all of a sudden, and it cost quite a bit of money.

MR. CHAIRMAN: Garth, what did your company do about that?

MR. McGIBNEY: Some of them, we put in a submission to the Board.

MR. CHAIRMAN: An appeal.

MR. McGIBNEY: Yes, an appeal. There were some taken off. Three of them, Brian, were moved into the general fund? But we still have to pay for that general fund; that's part of our operating cost, as is our power or . . .

MR. MARTIN: Can I just follow up on that? I want to come back to that, because that's an interesting point. I agree with you, you end up paying from whichever hand. I was just curious why that would happen. Maybe I could just ask John or Al. If the Board had found that the company was not responsible and the person actually didn't have a claim, why would that then at some point come out of general revenue?

MR. RUNCK: Actually what probably would have occurred — and I don't know the claim or claims he's talking about. Frequently a man will suffer injury or partial amputation or whatever, and the initial evaluation that is made is made on documentary evidence in some cases. After two, three, four, five, six, seven, or whatever, for whatever reason there may be further treatment required or something. It may turn out that the man had another amputation, so he should have had what we call recognition that because this finger is gone and now he has lost this one, instead of just paying him straight for this one, there is an added "meat charge" consideration, if you want to call it that, because of the fact that he has a greater disability losing this finger because this one has gone, which wasn't picked up at the initial assessment. So now they look at him and make the adjustment.

Mr. McGibney is quite correct. That adjustment should be charged to the reserve for enhancements, not to the employer's accident experience. He's also quite correct in saying that built into every assessment rate is a factor for the reserve for enhanced disabilities.

MR. McGIBNEY: That explains one part of it but, to me, that wasn't the question that was asked. The question that was asked . . .

MR. MARTIN: Why the costs? Why, if it was decided — as I think Mr. Clarke said — that that company was not responsible . . .

MR. RUNCK: I'm sorry, Mr. Martin. It wouldn't be in any enhanced disability. What we're saying is that the accident created a situation. The employer is charged for the direct costs arising directly from that particular accident. That accident, because of the way it happened, because of some underlying, pre-existing, or other condition which is not the responsibility of the employer, but because the other condition is there, the consequence of the accident is greater than it would be if he were normally healthy. So we have to recognize that this man now has a greater disability than he would have had, had he been normal.

So what we're saying is that — I want to give you an example. If a man comes onto a job and has one eye — that's all he has; one eye — and loses that eye as a consequence

of an accident, he is now totally blind. He is entitled to an award of approximately 84 per cent of total. But all you can say the employer is responsible for is the loss of one eye, so you charge the employer's experience with 16 per cent and the balance to the reserve for enhanced disability. I don't know whether . . .

MR. MARTIN: Yes.

MR. RUNCK: You're saying the man has lost two eyes, and you have to recognize that he's in a worse position than if he had two eyes and only lost one.

MR. PALMER: If I may, the original question was: if, after the employer has appealed, the Board has decided that the company was not responsible, why does it then come out of the general fund?

MR. CHAIRMAN: That's the question Mr. Martin asked.

MR. RUNCK: I would have to see the claim in that particular case.

MR. CLARKE: May I clear up something here? If I go on the job and suffer a heart attack while on the job, and the Board considers this compensable, and I appeal this heart attack — and I'll make book on this — my company will be charged $500, and the rest of this heart attack, including death and the rest, will come out of the general fund. Am I correct in that statement?

MR. RUNCK: Yes you are, Mr. Clarke.

MR. CLARKE: Now — and we'll use that point, because that's a big point — heart attack is not even under the regulations that the Board lists. It is an industrial disease. That's the Board's own regulations. A heart attack doesn't happen instantaneously but takes a certain number of years and life habit to generate. Because I happ t b t work that day and got a heart attack, my dependants and the rest are covered under the general fund. Yet if I left the house before I went to work and had the same heart attack, I wouldn't. So we're looking at something here where we're trying to have it both ways, and this is what I call the socialistic side of compensation.

MR. CHAIRMAN: But it is a little different from what — and think Mr. Palmer brought the question a little more open — Mr. Martin asked: why is the award still made from general fund when the employer is relieved of the responsibility?

MR. MARTIN: You were answering the question going back to him, and then the second one is as Mr. Palmer pointed out. I wanted to know if they are found basically not guilty, if I can put it that way, why would it then come out of general revenues?

MR. WISOCKY: As Al has explained, there are several reasons and it depends on the case. But it could be as classic as a case that happened three years ago and, under our Board's policies, any costs that were longer than three years ago, we don't automatically charge an employer. That could be one reason. Another one could be that the department may say it's not an aggravation of a pre-existing condition, but the Board or the claims services review committee may say it is an aggravation, and change it that way. But Al is correct in saying that if you'd like to get a precise answer, we'd have to look at that case and give you the right answer.

MR. MARTIN: Okay.

MR. R. MOORE: I had a question way back there, Mr. Chairman. I was listening to another train of thought.

Mr. Clarke, coming back to one of your original statements — and my colleague Mrs. Fyfe touched on it. You started off by saying the rate was too high at 5.5 per cent. I presume that you have done comparisons and that you have done some cost analysis on it. We agree that our costs are high today. But when you say they're too high, what should they be in your mind as far as your business goes, in relationship to your knowledge of the accident rate and so on? To be able to say it's too high, you must know what in your mind is the right price to charge.

MR. CLARKE: A right price for class 8-05, which is the smelting industry, should be — and this is based on their experience.

MR. R. MOORE: That's what I want to know: based on your knowledge of the . . .

MR. CLARKE: Based on their experience, it should be around $2.50. However, there are a couple of things that don't really come out that clearly here. By the fact that there are only 12 smelting companies in Alberta and they're carrying an entire co-insurance class for 12 companies, the rate itself, by virtue of the small amount putting in the class balance, goes up. This is one of the unseen characteristics. It's all very well to say: well, the people in the risky business have all the expensive accidents, and they should pay more. And that, on the surface, is real good. But I propose to you that a broken leg by an employee of Safeway and a broken leg on the floor of a steel plant cost about the same. The fact that there are fewer people contributing to that portion of the class in the steel business brings the rate up. So that gives an artificial inflation, not based on good risk actuary, but it's risk exposure plus the amount of people contributing to the class.

Did that confuse you?

MR. R. MOORE: No. You bring in classification there. What is your opinion of the present classification set-up?

MR. CLARKE: In a few words? First of all, the classification is too big.

MR. CHAIRMAN: You mean too many classes?

MR. CLARKE: Too many classes; 19 or so. The classes could be well broken down, and this would spread more people into the classes than there are. For example, our friends in the forest industry pay about $16 in a $100: 16 per cent. Our fellows in the drilling industry pay 9.2 per cent. The accidents in the drilling industry are more and more severe than in the forest industry, but there are more drillers than foresters. So there's 16 and 9, almost double.

That is basically one of the efforts, aside from the amount of claims that are made against the class. If the class can't carry the claim, then the general fund goes to support the class. So no matter where we are, because we're all anteing chips in the same game, it's going to cost us all the same in the end. I know that if we said we'd have one rate across Alberta, we could have everybody in compensation for around $2.50 a $100, but there would be a tremendous amount of screams from the bankers, the Safeway chaps, and the rest. But dammit, there are more Safeway employees than there are steelworkers. I wish I knew the whole, glib answer to that one, but then I'd be in a better

position than I am.

So this is one thing. The other big thing is that if we had a young man aged 25 disabled today on today's wages — and we ran this through the computer — by about the time he reached age 65, we'd be paying him a pension worth $6,572,000. And that, nobody can afford. So there are the two things: the class balance structure and the rest. If we want to pay compensation on straight actuarial rates, where a broken leg is a broken leg wherever, we'd be with these considerations, particularly from the public that won't allow that. But there are certainly efforts. If we took all the iron and steel council, the ones from $4.45 to $5.50, the chaps on the $5.50 end would love us; the chaps on the $4.45 end might be a little snarly, but not that snarly. But if they said that all together, the experience of iron and steel is the same whether you're fabricating, smelting, or pipelining, in time people would wear it.

MR. R. MOORE: Thank you, Mr. Chairman.

MR. CHAIRMAN: I want to say that I know we've benefited from the discussion. I have a comment, Joe, and one is that I would welcome that computer printout you used as an example.

MR. CLARKE: Right.

MR. CHAIRMAN: Two is that in your brief you raised a concern about the merit rebate. Possibly time didn't permit, but if your association has some suggestion of how it should be modified or corrected — and as I shared with you, the Board is working on it — we would welcome it. But before any change to the merit rebate program is in, we will also share it with employer groups. It's under review. It was directed to be reviewed by the last committee and still hasn't been. I really would welcome how better to improve it. I gather you support the merit rebate program, but you have concerns as other employers. So if you have some additional information, send it to us.

On the question of the independent operator, you had thrown one new one at us here: "the independent operator would go to the Board with an estimate of his earnings". Most of the submissions were because they're an independent operator, what they apply for. Have you thought about that concern about the estimate rather than a fixed application?

MR. CLARKE: Very much so. The reason we said "estimate" was because, as an employer, we put in estimates of payroll. Otherwise we could apply for: well jeez, we're only going to hurt 10 guys this year; that'll cost us X dollars; we'll apply for X dollars' worth of compensation. This is one of the problems with the independent operator. He had the right to say, I only want $50 coverage. Then he screamed when he had an accident and only got the $50.

MR. CHAIRMAN: But you can appreciate that, from the assessment, the auditing department can audit an employer's work force a lot better than an independent operator. That's why I wanted to raise — I have a concern, when I read your submission, about an independent operator estimating his earnings rather than buying a fixed amount, a minimum. Right now $9,900 a year is the minimum amount they can buy, isn't it?

MR. CLARKE: About $9,900.

MR. CHAIRMAN: Ninety-nine hundred is the minimum amount they can buy, and they make the decision. I can see the rest of the merits of your suggestion under the

administration, but it was the question of estimating, because somebody's going to have to carry out audits on these independent operators.

MR. CLARKE: True, but that audit is the same thing as where I, an independent operator paying Canada Pension Plan, when the tax comes, say: I've made X number of tax dollars; I owe so many. I'm an independent operator. I say, this year I'll make an equivalent of wages $20,000 at the rate. That's my estimate. At the end of the year — it's a bad year — I make $10,000. So I have a credit for the nex

The other side — and the worst side of putting a fixed set — is that the independent operator went in as cheaply as he could, and then screamed "foul" when he was hurt and found out that he didn't get enough compensation to support him. Then, to alleviate that — now remember, there's a lot of ways. The tax man doesn't come and audit every return. So we put in a return. I have a taxable income. I'm an independent operator. I assume I would have to show my taxable income to the Board to pay what I owe.

MR. CHAIRMAN: Okay. You've answered me. You feel quite confident that the estimate can be worked properly, instead of the fixed amount?

MR. CLARKE: The estimate is only going to make life easier for the Board. The other . . .

MR. CHAIRMAN: We're delaying other submissions, I think, Joe. I only raised a concern on it because presently we have a fixed amount, a minimum they can buy, and they can buy up to $40,000.

MR. CLARKE: I know. But they don't.

MR. CHAIRMAN: There are some who buy it.

MR. CLARKE: No.

MR. CHAIRMAN: Yes. Some buy it.

MR. CLARKE: They're the ones that don't get hurt, either.

MR. CHAIRMAN: No.

MR. CLARKE: Never mind.

MR. CHAIRMAN: But your association is fixed on this, with an estimate of the earnings, and we'll work on it.

MR. CLARKE: In other words, we're saying treat the independent operator as any other company.

MR. CHAIRMAN: Okay. I want to say we've given it a little extra time, and you'll forward the additional information that Johnny Thompson asked for and I suggested.

I want to thank you, gentlemen. I think we have covered the brief quite extensively, and we must give time to the other people that are now waiting. Thank you coming forward.

MR. ROBERTS: Could I make one short comment?

MR. CHAIRMAN: Yes.

MR. ROBERTS: One thing we never got to was our concerns vis-a-vis the occupational health and safety. I think it's well written. I hope it doesn't lead to any questions we could have answered.

MR. CHAIRMAN: My only comment to that is that some concerns you raised here are concerns that will be alleviated and worked out when the regulations are in place. As you know, the general regulations are not yet in place. We have a new Act, Bill 51, but it's not all been proclaimed because of the discussions that are taking place with employer groups. Some of the concerns will be worked out. Other than that, I had no other concerns when I reviewed your occupational health and safety brief. Okay? Thank you very much.

Alberta Forest Products Association

MR. CHAIRMAN: Can we have Mr. Jim Clark and the Alberta Forest Products Association come forward? There's coffee at the back for anyone present, and you gentlemen can enjoy a cup of coffee while you're taking in the hearings. They'll get you your new names.

Okay. Jim, and we have Mr. Engel. You'll be Brad? Arden, and you've lost one gentleman?

MR. ENGEL: That's right. He will be down in the morning to visit you.

MR. CHAIRMAN: With the other task force. Very good. He sort of saved up his energy for tomorrow.

We'll try to do it in about forty-five minutes. If we can do it earlier, we'll catch up with some of the others, depending on the time.

Please proceed.

MR. ENGEL: Thank you, Mr. Chairman and members of the committee. We'd like to express our appreciation for the opportunity to submit our brief this afternoon. We feel it's a timely brief, and we feel the public hearings are timely in that the interest in workers' compensation has blossomed over the last two years. Talking to the many employers within the Alberta Forest Products Association and to various other councils, we find that the list of problems concerning workers' compensation is, to say the least, almost endless. We hope that our brief this afternoon will present clearly our concerns about the compensation Act.

Before we start, I would like to present to the committee and to the audience the members of the panel representing the Alberta Forest Products Association: on my right, Mr. Jim Clark, president of the Alberta Forest Products Association; on my left, Mr. Arden Rytz, the general manager; and myself, Brad Engel, chairman of the Alberta Forest Products safety committee.

What I would like to do, if it is okay with the chairman and the committee, is briefly summarize our 15-odd concerns. At the end of that brief presentation, hopefully there will be time for questions. We would be willing to answer them as best we can. What we foresee happening is that any of the three presenters here this afternoon will answer any parts of the questions they feel they have the expertise to answer. Those that we cannot answer we will take on notice, and we'll be happy to provide any back-up

information that you desire.

I'll start with the accountability of the Board. Workers' compensation in Alberta is financed almost entirely by employers, but it's operated and directed by the Workers' Compensation Board; that's to say, we put up the money and somebody else spends it. This causes a number of concerns, and one of them is that we have no input into how this money is spent. Another is that the Board really has no control by someone else. This is evidenced by the fact that just recently the minutes of the Board have been forwarded to the minister and indicates to us that someone isn't watching a large corporation. Our recommendations in this area are that we should have more employer representation on the Board and that the advisory committee should be revamped to be a more effective method of watchdogging WCB matters.

We also have a concern regarding section 149, which adds a veil of secrecy to the operation of the Board whereby the Board doesn't have to make public any orders, rulings, or decisions. We feel this secrecy is detrimental.

We recommend, again, that industry should have another appointed representative on the Board. We feel that the WCB must be more accountable to the minister, to the Legislature, to industry, and to the general public. Further we feel that a committee composed of industry, labor, and WCB representation should be established for the development of an expanded set of regulations whereby workers' compensation could be administered more effectively. Our final recommendation is that section 149 should be deleted from the Act.

Our second topic is the operation of the Board. Workers' compensation was established in Alberta to operate on an insurance principle whereby employers pay the cost of injuries and industrial diseases occurring on the job during normal work hours. That is the operative phrase: occurring on the job during normal work hours.

We feel that the WCB has contradicted this philosophy in many cases. They've paid out compensation for claims that haven't occurred on the job, that aren't work related, and that haven't occurred during normal work hours. Consequently we feel that's a big part of the reason for the $76 million deficit that occurred in '81. If our information correct, this deficit is expected to increase. That's a lot of money to be spent, a lot of money that has to come from somewhere else, and that somewhere else is going to be employers.

The deficit is large. We have questions in that regard, in that accidents have only increased 4 per cent over the 1980 statistics, yet employer assessments have increased 46 per cent over the same period. If you look at the two figures, it becomes obvious that the WCB had a lot more money to spend on a lot fewer accidents, and we question why.

Our recommendation in this area is that we feel that a yearly operational budget is necessary, that WCB must have such a budget and must make this budget and a comparison to the previous year available for public scrutiny. The public must know what's going on in a large corporation that spends millions of dollars. Secondly, we feel that the Board should make a serious effort to control expenditures for the current and future years. A 30 per cent administrative fee increase this year does not seem to be holding the line. Thirdly, we believe there should be a full actuarial review of the policies of the WCB, and it should be initiated as soon as possible.

Social conscience of industry. The AFPA feels that the WCB has evolved into an organization that feels it's the social conscience of industry. In this regard, we make the following recommendations. We feel section 19(2) should be changed and should read:

> ... the Board shall pay compensation under this Act to a worker who is seriously disabled as a result of an accident unless the injury is attributable primarily to the serious and wilful misconduct of the worker.

We feel section 19(3) should be changed and should read:

> . . . if a worker is found dead at a worksite, as defined by the Occupational Health & Safety Act, 1976, it is presumed that his death was a result of personal injury by accident arising out of and during the course of his employment, unless the contrary is shown.

We also feel that section 19(4) should be deleted.

Proprietor definition. We feel the proprietor definition has made it more difficult for small operators to obtain work, because many of the large employers will only hire contractors that now meet the definition. Consequently a lot of the small operators may have been forced out of work. We feel that section 1(1)(v) pertaining to proprietor definition should be deleted from the Act. We feel it should be replaced by an independent operator definition.

We feel section 11 should be deleted, and we submit that a card system, as outlined in our brief, should be adopted and implemented.

Merit rebate and superassessment. The superassessment and merit rebate system was established to encourage employers to be more active in accident prevention. However, the AFPA feels this system is not working. We believe that the concept of providing incentive to good safety performers and penalizing poor safety performers is a valid and desirable concept, and we support the proposal of Canadian Forest Products Ltd. regarding what they call the merit assessment/excessive cost assessment system.

Pension awards. We're concerned that numerous pensions are paid to workers who return to work at the same rate of pay and with no loss of earning capabilities. We're concerned that these pensions are continued for life, and we're concerned that they're not reduced when the recipient reaches age 65. We're also concerned about the routine increases to pensions by charging employers with the cost of full CPI indexing.

For pensions we recommend the following. I'll briefly summarize. If the worker is totally disabled, we believe he should get a pension until he reaches age 65. At age 65, that pension should be reduced by Canada Pension. If a worker is partially disabled and this disability in no way affects his earning capabilities, we feel a lump sum payment should be paid.

Ceiling of maximum assessable earnings. The AFPA feels that the ceiling is too high. Forty thousand dollars is a vast increase from the $22,000 it was before it was raised. We feel that the Alberta ceiling does not compare favorably to other Canadian provinces. We recommend that the ceiling be reduced to $27,000.

Section 51(4). This section deals with the calculation of actual net earnings which shall be made separately in respect of each source of employment at the time of the accident from which the injured person is no longer able to earn. This also applies if that industry is covered by the Act or not. We feel this section is inequitable to those industries to which the Act does apply.

For example, a farmer works in a sawmill; that is, he farms and also has subsequent income, generally in the summer months, from sawmilling. If he gets injured, his compensation is based not only on his sawmilling income but his farming income, and we recognize that it is up to the $40,000 limit. This example causes two problems. One is that these sources of income which aren't covered by the Act and for which no assessment is collected by the WCB in fact cause the sawmilling class to incur greater costs. That is, the fellow receives compensation for money not collected by the WCB. The second problem with it is that the employer assessments from farming are not covered. If you're going to pay someone compensation based on his farming income, then possibly that industry should be covered and assessments should be collected.

We recommend that section 51(4) be deleted from the Act. We believe it should be replaced to read as follows:

> Where the worker had entered into concurrent contracts of

> service with two or more employers in industries to which this Act applies by virtue of which he worked at one time for one such employer and at a different time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

Confidentiality of information. The confidentiality of information section, 141(2), in its present form prevents the determination of problem areas and employer accident experience within a class. Our second concern: an employer assessment rate is based on the cost experience of the entire class; therefore safety-conscious employers are in effect penalized because of the poor safety performers in the same class.

We recommend the following with regard to confidentiality of information. We feel that section 141 of the Act should be modified to enable employer associations to have the opportunity to review all claims within the class for the purposes of assuring that they are valid and correctly processed.

Employee accountability. Section 19(1)(a) of the Act is written whereby compensation would not be paid if the injury is attributed "primarily to the serious or wilful misconduct of the worker". Our concern in this regard is that the WCB accepts claims regardless of the actions of the employee. Secondly, we feel that the subsequent section 19(2) contradicts section 19(1) and, in fact, allows the Board to pay compensation to the worker even though the injury could be attributed directly to the worker.

In this regard, we recommend that section 19(1) be implemented as written. We also recommend that section 19(2) be changed such that the Board should pay compensation under this Act to a worker who was seriously disabled unless the injury is attributable primarily to the serious and willful misconduct of the worker.

Campsite/bunkhouse policy. Alberta Forest Products is totally against the draft copy of that bunkhouse policy.

Number of employer classes. We're concerned that the number of classes is too high. We feel it should be reduced to approximately 12.

Medical aid. We feel a brief history of medical aid is warranted at this time, and we'll provide it as background information to the committee. In April 1980, the previous select committee's report states on page 9:

> 12. That the Alberta Health Care Insurance Plan assume responsibility for payment of medical aid rendered to injured workers under The Workers' Compensation Act.

In January '82, the Workers' Compensation Act (1981) became effective. Regarding medical aid, numerous sections made it clear that the intent of the legislation was for the Alberta health care insurance plan to pay medical aid. Unknown, in '82 many WCB pamphlets entitled What You Should Know About the Workers' Compensation Act were distributed to employers and the general public. It clearly states that all costs for basic health services, as defined in the Alberta Health Care Insurance Act, will be paid under the Alberta health care insurance plan. And finally, in May of this year Bill 38 became law. Contrary to the concerns of industry and published government policy, the financial responsibility for medical aid costs is transferred to the WCB.

Our concern in this regard is that medical aid costs are often paid twice by the employer; that is to say, he often pays the Alberta health care for his employees as a benefit and pays it again under workers' compensation. In this regard, we recommend that the proper way to handle medical aid costs should be in the manner as agreed to by WCB and industry, whereby Alberta health care pays medical aid costs.

Occupational health and safety and WCB relationship. The AFPA feels there is no effective relationship between the two agencies. Occupational health and safety

administers the Occupational Health and Safety Act and is responsible for worker safety. The Workers' Compensation Board administers the WCB Act and pays out money for claims but has no responsibility to ensure that the employee works safely. Our concern in this area is that both agencies appear to act independently of each other when they could be more effective by working together. We recommend a review of the interdependence and dependence of the OH&S and WCB and feel it should be undertaken to determine if the two-agency system is the most effective method of administering worker health, safety, and compensation.

New compensation accounts. Under the present system, new compensation accounts can be opened on the request of the applicant, and there is no worksite inspection required. We recommend that an inspection should be performed prior to the establishment of the account. We also feel that a new account holder should be assessed a higher rate until he has proven what his cost experience will be.

That's basically a quick summary of the 15 concerns we had. We've highlighted certain areas. We feel these areas are only the symptoms of a much bigger problem. We suggest that the biggest problem in Alberta is the present way the WCB is operating. We feel what's required is a system that can be more equitable to both employees and employers.

Thank you.

MR. THOMPSON: I'd like to get back to your ceiling of maximum assessment. Could you just tell me what the average wage in your company is at present?

MR. ENGEL: The company I represent right now is, from the last figures I had, roughly $23,000.

MR. THOMPSON: So basically, you wouldn't have very many people in the $40,000 category. It wouldn't affect you to any great degree.

MR. ENGEL: We have very few people in the $40,000. That's not to say that the $40,000 doesn't affect us, because every increase in wages between the $23,000 and the $40,000 automatically increases our WCB assessment.

I would also like to say that in our opinion, the $40,000 ceiling was basically established to protect that section of the workers in the industry who make the big dollars — i.e., the oil group — and really is not a ceiling that would be representative of what the majority of people in Alberta earn. Would you like to make a comment, Arden?

MR. RYTZ: I'd just make the other comment that logging, particularly, is a seasonal industry; therefore there's a seasonal payroll.

MR. CLARK: I'd like to tell Mr. Thompson that in my particular part of our company, 66 per cent of the employees in the hourly or equivalent group earn over $40,000, and the salaried group of 56 people earn maybe $1,000 to $2,000 on the average over the $40,000.

MR. THOMPSON: Thank you.

MR. CHAIRMAN: May I ask you gentlemen a question on the composition of the Board? Has your association made any recommendation for membership on the Board?

MR. CLARK: In fairness I should speak to that, Mr. Diachuk. On Friday morning, we have a board of director's meeting. One subject on the agenda is the nomination of membership to the WCB. Does that answer your question?

MR. CHAIRMAN: Yes, because there's been a lack of . . . and the criticism has to come back to . . . I'm glad you're considering it.

MR. CLARK: You're right. You have a right to criticize us, and that's why it's on the agenda Friday morning.

MR. CHAIRMAN: I also wanted to get back to your submission on pension awards. I just want to see what section it is. In your presentation, Mr. Engel, you look at the favorable approach of lump sum. In your industry, because you have experience in other provinces, do any of your companies find an approach to lump-sum payouts over permanent partial pensions advantageous to the program? Do you have any feeling for it? The reason I raise it — I don't imagine there's that much activity in Saskatchewan, but I've raised it with other groups. The Saskatchewan approach of lump-sum payouts is interesting to me. But I'd like to know if, collectively, you have any views on the benefit of lump sum over permanent partial pensions?

MR. ENGEL: As stated in our brief, we feel that if a fellow is permanently disabled, he should be given a pension. If he's partially disabled, meaning the loss of a finger or some other only partial problem, we feel that a lump sum is advantageous. Would you like to add something on that, Jim?

MR. CLARK: We don't agree with giving pension awards where the man goes back to the identical job, identical income opportunity and earnings.

MR. MARTIN: Not even the lump sum that he's talking about?

MR. CLARK: Lump sum for the loss of a finger.

MR. MARTIN: You agree with the lump sum rather than the . . .

MR. ENGEL: That's right. That's our stance.

MR. RYTZ: Lump sum for loss of facility and pension for loss of earning power. That's what it boils down to.

MR. MARTIN: Okay. I just want to follow up. It's back in the operation of the Board, where you talk about the principle that employers pay the costs of injuries and industrial diseases occurring on the job during normal work hours. I believe you indicated you felt there were a number of examples where this was not the case. Do you have those documented? Give me some examples of where you feel this has happened.

MR. ENGEL: Yes. We could take that on notice. We do have examples we could submit to you with no problem at all.

MR. CHAIRMAN: We'd welcome them.

MR. MARTIN: Would that be following it basically back into the campsite thing, or is that separate altogether again?

MR. ENGEL: It is related to that too, in that one of our concerns about the campsite policy is that it's based on sections of the Act that have been interpreted loosely by the

WCB. In fact, those types of accidents shouldn't be accepted, because we feel they are invalid. We do have examples, as I mentioned previously, of accidents that do not fall under the basic intent of the Workers' Compensation Act, and we can provide them.

MR. MARTIN: Can I just follow up with one in a different area? It's in the accountability of the Board part of it. I'm sort of interested here about number 3, that the WCB be more accountable to the minister, the Legislature, industry, and the general public. It's quite unusual, because usually we hear about too much government involvement. It seems that you're asking for more. You know, other people would argue that an independent board, similar to a Crown corporation, operates best when they're arm's length from the government. You seem to be offering a different view. Am I correct on this?

MR. ENGEL: Yes, we are. In this particular case, there is not enough control. I have to agree with you that I expect most people feel there is too much control by government. On the other hand, when you do not have any or very little, it's the nature of the human beast to run wild and do what they feel like. I feel that the Compensation has taken a lot of artistic licence in their interpretations and has done a lot of things which no one really has scrutinized, other than the WCB internally. Consequently a lot of stuff goes on which no one can question, be it employers or be it Joe Public. I believe when that happens — you take scrutiny away from the public — oftimes things can go wrong.

MR. CLARK: May I break in there, Mr. Diachuk, and answer part of it too?

MR. CHAIRMAN: Please go ahead.

MR. CLARK: It's an overlap of confidentiality; it's an overlap of accountability. I'll try to illustrate it by an example. Our association is and was concerned about class 3-01, which is logging, and its financial position in the province of Alberta, having the highest rate of all the classes at $16.15 per $100 of payroll currently. We're told that rate will apply in 1984, which was good news.

We were so concerned that we went to the financial branch of WCB and said, how can we get at the problem in this 3-01? Because of confidentiality, you cannot make the account and class documents available to us. The only way that we perceive — and see if you agree — that we can get some kind of a handle and information on the condition or health of this account is to have each of our member companies, which are 64 or 67, plus all contractors that work for those member companies in class 3-01 logging, sign a release letter directing WCB to release this confidential information on all the accounts of our member companies and the contractors. We have done all that.

Now the financial division of the Board is putting together an analysis, based on the released documents they got from our membership, to show the status of our members and their contractors in 3-01 account. The people outside of our membership and our contractors are still the limbo people we're not going to know anything about. But by analysis and inference and the application of logic, we think we'll be able to get a partial handle on where the problem is in 3-01 so that we can at least direct some of our efforts to help improve the situation internally in our membership and contractors.

I'm saying to you that there's this confidentiality, and here's the accountability. Maybe it doesn't quite dovetail, but there is a perceived dovetailing anyway. If we as an association had access to that specific account when we've been asked — and Mr. Diachuk has asked us too — how you guys can help us get this thing in order, if we could dig into it, then we could get it in order. We could see where the bad actors are. Maybe it's this guy sitting right next to me, and I don't even know about it. But I could sure

make him accountable if I knew it. These are the things we're concerned about in cleaning up the problems in WCB.

MR. CHAIRMAN: What information would you look for, gentlemen, in a change in the confidentiality?

MR. CLARK: Who is being superassessed? Who is contributing to the high costs? What is the condition of our membership and their contractors?

MR. CHAIRMAN: I see. Better still, what would be a short list of excluding? Excluding medical information that are claims files?

MR. CLARK: Exactly. We don't need that. We just want to know who is contributing to the over costs so that maybe we can get at them. Maybe they are some of our contractors. We tell them to clean up their act, or we don't employ them anymore.

MR. MARTIN: So you're acting as sort of policemen in your own industry.

MR. CHAIRMAN: Self-education. Self-training.

MR. CLARK: We would like to do it but, you know, there are so many hurdles that we're always picking ourselves up. We can't get at the way to go for a solution. Does that help you understand?

MR. MARTIN: I understand why you're driving at the confidentiality. Off the top of my head, when we get through all this it makes some sense to me. But I'm sure we'll hear the other side of it.

Just to follow up in terms of accountability, I don't know what we'd put the WCB into. My hon. colleague Mr. Diachuk would never do this, but just to take the devil's advocate, many people would argue that quasi-public boards, if I can put it that way, or Crown corporations, do operate better if they're not close to the politicians and that the chance for political interference being there everyday might eventually hamper the Board. I'll just throw that out to you. That would be another argument. How would you answer that if it were thrown to us?

MR. ENGEL: Well, as I mentioned previously, I think the record of the Board over the last little while indicates something is wrong. I think the numerous examples you've heard in the public hearings so far show you that there are a lot of invalid claims; there are a lot of things going wrong within the Board. I guess the point is that there's no one or no system that can effectively ensure that these things don't happen. At the present time, there is an advisory committee. This advisory committee has such a limited mandate that it can't really effectively watchdog the WCB.

Now dealing with the minister and the relationship between him and the Board, there appears to be no formal method of communication between the two as to what direction the Board has taken, et cetera. I should clear that up. There is now, but there wasn't a little while ago.

I can't give you a final and complete answer to that question. All I can say is that if we had more regulations which could control how the Act was administered and if we had a committee composed of industry, labor, and WCB, as we mentioned, that could watchdog the WCB, we feel it would go a long way in ensuring that the WCB is a lot more equitable than it is at the present time.

MR. CLARK: Just think of the appeal process, Mr. Martin, on the part of the funder of WCB, which is the employer. The employer can make an appeal against a claim being paid to one of his employees — maybe it's a pension award — but he first has to know that that employee has approached the Board making application for a pension because of this accident that occurred at some point in time. Rather than having to go through the appeal and the knowledge-gathering process, I would think that when an employee of St. Regis Alberta or Joe Blow of Cadomin is going in for an unusual claim or pension claim application, his employer should be notified automatically as the funder, or part funder anyway, of that pension.

MR. CHAIRMAN: In the early stages?

MR. CLARK: In the early stages. Right away.

MR. MARTIN: When the application is made.

MR. CLARK: Yes. This is not damning the Board for accountability; this is merely an example picked out of current events that are going on.

MRS. FYFE: Just very quickly, because I know we're running out of time. I just want to ask you a question regarding new accounts being assessed at a higher rate. This was brought up previously, and it causes me some concern as to whether this is fairer for a new and small company, fair competition. Could this not be better handled by a revised merit/superassessment rebate program?

MR. ENGEL: If you follow Canfor's proposal — and I assume you have seen it — their particular proposal takes into account actual experience rating, and I guess that's what we're trying to say too. We said that the new account holder would have to have a higher rate. I guess under the proposed Canfor system, he would have a higher rate if he had a poor accident record. Now we're saying under that section that the new account coming in should have a higher rate. We're saying that because what generally happens is that new accounts coming in oftimes are placed in the 19-01/19-02 accounts and, after three or four years or whatever, they finally get shifted to some other account.

We feel that new employers basically have a higher risk because they don't have the expertise in safety — I can't say they all don't, but generally they don't — and consequently we feel that their experience rating will be a lot more costly. Therefore we feel their rates should be higher until they prove they can in fact run a safe show.

MRS. FYFE: I'd just make one comment. I think that also would add to the cost of the further classification or dividing up the new contractor over a period of time. So I think you should consider the cost of such a recommendation.

MR. CLARK: Could the committee consider the idea of experience-rating rates rather than industry classification for rates? It's just a concept. In other words, we know that in 1981 the provincial average was $2.70 per $100. That could be established as a provincial average for rates. You've got a rate that goes from maybe 25 cents up to $12. You have indicator industries, only indicator industries, that indicate the experience of where these rates would slot into if I applied to run a restaurant, for instance. Then you make the account holders responsible to decrease their rates if they want a lower rate. They get decreased rates by good performance rather than getting slotted into classes all the time. Anyway, that's just a comment as an aside.

MRS. FYFE: That's something to consider.

MR. CLARK: Yes, please.

MR. NELSON: Mr. Chairman, we won't get into the fact of why I'm late. However, we'll discuss that later, maybe.

There are a number of areas I'd like to get into. I know time is short, but I'll just kind of briefly go into one or two here. The area you identified as recommending or at least discussing the Board itself — the area of possibly the size of the Board, the accountability of the Board to whom. I'd just like to maybe know where you're actually coming from with regard to having the Board accountable to those people who are paying the shot.

You also talked about more regulations and so on and so forth. I'm just wondering possibly if there were a different structure of the Board — a few more members, possibly members from industry, than there are presently — if more control of the present regulations or those that may be changed after the hearings we're undertaking, an accountability to industry a little more than what is happening now, in fact you may have a better experience as to the reasons for costs increasing and maybe even have more input into the actual justification of those costs by the Board giving industry a quarterly report or something of this nature. Maybe you could comment on that.

MR. ENGEL: I think any method whereby operational information is available to industry would allow industry an opportunity to analyse it and submit input to those areas which are causing problems. I hate to keep harping on it over and over again, but if you don't watchdog these types of systems, you end up with problems. If industry is paying the shot, certainly there should be some manner or method of input available to employers to say how the money is spent.

MR. CLARK: May I speak to that, Mr. Nelson, please?

That's an excellent question. At one time our association kicked around the idea of a seven-man board: three from industry, three from labor or the alternate, and an independent chairman. This was a concept we went through. As far as annual reports, the reporting procedure, the accountability, we felt that the annual report should not only tell all the good things about it but put the finger on the problem areas which the Board identified and which needed addressing and action in the next six months or next year or so on, and could draw on associations or individual industries to help them in any perceived problem they had. We went through this kind of exercise, sort of dissecting or doing an autopsy on the current situation and looking to put the body together a little differently.

MR. NELSON: You indicated in your brief about more inspectors for OH&S. Would you not think that having information available to you, as you've already discussed, the industry might become a little more self-controlling as far as accident prevention is concerned? In other words, if you're able to nail down your neighbor as being a culprit in creating higher than normal rates or higher rates than what you anticipate you should be paying on a certain category, you could self-police that particular individual or company by putting pressure on him through an association or otherwise?

MR. ENGEL: I believe yes. I think we have demonstrated that by attempting to do that within our industry already, in trying to find out who the bad actors are and trying clean up our act, so to speak. So I'd have to say the answer is yes.

MR. NELSON: With possibly other representation on the Board, would you not feel that the Board itself, maybe through additional regulation, a little more teeth in it, the industry and also the WCB or occupational health people could pick out the bad actors and possibly pressure them, either by penalties and at least continuing the area of not co-operating. Or if they continue to have a high accident rate in a particular area, maybe court action should possibly be progressed a little further. In other words, should we be putting more pressure on putting some of these people in the courts?

MR. CLARK: I wonder about the courts as much as the pressure from industry members, their compatriots from the WCB, occupational health and safety inspections, closures of operations: there's lots of muscle there that could be used if we perceived its need.

MR. NELSON: I ask these questions because there are certain areas . . . We're all looking at costs, and since we've sat down here and up north last week, I think cost has become a very important factor in these hearings. Maybe some of these areas need to be examined, so we can reduce these costs to the industry so you can get back on other footings.

MR. CLARK: I guess costs, though, are a result of abuse, really, not paying attention to the workmen in terms of safe operating, safe procedures, safe work habits, and so on. Costs are just the indicators, the results of our abuse or not paying attention.

MR. RYTZ: I think one of the frustrations, Mr. Nelson, is the frustration that I imagine you're feeling from our group now. The only forum with the Board that we've had in the past is a once-a-year discussion about rates, after the fact. There's really been very little co-operation because of the make-up of the Act, because of this confidentiality thing.

We know there's a problem. We can't work co-operatively together to get at the root of the problem. We have some pretty good ideas of where some of the problem areas lie within this industry of ours which, let's face it, is a pretty hazardous industry. Hopefully we will do something to improve our accident rate. If you review our accident rate here from the time that we came out of the old lumber division something like 13 years ago, it's not that bad in that it hasn't gotten any worse. But it's not very good, because it hasn't gotten any better over the last 13 years. Our fatalities per year, our pensionable accidents per year, have remained pretty static, but that cost curve has just gone right out of sight.

If there were some medium, as you suggest, an enlarged Board or some area where we can get together with the Board and discuss and get at some of the reasons for our problems and have a little more access to those areas, I think that would be a great step forward as far as we're concerned.

MR. CHAIRMAN: Okay. One more question I want to throw to you gentlemen is the reversal of the legislation on medical aid, in your presentation. I direct it to you because of some of your companies doing business in British Columbia in particular. Have you compared it with other provinces and particularly to the east of us, Saskatchewan, where there are no premiums paid, yet the Workers' Compensation Boards in those provinces, Saskatchewan particularly, still have to reimburse for health care and medical costs? In British Columbia, they are now surcharging WCB accounts 35 per cent.

MR. CLARK: We didn't compare it to any other province. We compared it to Alberta past and present legislation, the deals that were made, and the fact that many companies, particularly within our association, that we have knowledge of are double

paying because they are covering all or part of their employees' Alberta health care, Blue Cross payments, and even dental plans, and we're also getting charged as part of the cost of compensation. We didn't try to go anywhere else.

MR. CHAIRMAN: Well, I just thought I'd leave it with you. You haven't compared it. Possibly you'd like to, because it was a bit of a surprise to me earlier this year, when I found out that all WCB accounts in B.C. are surcharged 35 per cent.

MR. CLARK: Mr. Diachuk, I think you're trying to offer us a palliative. Our understanding was that normal medical costs, not abnormal medical costs, were covered under Alberta health care.

MR. CHAIRMAN: Well, I was a signator to the 1980 report, and you know my position.

MR. NELSON: What are they trying to do, pick up their deficit over there?

MR. CHAIRMAN: I want to say thank you to you gentlemen for the thorough discussion we've had. There is some information you are going to forward to us, and we'd welcome it. Send it to my office, and I'll share it with the members of the committee. I want to apologize to the other people that have been waiting. Being that the time is close, I'll ask the Lethbridge Chamber of Commerce, Mr. Jordan, to prepare. We have about a three-minute stretch.

Thank you.

(The meeting recessed)

Lethbridge Chamber of Commerce

MR. CHAIRMAN: Mr. Jordan, I believe you have a longer oral presentation than a written one from the Lethbridge Chamber. Please continue.

MR. JORDAN: Thank you. I believe they're both very brief. We had very short notice, but we certainly thank you for the opportunity of being here and welcome the committee to Lethbridge.

Basically there are just a couple of items that we want to express our concern on. Obviously the first one is cost. The second area is in relation to cost. We feel that if increases or changes are necessary, both in premiums to offset losses sustained or the change we had in the base of assessable earnings from $22,000 to $40,000, or in a case where a company would be changed in classification, the time frame they're done in has to be spread over a fairly lengthy period of time. Basically business under any conditions has a tough time to adjust to a dramatic increase in premiums caused by whatever reason; and secondly, obviously with the current economic situation, the problems are only further compounded.

The premiums themselves: we've seen a very rapid rise in the last three years in the total premium assessed, and this has been further compounded with the change in the assessable earnings from $22,000 to $40,000. I think that if that change from $22,000 to $40,000 is necessary, if it's prorated so that we aren't hit with a double whammy all at once, it eases the burden on business.

As far as costs themselves, we would like to see particular emphasis put on as far as the benefits under Workers' Compensation, that we get back basically to narrowing the benefits to the basics of providing compensation for injuries, lost-time accidents, and

disabilities, and trying to get people who have disabilities into the work force in other areas, possibly through retraining. But whatever is necessary, number one is to reduce the total cost we're facing.

We have the merit rebates and superassessments, but I think obviously there are merits in these types of assessments. The thing is, though, I believe that if you're going to have merits and superassessments, you really have to narrow it back down to both the individual company. I further believe that in the case of Workers' Compensation, there is a certain amount of onus on the employee. They do have a certain amount of control over their accidents and, to a certain degree, can prevent a certain amount of these claims. So I think the more we can narrow down the merit rebates and superassessments to where they actually originate and who is actually responsible, we can see an improvement in costs.

I think basically that covers the general areas of our concern.

MR. CHAIRMAN: Any questions?

MR. THOMPSON: Mr. Chairman, to Mr. Jordan. When you originally started out, you said you had not a very great length of time to prepare your brief. Were hearings not advertised in the local paper a month or so ago? Or is it some internal problem with your . . .

MR. JORDAN: It was an internal situation, in that I was called on at the last minute.

MR. THOMPSON: That's it.

MR. CHAIRMAN: Can I ask you, because of this submission you have here on the medical facility, the new Workers' Compensation Board medical facility . . .

MR. JORDAN: I don't think that one came from us.

MR. MARTIN: That's the Personnel.

MR. CHAIRMAN: Oh, that's the Personnel. Sorry. Then I don't have any comment, other than to say to you that we appreciate it and would welcome if the chamber were involved in the future. I do understand that chamber people are all busy people, but what you've heard here today at least you can take back to your colleagues in the chamber. I think most of these people present belong to one chamber or another. It's not that the chamber members were not here, but the chambers of commerce themselves need to be involved because their memberships pay the dues and sometimes I wonder if they are as involved as they should be.

But thank you for coming out on this, Mr. Jordan.

MR. JORDAN: Thank you.

MR. NELSON: Mr. Diachuk, maybe I could . . .

MR. CHAIRMAN: I thought I'd trigger something. Go ahead.

MR. NELSON: Just on that tone, Mr. Jordan. It would seem that like most other chambers, many of your members are possibly small business men, self-employed people that are unable to facilitate themselves and their energies to possibly come to hearings of this nature, and that's why you're here representing their views to some degree. Would

that not be a fair statement?

MR. JORDAN: Yes, I would say so.

MR. NELSON: They probably get their livelihood, their families' livelihoods, from their businesses, and are unable to attend these kinds of hearings; therefore you're here to express some of their views.

MR. JORDAN: Yes, that's right.

MR. NELSON: The range of activities that you represent in the city of Lethbridge would be no different from any other part of the province, I guess. Would that be a fair statement?

MR. JORDAN: In principle, yes.

MR. NELSON: From retailing to landscapers to heavy industry, light industry, et cetera?

MR. JORDAN: Yes.

MR. NELSON: Okay. Thank you.

MR. MARTIN: Just a follow-up, similar to that. As Mr. Nelson says, you are dealing with perhaps different employers than we're generally hearing at the meetings. At the meetings that you've been at or with the people that you talk with in the chamber of commerce, has there been much discussion about the workers' compensation rates and things that are going on? Has it been a concern generally, or is it something that now, because there are hearings, people are talking a little bit about?

MR. JORDAN: No. I think that when the concern came was certainly back in '81, '82, when we had the general rate increase and the major shift. We also had one specific example of a company that was being switched classifications, which caused a lot of problems, and I think that was ironed out. But in principle, getting to the classification situation for a second, it can be pretty drastic if a company gets switched from one classification to another. For a company suddenly to be faced with those increased rates overnight, even though they themselves may have a very good record and whether the change in classification is legit or not, even if it is valid and they suddenly get switched from one classification to another and have to cough up another 40 or 50 per cent, they need some time to phase that in.

So I think the general concerns have been in the very drastic rise in the cost of compensation. I think obviously there's certainly feedback as to claims and legitimacy of claims. Basically it brings up the point of getting communication and getting as much feedback, and I think certainly the chamber can be more involved in getting to these forums and presenting them. But I certainly think that the more communication the business community can have with the compensation situation itself, it alleviates misunderstandings as to, number one, whether they're legit or not legit, what is really going on. I think that with everyone that runs a business and has had somebody claim for compensation, the flag goes up whether in fact it's as legit as it could be and, number two, what can be done to bring down the cost.

MR. MARTIN: Can I just follow up? Has it been raised formally as an item of business, say in the last year, at any of your chamber meetings?

MR. JORDAN: The specific instance and general comments I think were raised a little over a year ago on the one instance, and that seemed to be satisfactorily resolved.

MR. MARTIN: Okay.

MR. R. MOORE: Mr. Jordan, as you stated to Stan Nelson, you represent a lot of the smaller, independent business men. We've heard from the major industries a concern about the accountability of the Workers' Compensation Board. What is the feeling of the small, independent operators? Are they concerned about the accountability? They're paying their share of the cost. Is there a concern in that area with the small man?

MR. JORDAN: Yes. I believe it goes right across the board and, as I said, in the smaller business it relates more to exactly what's going on in his particular business and the impact it has on him. Number one, he looks at his premiums. When he sees that they've gone up by whatever it is, 50 per cent in two years, that certainly raises a flag. And number two, as I said, with claims it really depends on whether they've had any experience that way. So I think generally there has been a feeling in the last couple of years, with what's happened premiumwise right across the whole segment.

MR. R. MOORE: Do they feel they should have representation on the Board?

MR. JORDAN: No, I can't say that I personally have heard that request. I think probably the general feeling with small business or business in general is that they like to at least have a forum they can go to and hopefully get response. I think one of the things that happened the last time was that there were some pretty drastic revisions made in the compensation Act that had a direct impact on business. I think probably that if in fact these changes are necessary, they can be implemented on an ongoing basis so that you don't suddenly have a five-year review and some drastic revisions that have a very substantial impact on businesses of any size.

MR. R. MOORE: They're basically concerned on their cost that went up, and there isn't a consensus among small businesses that they should have more input into the operation or policy making?

MR. JORDAN: I couldn't personally say that I've heard that much feedback in that regard.

MR. THOMPSON: Mr. Chairman, to Mr. Jordan. This may be a very unfair question, so if you wish to decline to answer it, that's fine. I assume you heard the previous group's position on new business having, not a superassessment but a higher rate than other established businesses. I am wondering if you, as their spokesman, would wish to give the chamber of commerce's position on something like that — or whatever.

MR. JORDAN: Okay. I'll give you a personal feeling. I certainly have my reservations on penalizing a new business.

MR. R. MOORE: Thank you.

MR. NELSON: Mr. Chairman, this one might get some real discussion going. Mr. Jordan, when you start getting into government departments or other areas of what I call bureaucracies, they have a pretty powerful authority to do a number of different things,

because they are the only ball game in town. Do you not feel that the small business man in his little operation might feel somewhat intimidated by this authoritarian view and attitude that some of these bureaucracies might place on these people that don't have the expertise or that are unable to employ expertise to fight their battles in the same manner that the large guy might be able to?

MR. JORDAN: I think definitely there is a concern among small business that if they get something and they're not happy with it, where do they turn: how do I get results? So they see the Act and say: hey, that's black and white, and what do I do about it? There is a certain . . .

MR. NELSON: A certain amount of intimidation, would you not feel? Thank you, Mr. Chairman. That'll generate some discussion.

MRS. FYFE: Just one quick question that relates to the comment you made regarding the responsibility that the worker must take for his own injuries. I think it's generally been believed in workers' compensation that no worker wants to get injured; no worker wants to lose an arm or have his face burned. I think perhaps the generalizations are often made with the less serious injuries. But how far would you go to say that a worker must take the responsibility? How do you really define and put that comment into policy?

MR. JORDAN: Admittedly it's tricky. On the other hand, definitely businesses have put in incentives for safety and had policy results, which would tell me that obviously the employee certainly has a certain degree of responsibility for his safety or he wouldn't be responding to local incentives by the business. What I'm talking about really on the merit rebates or superassessments is that possibly if he's being assessed a certain amount for his compensation — and I'm again talking personally on this one — I think if he were to have some responsibility for it and also get some reward, it could be very beneficial in reducing the overall cost. You're getting the merit incentive right back down to where it's really between an employer and the employee.

MRS. FYFE: I guess I would appreciate it if you and the chamber have any further thoughts on how specifically we could provide a greater incentive from the worker's point of view. I can understand the safe worksite conditions, the superassessments to encourage the employer. But often what seems to be coming forward is that the employer is frustrated, as he feels his employees are taking chances. I notice that myself in certain industries. Out on the highway, for example, you see certain drivers that seem to me to be taking chances that I didn't notice a few years ago. Maybe it's just that I happen to observe a few circumstances. If there is any change on the part of individuals? I don't expect you to come up with an answer today, but if you have any further comments that would help our committee in these deliberations, don't hesitate to just jot a note off to Mr. Diachuk's office. He will copy the rest of the committee. I as a member would certainly appreciate it if you have any insight into this question.

MR. JORDAN: Okay. I appreciate that and we'll certainly follow it up.

MR. CHAIRMAN: Okay. Thank you very much, Mr. Jordan. With that, we'll ask Mr. Reine, Mr. Karl, and Mr. Able of the Lethbridge Personnel Association to come forward.

Lethbridge Personnel Association

MR. CHAIRMAN: Gentlemen, I don't want to say we have the rest of the day, but at least we have the rest of the afternoon, and we'll try to utilize it. I know you must represent different employers. Maybe whoever is your spokesman would introduce and give us an indication as to what kind of sector of employers you come from, to help us out here. Mr. Reine, are you the spokesman?

MR. REINE: Yes I am, sir.

MR. CHAIRMAN: Good.

MR. REINE: First of all, Mr. Chairman and committee, thank you for the opportunity to address you today. Yes indeed, the Lethbridge Personnel Association does represent a cross section of employers in Lethbridge, including a number of employers in the public sector. The school board, the hospital, the city, and both the university and the college are represented in our association, as well as number of private sector firms: my own employer, Dresser Clark; the Lethbridge Iron Works; the foundry in town; and Canbra Foods. There are a couple of other firms that previously were members, but their personnel people have been relocated and they have not yet identified somebody new to join the association. We are representative of a cross-section of employers within this community. Unlike some of the other submissions you have heard coming from associations, we do not represent one specific interest group. As a result, you may find that our submission rambles a bit more and is a little bit of a broader brush and perhaps does not dig quite as deeply and incisively as others have done.

Perhaps if I could start just by quickly reviewing some of the things we consider to be the highlights, the important parts of our submission, then as seems to be the custom, be prepared to respond to your questions. We are sure you have heard repeatedly about the increasing costs and the plea from employers to reduce the cost of workers' compensation. You are to hear the same thing again from us, primarily because in many firms and employers organizations it is the highest single item of expense in dealing with employee benefits programs. But in spite of that great expense, it is not the one program that provides the largest benefit in terms of monetary value to the workers. There seems to be a disproportionate cost involved there.

Certainly we, like most other people, do not dispute the original intent of compensation to provide the injured worker with an income-continuous program and save the employer and the employee the agony and expense of law suits arising from injuries occurring on the worksite. Please correct me if I'm wrong, but I understood that to have been the intent of workers' compensation from the outset many decades ago. It seems to me that the real focus for concern is that in the years since then, it becomes a question of value for money. There seems to be an awful lot of money spent for the sort of value that is available.

Without having done any specific financial analysis — I don't have the expertise to do it — but in looking at similar income continuance programs we have for sick and accident benefits away from employment, the cost of that insurance is considerable lower. Admittedly the benefits are somewhat lower. But when you compare the benefits under WCB and the benefits under the private sick and accident things, there's something amiss when you compare the premium costs as well on the same basis. That is our concern.

MR. CHAIRMAN: While you're on that, could you or any of your colleagues just elaborate on that? You said something is amiss.

MR. REINE: Well, I can't remember the number specifically, but within a nickel per hour — I'm in the habit of converting benefit costs to cents per hour to try and determine what they are — if WCB costs 55 cents an hour and sick and accident benefit insurance from a private carrier costs 23 cents an hour but there is not a double value in terms of the benefits paid, then it seems to me that there is something wrong. If it's going to cost more than twice as much for workers' compensation, there ought to be twice the value in benefits.

MRS. FYFE: Do you include liability in those costs?

MR. CHAIRMAN: No action, no legal torte, no third-party action permitted?

MR. REINE: Third-party actions?

MR. CHAIRMAN: One employee against another employee or against an employer?

MR. REINE: I understood that to be, again, a thing that was not permitted under WCB either.

MR. CHAIRMAN: No, it's not permitted. But sick and accident insurance doesn't exclude third-party action.

MR. REINE: You mean if I am injured by someone else?

MR. CHAIRMAN: No. In private sick and accident coverage, if you get so much per month coverage, an employer still has to have liability insurance over and above that, to protect himself against legal action.

MR. REINE: Yes. I have not taken that into account. I've simply looked at the premium statements I receive in my office as an administrator, not as a policy maker.

MR. CHAIRMAN: You're just looking at the dollar to dollar.

MR. REINE: That's right. Perhaps my logic is suspect, from what you are saying there. I don't claim to be a wizard on actuarial and other liability risk assessment, but it does seem to me — and I think what you are hearing from many employers is that same sort of concern, perhaps voiced in different words.

Some of the other sorts of things that seem to be a part of the Workers' Compensation Board operation that are of concern to us. I think that having been here and heard some of the other submissions earlier in the day, again there is concern that the Workers' Compensation Board is used as an instrument of public policy to redistribute wealth, which gets it into the realm of social services rather than taking it back into what I understand to have been its original mandate, to provide compensation for lost earnings and/or earning power. When it gets into the other area of awards on the basis of need rather than what the person has lost, it can very quickly get into areas that go beyond the sorts of things that I think many employers feel they are probably rightfully responsible for.

Dealing, if we might, for a couple of minutes specifically with the Occupational Health and Safety Act, I'm not certain of the current status of Bill 51. I understand it is

either before the Legislature or has been passed through the Legislature and is simply waiting proclamation?

MR. CHAIRMAN: Bill 51 has been passed. Certain portions have been proclaimed; certain portions have not been, Mr. Reine, awaiting the final agreement on regulations. For that reason, we have an Act that has been passed, but not all of it has been proclaimed. We're still operating under some of the previous legislation like the Coal Mines Safety Act, the Quarries Regulation Act, and all the general Acts and regulations.

John, what are the regulations? Most of the regulations are still waiting to be approved by a committee in Executive Council.

MR. REINE: I see.

MR. CHAIRMAN: When I read your brief, it indicated that some of your points may be clarified, and I guess I maybe mentioned that earlier. But go ahead and speak on the Occupational Health and Safety Act.

MR. REINE: Thank you. The first section we were concerned with in reading Bill 51 as we had it copied here — section 2(2) deletes from the Act the legal responsibility, I suppose, of the employee to comply with the employer's requirements for maintaining a safe work place: "Every worker shall, while engaged in an occupation . . . take reasonable care . . .
co-operate with his employer . . . protecting the health and safety of . . . himself . . . other workers" and so on. That was deleted from Bill 51(2), and it seems to me that in an era of somewhat enlightened labor relations, that sort of thing, that . . .

MR. CHAIRMAN: Mr. Reine, I must interject here. This only amends certain sections. The sections it doesn't refer to remain the same.

MR. REINE: This one is deleted.

MR. CHAIRMAN: John?

MR. McDERMOTT: Only section 2(1) has been amended, 2(2) remains exactly as it was. If you look at the right hand page there, you'll see that it's still there.

MR. REINE: The right hand page? Okay. If that has been retained that's fine.

There was a section 7(3)(a),(b),(c),(d) and section 7(4). Again, if I have worked from the wrong side of this thing, maybe we ought to proceed with something that is more appropriate. But if I understand section 7 correctly, it now gives the occupational health and safety officer the authority to order the reinstatement of a disciplined or dismissed worker.

MR. CHAIRMAN: Yes. When the regulations come into place, that will only apply to workers that fall under the Occupational Health and Safety Act for certification. It's only the coal industry, because we presently have a Coal Mines Safety Act that has the authority to certify the different levels of mining employees. Right, John?

MR. REINE: Does the same provision exist in the . . .

MR. CHAIRMAN: Coal Mines Safety Act? Yes.

MR. REINE: That's frightening.

MR. CHAIRMAN: No. They didn't go to an apprenticeship program. They went through under the coal industry legislation for their own training; therefore the coal industry is not covered by the apprenticeship Act.

MR. REINE: Sir, the thing that section 7 deals with is that in the event a worker is dismissed or in some other manner penalized by the employer — disciplined — the officer of the occupational health and safety office can order reinstatement; he can order that the discipline cease and so on. We would suggest to you, sir, that the appropriate solution or source of remedy is through the grievance procedure, or perhaps if there is not a bargaining unit in place, through the employment standards branch and on through the courts. Even the courts of the land cannot order reinstatement of an employee.

MR. CHAIRMAN: What is being done under Bill 51, which provides the mechanism — it was presently in the Act back in '76, that a worker could refuse to work in unsafe conditions.

MR. REINE: Certainly. That's only reasonable.

MR. CHAIRMAN: If a worker refused, nothing took place, we were made aware. Who could the worker appeal to? Labor standards? Labor standards said, that's not our legislation. Through our dialogue with associations and in caucus we've come forward with the Occupational Health and Safety Council, which is a quasi-judicial council of labor representative, employer representative, and neutral people, being the ultimate authority that an appeal could be made to. But in the meantime the officer, who has the same authority to close down an unsafe worksite, would have the authority to rule whether the worker was wrongfully dismissed or not when he refused only to carry out the directed work under the Occupational Health and Safety Act, not for any other grievance. Then the employer or the worker may appeal to the council and, as they handle appeals of a stop work order presently, in the future the council would be able to deal with these. Up to date, since '77 we've had something like less than half a dozen, four or five appeals to the Occupational Health and Safety Council. The council can deal with them within 48 hours. You well know what would happen in the courts. That's why we wanted to stay away from the courts, even in the right of refusal to work and the authorization by an occupational health and safety officer to return to work. John, any clarification on that?

MR. McDERMOTT: No, except I think that the notion behind this whole thing was to encourage occupational health and safety and put some teeth into it.

MR. CHAIRMAN: That's right. That section isn't proclaimed yet, but this is the section that will come into play when the regulations are in place. Am I right, John? Yes. Continue. I'm trying to be helpful at the same time.

MR. REINE: Section 9(2) speaks of revoking licences without any specific reference, that we could see, to what agency issued the licence in the first instance. We think that that might warrant some clarification, simply because we would be concerned that the licence holder may find himself as the rope in a tug of war between competing agencies of government, as it were. If a licence is issued under one agency's authority and another agency revokes it, where does the employer go? What does he do?

MR. McDERMOTT: I think that refers to blasting licences and certain mining permits issued by this division.

MR. REINE: But it is not referenced specifically that that is the kind of licence. If the people who are engaged in those are familiar with that, then I have no problem.

MR. CHAIRMAN: A licence may be issued in accordance with regulations. The regulations are what will proscribe what licences are being issued. Presently occupational health and safety does license explosives permits, the use of dynamite, and so forth.

MR. McDERMOTT: And also "licence" is defined in the Act at the beginning of section 1.

MR. REINE: Okay, if it is just dealing with the one agency, then I don't have a problem.

MR. CHAIRMAN: It only deals with the licences and authorizations that are issued by the Occupational Health and Safety Act.

MR. REINE: Section 13(a), (b), (c), (d) of the Act seems to us to be a duplication. One of the concerns that was talked about earlier this afternoon is the confusion that arises from the intervention of government. One of the things that employers encounter — and it is not just the small employer but also larger firms, because you still have individuals such as the three of us and our colleagues who have to deal with the various agencies of government. I think it would be very useful from our point of view if there were simply a single reporting requirement instead of as it exists now. We report the occurrence of an accident or injury to occupational health and safety and then, separately and in a quite different format, to Workers' Compensation. We suggest that if the system could be streamlined to allow only one reporting requirement for both the employer and I think also the worker, then I think contact would be a bit easier between the public, occupational health and safety officers, and WCB officers.

Somebody asked earlier if the question about the appropriateness of having the two bodies operating completely or nearly independently had been considered. We would raise the same question and think that they might more appropriately be put back together as they were in a previous time.

MR. CHAIRMAN: You may wish to read the Gale commission report of '76. That was when the recommendation came in.

MR. REINE: It went the opposite direction, did it not?

MR. CHAIRMAN: Yes, which is following some other jurisdictions, particularly our neighbors to the south, in placing occupational health and safety separate.

But your suggestion about one report, I have belabored that one and have been concerned. I would welcome if some way one could be. The only modification that is here under the new Act is that an employer may carry out an investigation into the circumstances surrounding a serious injury or accident instead of waiting for an occupational health and safety officer. The Act was a bit restrictive up until now, everything had to wait, and then a report prepared in accordance with regulations outlining the circumstances. In the regulation we intend to see that those reports would be kept by the employer; in other words, not awaiting an occupational health and safety officer to come out. In some parts of our province, we just don't have the staff there,

and it takes two or three hours before they get out.

But the question of one report I recall being concerned about in 1979-80, and it seems that the two agencies need a little different information.

MR. REINE: Yes, they do. But they also need a great deal of common information.

MR. CHAIRMAN: Well if you and your colleagues have a moment, Mr. Reine, I'd welcome a recommendation of how the two reports can be combined. We've looked at them and have some difficulty combining the two of them. We're trying to simplify them even more.

MR. REINE: I appreciate the difficulties in trying to capture information on paper. It is difficult.

Earlier we talked about section 2. Sections 25, 27, and 28: I think we'd be concerned that the Act as modified does provide that — if I might just catch the wording here — the employer can in fact assign the employee to other work in the event that an unsafe work environment is encountered. We think that appropriate. We would be concerned that some of the kinds of things — and I guess it comes not from anything I am aware of that you can write into legislation to make it more workable. Quite frankly, one of the things that happens in the work place is that some worker who perhaps today is bored or angry with somebody at home decides: I will create a bit of a ruckus; I will refuse to do that. He will create an unsafe work situation, then refuse to work in it just for the sake of getting some attention during the day. That does happen, and I know that there are a number of employers that I have spoken to, and I have encountered it myself. It becomes a real problem to deal with.

MR. CHAIRMAN: But the reassignment is there now, which wasn't there before.

MR. REINE: Well, it wasn't practised before.

MR. CHAIRMAN: That's right. I know.

MR. REINE: The concern being that there are situations where workers will . . . In fact, we have had situations where workers have phoned the occupational health and safety people. The officer has knocked on our door saying, I understand you have an unsafe work situation. This is the first I've heard of it; what's the problem? Then we go trotting out to the shop floor and, sure enough, the worker didn't see fit to tell the foreman but got some attention in some other way. Those are some of the things that are of concern when you have workers dealing with legislation and taking it upon themselves to get involved with things.

MR. CHAIRMAN: I wonder if I could just interject on that situation. I have continuously encouraged joint worksite committees in all my presentations, because I believe if there's a properly functioning joint worksite health and safety committee, the worker would then at least identify the problem to a member of the committee. It's an internal thing. I know Mr. Martin and his colleagues believe I'm too soft — and I don't think it's unfair — because I haven't been establishing them mandatorily. But I hope employers continue to address themselves to voluntary joint worksite health and safety committees. If a proper joint worksite health and safety committee is functioning, you wouldn't find a worker not letting anybody know. Also, the occupational health and safety officers will always turn to a joint worksite health and safety committee when a report is carried out or phoned in like that.

MR. REINE: Yes, that is the experience we have had, because we do certainly have such a committee in our plant. The concern I'm raising, I guess, is simply wanting to be sure you appreciate some of the nuisance value that is created in the day to day operation of the work place by certain things that get written into legislation.

MR. CHAIRMAN: They might want to get ahead of the boss to the weekend camp or something.

MR. REINE: Sometimes they do. I think that pretty well covers the occupational health and safety things we wanted to address.

MR. CHAIRMAN: You did mention section 30. I wonder if you want to clarify what your concern is there, because you say that one assessment against the employer is adequate.

MR. REINE: Well, we will be addressing assessments under the Workers' Compensation Act, certainly.

MR. CHAIRMAN: Yes, but particularly your reference in your brief.

MR. REINE: Joe, perhaps you can comment on that one.

MR. KARL: The question was whether OH&S should receive its own funding rather than drawing from the WCB.

MR. CHAIRMAN: Okay, that's what I thought you were alluding to here. In other words, your representation is that the cost of occupational health and safety be totally borne by general revenue instead of charged back. Presently about half of the cost of occupational health and safety is charged back to Workers' Compensation.

MR. KARL: Our belief here is that one assessment is enough. We're only dealing with one agency. We have enough trouble keeping track of it.

MR. CHAIRMAN: Oh, you're still going to do that. You're doing it now.

MR. KARL: I know. The system is there; it's established now. We don't want to see occupational health and safety division billing the employer for their portion.

MR. CHAIRMAN: They don't.

MR. KARL: I know they don't now. We don't want to see that. We want to leave it as is. Leave it alone. It's working.

MR. CHAIRMAN: I see. I'm trying to separate. Are you in favor of the status quo, where a certain portion of the cost of occupational health and safety is charged back to the employer? Some submissions have been made that no cost be charged to employers against their assessment for occupational health and safety.

MR. KARL: If it will save the employer money . . .

MR. CHAIRMAN: I shouldn't have asked.

MRS. FYFE: You want higher taxes, do you?

MR. CHAIRMAN: That's a leading question, my colleague says.

MR. REINE: The taxes are going to be assessed anyway. It's just a matter of the form. I guess if it comes from the general revenue of the province, our attitude would be that that's probably more appropriate than to come exclusively from the assessments on workers' compensation.

MR. CHAIRMAN: You may want to look at it and send me a further explanation, because in your submission it isn't clear. Okay. Let's get onto your workers' compensation brief.

MR. REINE: This one rambles a bit. We have looked at it. We've reviewed the Act both jointly and independently and have tried to piece the thing together, hopefully in a fashion that makes some small measure of sense, but it has also been put together over a period of time, and perhaps not the same attention to editing has been paid as should have been. I'll wade through it, if I might.

Definitions of accident and claim. The point to be made is that an accident generally refers to a specific event. There are many workers' compensation claims that do not arise from any such single, specific event but develop over a period of time. Perhaps some thought should be given to separating categories of claims, whether they arise from accidents or from ongoing situations. Perhaps industrial illness would be a thing, or hearing loss — injuries that occur when no accident is involved.

It gets to be a bit of a difficult one. Presumably if somebody injures their back by reaching across a table and picking up a four- or five-ounce piece of material — I have known that to happen - the person must have had a pre-existing condition. There was certainly nothing in the act of reaching out and picking up a small piece of material the size and weight of a fountain pen, perhaps, that could cause an injury. But it does result in a back injury, and I think where you put it, how you categorize it, becomes a problem. It's similar to hearing loss through excessive noise. From time to time, our plant gets to be a noisy environment. Certainly many industrial work places can be noisy, but it is interesting to note that the workers complain of noise in the plant and demand for hearing protection and that sort of thing. You go downtown at night and see them in the bar where the music is 140 decibels, with no complaint at all.

MR. CHAIRMAN: Or home.

MR. REINE: Or home, yes.

So there are claims placed against WCB accounts that do not arise from specific accidents, and we think that there perhaps ought to be some separate category for those sorts of situations.

MR. CHAIRMAN: Any questions on this section?

MR. NELSON: Let him finish the submission, and then we'll get him.

MR. CHAIRMAN: You are following your brief?

MR. REINE: Yes I am, sir.

MR. CHAIRMAN: The first one is definition. Any question on definition?

MR. MARTIN: What would be your purpose in separating it? I understand what you're saying, but what purpose do you hope to gain by separating what we would call accidents and, say, industrial illness?

MR. REINE: When you get to the areas of assessment, of premiums, superassessments, merit rebates, and that sort of thing, there may be some significant difference to employers in given circumstances. I guess that would be the sort of thing I would be referring to. Hearing loss situations: if an employer has a rash of claims for loss of hearing over a period of a couple of years and it results in increasing that employer's assessment, perhaps putting him into the penalized category of superassessments, but an analysis indicates it's all hearing loss and there's no way to demonstrate that there has been more than the allowed exposure to noise within the plant — perhaps he has a lot of people with teenage children or with an interest in hunting, and they spend all weekend shooting a shotgun at clay pigeons — if that's where they're losing their hearing, why penalize the employer? Again, it is the employer who bears the the cost.

MR. CHAIRMAN: Okay. Go ahead.

MR. REINE: Section 31, the problem of keeping tabs on employers receiving WCB benefits.

MR. CHAIRMAN: Employees.

MR. REINE: Yes, employees receiving the benefits. The concern that we have to express here starts off with the general notion that while receiving such benefits, the employee perhaps in one sense could be deemed to being compensated for recuperating. He's being paid to get well, if you will. He certainly has a responsibility to himself, if to no one else, to get well. It doesn't make sense that the money he receives should then be turned to other uses, whether proceeding on vacation without specific permission from the Board and from his doctor, perhaps engaging in gainful employment on the family farm, or doing whatever, while receiving benefits. The employer against whose account his benefits are charged has already paid, continues to pay, and will in the future continue to pay an assessment based on that fellow's employment and his earnings. It seems to me that there should be some greater control over that worker's activities while he is receiving WCB benefits, so his recovery can be enhanced or speeded along without further damage to himself.

We recognize it to be a complicated and delicate sort of an area, the problem of the privileged communication between doctor and patient, the individual rights of the worker who is injured, and all of those things. But certainly as a "for instance", the Unemployment Insurance Commission requires their claimants to check in on a weekly basis. It r quires them in many instances to maintain a diary of applications for employment submitted and so on. I would not, for my own part, consider it entirely out of line that the Board should certainly monitor cases that go on on an extended basis.

MR. CHAIRMAN: But in your brief you have indicated that the employer would want that information.

MR. REINE: That's the other part of the thing, that the Act is silent on the employer's rights to certain parts if the information.

MR. CHAIRMAN: I see.

MR. REINE: We don't really have a right to a lot of the things that go on between the patient and doctor and the patient and the Board. We just have to sit there and wait until one day he shows up for work again. There are many instances where we could perhaps provide light duties if we were allowed to be involved, if we had access to some of the information regarding his disabilities, and so on.

MR. KARL: If I may just add to that point. A doctor on a piece of paper saying a worker is fit to return to suitable employment: I challenge the committee to tell me what is suitable employment to a worker who has had a back injury, an operation, or whatever. That's when the Compensation Board cuts the worker off. The doctor says he's fit for suitable work, compensation benefits stop, and the worker can't do anything. What is the employer to do then, put him on sick benefits?

MR. CHAIRMAN: My experience has been that usually the only light job is the one that the boss has.

MR. REINE: And he's not about to give that one up, is he?

MR. KARL: But that's the problem I think that not only we in Lethbridge are experiencing; it's province-wide, all over. There must be some definite grounds passed on to the medical profession, when they identify light duties, suitable employment, to specify what type of work they can do.

MR. CHAIRMAN: In your organization where you may have a doctor on staff or on contract to staff, is the doctor still encountering the difficulties he used to in getting accurate information from the attending doctor?

MR. KARL: Things haven't really changed that much at all. It's still bad.

MR. CHAIRMAN: Okay. Continue.

MR. REINE: Section 34(2). We submit that the words "on the application of the employer" should be deleted from this section. Under section 34(1), if the employer has already requested a medical examination, the onus should be on him to demonstrate why the employee has not undergone a scheduled examination or has obstructed such examination.

As we understand sections 34(1) and 34(2), there is a sort of double request required. If the employer requests the medical examination because he has a concern with the claim and the employee refuses to undergo such examination, the employer must then make another request for the Board to attend to the thing.

MR. CHAIRMAN: I can see what you're referring to.

MR. REINE: Section 34(3) again deals with the item that Joe was speaking of a moment ago: the employer's physician, either under contract or in the employ, regarding access to results of medical examinations and so on. Again it's one of those things where it may not, in many instances, have any substantive value, other than it would be one of those things where the employer would say: yes, if my medical man says it's the right thing to do, then I guess I have to agree. Right now I think there is a fair bit of distance and therefore animosity between the employer, the medical community, and the Board.

Section 51(7)(b) provides that the Board, in determining permanent partial disability

and temporary partial disability should base its determination on an estimate of the impairment of earning capacity due to the nature and degree of disability. Is that a verbatim quote, Joe, or is that a paraphrase? I expect that it's a paraphrase. But the concern that we have is that in practice, the Board awards disability pensions for anything up to 100 per cent of what was presumed to have been lost, when in fact there was no loss of earnings.

MR. CHAIRMAN: Your concern is similar to some of the others about the permanent partial pensions.

MR. REINE: Yes it is, sir. The pensions being payable, for what loss we don't understand. The idea of a pension for loss of earnings, certainly. But for no loss, we don't see a need for a pension there. Again, as was mentioned earlier in the day, if a pension is awarded, it should not be for life; it should be to age 65, at which time it would be decreased by the value of the Canada Pension Plan or old age security benefits and that sort of thing.

In any event, the current practice of stacking benefits so the injured worker comes out further ahead than if he had stayed healthy doesn't make sense — the idea of the pain and suffering payments, as was suggested earlier, again just a single, one-time payment rather than the practice now, as we understand it, of capitalizing pensions and that sort of thing.

Section 82(1)(a) was amended. The concern we have is that the Workers' Compensation Act, as I believe it exists right now, reads:

> An employer shall, at his own expense, furnish to any worker in his employ who suffers an accident and who is in need of it, immediate transportation . . .

So far, so good. But then we get to:

> (a) to the worker's home, or
> (b) if the worker needs medical aid, to a hospital or other medical facility . . .

The problem that arises is that if the worker — perhaps in a state of shock or perhaps just because he doesn't have confidence in the medical profession — says he doesn't want to go to a doctor, even though his arm is dangling and half off, because it says we've got to take him home if he says he wants to go home . . . It's against his wishes, but his wishes do not reflect good judgment. By saying that we have to take him home, we as employers are by legislation given a responsibility for the safety of the worker. But in having to take him home, are we deprived of the authority to carry out that responsibility?

MR. CHAIRMAN: What do you suggest for a change?

MR. REINE: That we should have the responsibility to ensure that he gets to medical facilities, and leave it at that. Certainly, if from the medical facility he is treated as an outpatient and then has to get home, that's fine.

MR. CHAIRMAN: In other words, you're suggesting to delete (a), "to the worker's home"?

MR. REINE: Yes.

MR. CHAIRMAN: Continue.

MR. REINE: Capitalized pensions. At present, as we understand it all employers are charged a capitalized cost of an award to a disabled employee in the year that the Workers' Compensation Board decides the extent of disability. As I understand it, that may be two years after the date of the injury, depending on the individual's medical condition.

There is a concern we have that if the worker does not attain that life expectancy, as actuarially calculated, and if he leaves no dependants, the employer does not receive any part of that; it's the Board that gets the windfall from any superassessments that the employer has been subject to. I think we would be of a mind that that may be part of the increased cost we are seeing. But again, as other people have said earlier in the day, we don't know where the money goes. We just put it into the coffers, and it seems to disappear.

The other thing that is a concern on that subject is that the rationale for capitalizing pension awards apparently is that the employer may close doors, go bankrupt, or whatever. Public-sector employers have a separate concern in that they are not mobile. The city will remain here, presumably as long as there are people here, and I would think also that other public agencies such as hospitals, school boards — and I don't know about the university and the college. But those agencies that have a statutory existence should perhaps be allowed to find their own way of capitalizing and insuring pensions.

I am a private taxpayer. It's going to cost me money no matter which way it gets done. But the people in the public sector who are represented by the Personnel Association are of a mind that they think they could probably provide the same benefit to the injured worker at less cost. They would submit that inasmuch as they have an ongoing tax base, they are not likely to disappear and leave the Compensation Board high and dry with a liability that would be unfunded.

MR. CHAIRMAN: In other words, you would like to see them with the same arrangement that the provincial government has, because there's no capitalization for provincial government employees. They pay the actual plus a percentage cost.

MR. REINE: That would be it, then.

MR. CHAIRMAN: Where would you draw the line on the size of the municipal or public sector? However, think about it.

MR. REINE: I would say that is something that the local government or the local government agency would perhaps have to determine, whether or not they would be able to carry on that kind of funding.

The next item of concern we had was the abuse of the workers' compensation system. Certainly this involves a minority of workers, and what shows up as an abuse is not always a deliberate abuse either. It may simply be misunderstandings, errors in timing, and that sort of thing. But the concern we have is that overpayments do occur. The current Board practice is simply to make note of that overpayment and deduct it from future claims, if any such things arise.

In our brief we have commented, "to be responsible in its stewardship of the employers' monies". The editorial note I would like to add is that certainly employers do take a proprietary interest in those funds, inasmuch as it is the employer who contributes, as I understand it, virtually all of the revenue to the WCB. To see money that is just ignored after it has been wrongfully spent — we think that it should perhaps be more vigorously pursued to recover some of those overpayments once the employee has returned to work or has established some other source of income. Taking it through

small claims court or whatever is not beyond reality, I guess the point being that it would in time hopefully deter individuals who are inclined to abuse the system. It would also prompt everybody to perhaps be a little bit more careful when they receive benefits, to m ke sure that they are in fact entitled.

Lack of specific guidelines. Earlier today there were questions raised about heart attack claims. In our own discussions among ourselves, we have discussed the problem of coverage while on training courses and seminars, including, as I understand it in some instances outside the province, industrial illnesses. We talked earlier about the problem of hearing loss and how you attribute it only to the work place when there are so many noisy environments in our society. The injuries where no accident occurs. Commencement of coverage: at what point does the employer have a liability? Is it when the employee steps into his car to leave home, when he drives through the gate at the parking lot, or when he arrives at his work station? At what point does the employer have that responsibility? That's unclear. As an association we would certainly appreciate receiving some kind of published guidelines so that we would know, if not how to respond ourselves, at least how we can anticipate that the Board will respond to claims involving those gray area circumstances.

Delays in medical assessments. There are a number of occasions when here in Lethbridge we have had workers waiting six to eight weeks for a medical assessment before assignment to the rehabilitation centre. They continue to receive compensation payments and certainly would have no incentive to return to work even if they were able to. I think what is referred to here are the kinds of situations when the employee is awaiting assessment to see if there is any permanent disability. In the interim he does recover, but he's still waiting for assessment. He could go back to work, but because the first joint on the little finger is missing now — or whatever the injury is — and requires some assessment, there is again additional lost time there.

MR. CHAIRMAN: Mr. Reine, could I just ask you what your experience is with the stage before, the delay in injured workers receiving hospitalization for surgery?

MR. REINE: In terms of their receiving treatment?

MR. CHAIRMAN: Yes.

MR. REINE: I have not experienced any problems. We take our injured people directly down to the hospital.

MR. CHAIRMAN: Let me explain. Corrective surgery, to correct. They classify it elective surgery.

MR. REINE: We really haven't had that much experience with it at our place.

MR. CHAIRMAN: Mr. Karl.

MR. KARL: It's very slow. At times we are looking at from one to two months.

MR. CHAIRMAN: Do you see any value in classing WCB recipients as all emergency rather than elective surgery? What problems do you foresee in that type of legislation?

MR. KARL: We're not medical people. We receive a report of a worker — we'll use a hernia as an example.

MR. CHAIRMAN: Yes, that's a good one.

MR. KARL: The Board only allows six weeks' recovery, but the Board feels that the worker should not lay off work until he is scheduled for surgery. Now I have seen people with a lump as big as my fist, yet they have to wait. If that ruptures, they'll take them; otherwise they wait their turn.

MR. CHAIRMAN: But in my office I've experienced where workers are waiting for surgery — usually in a bigger hospital, possibly Lethbridge here or Calgary — and they're classed elective surgery, and therefore they're there sometimes for months. Have you experienced that? That's the stage before the re-evaluation and assessment.

MR. KARL: Jim, do you want to tackle that one?

MR. ABLE: No, I really haven't had that much to do with that.

MR. CHAIRMAN: Well, I'd be interested if you in some way could have that concern, because it's a concern for me.

MR. REINE: The point we would want to make is that it is my understanding that the assessments done now are the exclusive domain of the medical practitioners on the staff of the WCB. If that is the case, then we would submit that there are doctors of similar competence available in cities such as Lethbridge who could probably do that same work under contract to the WCB in addition to their private practice, and carry on that part of the WCB program without some of the delays that exist now and with better use of public facilities.

I think at this point it might be appropriate to refer you to the addition that we submitted just after we arrived here today, regarding the Workers' Compensation Board medical facility. Unfortunately that was not prepared and available at the time we sent our submission to you. Our argument is essentially that in all the major centres in Alberta, the new hospital facilities that either now exist or are being built, and in many instances classed as regional hospitals, have the sort of facilities that would be required to treat many of the WCB claimants who are now sent off to a rehab centre out of town. For those of us down here — to Edmontonians, perhaps it's nice and comfortable at home — that's some distance off. To make better use of the local facilities is what we are arguing.

We would also suggest that it's not every worker who wants a free trip to Edmonton. He may be more comfortable and more receptive to therapy in an environment that is more familiar to him. Again to use local facilities, on that argument, I think makes some sense.

MR. ABLE: I think the other things that we have to look at are of course the travelling expense, the time away from home, motel expense, and the rest of it.

MR. REINE: Which is all part of the costs borne by the WCB as it stands now, I believe.

The merit rebate system. There have been a number of interesting thoughts regarding the assessments on benefits and premiums. As it stands right now, an employer who has zero accidents in the course of a year, or over a period of two or three years, can still only get a maximum of one-third of the assessed cost refunded to him. I think that is less than adequate inducement for him to really strive mightily to maintain a good, safe work place.

Certainly I think employers should be encouraged and educated that it is in their own

best interest to maintain a safe work place. But so many operating managers only look at the bottom line. If that's out of whack, the other things take lower priority, without perhaps sometimes seeing that if he does a better job there he can in fact gain some benefit. In time, it can be something that they just take for granted until it catches up on them. Then all of a sudden they are the bad guys, and they get superassessed.

If I might digress from my habit now of just following directly the format that we have submitted and talk about merit rebates and superassessments together, on pages 10 and 14 we would submit that there ought to be a much wider divergence between the minimums and maximums payable. The employer with a good record should be able to get his costs down much lower. The employer who has a bad record ought to be the one to pay the penalty. That gives some financial incentive, as well as the other operational and perhaps moral incentives, to not go around injuring workers.

Review of claims processing procedures. There have been a number of times when I and my colleagues have phoned the claims offices in Edmonton, looking for information regarding claims, trying to help our employees — gee, we'll have to get back to you, we don't know where that information is, that file is missing, somebody else has it, or any of number of things. It just disappears and usually surfaces some time later. There have been occasions when people from the Board have phoned back and said: gee, you said you sent that thing three weeks ago; we don't have it here; could you send us another copy? So we would dutifully send off another copy of the reports that we had submitted earlier. In the meantime, the worker is not getting any benefits and is waiting for six or eight weeks perhaps.

MRS. FYFE: Has that happened recently?

MR. REINE: This summer. That is a concern.

MR. CHAIRMAN: Often or fairly rare?

MR. REINE: Well it's not very often that we have injuries at our place that cause the worker to be away six or eight weeks, so it's only happened to me once this year.

MR. CHAIRMAN: Because in some of the studies we've had from the Board, the delay is usually caused because the employer's report is slow coming in.

MR. REINE: Not in this instance it wasn't.

MR. CHAIRMAN: Okay.

MR. RUNCK: Mr. Chairman.

MR. CHAIRMAN: Yes.

MR. RUNCK: There is a situation here which does occur: a delay in the mail, and reports do get hung up. We have arranged that if you are having this problem, go to our Lethbridge office. If you can give them the information we require, they can probably issue a cheque on the spot to help the fellow over.

MR. REINE: They can issue it locally?

MR. RUNCK: Oh yes. You should contact our Lethbridge office when you run into that kind of situation.

MR. CHAIRMAN: They have a maximum amount that they have the authority for here in Lethbridge.

MR. REINE: Okay. I wasn't aware of that. Certainly we did use the local office to try to expedite the thing, but whether they came forward with an offer of interim financing for the fellow, I don't know.

MRS. FYFE: They can locate files through the computer, too, very quickly. That system has been improved dramatically over the last couple of years, with the initiation of computer procedures.

MR. CHAIRMAN: Okay. Continue.

MR. REINE: Net earnings. As was stated in an earlier submission, we think it is wrong to consider each source of employment when assessing the earnings.

I think we spoke of the overlapping benefits earlier, when we were speaking of the concern with the pension problem, dovetailing with Canada pension and so on. It appears as a repetition in our submission. The point is — and I think I made it verbally, if not as a part of the written thing — that under no circumstances should a worker's take-home pay, while on compensation, exceed that of his workmates who continue to be actively employed. It doesn't make sense that someone should gain an enhanced benefit from injury.

The maximum weekly benefits portion. We would certainly argue that the $40,000 ceiling is indeed very generous. The point was made earlier that certainly while most of our employees do not earn the $40,000 per year maximum right now, it is something that does compound. If it's a 5 or 10 per cent rate that one is paying — or as we heard earlier, in the forestry industry it ranges up to 16 per cent — it is something that does compound. If you then give an employee a dollar an hour raise, you really have to count on $1.16 per hour cost, simply because of the 16 cents that's added for WCB. That is in part reflected with this $40,000 ceiling.

We spoke of the superassessments.

I think the practices and procedures manual was something that perhaps would have been better to include with our earlier comment on the lack of specific guidelines. Practices and procedures — you can tell this was written by a personnel manager; they are great for practice and procedure and trying to document everything. Again, we have to have some kind of guideline, because we are administrators who usually only deal with this on a sporadic basis. To remember from one month to the next how things get handled — and, in many instances, from one year to the next — and to anticipate how things are to be treated and how claims are to be processed, becomes very difficult. Some guideline specifically committing the Compensation Board to a course of action or a typified response would be appreciated.

Almost as a postscript — and again it was a comment that was treated at the end of an earlier submission this afternoon — there is the advisory committee. I didn't know about it until I read the legislation in reviewing it for this brief, which I think is probably not uncommon. Many people throughout the province are simply not aware of its existence. We would suggest that that advisory committee to the minister be made up xclusively of representatives of employers and workers and that that become, among ⁻t⁻ r t⁻ings, perhaps the nominating body for membership to the Board. It would leave the selection of the member with the Lieutenant Governor in Council but would perhaps leave him at least with the short list to consider.

We would be satisfied that if that advisory committee were made up of employer

representatives and employee representatives, then at least half the time the employers' views ought at least to be heard. I think that would be a step in the right direction. I realize that the one problem that comes from that is that when I go to the polls to elect a legislator or a parliamentarian, I'm presumably electing him to express his views on my behalf. This gets to be a problem where you have somebody creating a second-guessing kind of thing, perhaps. But I think that in the operation of a thing like the Board, that kind of agency or that kind of advisory committee might be well advised to help to bring the operation of the Board more into the public view. I'm sure that certainly is a concern that you have heard repeatedly throughout these hearings.

So anyway, that in summary is what we have attempted to address and present.

MR. CHAIRMAN: Do you have any questions of the gentlemen? Ladies first.

MRS. FYFE: You made some comments about the rehabilitation centre in Edmonton and the desirability of keeping workers within their own homes, their own areas, and using local facilities. I don't thi k anyone would disagree that that is the most desirable. I wondered if anyone of the Lethbridge Personnel Association has visited the Edmonton rehab centre, to see some of the facilities that may be just a little bit unique and ways they have of assessing the worker's ability to go back to work, which you wouldn't find in a regular hospital rehabilitation unit.

MR. KARL: I went through the facility, and there are areas that really are available locally, as far as physiotherapy, as far as weight training, muscle conditioning, and so on, that could be utilized here — for someone to shovel a wheelbarrow full of sand, only to dump it out or pile it from one side to the other, and then the other fellow shovels it back. In today's society, there are adequate physiotherapies that athletes use; the facilities at the university here are excellent. I'm sure that if some system were worked out with the university, these facilities could be utilized. They wouldn't really take that much space to get the person back to condition.

MR. CHAIRMAN: Have you ever taken that up with a doctor you're out on a golf course with — about referring his patients . . .

MR. KARL: I'm not that fortunate.

MR. CHAIRMAN: You're not fortunate to golf?

Since you represent a group, I wonder whether you'd like to look at it and and share it. We've had some indication from the medical profession that they don't abuse that privilege or role of the rehab centre, but when they are in difficulty with their own patient they sure welcome referring him to the rehab centre.

MR. KARL: Right. Another difficulty is that the employer can request that the doctor send the worker up. If the doctor disagrees, the employer's out in left field. They have no recourse unless the Board directs it.

MRS. FYFE: I certainly appreciate the point you're making, and I guess I would appreciate any further thoughts you might have on it. If there were some type of contractual arrangement between the Board and the university, for example, it probably would be suitable but has to be put into the context of general cost too. You mentioned the cost of sending the worker, so it's something that you may want to give some thought to. If you can get any input from the local medical association, it might be helpful to this committee also.

The other thing about costs is related to section 31. You made some comparisons with the Unemployment Insurance Commission, suggesting that the worker may report in on a regular basis. I guess I just cringed a little bit with that comparison, thinking that those costs may be very dramatic also. I don't know if anyone has ever analysed the costs of UIC. However, when you add another structure of having a worker report in, I think it should be looked at in terms of the total cost that would need to be applied to the total administration.

MR. REINE: I don't think it is something that I would suggest ought to be done for every claim, but there may be a triggering time period. Any claim that goes over a month, just to pick a period out of the air — if that employee is on a WCB claim for two months, three months, four months, with nothing more to confirm that the claim is ongoing than a once every three week visit to the doctor . . . It's pretty easy to put a stone in his shoe and limp in and complain quite vocally to the doctor about the ongoing pain, without commenting that maybe it hurts a little bit because he got himself stuck in the rough on the ninth hole this morning. I'm afraid that kind of thing cannot be excluded from what does occur from time to time.

The real concern I have is that that sort of claim goes along, perhaps not policed to the extent that it should be, but on the cost side of the thing, to the detriment of the legitimate claim where the guy is in fact completely incapacitated. It's not the legitimate claim that is a concern; it's the need to make sure that the claims are in fact legitimate.

MRS. FYFE: John may wish to comment on this, but I'm sure that workers' compensation is the same as income tax, social service, or any other areas where there are a small number of people that will try to abuse the system. The majority of deviants are turned in by someone else that sees that abuse, and those abuses are reported. John, do you wish to make any comment on that?

MR. WISOCKY: I think you're generally correct, in the sense that if he has difficulty with a particular patient, the attending doctor will phone or write the Board saying: hey, I don't know what to do with this fellow; take him to the rehab centre in Edmonton, because I'm beyond my wits. And employers who follow the progress of recovery of injured workers may contact us and tell us they have a problem with this case or this case, and we do respond and act on those things. So there are various means.

MR. KARL: There are also problems when you send three claims investigators down on one particular claim. The worker gives three different versions to each investigator, or one version to each, and the Board turns around and accepts the claim. Now if that isn't fraud, I don't know what is.

There has to be a better system worked out. The employer knows the individual is leg breaking it: he sees the worker coming in limping but can follow him down the street and watch him a block away and, boy, can he march like a soldier. You report these things. But the Board accepts the claim, and what recourse do you have?

MR. WISOCKY: That's probably one of the difficult cases. Maybe that's why there were three investigators, to get the true facts. I share your concern there, but . . .

MR. KARL: And yet the individual has booked off, as an example, on sick leave. Three weeks later he claims compensation, and says: hey, this happ t w^rk.

MR. WISOCKY: One avenue that a lot of employers follow in those types of cases is to

talk to the attending physician and offer suitable work. And then the worker is in a quandary.

MR. KARL: Suitable work — there we go.

MR. WISOCKY: The doctor can define the limitations very clearly. If you have suitable work, then the worker is stuck.

MR. KARL: It's pretty hard, because it's a small community: he is my patient; he has friends who may become my patients. The medical profession is very touchy about issues of forcing someone to work.

MR. CHAIRMAN: But, Mr. Karl, what do you propose to resolve that? We're here to hear. I heard the same accusation in '79. We've provided a speedier service here in the Lethbridge office, and I think the only other course I can suggest here is to let your MLA know. All the MLAs hear, I'm sure, is about the claimants that haven't got their cheque.

MR. KARL: I know. We hear it too.

MR. CHAIRMAN: But they would welcome to hear also about the ones that you had the unhappiness of not being heard properly, because that will be looked into. But I can't see any other way. You say we've already sent three investigators out, so . . .

MR. KARL: We still have the appeal procedure.

MR. CHAIRMAN: Try the MLA course.

MR. ABLE: Why can't we have investigators in Lethbridge, rather than having them come from Edmonton?

MR. CHAIRMAN: It's under consideration. We're advised to have a claims officer in Lethbridge but, as you appreciate, the employers pay the cost of all this expansion of staff, and we've been slow. We have two rehab officers, and we have the assessment officers here. I know the concern you raised. But there isn't a claims officer here — right, John? This is my understanding.

MR. WISOCKY: That's correct. As the minister says, there are plans for a claims counsellor who can do some of the investigations, somebody local.

MR. ABLE: Because you can build up a rapport with these people; they understand you, and you understand them.

MR. CHAIRMAN: We think it's grown to the point — and the MLAs have been concerned about it.

MR. R. MOORE: Mr. Chairman, you gentlemen here have talked in your brief on the Workers' Compensation Act about the definition of an accident. How do you feel we should limit or define that area? We've heard from other people in other organizations that the Compensation Board has strayed from its original intent, and now it's become sort of the social conscience of the work force; that you look at everything from the minute the worker gets up in the morning until he goes back to bed, practically.

Where do you feel we should draw the line? How should we define that, from your

people? We'd like to know what you people working in the personnel field — you're closer to the worker, and also have a responsibility to the employer. Where do we draw that line? What are the parameters we put around it? I know we're broadening out and broadening out, and it's getting so it's hard for us who are sitting here listening to know just how far it is going. Every time you broaden the base, you broaden the cost, and the cost is what we talk about in the next breath. Everybody comes about the cost, yet we're letting the base broaden and broaden.

Do we bring it back in and say, these are the parameters? Have you any idea where we should draw that line?

MR. REINE: In the place where I am employed, there had been claims that arose from workers tripping over curbs walking across the parking lot. There was one claim that originated before I arrived there but, as I understood it, was reported after the fact. A worker going out on his motorcycle roared out of the parking lot much in excess of the posted speed limit, hit some gravel and skidded. He started the skid inside the parking lot and finished the skid outside the parking lot. But because the skid mark originated within the parking lot, the claim was accepted under workers' compensation.

Both of those, and particularly the latter one, seem to me to be rather dubious. The responsibility of the employer to provide safe access from a provided parking lot on the company property into the plant, perhaps makes some sense. But a motor vehicle accident coming to and going from work, no; that would be one limit that I would certainly place upon the thing as an exclusion.

MR. R. MOORE: You feel that it should be that while he's at his work place would be what you suggest as a parameter — t t[h] w[o]rk place, not coming or going?

MR. KARL: I don't think the parking lot should really be part of it. We had one instance. We have a parking lot and steps were built for the workers. They had complained there weren't adequate steps. We got steps built, handrails put up, and everything was safe. No, he had to use the incline. He twisted his knee and required knee surgery. Compensable. That was a deliberate act, the individual's choice. The steps weren't any further than this wall right here. He chose not to use them.

MR. CHAIRMAN: But the automobile accident — I am advised that only if the employee is in the course of his work will the Board recognize he would be covered. If, first, the automobile is owned by the employer and, two, if the employer contracts that the worker uses his automobile in the line of work, he would be covered; but not his own private automobile. John, am I right?

MR. WISOCKY: Generally speaking, if the person is a tradesperson and works for you and every morning starts out from home rather than coming in to the company, then naturally he would be covered from his home on his way to the first call, and those sorts of things.

MR. KARL: If it's a company vehicle.

MR. CHAIRMAN: No, even if it's his own.

MR. KARL: What if they get car allowance?

MR. WISOCKY: It gets a little grayer there. It depends on the control and supervision and the terms of the agreement. But there's no cut . . .

MR. KARL: No. Say an inspector that's checking a sidewalk crew — they start at six o'clock in the morning. He gets into his vehicle and goes directly to the worksite.

MR. WISOCKY: Is that the condition of his employment?

MR. KARL: He gets in an accident on the way there. We've had that claim accepted.

MR. WISOCKY: Was that the condition of the employment, where you as the employer say that as the inspector, my job is to go from my home to inspect there? Or do I have to go to an office first?

MR. KARL: No. He stays with the crew for the rest of the day while they're working on that curb.

MR. WISOCKY: Yes, I can understand that one.

MR. KARL: They're gray. It has gray areas.

MR. MARTIN: Just one new area. I know it's getting late, and I won't keep you. But I think we might have some difficulty. I know you represent a different group, because you have some public people involved. The idea that the municipality could deal with some of the payments: the argument that I believe you used — you used the example of the city of Lethbridge, that they'll be around. I think that you could use that for most of the major corporations. I'm sure people like St. Regis or Stelco could make the same case, because I think the chances are that they'd be around too.

I guess my question to you is more a philosophical one. Should they as employers have an advantage because they are in the public sector, which would be an advantage simply because they are in the public sector?

MR. REINE: What advantage would they have? If they retain the responsibility to provide the same level of protection and if they can simply do so more economically, then the advantage is to me, the taxpayer.

MR. MARTIN: Yes. How would they be able to do that more economically?

MR. REINE: I suppose I go back to my original observation that the insurances that we buy for our sick and accident benefits, all our other group insurances added together — including dental, life insurance, AD&D, sick and accident, supplemental health care — in total amount to about the same as the cost of workers' compensation. If that is the case, presumably the cities may be able to fund pension requirements on a more economical basis than the Board can. I guess maybe it's a challenge that we would put to this committee, and perhaps to the Board directly, to determine where their costs are incurred.

MR. MARTIN: I would follow that up. That logic could be used for everybody. Then you're really questioning the purpose of workers' compensation generally, because it no longer has to do with public or private if they could find other insurance. But I think the point . . .

MR. REINE: Well, I would raise that question.

MR. MARTIN: Yes. I would think that point that Mr. Diachuk — and I believe you referred to it. There is certainly the protection. Employers are paying the cost for workers, but one of the reasons they wanted this to begin with is the fact that you could be sued. There are examples. We've read about them in an article, where a loss of money is involved when you get into the courts. And so there is also protection for employers. That's the whole purpose.

What I'm saying is that it's hard not to take in the fact of suit when you're looking at whether your private insurance is as good or bad as workers' compensation, because that could be a fair amount of money if you didn't have it.

MR. KARL: No. What we're looking at is an individual getting injured. Okay, we had a policeman shot. He received in excess of half a million dollars; we were assessed that, for a pension.

MR. CHAIRMAN: Capitalized.

MR. KARL: Capitalized; right. Why can we, as the city of Lethbridge, not pay him regularly? Because of the collective agreement, he receives full pay until age 65. Why can we not just continue paying him his full salary on an ongoing basis, rather than pay the Board in excess of half a million dollars? This is what we're saying. We're going to be here till doomsday. We're not going anywhere. So why not let us, because of our collective agreement structure?

MR. MARTIN: Again, I would follow up . . .

MR. KARL: We budget for his annual salary, and it's going to be that much cheaper to the taxpayer.

MR. MARTIN: Again, I would follow up two things on that. That could be used for any employer, whether public or — the same logic. But also it is a type of insurance you're paying, and surely there's always that risk in any insurance.

MR. KARL: Okay. There was a pension assessed. Through whatever the collective agreement says, we still have to make up the difference.

MR. MARTIN: I understand what you're saying.

MR. KARL: So the money is going from one pocket to the other and, rather than making up two or three cheques, we could make out one.

MR. MARTIN: I could follow it up. I think there's a logic that . . .

MR. KARL: Oh, there's more involved there.

MR. CHAIRMAN: Any other questions? Okay.

I want to thank you, gentlemen. I think there were some areas that we deliberated, and no new specific ones I can recall, other than a few inquiries that you may wish to follow up and send to my office. I want to thank you for coming forward.

I only have one question to you, and that is: are any of your employers on the program where the compensation is assigned to you and you continue the full payment of salary to a worker? Is the city of Lethbridge not on that?

MR. KARL: We receive the assignments where we continue, right.

MR. CHAIRMAN: That's right. I know it's a small percentage. Some of the private sector does that, too. Any problems with that program? Because, to me that's . . .

MR. KARL: Occasionally there are cheques that should be coming to us on a regular basis, on assignment, that somehow, whether through annual vacation or someone not being around when the payment is made, the cheque goes directly to the worker.

MR. CHAIRMAN: But I'm interested about the relationship between you as an employer and the worker. Is it better that way than your colleagues where they don't have it? You may not be able to respond now, but I'd be interested in it in future.

MR. KARL: As the city in receiving the money, yes; at times we have waited up to two or three months to get any moneys.

MR. CHAIRMAN: I'm interested about how the worker takes the relationship. Is the worker more prompt to return to work when he or she continues getting the full cheque from the employer? Not any better than your colleagues that don't get the assignment?

MR. KARL: No. I think if he were suffering financially, he'd be back sooner. He'd get well sooner. That's my personal opinion.

MR. CHAIRMAN: I know you didn't mention that, but I thought I'd just ask. John?

MR. WISOCKY: Mr. Karl, could you tell us whether you'd top off the . . .

MR. KARL: Yes, we do.

MR. WISOCKY: He'd top it off. Okay.

MR. CHAIRMAN: So you do top off that, and the worker continues a full income.

MR. KARL: For six months.

MR. CHAIRMAN: So it's not working that way either.

MR. KARL: Permanent employees only.

MR. CHAIRMAN: Yes; not contract.
Thank you very much, anyway.

MR. KARL: Thank you for your time.

MR. CHAIRMAN: I did promise that if anybody, an employer or anyone in the audience, wanted to come forward, other than claimants — I know my executive assistant looked after one claimant. But is there anyone present who would like to introduce himself as an employer or m ke a submission? You do, sir?

UNIDENTIFIED SPEAKER: Yes. I'm not an employer, but one that was on a disability pension.

MR. CHAIRMAN: My assistant will help you out with it, because that's the announcement and the guidelines for the hearings. We're prepared to look after any concern. But is there any employer that didn't get on the list and isn't represented by anybody? There isn't?

Thank you for coming, and thank you for being patient and listening. We'll see the other group tomorrow morning.

(The meeting adjourned at 4:50 p.m.)