

[Chairman: Mr. Diachuk]

[1:10 p.m.]

Hughes Air — Southern Air Transport Association

MR. CHAIRMAN: Good afternoon, ladies and gentlemen. We'll start with the presentation from Hughes Air, Southern Air Transport Association: Mr. Loberg and Mr. Skocdopole. Is that the way you pronounce it?

MR. SKOCDOPOLE: Pretty close.

MR. CHAIRMAN: How would you pronounce it?

MR. SKOCDOPOLE: Skodopoll.

MR. CHAIRMAN: The emphasis was on the different syllable.
Who is the spokesman?

MR. LOBERG: I am. My name's Carmen Loberg. Shall I begin?

MR. CHAIRMAN: Yes, please. We have approximately a half hour and would like to stay close to it.

MR. LOBERG: I will be brief.

MR. CHAIRMAN: Go ahead and highlight your presentation. We have a copy of your brief.

MR. LOBERG: My name is Carmen Loberg. I own a charter air service out of the town of Ponoka, just north of here, and I'm also a member of an organization called the Southern Air Transport Association. I am co-chairman of a committee of that association dealing with our association's concerns on the Workers' Compensation Board. Accordingly I was pleased to have an opportunity to come and meet with your committee today. We have been carrying on active discussions with both the Workers' Compensation Board itself and executive staff from that Board. If I could just make a couple of comments about our association, I'd then like to talk about the experience we've had dealing with compensation matters.

Our association represents commercial air carriers spread across Alberta. We have about 80 per cent of the carriers in Alberta represented on our association. We were formed to attempt to have a group that could speak on behalf of commercial air carriers in Alberta of a size that hadn't been represented by any other group. In the air line industry in Canada, there's a national organization called the Air Transport Association of Canada. It is primarily dominated by Air Canada, CP Air, and the other major carriers. We found in Alberta that there were a large number of companies like mine and like Mr. Skocdopole's that really didn't have any kind of forum to discuss our concerns, and also didn't have any kind of opportunity to speak as a voice for one particular section of the industry. Accordingly we founded the Southern Air Transport Association and have carried on various deliberations and various representations with different groups.

In 1977, air carriers were told that we would come under compulsory workers'

category. There's some reasonably complicated terminology here, and I must admit that I occasionally stumble on the proper classification, category, subcategory, and numbering issues. But to describe what has unfolded: originally helicopter operations and light aircraft operations, meaning aircraft under 12,500 pounds — and for those of you who may be familiar with aircraft, a Twin Otter is a 12,500 pound airplane — fall under what has been referred to in workers' compensation matters in our brief as class 7-05. Aircraft over 12,500 pounds are considered heavy aircraft and, in the Compensation Board's present classification system, are referred to as group 7-04. Helicopters are now broken out as group 7-06.

At the time of coming under coverage, originally there was to be a common rate; then there was some discussion about splitting that out. The lighter aircraft were originally covered at a rate of \$3.50 a \$100 of payroll. The heavy carriers — I think the precise number is \$2.50.

Back in about '78 the representatives of the major air lines, particularly Air Canada and Canadian Pacific, approached the Workers' Compensation Board and said: we believe we should have a different classification from these lighter airplanes; we believe our operation is inherently different and inherently safer and, accordingly, we should be broken off into a separate category.

When Mr. Holt from Peace Air in Peace River and I met with the Compensation Board, we had a particularly delightful discussion, if it weren't for what came out of it by way of information. The information we had was that in '78, the two major air lines with — and I quote — "lawyers from Toronto and lawyers from Vancouver to make sure they were covered from both sides", met the Compensation Board and argued very fiercely that there should be a separate classification and a separate rate experience for heavy air lines.

Subsequent to that, we got our association formed and challenged that presumption. We said that in fact we are a common industry, we operate within the same airspace, we're governed by the same federal department, our commercial licensing comes from the air transport committee of the Canadian Transport Commission, just the same for the licences that Skocdopole Brothers Aviation and Hughes Air have; exactly the same licensing agency at the federal level. Our standards are governed by the federal Department of Transport, Canada; exactly the same department. We're required to have the same kind of crew training, the same level of maintenance, the same licensed personnel to repair our aircraft, and so on.

The air lines' contention is that their aircraft are larger and that they have more people on their aircraft; accordingly they've got to be safer. Now in fairness, that's a somewhat oversimplified argument.

Our contention is that in fact the standards are the same, that the reason you have a two-man flight crew on a 737 aircraft is because it is a significantly more complicated aircraft to operate safely. Certainly they have all kinds of redundancy in their systems, and they do have a very admirable proficiency and safety training record. There's no doubt about that. By and large, our industry follows exactly the same kinds of rules. I have a file approximately two inches thick that covers the arguments we and the air lines have made back and forth to the Compensation Board. We expect that matter to be resolved, I would hope, within the next couple of months.

If I could speak for a minute about the effect of that reclassification. As the rate group has been broken out, the rate for light air carriers, or group 7-05, has gone from \$3.50 to \$8.00 per \$100. That is a staggering increase for our carriers. Air lines' rates have gone down from \$2.50, in fact to \$2.15. The numbers are reasonably complicated, but the principle behind it is what concerns me.

The air lines have said, we are in fact a safer operation. They're using approximately a 10-year experience record when, in the province of Alberta, there have not been major

claims, although there have been some claims from accidents outside the province of Alberta. The track record that's being used for calculations of the accident record — or the claims experience — of class 7-05, the lighter airplanes, is approximately six years long and we believe has a statistical aberration, where we in fact have had an unusually large number of claims out of some tragic accidents in the Peace River block.

In discussion with members of the executive staff of the Compensation Board, they described another group of people, and I think it's worth mentioning in this consideration. They were talking about the experience of the construction industry. Out of the construction industry, a group called the roofers made a representation to have their larger class subdivided. They said, we're not representative of the construction industry; roofers are in fact much safer. And after much negotiation, there was a division, and there is now some classification that deals with roofers. As the experience record of that group carried on, the flat-roof roofers came back with another representation, and said: you know, our group is really different from the roofing group; in fact the problem in the roofing industry is the peaked-roof roofers, so we really need to subdivide again and get the peaked-roof roofers out of our class.

I think that's almost exactly what's happening with the air lines. The air lines have said: we've had a pretty good track record here in Alberta, and we think that we want these lighter aircraft moved out of our class. That in fact is what has happened. We've tried to reflect to the Compensation Board and its staff that a major air line accident in Alberta in the next year, or in the next five years, would dramatically change that record. They would access the disaster reserve after six employees. So that would be one thing.

Another phenomenon that is taking place that is really staggering, when you consider the compensation Act, is that there is now a significant number of applications to change a classification such as 7-05 with worker claims out of another category. For example, a recent accident in northern Alberta involved staff from a power company. I just don't have it at my fingertips, but I think 22-something is their classification number. There is now an application in to have the accident from whatever that classification is, charged against class 7-05 as well. If that principle were to take place, an accident with a Pacific Western Airlines airbus at the Municipal Airport would be a staggering claim against class 7-04.

So our contention is that the aviation industry is a common industry, referencing my previous comments about the same types of airplanes, the same types of flight crew, and the same types of maintenance support systems. Incidentally our aircraft hulls are insured almost exclusively in the London aviation market, and there's no distinction made. There are some slight rate differences, but there's no fundamental distinction made between insuring a large aircraft and insuring a small aircraft.

Looking across the other classifications under the Workers' Compensation Board, we cannot find any other industry where a distinction is made on the basis of the size of equipment. There is not a rate for a large truck driver and a different rate for a small truck driver, nor is there a rate for a large drilling rig operator — for someone who's operating triples — as opposed to someone who is operating singles.

I think what we've had is a lobby that has affected the subdivision of that classification and, in order to be fair, needs very much to be reversed. Our association basically starts from two general principles that we would like to present to you for consideration.

We strongly believe that the workers' compensation system should encourage safety, should encourage safe operations. One of the things we objected to and got set back was that in the 1983 year, the Board had decided to discontinue a merit rebate system, so our rate would have been \$8 per \$100. In the past, we had normally enjoyed a one-third merit rebate for no claims. That had been struck from the 1983 year. In subsequent

discussions, they agreed to keep that merit rebate system in place; in fact a merit and a superassessment if you've had an accident. We've encouraged the Board to lump the air industry back in as a common classification, and then to deal with experience records. If in fact the air lines — for example Air Canada — can consistently develop a safe track record, then they should be rewarded for that through a merit rebate system and, similarly, perhaps some sort of superassessment for unsafe operations.

The second principle that we think is crucial to all this is spreading the risk over the largest possible constituency. Referring back to the peaked-roof roofers and the dilemma they got in, it is one's inclination to say: well, we're so good right now that we want to be subdivided out on our own. And the peaked roofers are the best example I can think of what happens in that regard.

That basically covers the general remarks I have. I would certainly welcome the opportunity to answer any questions you might have and perhaps give John an opportunity to discuss.

MR. CHAIRMAN: You didn't cover your — possibly you wanted to add to the merit rebate/superassessment program, other than the fact that there was a reversal. Do you have any suggestions on it?

MR. LOBERG: I don't have a precise suggestion as to how that kind of system can work. I must admit I'm not an expert on how to define those kinds of systems. But I think the underlying principle that's important is that there be some kind of system there to reward safe operations. For example, in my own company we take part in a very rigorous program of safety training for our pilots. Our pilots' proficiency flight checks are based on the exact same system that the air lines use, only we don't use a simulator, because in Canada we don't have a simulator. They use a simulator to save costs. We use the actual aircraft. We have all the same kinds of safety drills, including aircraft evacuations and all those sorts of things. There are commercial carriers in Alberta that don't do that. In fact, a system of one classification can successfully penalize those if their accident record proves that their operations are not as safe as some of the rest of ours.

MR. CHAIRMAN: But you support it in principle.

MR. LOBERG: Very much so.

MR. CHAIRMAN: Questions? Mr. Skocdopole.

MR. SKOCDOPOLE: Probably one thing that Carmen didn't emphasize is that there are only two groups in workers' compensation classes that have an annual payroll under \$10 million. Am I correct?

MR. LOBERG: Yes.

MR. SKOCDOPOLE: One is farmers, which is non-compulsory, and the other is the small class carriers, which sort of makes it pretty special in being discriminated against, I guess is the word.

MR. R. MOORE: Mr. Loberg, your major concern that you started off with was the spread, the \$8.00 to \$2.15 rate that Air Canada, that type of carrier, has. You also related to your accident record. Initially you made the mention that outside Alberta the accident rate was set but that in Alberta you had a fairly good track record until you hit

Peace River, apparently. Another paragraph on, you came back and said that Peace River had a bad record, but not you people down here.

What is the overall picture in Alberta related to your accident rate, in your mind, related to the major carriers that fall in the \$2.15 category? Do you have twice as many accidents? You're paying about four times the rate, but that doesn't reflect on accident rates. What is the rate, in your mind?

MR. LOBERG: Precisely. That's a difficult statistical argument to make. I could argue extremely capably that our rate is probably only 50 per cent higher, and I could defend it with part of our stack of statistics. It depends so much on how long a period you use. The accurate records, the records that are being kept with air lines . . . The air lines were on what's called a deposit account to employer. I'm not sure I understand all the technology of that, but with the Board they in fact have a longer experience record. They're saying: look, we have 10 years of no accidents, minimal claims; whereas look at these bad characters in their light airplanes, who have a substantially higher accident record. We say: if you give us another four years, with the changes in our industry our accident record will probably come much more in line with the heavy carriers, and if you had one year and one accident of a major air line, then their statistics have gone to heck.

My concern on answering that is that you can play the statistics around just about any way you want. They have used copious statistics from the Dublin inquiry, the federal inquiry on aviation safety. There is a flat mathematical error in the statistics there, where they are claiming an accident record of .27 fatalities per 100,000 hours of flying. The mathematics on that are in fact 1.2. So those are some of the kinds of arguments that are being played with in statistics.

The bulge in our statistics from accidents came during the peak of the oil boom in Alberta, during the '79-80 period. For example, in my own company we were flying 1,000 hours per aircraft. At this time we're flying less than 500 hours per aircraft. So it was certainly a frantic time in Alberta and may in fact have reflected in a bulge in the statistics.

MR. SKOCDOPOLE: I think I could mention one other thing. Our classification is so small that if we have even one fatality a year, it has a huge effect on the payout, and we probably are running an average of one or maybe two fatalities a year in our group classification.

Another thing that's been brought into this classification is that the small charter companies such as Carmen and I run are very, very much like a small air line, and we run very parallel to their safety records. Our pilots are as experienced as their pilots. We maintain a very safe level. But in our little group they throw in crop sprayers, low-level flyers, and flying schools, which all have a much higher record than we do. But our little group gets to carry that bunch of people too, who are much less related to us than we are to the air lines. Through this powerful lobby that they put on the Board a few years back, they managed to throw all them in with us too, just because of the weight of their aircraft. It has absolutely nothing to do with what we do, what flying schools do, and what crop sprayers do. We're not really related by anything but the weight of the aircraft. The actual use of the aircraft has no relationship to what I do in my company.

MR. R. MOORE: You would classify your air lines as freight carrying? You're a freight-carrying operation?

MR. LOBERG: Primarily passengers.

MR. R. MOORE: And passengers too.

MR. LOBERG: I guess the simplest way to describe it is that we operate as a charter or air taxi style of operation as opposed to a scheduled flight operation.

One of the arguments the air lines are offering right now is not being presented fairly. They claim that they fly along predetermined routes at predetermined times, with very sophisticated navigational equipment on the ground. In other words, they fly between Edmonton and Calgary, Calgary and Winnipeg, and places of that sort, and that makes them inherently much safer. We fly along those same routes. They say: oh, but those lighter planes go off and land at Wabasca, and all sorts of exciting places like that, with no aids whatsoever. Pacific Western does some approaches into places like Cranbrook, and they have accidents in places like that.

MR. CHAIRMAN: Any other questions?

MR. MARTIN: And Gimli.

MR. LOBERG: Yes, and Gimli.

Dealing with the frequency, air lines are arguing that they do not have accidents, and in fact I would argue boldly that air lines have a remarkably — the commercial air industry, light and heavy, has an excellent safety record. If it did not have, the public would not tolerate it. They would simply not fly on them. But if you look at the small grouping of people that are being assessed in the class 7-05 category — and I guess I'm just reiterating what John says — our payroll base is so small that we're trying to insure a very small group of people on a very small payroll base. If that is expanded, it just strengthens the insurance principle behind the whole industry.

MRS. FYFE: I just want to clarify in my own mind the difference between the large carriers and the reason they were taken out. You may not be able to answer; we may ask the resource people from the Board to help us. When the large carriers were taken out, was it because something was happening in other provinces? Were they able to lobby only in Alberta, or does this happen in other parts of Canada?

MR. LOBERG: From my discussions with the Board and their staff, it in fact varies quite significantly. Ontario is one province that I know the entire air industry is covered under one classification, if I'm not mistaken. In other places, it does vary. In some cases, they're broken out.

MRS. FYFE: So they are paying a rate according to their accident rate within the province of Alberta, solely?

MR. LOBERG: Yes.

MRS. FYFE: Okay. Secondly, you said that your rate increased because of some unfortunate accidents in the Peace River block. I took from what you said that this was prior to six years ago.

MR. LOBERG: No. The bulge was in '78, I think; '78 and '79. Outside of that as well, we had an accident charged against us that was a northern B.C. accident with an Alberta worker. There were also charges against 7-04 out of Cranbrook. But those kinds of transfers take place, and it looks like Rubik's Cube to try to get it all out and clear. But I don't think there's anything peculiar about the Peace River block. I certainly would not want to . . .

MRS. FYFE: No. The time factor is what I was looking at, more than that. About '78, you said?

MR. LOBERG: Precisely. We are such a small group that the bulge becomes dramatic.

MRS. FYFE: Yes. The last question relates to the other operations that are included within your classification, those such as crop dusting which, as everyone realizes, is very high risk. Do we include in that grouping all commercial flyers that are carrying on services for pay, rather than just straight cargo or passenger haulage types of operations?

MR. LOBERG: Are you suggesting — are we looking, for example, at a corporate pilot flying for a corporation? Is he covered in that?

MRS. FYFE: No. I don't think I've worded that question very clearly. I'm sorry. Included in your classification are aircraft operations such as crop dusting. This, as we know, is a very dangerous kind of operation compared to straight passenger flying. When looking at that type of commercial operation, that would increase the assessments you're paying, because of the danger involved. Is that happening in other provinces, for example? If that were taken out, I assume that would change your statistics rather significantly.

MR. LOBERG: In principle it would, although again we're getting back to this business of dividing our way down to the poor peaked roofer. The crop duster is going to have a classification that is so incredibly small that his rate is going to be \$40 per \$100.

MRS. FYFE: Basically, I guess, what I was trying to get at was that crop dusters are included, carriers are included. Who else would be included? No one with a private licence would be included.

MR. LOBERG: Not the recreational flyer. All Canadian Transport Commission licensed commercial carriers are involved within our class 7-04: crop sprayers, courier operators, air photo operators — any business that holds a licence to engage in commercial aviation.

MRS. FYFE: Okay. That's what I wanted to crystallize. Thank you very much.

MR. SKOCDOPOLE: On the fatalities, to show the bulge in our rates, the fatalities in our class: in 1978 there were two, in 1979 there were five, in 1980 there was one, and in 1981 there were none. I think the year of the five — two aircraft hit each other in the Peace River area, and that took care of half our fatalities.

MRS. FYFE: So you would also get forest fire fighting?

MR. LOBERG: Fire suppression is in as well, except if the aircraft are over 12,500 pounds.

There are other anomalies in this as well, in that at one time the classification was whether or not you had a class 4 licence, which was random air taxi flying, or whether you had a class 1, 2, or 3 scheduled operation.

MR. SKOCDOPOLE: That's still in there.

MR. LOBERG: Yes, but they're working on resolving that.

Then the weight category: one of our members in northern Alberta flies a class 3 scheduled flight with an aircraft of under 12,500 pounds. So how should he be assessed? There are several significant problems in their subdivision. In other groups and other organizations, some of our southern Alberta carriers have pilots who fly over 12,500-pound airplanes and under 12,500-pound airplanes, and I must admit that some of them have enjoyed the over 12,500-pound rate on those fellows flying those lighter airplanes.

Another perfect example is that as the air lines lay off people, those pilots migrate back to our types of operation, and are they suddenly a more dangerous pilot? They're the same noble crewmen that the air lines have been painting. That absolutely can-do-no-wrong captain is now flying a Navajo for me, and is he suddenly a more dangerous pilot? Has he lost his stripes? I don't believe that. I think it is unfairly broken out.

MRS. FYFE: If you had a larger aircraft, over the 12,500, would you have to pay the two rates?

MR. LOBERG: I should. That worker would be assessed at that other rate.

MR. CHAIRMAN: But you don't. There isn't a split rate for any of your members? Al.

MR. RUNCK: Mr. Minister, what happens is that they are rated on the basis of the major industry. So if the biggest part of their operation is aircraft over 12,500, that's the rate they get. If, the biggest part is on the smaller aircraft, that's the rate they get.

MR. CHAIRMAN: I see.

MR. MARTIN: I just have a couple of quick points for clarification. Besides the Canadian Transport, are you saying that as a group, the Southern Air Transport Association — and you've had a pretty good safety record — you do other things in terms of safety that go above and beyond the rules and regulations?

MR. LOBERG: Yes. I would suggest that the carriers in Alberta who have chosen to join that association are definitely interested in the overall well-being of the industry. That particular list that's in the back of the brief that we sent you probably lists some of the better companies or better-run companies in Alberta, from my perspective. I'm not saying that companies that aren't our members don't do some of those things either.

MR. MARTIN: Just to follow up, you'd indicated that some of the major accidents have been in Peace River. Is there an equivalent group, if you like, a northern air transport association that deals with northern Alberta?

MR. LOBERG: No. Our term "Southern" comes from south of 60. In the Northwest Territories there is the Northern Air Transport Association, which is carriers.

MR. MARTIN: I see. Peace River — you're right.

MR. LOBERG: Peace Air out of Peace River is our member. That confusion has reigned since we formed our association.

MR. MARTIN: So how many people would you guess would be in a similar business, not including crop dusters? There are 12 members in your association?

MR. LOBERG: Yes. And I think there are about six companies engaged in similar activities that are not yet members.

MR. MARTIN: Thank you.

MR. THOMPSON: Mr. Chairman, I need to get a couple of things clear in my head. On this classification, is that just to do with air crew? It does not have anything to do with service and maintenance people in your industry?

MR. LOBERG: If I get the correct terminology here, we do not differentiate between the types of worker we have in our organization. I pay the same rate for my pilot as I do for my stenographer or my mechanic.

MR. THOMPSON: So it's your total payroll.

MR. LOBERG: That's correct.

MR. THOMPSON: Secondly, on this business of — what do they call it? — rotating-wing aircraft, are they under 12,000 pounds?

MR. LOBERG: Yes.

MR. THOMPSON: But you are not here today asking that they be lumped in with you? You are asking for you to be lumped in with the bigger aircraft?

MR. LOBERG: No. The Southern Air Transport Association's representation to the Compensation Board — and accordingly to your committee — would be that the air industry should be a common industry, and that would include rotary-winged airplanes.

MR. THOMPSON: So you're sitting in the middle, and you'll grab both ends?

MR. LOBERG: It would be very nice if you left rotary-winged out. Their claims are higher than ours. But what I'm saying is that we're back to the peaked roofer guy. You know, we're all in the construction business, so we're all in the aviation business.

MR. THOMPSON: That's all, Mr. Chairman.

MR. NELSON: Mr. Loberg, how do you feel that the accident experience of your organization, with their accidents possibly being different from the major air lines' — who is going to pay for that experience? Your association, or your member that may have that experience? Or do we try to get the larger carriers who may not have any experience in that area to pay the bill for your experience?

MR. LOBERG: What we're saying is that the bulge in accidents in our classification's record, was primarily — if you took out the mid-air, where two of our airplanes hit each other; the statistical possibility of that happening again is reasonably slim, I assure you.

MR. SKOCDOPOLE: The experience in the States is that it's probably more strong that it would be a big airplane involved.

MR. LOBERG: Would hit a light airplane. And that would dramatically change the experience record of both groups. That's my concern.

I dearly hope this doesn't happen, but if an airbus hits one of my Navajos tomorrow at the Municipal Airport in Edmonton, the air lines' track record is going to change dramatically. Not only does it have on board a larger number of workers — and the disaster reserve does make a slight difference in there — but it's probably got on it 30 or 40 workers going back and forth, who are covered under some other grouping who will likely subrogate in 7-04. That's an insurance term; I don't know if it applies to the Board. In almost every case, it has two or more crews who are deadheading back to position for another flight or something. They're on that too.

The enviable statistics that the air lines are claiming right now could change so dramatically overnight with one accident. And they happen. I don't think they expected to have their accident in Cincinnati. Likely they don't expect to have an accident in Calgary, but they might. And that's why we say we've got to broaden the pool.

MR. NELSON: Was a comparison made when the change was made with regard to the amount of flight hours the major air lines might fly, as against the smaller air lines?

MR. LOBERG: For the worker? I guess obviously that would be where you are coming from.

MR. NELSON: I assume that it would be taken on — and I'm only assuming this; maybe Al could correct this if I'm wrong — the number of hours that an aircraft is in the air is what you're basically talking about to a degree. If an aircraft has a deficiency in it, then it's the aircraft, not necessarily one particular person that may be flying it. But the larger air lines, of course, have their airplanes in the air for a considerable length of time. I am just wondering if there was some avenue there that that was taken into consideration when this rate structure was given.

MR. LOBERG: When it was split out, one of the arguments the air lines put forward was that their flight crew did not work as many hours a month. We're governed so that we can't work more than 120 hours per month and no more than an accumulated total of 300 in three months. The heavier air lines say: due to our union agreements, we are in fact working somewhere between 60 and 80 hours a month. That is almost exactly what our flight crews work. During the peak of the oil field activity, our flight crews did work much closer to that 100 hours per month.

MR. NELSON: But what I'm saying is: are your aircraft, in general terms, logging the same type of miles or being utilized as the larger aircraft, and has that been given the same consideration?

MR. SKOCDOPOLE: They're not utilized anywhere near what a large aircraft is used, and I don't think it has been given any consideration.

MR. LOBERG: No. I was thinking of worker risk. In terms of the aircraft, they probably fly 300 per cent more hours than we do on our airplanes.

MR. NELSON: What about your maintenance schedules with regard to similar schedules you might have for maintaining an aircraft, as against the big guys?

MR. LOBERG: The regulation is exactly the same. The federal regulations stipulate they are to be maintained in accordance with the manufacturer's standards. They have the same periodic checks. Heavy aircraft, over 12,500-pound aircraft — although again this DC-3 would be a distinction — the modern-day, heavy jet aircraft are maintained on

what's called a progressive or continuous maintenance program. Our Navajos are maintained on exactly that same kind of principle. There could also be a carrier who would say, I am not going to use a continuous system; I'm going to maintain it every 50 hours and every 100 hours. You could do the same thing with your jet if you chose to do so. But basically the maintenance scheduling system is the same.

MR. NELSON: You've discussed briefly the experience of airplanes going down and one particular case where five people were killed in an accident, but you haven't said anything about other accidents such as with helicopters, where people walk into rotary blades on the ground and this sort of thing. This obviously is part of your experience. Could you possibly enlighten us as to what accident experience in that particular area has happened over the last number of years?

MR. LOBERG: We've asked for numbers on that, or we're attempting to work towards that, and certainly the staff of the Compensation Board haven't refused to give us those numbers. Quite the contrary; we haven't quite got them sifted out. But one of my original contentions was that, off-hand, I would suspect that baggage handlers and ramp pushers and people like that — the only worker claim I've had in my business since I started in 1977 was a pilot walking across my ramp who slipped and fell on ice. That had very little to do with his inherent risk as a pilot. I think there are a considerable number of claims. It appears on the surface, though, that what mounts up the expense are major disability and fatalities.

MR. NELSON: You're here representing the association, so I have to assume that you have other information rather than just the information off your own air line. I guess we need to try to give that due consideration, as in the overall picture, if you want to take these rates and try to compress them into one rate, as to the experience in ground accidents relevant to aircraft. I guess helicopters is one that comes to mind, because I've seen a guy chopped in half with a blade. I'm sure those are the kinds of experiences we'd need to have and possibly can obtain through the Board.

MR. CHAIRMAN: Okay. One more question.

MR. R. MOORE: Just on a point of clarification. You mentioned that Ontario has one classification. Is that the exception, or is Alberta the exception in the provinces across Canada — the way we rate it or the way Ontario rates it?

MR. LOBERG: I think it's about half and half. I could stand to be corrected on that.

MR. SKOCDPOLE: I think Saskatchewan writes one classification.

MR. RUNCK: I believe B.C. has a differentiation.

MR. R. MOORE: B.C. and Saskatchewan have one classification.

MR. CHAIRMAN: Okay. Thank you very much, gentlemen. If there's anything else you may think of after you leave, don't hesitate to drop a letter to us. The committee will be looking at your report and conclusion with all the others.

MR. LOBERG: If I may, one last comment. In fairness to one of my members who couldn't be here, he said that in his representations to the Compensation Board and in all his discussions on this matter, he's consistently raised the point that the commercial air

carriers that Southern Air Transport Association represents are in fact a lifeblood network of carriers within the province of Alberta. We supply the remote communities; we supply the transportation back and forth about the province that the major air lines don't.

MR. CHAIRMAN: One hundred per cent Albertan. Okay. Thank you very much.

Alberta Association of Industrial Safety Councils. While the gentlemen are coming, please feel free to help yourself to a coffee or cold drink. They're provided there. The same to the members of the committee, if you would like to reach for a coffee.

Alberta Association of Industrial Safety Councils

MR. CHAIRMAN: I was going to say you're missing one, but that's fine. There are still three, so instead of in quantity you're here in quality.

MR. DALTON: We have a couple more supporters back there that we could bring in.

MR. CHAIRMAN: Oh, sitting at the back. I see. Your conscience over your shoulder. Mr. Dalton, I gather you're going to be the spokesman.

MR. DALTON: That is correct.

MR. CHAIRMAN: Okay. The Alberta Association of Industrial Safety Councils, and that's Mr. Shortridge, Mr. Dalton, and Mr. Clark. Please proceed. We do have about a half hour. As you're aware, we have your brief. You may want to highlight some areas. Go ahead.

MR. DALTON: If you have the Alberta Association of Industrial Safety Councils brief, on the front of it you will notice a number of companies. You will have noticed a number of the same companies represented on the Task Force brief. We don't intend to belabor a lot of the things that were covered in the Task Force brief; however, we do have some items we would like to highlight, and those are what we will deal with.

We of the Alberta Association of Industrial Safety Councils will deal with the items in our brief one at a time, to clarify how we perceive they can be incorporated or implemented within the Workers' Compensation Act to the mutual benefit of both industry and the Workers' Compensation Board. That's just a bit of a preamble to let you know where we're coming from and what we're doing. We do represent considerable amount of industry in this grouping. With that, I will get right into the items.

Item one, compensation payments. The injured worker, as we say in our brief, should be compensated for reasonable loss of income. Now when we say that, we must look at the average income in Alberta: \$23,000, taken from Workers' Compensation Board figures. With that, the average worker on this base should receive \$400 per week while on compensation, which we feel is a reasonable income to maintain a worker and his family. This is considerably more than he would receive on unemployment insurance, at the going rate of \$283 per week in Alberta. However, we feel that if we are going to injure workers and this sort of thing, he is entitled to the additional. Okay, that is briefly how I cover compensation payments. With that, I will turn to Mr. Shortridge and compensation entitlements.

MR. SHORTRIDGE: We think that to be entitled to compensation the worker must be in the course of his employment at the normal worksite for that occupation. We're having

cases settled where the worker is injured in a campsite, in a recreation room, on access roads, and we've even had a case of a pension paid to an Alberta employee who contracted black lung in Belgium. We have that documented, and yet the Board sees fit to pay a pension. That covers my item number two.

MR. CHAIRMAN: Go ahead. Keep on. We'll possibly ask questions at the end.

MR. DALTON: Okay, we'll come back to questions or whatever after. Item three is pensions. I will now turn to Mr. Clark.

MR. CLARK: We gave a considerable amount of study to this business of a pension with no loss of income or no loss of capability of earning. We felt that if the pension is not paid because there was no dismemberment, outside of maybe a small amount, the employer would probably be more anxious to take this worker back. One of the great problems that faces the Board now — and I say this without fear of contradiction — is that after a worker has been cured of whatever injuries he has suffered and is rehabilitated, a great amount of time is really wasted because of the very few results by the rehabilitative officers trying to get this man back into the work force and employed.

There's a certain class of employers that say: well, you hurt yourself, so to heck with you; I don't want you around here any more. This way the employer hopefully — it would have to be thrashed out further — would be more inclined to say: okay, Joe, come back to work; all is forgiven; there is your job; there are your wages; and you're still a good member of the company. This again would probably save a great deal of time off. The chap may be inclined to come back to work a little earlier. The best therapy — and I speak from some personal experience here — is to go back to work, get back in the normal things of going with your co-workers and exercising your muscles and things until you're fit again.

Moving on to item four, which is going to be an unpopular item with the select committee, we bring up this ugly word "regulations". Regulations or policy — and I'm not mincing words — have to have some real purpose in the Act. If you recall the Task Force brief, they said to do away with section 19(3) and 19(4) in the compensation Act, where it says that if a person has an industrial disease and/or is found dead, it is presumed that that disease arose out of and in the course of industry.

To illustrate what I mean, I'm going to a friendly doctor — not personally — and I have a case of emphysema. The Board, living within the confines of the Act, can presume that that emphysema I have in my lungs arose in the course of industry. It's in the Act. And that also brings out the fact that I may smoke 25 cigarettes a day or whatever. I may work in a welding shop. I scream emphysema. My odds of getting compensation are extremely good. However, we can find no evidence in the American Congress of Industrial Hygienists. We even went to the American Federation of Labor. We looked at the stats and all the research that says that welding fumes will give you emphysema. There is a lot of controversy even among the medical profession on this.

Therefore what we're saying — and it may well be that this man did get emphysema from the work place, which we're not denying — is that we would like to see a vehicle, whether it is a regulation or a policy, that says: in this case, with this supporting evidence, this man is compensable; in this case, with this lack of evidence, he's not. This is one of our real concerns, and we can't get a handle on this sort of thing unless there is a policy or a regulation. To me those are different terms. We have a policy and people live by it, just the same as a regulation, an order, or whatever. But until we have those things, we have a great deal of this gray area. We take part of our valuable time and a great deal of the Board's time fighting or contesting a claim which, with the knowledge we have, the chap may well be entitled to or, with the knowledge the Board has, he may

not. There are no rules. This is why we bring up and reassess this claim business.

Having said that, I'd like to turn it back to Bob. He will talk about a friendly thing, independent operators.

MR. DALTON: In our brief, what we say briefly is that the opportunity for an individual to go to work for himself is one of the cornerstones of our free-enterprise system, and I think we have to live with that. This individual should then have the right and the obligation to state his or her estimated earnings and pay assessment as any other company. If he or she has developed himself into a company, they should be paying assessments the same as anything else.

Leading into that, we feel very strongly that a card system should be put in place with independent operators the same as any other insurance program, where you carry an insurance card showing what you're insured for. These individual operators would be properly registered and treated the same as any other company. They must be made responsible for their own coverage under WCB.

There are a few things that can be done there. They will be obliged to take out an account with the Board based on his or her estimated gross earnings, which he must report for income tax purposes. He has to have those for Canadian income tax purposes. Why not report them to the Board as well when he's taking out an assessment? Once a year, he will present his gross earnings to the Board and have his account adjusted. I think that's fair ball. If he didn't earn as much this year or that year, he can have it adjusted. His rate will be placed in the classification in which he is working. I think that's quite clear. If there are classifications set up, all right; put him in a classification as to the industry he is working in or what industry he belongs to. If he wishes to withdraw during the year, he must still wait to make his presentation to the Board at the end of the year, and that is to cover his complete earnings and everything else which he would be reporting to income tax and be classified the same way. That is my presentation on independent operators.

Now I go back to Joe, who will speak briefly on the advisory council.

MR. CLARK: I'd like to say this before I mention the advisory council: what was said in the Task Force brief — and I had a copy in writing that — didn't come up as what we meant about an advisory council. I'd like to categorically state that the divisions of the Board should not be able to be overturned by another group, because that's going against the basic concept of compensation; nor should people be able to go to the Board and dictate, do this or do that. However, in any democratic organization we still need a system of checks and balances, an advisory council to watch the Board's operation and suggest to the Board what impact — particularly the increase of rates, classification of rates, and the rest — they have on industry as a whole.

I'd like to go back to the occupational health and safety side of the house, where there is an advisory committee to the minister. Although they have the authority even to reverse a decision made by an inspector at the worksite, very few of these come up, not because occupational health and safety have improved their expertise in worksites that much but because of the fact that their bosses know there is an advisory committee that may look over their shoulders. They then have a tendency to take a little more care on the impact of closing that job down, because we're christmas-treing loads, this or that. Most of these things of a contentious nature that come up are really not matters of safety but of interpretation of a regulation or: can we live with this; is it safe, or isn't it safe?

We look at the same sort of pattern put in to meet on a regular basis with the Board, with the minister responsible and just — this is how it's going. I'd suggest that members of this committee be from the legal profession — because we're talking of administering

a legal Act — certainly from the workers, certainly from industry. That would serve that purpose.

The other and last point is this business of safety education, and we're considerably concerned about it. One of the concerns I'd like to address in this is that I have here an amazing document of a chap that was born in 1924. I got the history of all the things that happened to him and the pensions he was awarded: in March 1968, he had a left middle finger amputation; January 25, 1971, a right finger amputation; in July 1975, a neck injury; in March 1981, a neck injury; and in June 1982, back to another finger amputation. During the course of his working career — and he'd been with one company — he also had a 25 per cent hearing loss. Now we have a worker and citizen of Alberta — and, from reading this, he was obviously employed in the wrong line of work and shows a certain basic ineptness on his part. He winds up 53.7 per cent disabled, and apparently there is no one in this industry who has the training to look at it and assess if something is the matter with that fellow. Hadn't we better retrain him?

There is no way this industry can go on the street and hire a safety man, because there is no school or course in the province of Alberta to train safety personnel. So we run into this particular business. If we took just that amount of money — which is now paying him an annual pension of \$9,000 — and invested it in a percentage, we could have at least trained somebody within that industry to say: look, this is part of your problem. Remember, accidents are not mishaps and the rest. To achieve an accident you have to work on it. There is something in the environment that is wrong. We have a limited number of occupational health and safety officers that go out to examine environments. Regulations are how we put environments together. Safety professionals are there to say: we need to train these people; we need to reassess them into some other line of work, or the rest. They are employees in our company — and this man's a reasonably valuable employee; he's making \$25,000 a year — for God's sake, let's do something for him before he's 90 per cent disabled.

This is why we take the stand — the truckers association said: all right, let's take a percentage of the assessment for that industry and use it in an industry-controlled training environment. A carpenter should teach a carpenter. We believe a truck driver should teach a truck driver. A dragline operator should teach a dragline operator. And the facility, because the benefit is to industry, should come from industry and be under the control of industry, to prevent this particular sort of thing.

We're not talking of training safety, which is a motherhood deal; we're talking of surviving in a work environment that is getting more and more complex. The odds of getting maimed are much greater. In the old days when you used a sledge hammer, you could only hit a guy so hard with a sledge hammer. Today on a drilling rig you're messing with a 750 brake horsepower engine. One will maim and kill you; the other should only annoy you.

So we feel that that portion that hasn't been addressed that much in the rest is of great importance. I've been advised by some compatriots of mine in Ontario that the 3 per cent from the assessment of the Ontario Compensation Board that goes to the Industrial Accident Prevention Association, the construction association, and various other groups, is the best 3 per cent spent in the province.

MR. CHAIRMAN: I wonder if we could just try to follow their one, two, three items. Any questions from any of the members on number one? Stan.

MR. NELSON: Not on number one.

MR. MARTIN: As I understand it, they say injured workers should be compensated for a reasonable loss of income. Of course, the "reasonable" is where I'm sure people

disagree. Just to make sure I understand what you're saying, you're suggesting \$400 per week for compensation. I wasn't quite sure whether you meant that for everybody no matter what their salary. You were taking a median, I understand, of \$23,000.

MR. DALTON: That's right. Use the median of \$23,000, which we took right from Board figures for 1981-82.

MR. MARTIN: So are you suggesting it would only be the top limit, the \$23,000, that would get the \$400? What about the person that made \$12,000?

MR. DALTON: The person that earned \$12,000 would not get \$400.

MR. MARTIN: I had a feeling that's what you meant.

MR. DALTON: That's true.

MR. MARTIN: As you know, the limit is now \$40,000. I'll just throw it out. I suppose it is a philosophical difference on what is reasonable. If a worker were making \$38,000, let's say, and he was injured on the job, I would suggest he would not consider that reasonable that he get \$400 per week. So I think it's where you are, in terms of what reasonable is, do you not think?

MR. DALTON: That's true. Reasonable is the one word in that that is a real stickler, and it comes out loud and clear that it is a stickler. But at the same time, I think we have to look at a reasonable ceiling, number one. And looking at \$40,000 as a ceiling, we can't fully agree that it is a reasonable ceiling. As it said in the Task Force brief, which I related to before, we recommend \$30,000 as a reasonable ceiling. Then he would be grouped under a \$30,000 ceiling rather than a \$40,000 ceiling. If he is over that, he would still come under \$30,000 and get it. It's more reasonable for everybody, if you get what I'm saying.

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

MR. DALTON: Great.

MR. CHAIRMAN: Can I just ask you one question. You accept the fact — you recommend that a worker in the lower income would get close to loss of income in a compensation program, yet a worker that is earning above your \$30,000 ceiling should be penalized. Is that really what you're saying?

MR. DALTON: Are we really penalizing them, though? We're giving him a reasonable living, as reasonable as what he could get under any other insurance program or anything else. You see, I think we have to set some limits as to how much . . .

MR. CHAIRMAN: I'm just asking because you pay the whole assessment for the worker in the low income bracket, but in the higher income bracket you believe that the worker's accomplishments, whatever — if he's a tradesman or a skilled worker — should not get full compensation? Is that what the safety council . . .

MR. DALTON: Not to his full rate of pay.

MR. CHAIRMAN: Not to his full rate of pay. Okay. Any other questions on one?

MR. MARTIN: Just the \$400 per week. Are you saying the \$30,000 the Industry Task Force . . .

MR. DALTON: No, we're calculating right here on those figures which we took from 1980, '81, and '82.

MR. MARTIN: So there's a difference there.

MR. DALTON: There is a difference there.

MR. CHAIRMAN: Okay. Number two, compensation entitlement.

MR. NELSON: Mr. Chairman, I think Mr. Shortridge spoke to this. We've heard a considerable lot of representation relevant to non-work-related injuries in camps and other areas, and also one particular presentation in Grande Prairie where that was refuted. I'm just wondering if your organization, as with others, has any substantive information or evidence to substantiate your claim that this is going on. If you do, could you have some representation made by writing at another time to this committee so that we can identify this. It's a word-of-mouth thing, and it's difficult to identify if there was some guy goofing off in a certain time or whatever and he's paid a claim. Certainly I sympathize with the difficulty in dealing with that kind of issue. But I think maybe if we had something substantive, it would be easier to deal with from our point of view.

MR. SHORTRIDGE: What we were asked to do was not to bring up individual cases. We could bring them up without names.

MR. NELSON: Well, if you have a case, number them. We don't want the names. I don't think that's fair ball for anybody. But at the same time, I think we should have something substantive to at least say: yes, this is happening; let's deal with it.

MR. SHORTRIDGE: It is happening.

MR. NELSON: Well, I'm sure it is.

MR. SHORTRIDGE: And we can document it. In addition to that, when we do argue a case with the Board, the Board will say, fine, we will just put that to general accounts and it won't affect your merit rebate — which is fine, but somebody has to pay for that in the end.

MR. NELSON: The taxpayer.

MR. SHORTRIDGE: Right.

MR. NELSON: Maybe you could send some information to Mr. Diachuk's office, and I'm sure he would spread it through the committee.

MR. CHAIRMAN: Maybe.

MR. NELSON: You'd better send it to me, and I'll make sure it gets to the committee.

MRS. FYFE: Would you have any idea what number of claims would come in this area

that are actually not directly on the job? Not the number of claims but the percentage of claims.

MR. CLARK: I can talk of one particular industry we took a hard look at, the drilling industry. Over 50 per cent of the accidents did not happen on the rig floor or on the lease. The lease is the working area around the rig. There were camps; there were access roads; there were pick-up trucks, et cetera. We have this beautifully documented, and we'll be glad to send it to you. This is for fights in camps and that sort of thing. It's within the drilling industry and in the logging industry. It seems that because we have a camp, we seem to carry the responsibility of everything that happens to that individual in the camp when he's off duty. However, if he stayed in a motel across the street . . .

MRS. FYFE: When you talk about on the access roads, that is to and from work? That would not be in the line of duty? Not during work hours.

MR. CLARK: No. If he goes to the village and the rest, because the access road normally runs from the highway to the lease, he belts down the access road, which I suppose is not up to highway standards, but he's a big boy and has a pick-up truck and a bit of John Barleycorn in him, and he writes himself off.

MRS. FYFE: You're saying that 50 per cent are actually outside the work hours, then?

MR. CLARK: Yes. I'm talking of the claims. I'm not talking about the claims in the work hours, because the rig generally works 24 hours a day.

MRS. FYFE: No, but in the worker's work hours. He's working 10 or 12 hours a day or whatever.

MR. CLARK: In the worker's work hours. We're talking about going down the access road, in the camp: these are the places. In fact if some people would look at the Sage report that was generated some years ago, there was a tremendous alleged carnage that was happening in the drilling industry. Did anybody look at the report and find out how many of those fatalities happened in a pick-up truck? But because fatalities were charged to the drilling class, it looks worse than it is.

MR. SHORTRIDGE: I'm not from the drilling industry, but they have been blackened by what I would call accidents that are not occurring right at the jobsite where they're doing their daily tasks.

MR. CHAIRMAN: Gentlemen, if the employer assigns a responsibility to a worker and provides the worker with the vehicle, and the accident is in the vehicle, are you saying that that accident shouldn't be covered?

MR. CLARK: No, no. If you go back to the Industrial Task Force, we talk of a worksite. The OH&S regulations define a worksite by saying it can be the cab of the truck if this is his job and his way of working. I'm talking about if I decide to go out and see a couple of my buddies on the drill site . . .

MR. CHAIRMAN: In his private vehicle?

MR. CLARK: In a private vehicle.

MR. CHAIRMAN: Or off work?

MR. CLARK: Or off work. That's what we're talking of.

MRS. FYFE: Okay, thank you.

MR. CHAIRMAN: Number three, pensions. Ron, did you have a question on two?

MR. R. MOORE: No, on number three, pensions. I think Ray may have had one on two.

MR. CHAIRMAN: Go ahead.

MR. MARTIN: Just on two, because I think it's an important area. For the sake of the other side of it, I suppose, many people would agree with you that there are certainly fights in camps and that. But that could be related to the work. By the the nature of the work, they're put in camps, living together day in, day out. And we all know that that can be difficult for any of us. If they were in another industry living in a motel, as you use it, those injuries wouldn't occur. So there is that thought. I'm sure you've heard that.

For instance, the access road going to and from work: say a company does not put up a very good access road — it's slippery or something — and they have a head-on collision. That again is related to the job. Surely you people have considered that thought to it.

MR. CLARK: We kill more of our people going to and from work on the highways than on the access road. But if this guy's unfortunate enough to kill himself on the highway, we don't have to worry about it. If he goes 100 yards down our road, we're stuck. Now that might be an oversimplification of it, but that's the problem as we see it.

MR. SHORTRIDGE: If I may just twist it a bit, some companies provide accommodation at the worksite — trailer courts and such — right on the company property. They may also allow workers the option of living in a motel in town. Too bad if the employee living in the motel gets hurt. Why should the one living in the camp get better coverage?

MR. MARTIN: It might be if there is an either/or situation. In many camps it isn't like that.

MR. CHAIRMAN: Okay, number three. You had a question on pensions, Ron?

MR. R. MOORE: You were saying that where there's no loss of wages, no impediment to increase wages, no pension should be paid. Now in the majority of pensions, I would say just off the top of my head that at least 75 per cent of those with pensions can go back to work to a degree; maybe 25 per cent of them go back to the same job, same work. And you say they should not get a pension for that, or do you say they should get a lump sum settlement for their injury?

MR. CLARK: I'm saying that this guy goes back to work to the same job — and I have documented in this document \$79,000 pension paid on behalf of one company in one year where there wasn't a nickel's loss of wages. I do not think it is either meet or just that because I have a stiff thumb and have to work back on my machine along with Bob, who hasn't any stiff thumbs, I get about \$287 a month more than he does. And that's exactly what we're talking about.

MR. R. MOORE: Let's go a little further than a stiff thumb. Let's say he lost his foot, and he can still go back to work; he works with his hands. Don't you think he should get some compensation for that? A lump sum rather than a pension, say.

MR. CLARK: Well, that's a lump sum. This is a real different thing we're looking for. Like the man I mentioned to support the argument for training. That man has been working steadily for that firm although, from reading this, he's rapidly running out of fingers.

The big problem — and I think it hasn't really been addressed — is that a man is hurt; he goes through the healing process; he goes through the rehabilitation process, and the majority of time and the bulk of the work of the rehabilitation officer of the compensation Board is to try to get this man employed again. The employer who, I don't know why, has had considerable investment in this worker — he's worked for five years, knows where the lunchroom is and all those good things — won't take him back because he's cost the employer \$20,000 or \$30,000, which is the sum amortized for the pension. Now there isn't just one case of this as a for instance. We can document this well, or you can have a friendly chat with the rehabilitation officers. They will substantiate it.

MR. R. MOORE: Just while I had the floor, I wanted to check Mr. Dalton on another thing he said a few minutes ago that struck me as odd. You said that when we appeal to the Workers' Compensation Board they say: oh yes, that's all right; you really shouldn't have been assessed that; we'll just assess it to the general account, so you're off the hook. Is this a general thing? If you aren't assessable, why is the general account obligated?

MR. DALTON: That's the exact point that we're making.

MR. R. MOORE: It just went by everybody for a moment there, but it struck me odd. Is this what's happening?

MR. DALTON: We've had three of those incidents that I could document.

MR. R. MOORE: Where they say: really, we're wrong; we shouldn't assess you; we'll just put it in the general account? Then the whole industry pays.

MR. DALTON: We've had three of those where we've been relieved from our assessment, and it's been charged to the general fund.

MR. R. MOORE: On what reasoning? If you weren't guilty — let's say guilty or whatever. If you weren't responsible, why is the general account responsible?

MR. DALTON: That's exactly our point. That's what we would like to know: why that is not relieved entirely.

MR. R. MOORE: Didn't you get the answers to that when that happened?

MR. DALTON: No, we didn't.

MR. R. MOORE: Did you ask that question?

MR. DALTON: We even had a lawyer working on it and asking the questions, and we still didn't get the answers.

MR. R. MOORE: Very good. Thank you, sir.

MR. DALTON: Okay.

MR. SHORTRIDGE: On some of the minor pensions that could be paid out, we're just asking that you take a look at what they do in Saskatchewan when they pay them out.

MR. DALTON: The lump sum payout is fine.

MR. THOMPSON: Mr. Chairman, my question again is to Mr. Clark, and we're into this lump sum business. Could you explain to me why you use the exception of the totally disabled worker. Why couldn't he get a lump sum settlement?

MR. CLARK: As we said in our brief, we have no quarrel with the totally disabled worker and all the provisions in the Act. The man cannot go back to work. He's disabled. Anything the traffic can bear should be for him, for his dependants, and so on and so forth. We're not arguing that. I don't believe — and I've had some experience with losing fingers, so I can sympathize with this chap in the back — anybody should pay me any money for my own ineptness.

MR. SHORTRIDGE: Are you getting a pension for that finger?

MR. CLARK: Heck no. I won't go into the circumstances of how I lost it either.

MRS. FYFE: I was going to say, how did you lose the finger?

MR. NELSON: Just very quickly. Regarding lump sum payments, do you feel there should be a ceiling on this, as it is presently at 10 per cent? Or do you feel it should be left open to the option of the worker and the Board to determine whether that worker should receive a lump sum payment, whether it be for the loss of an arm, leg, limb, whatever? Assuming a worker has lost part of a limb and, a year down the road after accepting a lump sum payment, he's fired by his company through ineptness or otherwise. What happens to that worker? A two-barrelled question, Joe.

MR. CLARK: The point is, what happens to that worker is hopefully the same thing that happens to any other fired worker. There is a certain risk in living, and we can't cover or wrap a man in cotton wool from the time he joins the work force till he ends, although it may be a laudable enterprise to do it. There are certain of us that may be unfortunate enough to lose certain parts of our body. Speaking personally, I was always brought up with people that had. My father lost his leg in World War I at Ypres. My mother lost a breast from cancer in 1924. In 1932 my brother lost an eye. Fortunately I went through World War II without a mark on me and, after I put the airplane in the hanger and went out in the cruel world, I found out it was a lot more dangerous than being in combat. But I still do not feel that I as an individual should be treated any better or any worse than any other individual, because none of the things I've lost have had any bearing at all on my ability to get a job, keep a job, get advanced in it, or whatnot.

MR. NELSON: In some cases that's not the whole thing. What about the first part, Joe, the area of offering the worker the option to receive the lump sum payment as against a pension?

MR. CLARK: Well, I think there was a great deal of concern originally in the Board that if you give this chap a lump sum payment of \$3,000 or \$4,000, he will buy a used car, go on a great binge, or the rest, and it is all blown away. Then the man has no income from his accident, and he's blown the money. They said that certain pensions, under a certain effort, should be given in lump sum. Above that, we should let the worker decide, assuming they're big boys and competent. Now this puts the worker, because he always has a friend, in the pub with the other who is an expert and says: if you take the lump sum, you cut yourself off. They kind of look at it as a quick-claim deed in insurance, which is not the effort at all.

We're still saying — and nobody has talked against it. In the Board, there is an enhanced disability fund. That means whether the accident happened to me back in '06 and now I can't use my arm, I can go to the Board to the enhanced fund and get covered in today's rates on that. But the minute we start giving options, and because people get a lot of bad advice — they won't ask their lawyer or clergyman, but they always ask the guy in the bar — they make these wrong decisions. So you're going to make it clear cut, say: all right, the rules of the game are lump sum for . . . ; beyond that, no lump sum, pension because of . . . Now, if I have a scar on my face, 2 per cent scarring — I'm too old to go chasing girls anyway, what the heck. I can always say it's an old war wound.

MR. CHAIRMAN: We must move along here, gentlemen. Possibly you and Mr. Nelson could find time after the day to continue this dialogue you've been into, because we're running behind time. On item four, regulations.

MR. NELSON: My question relates to this regulation. In your comments, you suggested possibly either a policy or regulation. I'm just inquisitive, I guess, insofar as if we were to have a board of people including industry, labor, and people from the Workers' Compensation Board itself, develop a policy with input from all organizations and some agreement, would that not be a better way to go than setting regulations? A policy may be changed with input from the three areas as time goes on, rather than regulating whereby something has to be put through some special area to make changes, and they're very difficult.

MR. CLARK: I have no quarrel with that at all. I said policy and/or regulations, and to me it's a question of semantics.

MR. NELSON: Well, your brief says regulations. When you were giving your dissertation, you did mention policy or regulations. I just wanted to clear that up.

MR. CLARK: We just want a rule.

MR. NELSON: And you want to participate as an industry.

MR. CLARK: Not necessarily. I think someone should participate that can look into industry and say: yes, we can use that guy in industry or this couldn't happen that way.

MR. CHAIRMAN: Okay. Five, independent operators. Any questions? Six, advisory council.

MRS. FYFE: Just quickly. The independent operator that's not contracting his services to one firm but is working contracting his services during the day, maybe doing another job during the night, maybe changing frequently — how would you determine what kind of rate this kind of operator would pay? Would he pay according to the industry he's

working the largest number of hours per year, or how would you determine that?

MR. DALTON: What I've said here is he would pay according to what he reports to income tax.

MRS. FYFE: The class is what I'm talking about. You're just talking about his net?

MR. DALTON: Okay, the class is a little more difficult.

MRS. FYFE: It was the class I was referring to. I'm sorry.

MR. DALTON: The class is a little bit more difficult, because you have just what you say: people that work as a painter today, tomorrow he's a machine operator, and this sort of thing. I think you have to look at where his largest earnings are coming from and where he's being assessed from.

MRS. FYFE: That's what my question is. How would you do that?

MR. DALTON: Then you would classify him. He would have to report to the Board where his largest earnings are coming from. Then you could figure out a classification for him.

MRS. FYFE: Okay. So he's worked a certain number of hours the previous year. You would try to base that this next year. And what about ensuring that he is covered? Would you favor prepayment, then?

MR. DALTON: We like the card system of insurance, where he has to carry a card that shows he is covered for X amount of time this year; he's covered for 1983 to the end of the year. When he reports to work for you, he identifies with the card that he has insurance, and you know he's covered.

MRS. FYFE: And you would see him doing this once a year.

MR. DALTON: Once a year.

MR. CHAIRMAN: Could I just pursue this one question with you, Mr. Dalton? An independent operator only applies for coverage when he requires it. He's not compelled, even if he's in the class.

MR. DALTON: That's right. That's the way it is now.

MR. CHAIRMAN: Why wouldn't you leave it to the independent operator to buy the coverage he wants to? Eliminate all the administration the Board would have to go through to determine what his salary was at the end of the year. That has to be administered, and you have been concerned about the administration costs. Why wouldn't you stay with the original recommendation of the Alberta Construction Association — I'm asking you very firmly — which leaves the option to the independent operator to buy whatever he wants, be it \$10,000 or \$40,000 coverage? And when you refer to income tax, we have an incident just now, that is national news, of non-reported income.

MR. DALTON: Right. Even ministers get caught in that.

MR. CHAIRMAN: That's right.

MR. DALTON: We haven't looked at that.

MR. CHAIRMAN: I have some difficulty with your estimating. If you're estimating the income of an independent operator, you have to have an audit branch to go out and determine what his actual income was. So I'll leave that challenge with you.

Advisory council. Okay. Safety education. Any questions?

MR. MARTIN: Just one quick one.

MR. CHAIRMAN: Go ahead.

MR. MARTIN: It's an interesting way to look at it. I think perhaps it has some merit. You're suggesting that if there are a number of injuries — the term injury-prone is what we're talking about, I suppose. The person may be unfit. If they start to see this happening, not because of the person's motivation or anything, perhaps part of the safety education right within the company, if they had the money, would be retraining the worker, dealing with him, perhaps shifting him over into another area with the company or whatever. Is that the type of thing you're looking at?

MR. CLARK: One of the big problems is that most of the companies haven't the expertise within them. We're talking about the small companies: Joe's Welding, Harry's Garage, the Risky Loan and Finance Company. These people have not the time or the expertise to look for trend, in that safety is a profession as well as any other. Therefore there has to be some vehicle where they should be able to either go to a safety association they belong to for help and the rest, that's funded and that can say: look, this is your problem; this is the fix. That's what we're saying.

MR. CHAIRMAN: Okay, thank you very much, gentlemen. We must move along. Thanks for coming forward. On those couple of items Mr. Nelson and somebody else had asked for, feel free to send it to me. I was just teasing that I wouldn't share it with them. But thanks for coming forward. We must press along with Mr. Kuelker from Kuelker equipment.

MR. DALTON: Thank you very kindly for the opportunity.

Kuelker's Mfg. Ltd.

MR. CHAIRMAN: While Mr. Kuelker is coming forward, I wish to advise the people present that if there's anyone here that has a personal concern, be it an employer or a claimant, I have staff here that will be prepared to respond and look into it. Also if there's anyone that would like to make an oral presentation at the end of the day, we're not in that big a rush to get away for dinner and would like to know if there's someone present. Would you let my secretary know after Mr. Kuelker's presentation?

Clem, please proceed.

MR. KUELKER: Thank you.

MR. CHAIRMAN: Feel free to help yourself to coffee. Go ahead.

MR. KUELKER: Ladies and gentlemen, Mr. Chairman, my reason for being here today actually is to hope to have some small influence on you people to revise the workers' compensation system to a standard that is equitable for all of us. Hopefully we all gain, the worker as well as the industry.

There is a bit of philosophy involved here, I think. Our society is built on free enterprise, and it provides the fuel for the ambitious or eager to work a little bit harder; and for the ones that are in the learning process to run their own business, it provides work, as well as for those that feel a little more comfortable working for others.

So in essence, the workers' compensation system is a fringe benefit, as far as I am concerned. We have certainly come a long way from the dark ages when there was no compensation at all, which left the employee hanging high and dry. But the system has become a little bit too expensive, I believe, for industry to carry.

I basically have a lot of questions to ask you people, and you can give them thought as you dwell on the piles of information that you're hopefully collecting. If 1.6 per cent in our industry, which is the farm equipment manufacturing industry, was good enough in 1972 — and when I say 1.6 per cent, of premiums paid on \$100 of payroll — then why is that not good enough today? After all, I don't believe that inflation increased that percentage. It increased the cost of living and the payrolls, but not to that extent the cost to be paid to the injured worker. Today that is sitting, in our industry, at 4.75 per cent. This raises a number of questions, and of course this is probably why that 1.6 per cent isn't adequate any more to provide the coverage.

Is it fair to the disabled worker that in some instances, he can earn more money being disabled than he would be able to earn while he's working? I think this was brought out a little earlier in similar terms.

Is it fair that compensation for an injured worker has to be paid for life by industry, where otherwise this worker may be retired from that company at an earlier age, age 65 for instance? Is it fair that an injury should be compensated although no earning capability has been lost due to the injury? Is it fair that premium dollars are collected on a higher ceiling than the average provincial payout rate? I am referring to the \$40,000 ceiling versus the \$23,400 payout rate, which comes from the Board's own figures.

Is it fair to have pages of exempt industries as outlined in the general regulations — people that actually employ people but are totally exempted. I would hope that if everybody were to pull on the same string and contribute equally to their risks, this pot would probably not be quite as hard on the upper levels.

Why is it not possible for a slightly injured worker to be used for light duties if both the employer and the employee agree to bring him back for light duties while he is still recovering? Why is not possible for medical records to be had on an employee before we hire him, just so we can substantiate his past history of fitness to work and make a decision on whether this fellow is really suitable for the particular job? Is it fair to make industry responsible for single-vehicle accidents and/or heart attacks in many cases? If you look at the 1982 report, you will find that a great number of deaths were caused by single-vehicle accidents.

This is probably a hypothetical question. Why was industry so unfairly treated in Bill 38, when the medical costs were reversed, again to be paid by workers' compensation rather than Alberta health care, which was outlined in the 1981-82 Act and, if that wasn't enough, to make that retroactively applicable?

The merit rebate system does not necessarily work in all cases. In fact, it works well as long as you don't have any accidents. If you happen to be unlucky enough to have one, the possibility is of one individual company paying for a great share of that award that is maybe made after the accident, out of their own pocket. Is it fair to collect 100 per cent of premium dollars, as is in the merit rebate system, and then the Board pays back a

portion of that seven or eight months later, without interest paid, at a time that pleases the Board?

The next one refers to a decision made back in mid-1982, to limit the premium increases to certain industries that may be hard struck. What I am really asking is: is it fair for the department to decide that a \$5 premium is high enough to warrant special attention or a reduction in premium, whereas \$4.75 is not? For that matter, is 30 cents high enough to warrant that special attention? Discrimination is what we call that in some areas.

Is it right that the industry alone has to make up the losses in receivable assessments that the Board cannot collect? We are talking about \$1 million that the 1982 report writes off in uncollectable assessments. Obviously the people have gone out of business, left, went bankrupt, or whatever the case may have been. But why should the rest of industry take care of that? Why should society not take care of that? Has society not played a role in maybe putting this fellow into bankruptcy?

Going through the 1982 report, these are really the questions that I have in mind. I think this is part of the reason the costs went so dramatically high from 1980 to 1983. I have been in business since 1959 and have never really worried about the workers' compensation system. I think it was about three years ago when I first became interested, when the dollar figures kept going up and up and there didn't seem to be any satisfactory answers coming forth at all. In my mind, the 1980 select committee hearings hopefully would have corrected most of these things, without my making an appearance. Obviously that didn't happen; it got much worse after that.

I think in my letter to you people, I indicated that the time it takes to run your own business is almost all a fellow can handle without playing watchdog over government agencies of this nature, and I hope you appreciate that. The net profits that have been generated in our industry over the last four or five years are not such that we can afford to make these types of assessments. I am not bashful about saying that our net take is somewhere in the range of 3.5 per cent to 5.5 per cent in the better years, 1980 and 1981. We are way below that now. I believe a 5.5 per cent return on sales in that type of effort is not exorbitant, but the workers' compensation premium alone in 1983 takes care of 1.6 per cent of that figure, in my instance. So these are the reasons that I am here today.

MR. CHAIRMAN: Questions?

MR. R. MOORE: Mr. Chairman, if I could go to one of the WCB staff for clarification on that discrimination statement. I wasn't just quite clear on how that worked.

MR. RUNCK: I am not really clear on the point he's making.

MR. CHAIRMAN: It is the direction the Board received from Executive Council in the middle of '82 for about five classes. These were the classes that made representation to government that they were facing extreme hardships. The direction was given to reduce the increase in the rates for 1982. It wasn't the WCB.

MR. KUELKER: No, I didn't say it was the WCB; I simply said . . .

MR. CHAIRMAN: It wasn't discrimination; it was looking at the industries that were hardest hurt, and it's always that way. Clem, you well know that if you were at a social and were the more unpopular dancer, you wouldn't be discriminated against; you were just not chosen to dance.

MR. KUELKER: I can't accept that explanation.

MR. CHAIRMAN: Not all classes that had a high assessment received the reduction. Some of them didn't have an increase for '82; therefore they didn't receive any reduction. You're aware of that.

MR. KUELKER: My information, which is as well the Board's information, is that for certain selective classifications that were over the \$5 premium to begin with received a direction not to increase it any more than 15 per cent. I stand to be corrected if that was not so.

MR. CHAIRMAN: That was this year's direction, for 1983.

MR. KUELKER: Yes, I'm sorry. 1983.

MR. CHAIRMAN: Yes.

MR. R. MOORE: That question was just for clarification.

MR. CHAIRMAN: Al shouldn't have responded to that.

MR. R. MOORE: Sir, you related to the life pension coming on at 65: should it be reduced by the amount of their old age pension, and so on. The question you asked in the next one was, is it fair for a pension to be paid when the ability to earn isn't impaired? Do you relate that on the same basis as if the ability to earn is not harmed — is the same as before the accident — his pay be reduced by the amount of the pension, so he ends up with the same pay?

MR. KUELKER: No, I am simply saying that if his ability to earn has not been impaired — not necessarily only in the particular industry that he's working in, but that he still has the ability to work in any other field that he chooses — this man should not be receiving compensation for his particular injury, outside of the rehabilitation and medical costs.

MR. CHAIRMAN: Very well. Mr. Kuelker, thank you for coming forward. You don't have your points written out, do you, so that in time my staff could take a copy of them? We were copying, every one of us.

MR. KUELKER: I was hoping that you would have tape recorders here and have it printed in Hansard afterwards.

MR. CHAIRMAN: It is, but I thought you would have it. That's fine. We'll depend on Hansard. Thank you very much for coming forward.

Canadian Organization of Small Business

MR. CHAIRMAN: We must press on and ask Mr. Horigan and his colleagues from the Canadian Organization of Small Business to come forward.

We have about a half hour for the time. I know we've exceeded it for others. We'll accommodate you the same way. I hope some of the people will appreciate the fact that we've shared collectively the important item we're on. We did not have the benefit of your submission ahead of time.

MR. HORIGAN: Did you not get . . . I dropped one off. A letter addressed to you was dropped off at the office.

MR. CHAIRMAN: Which one?

MR. R. MOORE: It's under number eight.

MR. CHAIRMAN: I see.

MR. HORIGAN: That's just an overview.

MR. CHAIRMAN: That was a note.

MR. HORIGAN: We had intended to have some of our members present here today to address their specific concerns. As so often happens with small business owners, crises arose in all instances. Fortunately they had given us letters here, which we'll be referring to.

How would you like us to handle this? I assume you've had a chance to go over my letter to you, which covers the basic concerns.

MR. CHAIRMAN: Yes, we have. But your additional submission — maybe you wish to highlight that.

MR. HORIGAN: Yes, that's what we'd like to devote this time to.

MR. CHAIRMAN: Please proceed.

MR. HORIGAN: The first is a letter from Kipp Scott Pontiac-Buick here in town. If you'll note there, Mr. Scott's concern is that in three of the four years that he's given his figures for, he's received the maximum rebate on his premium payments. In each instance, he's had roughly 80 employees per year. There's been no increase in employees. Yet his premiums have increased from \$16,575 in 1979 to \$26,680 in 1982. I believe that works out to about a 60 per cent increase.

MR. CHAIRMAN: Would you have an idea to share with us as to his average income? What is his range of salaries for the employees?

MR. HORIGAN: I don't have that, unfortunately. I'm sorry he's not here to answer that. I imagine it would be on the high side. I imagine the car salesmen, the mechanics, and so forth, are getting a pretty good rate. But we can get that information for you.

The second is a letter from PERMA-CLAD EXTERIORS. He's concerned with this problem of independent contractors. I gather, from comments some of the other people made, this has been discussed here. In 1982, he had between six and 15 people working for him as independent contractors but paid no compensation premiums for them. His premiums for the year were \$3,000. The fourth page has some listing of payments made, and you'll see there the 1982 summary: \$3,000 paid. The law was changed effective early in 1983 . . .

MR. CHAIRMAN: January 1, 1982.

MR. HORIGAN: With respect to independent contractors?

MR. CHAIRMAN: Yes.

MR. HORIGAN: His premiums have gone up. He will have paid \$18,000 this year. He has \$3,600 owing before the year end. In other words, there's \$21,000 that he will have paid; \$18,000 paid to date. That's \$18,000 out of his cash flow. It's a major concern to him; it's a major concern to any small business that is faced with his situation.

He's listed a number of questions here: concern that where these independent agents, or siding people, work for more than one company and an accident occurs, on whose record does that show up? In other words, the agents are independent agents. They often work for a number of suppliers, and when they're out on the job site, it's a question of which supplier they're working for. If the supplier or the contractor is responsible for the workers' compensation, how do you decide on whose record it goes? It's a question that he's raised.

He's also wondering why the independent sales agents, who are responsible for their own unemployment insurance, Canada Pension Plan, and income tax, are not responsible for workers' compensation.

MR. CHAIRMAN: I do notice, Mr. Horigan, that he does suggest that they not be in the same class — at least, that's the tenor of his presentation — that the rest of the industry is in. Does he suggest that we establish a separate class for independent contractors?

MR. HORIGAN: Yes. This is what he's suggesting: independent contractor as opposed to ...

MR. CHAIRMAN: To the rest of the class that employs workers.

MR. HORIGAN: Yes.

MR. CHAIRMAN: Okay.

MR. NELSON: Mr. Horigan, I don't know if you were here a while ago.

MR. HORIGAN: No, I wasn't.

MR. NELSON: I thought you came in late.

MR. CHAIRMAN: No, he came in on time — 2:30.

MR. HORIGAN: I'm sorry. I wish I could have heard some of the other presentations.

MR. NELSON: Just on that point, if I could interrupt. Relevant to the issue of these independent people having workers' compensation and possibly paying for it independently as private contractors, as we've gone through these hearings there's been some suggestion — and it was again brought up today — of having a card system set up whereby they would have a card and show it to the general contractor to ensure that they have compensation on themselves, rather than putting the load onto the general or whatever.

MR. HORIGAN: Right.

MR. NELSON: Would this be in line with what is being suggested here? Or is that a thought that you might be able to progress on?

MR. HORIGAN: I'm going to refer this to Mr. McCambley. He is, by the way, our member services representative for the Red Deer area. He's the one that has the contact with our members here. I'm not that close to Mr. Scott in this case. Possibly you can answer it, possibly not, Dalt; I don't want to embarrass you.

MR. McCAMBLEY: The circumstances are that the individuals are considered in their industry as independent business people. When they approach a particular customer to sell them the siding, as an example, in a renovation, they may be representing four or five different companies. On that basis, they in turn — how they're able to complete the sale, that's the individual company they deal with for that particular contract. But they have no particular allegiance to that company. Consequently what Mr. Scott is suggesting is that they should be treated as independent people in business in their own right, with the option to carry the workers' compensation if they wish, or the option not to.

In a similar fashion — and as an example, he uses an insurance salesman or a real estate salesman who, in effect, are in the same circumstance as far as the risk is concerned — the sales rep's only contact with the customer is possibly measuring up the contract to determine what the estimated price would be. So what he's suggesting is not a card system or a deduction.

MR. HORIGAN: If I understand correctly, we're not talking about the installers; we're talking about the salespeople. These are salespeople.

MR. NELSON: What about the installers? Are they going to be protected, and how would they be protected? For example, would PERMA-CLAD EXTERIORS protect them, or would the person who is subcontracting this job pay the compensation?

MR. McCAMBLEY: If the job is subcontracted, then it would be the subcontractor who would cover it. If, as an example, it was an employee of PERMA-CLAD, then the installer would be covered by PERMA-CLAD.

MR. NELSON: If he has an independent operator or a subcontract, and the person who installs it is an individual who does not have his own company and does not have employees working for him, how would you suggest they set up a system where that person has workers' compensation coverage or a card? Or should he be covered by PERMA-CLAD? Someone has to cover him.

MR. McCAMBLEY: I would think that at this particular time, the experience with PERMA-CLAD would be that they would not be subcontracting that work out or, if they were, it would be to another limited company. In most instances, I would find that the actual installation would be done by them, by an employee who is presently covered under their own workers' compensation.

MR. HORIGAN: There is another alternative and, of course, that is to carry private insurance. We're now starting to recommend this to our members. We have a new group benefit plan, and I've been told by the insurance agents that are handling this that an individual can save as much as \$1,500 a year in premiums. I guess that would be someone that's at the upper end of that — you know, the \$40,000.

MR. NELSON: I've seen it. I'm a member of the association.

MR. HORIGAN: That's an alternative that we would like to see very carefully explored; in other words, get away from the government involvement. Let us take the responsibility to carry whatever limits we want on disability insurance.

MR. CHAIRMAN: You are aware of the trend south of the 49th parallel, where a lack of state government programs has been identified and a growing number of states every year are entering into it because of the lack of the private sector response. So often we quote, Mr. Horigan, how good things are there. But I wonder if you're aware that the most recent national report points out just the opposite of what you're saying.

MR. HORIGAN: I can perhaps supplement what you're saying. I believe you and I discussed this in a private meeting. I sat in on some meetings that were held down in Toronto several years ago. It was pointed out there that the cost of litigation in the States takes 30 or 35 per cent of the premiums, I think. Of course, with workers' compensation you don't have that cost.

But I still say that we're in difficulty. As you probably know, Mr. Alexander has this standing committee of the caucus that's looking at the whole question of regulation. We're grossly overregulated, and it's a major factor in the lack of competitiveness of Canadian businesses. Somehow we've got to get back to more responsibility for looking after ourselves and stop looking to some third party to do what we should, in our interests, do for ourselves. That was my major point. Whether it's being done or not, I don't know. There was that float in the paper, Mr. MacGuigan quoted here recently, about the . . .

MR. CHAIRMAN: I'll send you a copy of the August 1983 publication . . .

MR. HORIGAN: I'd appreciate that.

MR. CHAIRMAN: . . . that points out that there is a continuous growth of the state funded because of the dissatisfaction with the private insurance.

MR. HORIGAN: It could be. But there's another reason there, of course: it's in the interests of the people in government to extend the safety net.

MR. CHAIRMAN: No, it isn't. I hope you don't mean that, Mr. Horigan. It's in the interests of governments in the States and here to . . .

MR. HORIGAN: I do sincerely. Each of us acts in a way that we see best serving our self-interest. In business, the customer is the final judge of whether we're doing a good job or not. That's not true in government, particularly in the civil service. In one sense, civil servants are rewarded for failure. I remember sitting in on a meeting of the Canadian council on social development in Ottawa. They're concerned about poverty, and they were talking — they'd just come back from Jasper Park Lodge; they'd been overseas. I made the statement — and was very unpopular in making it — that I was getting the impression that I was the only one around this table who has a real interest in getting rid of the poverty problem, because if you get rid of it, none of you is going to be able to carry on as you have been.

This is no disrespect to anybody in the civil service. I've got a lot of friends in there; they're very dedicated people.

MR. CHAIRMAN: You're going to have fewer, if you keep saying that.

MR. HORIGAN: That may be.

MR. NELSON: Too bad.

MR. CHAIRMAN: No, it's not too bad. I really question that statement, Mr. Horigan. And because the press is present, I must say that the ratio of the claims that finally end in appeal at the Board level is less than 1 per cent. That must mean they're doing a very good job.

MR. HORIGAN: It could mean that. It could also mean — we had a meeting with Mr. Young here a few weeks ago, and one of our members had been accused of something violating . . . I don't know whether it was labor standards or labor relations. There were a couple of hundred dollars involved. He looked at what it would cost him in legal fees to fight that and decided it wasn't worth it. He felt he was right. It was one of these nuisance things, and there's a lot of that going on. We're hearing more and more of this, where people are taking advantage of the system as it's set up to harass the employer, if you will. The fact that we couldn't get our members out here today — they're very concerned about what's happening. I wish they could be here to answer some of these questions. They couldn't be, because they've got to give priority to running their business.

MR. NELSON: Mr. Horigan, I'm one of your members, and I can help you a lot.

MR. HORIGAN: Good.

MR. NELSON: I won't do it here.

MR. HORIGAN: You'll be getting a call. We had a meeting this morning with a number of our members here in town who've got some concerns in another area. It's Consumer and Corporate Affairs, both federal and provincial. We're going to be getting involved in that.

You've got three levels of government; you've got many departments in each level, all of whom impact on us, if you will — the poor little guy or gal that's trying to run a business and having an awfully tough time. If you should get lucky and win, then our big brothers in Ottawa come in and chop your legs off.

MR. CHAIRMAN: But, Mr. Horigan, we're dealing with workers' compensation, where my office daily sees the injured workers.

MR. HORIGAN: Right.

MR. CHAIRMAN: I still believe nobody wants to get injured.

MR. HORIGAN: There's some question about that. I don't feel they do, myself. I can't accept that somebody would deliberately have an accident. I've been told by our members that there's a suspicion . . .

MR. CHAIRMAN: At the same time, I can say that I have yet to meet an employer that wanted to injure a worker.

MR. HORIGAN: Right.

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Workers' Compensation Act and
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MR. CHAIRMAN: So that's why we have this program here, to look after the claims.

MR. HORIGAN: I've known employers that I've worked for that didn't fall into that category.

MR. CHAIRMAN: I hope they're not members of your association, then.

MR. HORIGAN: I hope not, either. They were south of the border.

MR. CHAIRMAN: Go ahead, Ray.

MR. MARTIN: Are we going through? Because we're getting into philosophical discussions, as Mr. Horigan knows.

MR. McCAMBLEY: Did I clarify that point for Mr. Nelson, that it's the sales agents who are working independently?

MR. NELSON: Yes.

MR. CHAIRMAN: Mr. McCambley, what you're saying is that one of your members would like to have the least-risk work force removed from compensation; only keep the ones that are in the higher risk. That can apply to any employer that's compelled to have workers' compensation.

MR. McCAMBLEY: Except the extenuating circumstances there are in many other businesses, where these people supposedly classified as employees for workers' compensation only in this circumstance are actually independent business people who, in effect, are working for five other companies.

MR. CHAIRMAN: Yes. The independent business — we've been wrestling with this since . . .

MR. NELSON: He's not talking about an employer/employee relationship; he's been talking about an independent guy.

MR. CHAIRMAN: You referred to Kipp Scott.

MR. NELSON: No.

MR. HORIGAN: No. Excuse me. PERMA-CLAD is also Scott; it's another Scott. Patrick Scott.

MR. NELSON: Mr. Chairman, maybe I can help this little matter here, if I can. It's not an employer/employee relationship, with the salesman selling the exterior content of whatever is to be put on a home of that nature. What he was talking about — and I picked this up when he was giving his explanation — was that there's a sales guy out there who's working independently, selling siding to homes for five different people. Whoever he's selling for is trying to determine who would pay compensation if he gets injured, and what the consideration is to take him away from that and make him an independent businessman so that he has his own compensation payment himself. I think that's what you're saying.

MR. HORIGAN: Yes, that's it.

MR. CHAIRMAN: Yes, and this was what the committee wrestled with in '79. There was such a proliferation of independent operators that it got to the most ridiculous state, where a woman was contracted to clean new houses, provided with the mop, the stepladder, and everything, and told to go get her number. You and I must wrestle with it. Is she an independent contractor? The complete equipment is provided, as we've had examples used for us, in the logging industry. They provide him the chain saw, the direction he goes to work, and say: now you're an independent operator. That was why we tightened up.

I'm sharing this with you because I'm confident that our government, and no doubt the opposition, want to see the independent business philosophy continue to grow. But it was the other abuse that was taking place. That's why we tried to tighten them up. In my discussion with you, Mr. Horigan, I assured you that we're going to look at this independent operator. However, as we all sit here, whatever formula we come up with, there'll be somebody still caught in the net.

MR. HORIGAN: The old phrase one of my friends used was: you don't understand the system until you can beat it. That's human nature.

MR. CHAIRMAN: Any other questions on the presentations?

MR. HORIGAN: The third one here from DACCA SALES. Carol deals with a point we made in our letter to you: the increase in cost. She apparently had been in touch with you, and you had put the onus on inflation, which is obviously a factor. But unfortunately, the more regulation and the more generous we become, the more we add to inflation.

The balance of her submission here and a major concern — and as you see, she's addressed this not just to workers' compensation but to municipal and provincial licensing, Consumer and Corporate Affairs, municipal, provincial, and federal taxation — is the number of people that are in business and yet not being subjected to the rules and regulations of being in business: the gypsies, or whatever you want to call them; the people that are operating out of their garage. She says she tries to operate according to the law and feels she's paying a penalty for doing this, because of all these people that are operating outside the law.

Her question is: if there were an economically viable mechanism to make sure that everybody that was in business was abiding by the same laws, then it would mean less of a burden to the people that are now law abiding.

MR. CHAIRMAN: As she indicates in the letter, I visited her place of business. My only comment to that is that even the traffic police don't catch all the speeders. This morning, driving to Red Deer — and I'm sure you drove — I was passed by many vehicles, and I thought I was travelling fairly fast myself. We can't have enough police, and the same thing with this.

I think that to criticize that there are people working outside the law . . . We know that every so often the WCB has to send out a team of people to try to canvass a certain industry — they work from the telephone books — to see if they are complying with the law. Nobody reports them. And yet when they do visit them — and they might be your members — they're up tight about the fact that they're visiting them and wanting to know what their payroll is, to see if they should have been carrying workers' compensation. That's the difficult part.

In the criticism that there are many people and she's penalized because she's an

honest business person, my apology to her. Sometimes that's what we have to pay for being honest, but at least we don't have to look over our shoulder at our conscience.

MR. HORIGAN: That's right. We can look in the mirror when we shave or powder our nose.

MR. CHAIRMAN: She doesn't shave.

MR. HORIGAN: She powders her nose.

It's unfortunate. We can hear continuing rumbles that more and more of our economy is going underground, which I think is what she's talking about here. Possibly someone gets laid off from work and so they figure out a way to put a little bread on the table, but maybe they're skirting the law or outside . . .

MR. CHAIRMAN: Municipal by-laws and all that.

MR. HORIGAN: Yes, you're right. The answer is to make sure that we ourselves are doing what should be done and, the more of us that do that, the less need there is for this other.

MRS. FYFE: Just in the third paragraph in Mrs. Gagne's letter, she's made the comment that certain individuals are not taking responsibility for their own actions and, as a result, are looking for a paid holiday or an alternative to UIC. I assume that she's aware that she also, as an employer — or any other employer — could appeal a decision that comes from the Board, and I think often this doesn't happen.

MR. HORIGAN: Again, I've brought that up with some of our members. I serve as ombudsman for our members. If they have a problem, they're supposed to get in touch with me, and I will point this out to them. It's the time they have to take away from the business. They're reluctant to do it, even though it's in their own best interests to do so. It's part and parcel of the overall problems, one of the things we'll be discussing with Mr. Alexander in looking at the whole regulatory process. There is no easy answer to it, other than the one that Mr. Diachuk just gave us: that the onus is on individuals to behave themselves, if you will.

MRS. FYFE: As a committee, it's often difficult to deal with generalities.

MR. HORIGAN: Yes, I appreciate that.

MRS. FYFE: If there are specific cases where there is an abuse, really the onus is on the person or persons within society who are aware that there's abuse, to report it. The income tax department relies heavily on this kind of reporting in order to proceed with investigations, and this program must also rely on information that's given to it. If an employer has information, there is an onus for him to provide that.

MR. HORIGAN: Yes. Another problem we have there . . .

MR. CHAIRMAN: If I just may, Mr. Horigan. In addition to what Mrs. Fyfe has just said, the 1982 annual report indicates an increase — Al, have you got the 1982 report there?

MR. RUNCK: Yes, I do.

MR. CHAIRMAN: I think it's an increase from 500 or 600 appeals to the Board to over 1,000, which means that employers have been appealing decisions of the Board. The Board can only weigh both sides if the employer — and I would hope your association continues to communicate to the members that if there is a claim they're questioning, let the Board know.

MR. HORIGAN: Right.

MR. CHAIRMAN: What were the numbers?

MR. RUNCK: They went from 650 in 1981 to 1,045 in '82.

MR. HORIGAN: I'd be curious to know how many of those would qualify as owner-managed businesses, as opposed to . . .

MR. CHAIRMAN: Employer initiated?

MR. HORIGAN: As opposed to what I would call big business. One of the problems, Mrs. Fyfe — I think I may have put it in my letter to Mr. Diachuk — is the pro-employee or pro-consumer bias in so many of the government boards and agencies. If you look at the composition of the Labour Relations Board, for example, there's only one individual on there who is a true employer. There are employer representatives, but they're on the payroll. They're not the people that sign the pay cheques. It does make a difference in your perception — those little diagrams I gave.

MR. CHAIRMAN: I'm just looking at some of the gentlemen that were here earlier, who are sitting around here. They would take issue with you on that, because they are employer representatives and they made a fairly hard case here.

MR. HORIGAN: Good. I'm glad to hear it.

But consciously or unconsciously, that bias exists. We just received from the Human Rights Commission a copy of the new proposed guidelines defining physically handicapped or characteristics. I was able to point out quite specifically where this bias exists. The employee has no onus, other than his word, to say he's fit to do the job; the employer has to go to considerable lengths to prove it. In coming before the boards, I know our members are very concerned that they not going to get a fair hearing, and it's not because the people on the Board are not trying to give them a fair hearing. It's just that they have not been in that position.

MR. CHAIRMAN: That's why you're assisting them.

MR. HORIGAN: That's why we're trying to speak for them. But, you know, we can only — I wish we could get more of them to speak for themselves.

MRS. FYFE: You may wish to put forward the name of a person that may be interested in serving on the Board as a representative, because that will be coming up also.

MR. CHAIRMAN: I did share at one of the other hearings that there's always an elected MLA that your business member can appeal to. They don't all have to go to . . .

MR. HORIGAN: Oh, yes. We keep telling them: you elect these people to represent you; if they don't hear from you, don't complain.

We did have one other one. I don't have it here. That was this question of first-day responsibility, and one of our members was putting together a little presentation on that. He got called down to Calgary, and we suspect he's got it in his briefcase. If you would be interested, we can send it in to you.

MR. CHAIRMAN: Send it in. Just for clarification, the last report recommended that for the first three days, the worker remain on the payroll of the employer. We pulled back and only had the day of the incident, at the employer.

MR. HORIGAN: Right.

MR. CHAIRMAN: We are getting some representation from employers to take a second look at the first three days again, or some. Some have even suggested 30 days no compensation; however, I just leave that with you. We'll welcome the additional information if it's sent in.

MR. McCAMBLEY: One comment in relationship to that particular point. Would it be viable, as an example, for the employer to request a doctor's certificate for that first day, or otherwise not compensate the employee?

MR. RUNCK: Mr. Minister, when the doctor completes his report, there is in that same pad a certificate for the doctor to complete and give the worker to bring to the employer.

MR. McCAMBLEY: Even if he's off only one day?

MR. RUNCK: Yes. The certificate is there.

MR. CHAIRMAN: It was also referred to in the report that in order to pay the worker the day of the accident, the employer could be entitled to a verifying note from the doctor. We didn't use the word "certificate", did we, Al?

MR. RUNCK: A report. But it's in the Act. The Act gives the employer that right to ask the worker: you've been to your doctor; he said you were disabled for a day; I need a report confirming it.

MR. McCAMBLEY: Okay. The area of concern seems to be the long weekends, the Fridays.

MR. CHAIRMAN: That's more than a day.

MR. MARTIN: I would be interested in your private insurance, if we could get that for information. You don't have to do it right here, but if we could get that so that we could take a look at what it's offering and compare.

MR. McCAMBLEY: Right.

MR. CHAIRMAN: You can send copies of the pamphlets in with the other.

MR. McCAMBLEY: Well, Lew Warke is handling it, the Warke Agency in Edmonton. I'll get Lew to have one of his people get information to you.

MR. MARTIN: Okay. Thank you.

MR. CHAIRMAN: Good. Any other questions?

Thank you, gentlemen, for coming forward. We'll look forward to the additional information you'll be sending us.

I wonder if we could have a 10-minute stretch here while the Oilfield Contractors Association is getting ready, a seventh inning stretch.

[The meeting recessed from 3:30 p.m. and resumed at 3:40 p.m.]

Oilfield Contractors Association

MR. CHAIRMAN: Mr. Kennedy and Mr. Clements, which one of you — the fellow with the short hair or the gray hair — wants to be the spokesman?

MR. CLEMENTS: The youngest one.

MR. CHAIRMAN: The youngest one.

MR. CLEMENTS: I'd like to introduce some of my colleagues, Mr. Diachuk, and express my appreciation for allowing us to attend this meeting and express our views. Tom Priddle is the manager of our association, the Oilfield Contractors Association of Alberta. Next to him is Paul Martin, the general manager with Marsh Head Construction. Next to Paul is Fred Schoenroth, who is the operations manager for Braidnor Construction. Lyle Kennedy has been working with the Industry Task Force on the WCB, and he is the vice-president of projects for Flint in Calgary. I'm Doug Clements, the president of the Oilfield Contractors Association and the general manager of SRB Pipeline Industries.

Rather than go through the points we've made in our written submission — you have it in front of you, and we'll certainly leave it with you. I suspect that a lot of our concerns have already been voiced to you. We would certainly like to emphasize those again, but we don't want to take up a bunch of extra time and plough furrowed ground.

MR. CHAIRMAN: You did explain your association's involvement. But for the benefit of everybody, could you just elaborate on your membership, 100-plus contractor member companies?

MR. CLEMENTS: Mr. Diachuk, that figure of the number of companies was taken pre-NEP. Since then, we've lost some members. However, we currently represent people in the small-inch pipeline industry, the general oilfield construction industry — building gas plants, compressor stations and so on — and road and lease builders. We represent employers who employ upwards of 35,000 people in Alberta. These are everything from truck drivers to roustabouts, project managers; you name it. We're general oilfield contractors. Generally we're much smaller than, say, Banister. Although we represent companies that may have as few as three to five employees — Lyle works for a company, for instance, that currently has 1,000 people on the payroll. So we do represent a fair number of people in this province. Are there any questions about our association?

MR. CHAIRMAN: No.

MR. CLEMENTS: As an association and individually in our companies, we do recognize

the need for the Workers' Compensation Board. We know employers are prepared to pay for a fund for this function, as we do. We recognize the need for it morally, I suppose, or philosophically, but also financially. We know we can save money by working safely, so we are committed to the concept of workers' compensation and the insurance program that is run by it.

Further, we as an association have indicated our commitment to safety by applying for and being successful in obtaining a grant from the occupational health and safety department to devise our own video safety program. Some of our companies aren't strong enough to have their own safety people, so as a group we are currently developing — we've just finished the first three modules of the safety program, which we will make available to our members and which can be shown right on the jobsite with the portable video pack prior to any pipeline job or plant job we have. We have put the work into this ourselves, through the association. A lot of people have spent a lot of time and money developing it. But without occupational health and safety, of course, we wouldn't have been able to get that far.

Another indication of our commitment to safety and our interest in workers' compensation is our involvement, in terms of time as well as money, with the Industry Task Force. I believe you gentlemen have heard their submission. We were involved in the consensus that came about as a result of all the work we did.

Our main concern, I suppose, is that we don't feel our money is being spent very wisely. We feel that quite a bit of waste is going on. We recognize the need for this insurance scheme, which is what it is. It should not be an instrument for social welfare at all; it should be an insurance scheme. We also feel that since we do fund the thing, we should have some input in some of the decisions that affect the way our money is spent. We feel the Workers' Compensation Board should be more accountable to industry. I believe how this can be achieved is outlined in the Task Force submission.

We are also concerned that the employer — the word "discrimination" was mentioned, and I think that to discriminate means to recognize differences. Certainly we're all clever enough to recognize differences; I'm not trying to use it in a derogatory fashion. But individual employees as well as employers should be responsible for their own safety. They have a commitment to work safely, as much as we have a commitment to provide safe tools and equipment for them to work with. I've seen some figures on back injuries. It sometimes seems that with the \$40,000 ceiling, workers are rewarded for working unsafely. If that happens, the system sort of encourages deception on the employee's part.

A mention was made earlier of the single-vehicle accidents. We've also had instances occur in our industry, where a company truck perhaps was driven into a ditch and somebody injured or killed at 12:30 in the morning while the individual was ostensibly on his way home from work. He made a slight five-hour stop at the local tavern, and then continued on his way home. Workers' compensation paid for those injuries he got. Our contention is that the individual should be responsible for his own actions as well.

Another of our concerns is that some settlements appear to be random. They seem to come out of the sky. We're not aware of the guidelines the WCB has with respect to a lost finger, perhaps, or an arm, a leg, or something. The private insurance companies have a schedule they follow, and an arm is worth so much, and so on and so forth. We would like to be made aware of what guidelines, regulations, or policies the WCB has so that we have some idea of what's going to happen, what we'll be up for in terms of our costs.

The main point we were concerned about and mentioned in our written submission was the single proprietorship, which has been dealt with. That particular item affects our members particularly, because we hire a number of owner/operators who have their own track equipment, perhaps, or they're welders who have their own rigs. They go out

and work for us by the hour, and we don't deduct anything for them except WCB, if they are not paying it themselves. It's a very cumbersome system. It tends to be a little hit and miss. Any efforts to straighten it up would certainly be appreciated by this association.

MR. CHAIRMAN: Because proprietorship is one we've discussed, I wonder if there are any questions from any of the members to you gentlemen, particularly on proprietorship in your submission.

MR. THOMPSON: Mr. Chairman, I see later on in their brief they have some concern over the cost of administration rising rapidly. If we reinstated the definition you suggest, are you prepared to carry those additional costs of administration? There would be some; there's no doubt about that.

MR. CLEMENTS: I suppose we would be if we were satisfied and informed of other cost-containment steps the WCB would take. Industry, particularly ours, has been very hard hit in the last two or three years. We have all had to cut back on our overheads and everything else. Certainly the WCB could take those steps as well, and perhaps use some of the inefficiencies in the system to accommodate this change.

MR. CHAIRMAN: In your submission you indicated the reasoning given — and I just want to raise it here for the benefit, because it's a public document you have here from the legislative committee in April 1980 — for instituting this change was that many operators requested by industry to apply for personal coverage would only obtain minimum coverage. Please be assured, as I shared with Mr. Horigan earlier, that that wasn't the concern of the select committee. There are two of us that were on the committee then. The concern was the proliferation of independent operators. I am still satisfied that in 1980 the committee said: if an independent operator wants to buy minimum coverage, that's his or her choice. That wasn't the reason. It was the proliferation and the number of accounts that were growing. The committee received from the staff a good explanation in one of the hearings in Grande Prairie, to reflect that possibly a secretary could be given a typewriter and everything to work in one of the offices of an oil company and told: now go apply for your own coverage.

MR. CLEMENTS: Yes, I can understand the reasoning for that. Certainly I agree with that philosophy. Unfortunately it catches other things as well. For instance, we have a welders who wants the benefit of being a contractor on his own, if you will, and is not prepared to take on the responsibility of providing the other things that we as contractors have to provide. If they want to be in business, they should be in business; they should not be an employee.

MR. CHAIRMAN: Any other question on proprietorship? Okay.

MR. CLEMENTS: The merit rebate/superassessment is fairly straightforward. We did agree with the Industry Task Force that perhaps a similar situation to that of, I think it's Quebec, who is using an individual rate assessment?

MR. CHAIRMAN: Experience rating.

MR. CLEMENTS: Yes. Generally it's then more of a user pay system. It would certainly take a while for a company to establish a track record and so on. But that would get away from the situation where we pay out a bunch of money in advance, and if we're

good boys we get it back at the end of the year. We can use that money right now to operate with.

MR. NELSON: Just very briefly. Mr. Clements, your association would not have any difficulty with the bad guys paying and the good guys keeping their money? Would that be it, very bluntly?

MR. CLEMENTS: No, that's what we would prefer.

MR. NELSON: Okay, that's fine.

MR. KENNEDY: The only other thing on that, Mr. Nelson, is that a disaster could happen to anyone, and then it comes out of the general fund. You can't have a fatal accident, or a serious injury, which is even worse than a fatal accident for the costs for an individual employer. That's what the insurance portion of the scheme is for. That's — what? — roughly 78 per cent between administration and the insurance portion of the scheme.

MR. NELSON: I understand.

MR. CHAIRMAN: Your association is fairly firm on eliminating the merit rebate/superassessment program.

MR. KENNEDY: No, we say we prefer either/or. If you want to go to the promotion/relegation, as one of your people referred to it, that is fine. Or if you don't want to do that, we want the merit rebate/superassessment. We think that has its merits. But the promotion/relegation system is more equitable and keeps the cash in our pocket, where we need it to spend as required.

MR. CHAIRMAN: Under your recommendation, you say that the existing merit rebate/superassessment system must be eliminated as soon as an acceptable rig differential incentive system can be implemented. That's why I raised it.

MR. KENNEDY: That's what I'm saying: promotion/relegation, the Quebec system. The Task Force addressed in some detail the method we felt would be equitable. We want an equitable system. But to say that the good actors and the bad actors should all be thrown in the same bag, we disagree with that.

MR. CLEMENTS: Lyle, how large was your merit rebate last year?

MR. KENNEDY: Over \$200,000.

MR. CLEMENTS: So that's \$200,000 that his company — or some portion of it, depending on how they paid — could have been using to operate with.

MR. NELSON: Or investing with a return.

MR. KENNEDY: That's right. So it's a significant item.

MR. CHAIRMAN: Now at the same time, as business people — and that practice of merit rebate has been in since the late '40s. If it's eliminated there is a possibility of higher rates, because then there isn't a cash flow for the Board. They don't take that interest that's earned and invest it someplace else; it's used for the operation of the system.

MR. KENNEDY: That's right, but in our case and Doug's previous firm, we are subsidizing the bad actors by giving you the amount of our rebate to use as operating capital or collect interest on to pay the people that aren't getting a merit rebate or being superassessed.

MR. NELSON: Aren't the rates false, then, if you're using the money of other people to facilitate the Board's activities? The rates are incorrect because of the fact that if I put in \$200,000 or \$1, are you not using my money to subsidize the Board and the bad actors? Even if you have to charge another 10 cents on the assessment, I could have the interest on that \$200,000.

MR. CHAIRMAN: That's the mutuality of the workers' compensation program. I'm raising these concerns to you so that I could get an answer from you.

MR. CLEMENTS: Our answer is that we would prefer to have that money to operate and let the bad actors pay for themselves. If we're a conscientious firm that takes some care with our people and our equipment, Lyle's company shouldn't put \$200,000 in the pot to subsidize Frank's Variety Story and Welding to work unsafely, and pay the claims he gets.

MR. CHAIRMAN: We've had representation that small business people are concerned about swinging the pendulum too hard; that a serious accident would put them out of business.

MR. KENNEDY: That's what the big pool of money is there for. That's what 78 per cent, of which 22 per cent is taken up by administration — the other 56 . . . You're paying merit rebate of roughly 22 per cent; 78 per cent is . . .

MR. CHAIRMAN: Up to 33 per cent.

MR. RUNCK: It's paid up to 33.3 per cent, but the average . . .

MR. CHAIRMAN: Oh, yes.

MR. KENNEDY: That's what that pool of money is for.

MR. CHAIRMAN: Lyle, your firm could have earned up to 33 per cent.

MR. KENNEDY: We got the maximum.

MR. CHAIRMAN: Okay.

MR. KENNEDY: But I'm saying that we also left money in the fund that is beyond what our actual compensation costs were. That is happening not just to us, but Doug's firm and a lot of the good actors are subsidizing to that 78 per cent. We don't disagree with that. That's the insurance part of the scheme. The only thing is that in some cases, the premium is too high.

MR. MARTIN: Just to follow up. Basically you're saying you fully support the proposal the Industry Task Force made.

MR. KENNEDY: Yes, we do.

MR. MARTIN: You would rather go to experience rating, but if you don't have experience rating, you'd like to change the merit rebate/superassessment. Is that what you're saying?

MR. KENNEDY: Yes. We think the superassessment should come closer to the merit rebate. That brings down your total outlay up front.

MR. MARTIN: When we asked the industry — and they admitted it's a very complicated formula; we all would have needed a computer — just what it means in terms of dollars and cents. We won't have to go through that at this point, of course, but we will be doing that.

MR. KENNEDY: Well, your merit rebates to superassessment is 23:1 or 24:1?

MR. CHAIRMAN: Yes, about there.

MR. KENNEDY: Which is a substantial number of dollars when you're talking about \$500 million for corporations?

MR. CHAIRMAN: Well, the last figure for '82 was some \$80 million merit rebate?

MR. RUNCK: Eighty-three million dollars.

MR. CHAIRMAN: Rebate was \$83 million rebate, and superassessment of just around \$3 million.

MR. KENNEDY: Well, I'm talking total income of the fund.

MRS. FYFE: In these difficult times, for those companies that we'll term the bad actors, you are basically saying that the superassessment is not really providing any kind of incentive for them to spend more time in safety procedures and looking after their equipment, et cetera.

MR. KENNEDY: If I'm not mistaken, you can run at 105 per cent — or is it 110 per cent? — of your assessment forever and not be superassessed?

MR. RUNCK: One hundred and five per cent. I think the point being missed, though, is that there is a penalty here. When you're up to that level, you have lost your total merit as well.

MR. KENNEDY: At 105 per cent.

MR. RUNCK: You've lost your total merit.

MR. KENNEDY: That's right, but you don't pay any superassessment either. You only pay 100 per cent. You don't pay that 5 per cent extra.

MR. RUNCK: Yes, that's right.

MRS. FYFE: What you're saying is that basically there is no incentive for them to improve. Would you say that that's true in the last year or two, when there's such a

narrow margin compared to what there was in previous years?

MR. KENNEDY: I think that what's happened is that your task force is maybe two years too late. Two years ago, we probably wouldn't have been all excited.

MR. CHAIRMAN: You're right. In '79, we couldn't even drum up the interest we have this year.

MR. MARTIN: Maybe we should postpone it for two years.

MR. KENNEDY: Well, I sure hope so. If you right, let's go home.

MR. CHAIRMAN: Do you want to continue with your worksite qualifications?

MR. CLEMENTS: Yes. Basically that refers to what I mentioned before about the worksite and the instance which again was Lyle's company, which as you know has a good record. One of their fellows driving a company truck finished his day's work and was driving the truck home as part of his normal procedure during the day. He decided to stop for a few beers, which led to a few more. On his way home after midnight, he hit the ditch and there were some injuries. Workers' compensation paid for those injuries.

MR. CHAIRMAN: Mr. Clements, there has also been fairly good information taken by the Board and the occupational health and safety people that employers were aware that their workers were doing this. This wasn't the first time. Who, then, is to blame?

MR. CLEMENTS: I suppose it goes back to our original point: the individual certainly has some responsibility for his own actions. What that individual did was a criminal act; he broke the law.

MR. CHAIRMAN: But I mean, employers had condoned that: oh well, you know, these fellows drop in for their half dozen beer quite regularly. Nothing is said by the employer until the accident happens.

MR. CLEMENTS: Mr. Diachuk, if I were a salesman and took one of my customers out for a drink, that would be part of my regular work. If I stayed and had a bottle of scotch and climbed into my car drunk and killed somebody, certainly that doesn't mean my employer condones my killing somebody. I don't see your argument.

MR. CHAIRMAN: I'm just saying that in some of the information on some of these claims, both occupational health and safety and the WCB people have been advised that employers were aware that their workers were stopping at the local tavern, and they didn't do anything about it until an accident happened.

MR. CLEMENTS: Is the employer responsible for the worker's judgment? If I stop on the way home from work and have a beer and my employer knows it, fine. We know there's no problem.

MR. CHAIRMAN: Driving the employer's truck or vehicle?

MR. CLEMENTS: Sure. I have a company vehicle, and I have had the odd beer and then drove home. But the moment I don't follow good judgment, if I am a poor judge of what my capacity is or how well I can drive, that's my responsibility and not my employer's.

MR. CHAIRMAN: Would you then favor that there be a time limit after work, that the worker is only covered for the next half hour or whatever? We've been through this. The difficult part is that employers are aware that their workers are breaking their own company policy by drinking while driving a company vehicle.

MR. CLEMENTS: The whole point seems to me to be: doesn't the individual have some responsibility for his own actions? We can set up any kind of company policy you want, but you can't watch a worker 100 per cent of the time. Certainly the employee must have some responsibility too.

MR. CHAIRMAN: Yes. I'm soliciting answers from you as to how we could legislate what you would like to see legislated, that the worker wouldn't be covered in that example. It was used by the safety association, the other group that was in earlier. They have the same concern, that workers in one-vehicle accident claims are quite numerous. How do you see us legislating so that coverage isn't provided to the worker?

MR. KENNEDY: I think we provide that. When we had this accident Doug is talking about, I was involved; it happened right here in Red Deer. I can't remember how many years ago it was. The people were paid to drive back. From the time they left the yard until they got back to the yard was the time they were paid. Now they were allowed to leave the site, so the time they got back to the yard was 5:30 p.m. That was the rule of the job. The drive was roughly one hour. It was a little less than one hour following the speed limit, the rules. So they left the site at 4:30. Where they stopped was not on the normal route. When the supervisor drove by, he didn't see any trucks at the bar. They deliberately went off the normal route home. And we're saying that if they get home by 5:30, fine. We allowed them that time. But if they're going to sit in the bar for whatever time, we don't think we should be responsible.

MR. MARTIN: Can I just ask, what is a sort of ruling on this? I'm hazy about how a specific example would be judged?

MR. RUNCK: In most claims they are very, very difficult. They are investigated quite thoroughly by our claims investigators. Basically the coverage extends until the time the deviation commences; then the coverage is gone until the deviation is over. If he goes off the main route and goes into a pub on his own or whatever, he's not covered while he's doing that. Then immediately as he comes back and resumes the normal route or pattern, he's covered.

MR. NELSON: After getting himself well oiled.

MR. RUNCK: When the accident occurs, we now have to look at the police and investigation information. Were there charges laid for impaired driving? Has there been a criminal conviction? Some of these things are quite involved.

MR. KENNEDY: In this particular instance we're citing, we didn't find out about the accident until ten o'clock the next morning. It wasn't on the beaten track.

MRS. FYFE: Was that particular incident you're referring to appealed?

MR. KENNEDY: Yes.

MRS. FYFE: To the Board?

MR. KENNEDY: Yes, to the Board. One thing I will say on appeals, Mrs. Fyfe, is that to my knowledge, if we appeal a decision of the Board and we're ruled in favor — if they say our appeal is reasonable — it doesn't mean the person involved doesn't get compensation. It just goes into the class and is buried.

MR. CLEMENTS: Buried against all of us.

MR. KENNEDY: Against everybody. So when you're appealing it, very rarely — in fact, I don't know of any cases where it hasn't been charged to the class we are in, the construction class, so everybody pays for it. A criminal act has been committed, but everybody pays for it instead of one individual employer. We don't think that's right. The Task Force addressed that and said that if it's not definitely attributable to one employer, it shouldn't be allowed. We have to take a little bit of latitude on that.

MRS. FYFE: I'd just like to come back to Mr. Diachuk's question for a minute, and that relates to how you specifically set it out. The interpretation now is time and investigation, as to whether there were criminal charges or whatever. How do you make the judgment? Is it a time factor, from the time it would normally take that driver to leave his place of work till he got home?

MR. KENNEDY: That's right. That's what we'd prefer, if it's in a company vehicle. If you're working in the city of Red Deer, not in the construction industry but the people we have working who go to the yard in the morning. From the time they leave their house until they get to the yard, and from the time they leave the yard until they get to their house, that's their own prerogative.

We had a case this past year where a guy has a company vehicle that's assigned to him, mainly because we find that it's cheaper for us because you have somebody responsible for the vehicle. He slipped and sprained his ankle on the ice in front of his own house, and he was covered by compensation. This was at six o'clock in the morning, when he's going out to work.

MRS. FYFE: Have you considered changing your policy regarding company vehicles?

MR. KENNEDY: Yes, but we feel that the company vehicle had nothing to do with the accident. It was a method of saying: we dispatch you from the yard. In some cases in the oil patch it's not a time clock situation. Sometimes they get back at five thirty, sometimes they get back at midnight, when they've been working.

MRS. FYFE: I think we'll have difficulty with the time, though. Who judges the time that would be a normal elapse?

MR. KENNEDY: For the normal time, we know how far it is from the place of business — the yard, the worksite, or whatever — to the normal pick-up or dispersal point, if you want to call it that, in the morning.

MRS. FYFE: As a member of the committee, I have a little bit of difficulty determining how we're going to set that down. I would appreciate any further input, if you want to give it a little bit of thought, as to how we can deal with that specific item, if we look at a time factor. I think your argument is very reasonable, and I agree with it; it's just as to how we implement it.

MR. KENNEDY: Mrs. Fyfe, when we report or appeal these cases, we say: okay, he left Innisfail at 4:30, and we expected him to be back in the Red Deer yard at 5:15, which is not unreasonable. Anybody can calculate the distance and say: okay, you've got to drive about 50 or 40 miles an hour to do it. If the guy gets back here at 10:30 and said he was on his way from Innisfail, you'd know that there was something wrong. We can't get the Board, in their rulings, to agree with us that it should only take 45 minutes to drive from Innisfail to Red Deer.

MR. CHAIRMAN: So you're really looking at the policy rather than the legislation, because you accept that it's difficult to legislate.

MR. KENNEDY: Yes, we're not asking to legislate. We're just asking to look at the policy and realistically examine it.

MR. RUNCK: Mr. Chairman, there's a point that I think should be clarified. Repeatedly we've heard the comment that if the employer wins his appeal and the Board decides that the claim was accepted in error, the costs are charged to a general fund and just forgotten. I think we have to look a step further. What really happens here is that if the employer wins the appeal, the Board relieves the employer's experience of the costs. So at this point, it is in the general fund. But in the vast majority of cases, with very few exceptions, we go back to the worker and ask for the money. There are a few exceptions.

MR. KENNEDY: Could you tell me the percentage of the cases that happens in?

MR. RUNCK: I don't have that figure at hand.

MR. CLEMENTS: Could you provide that information for us, though?

MR. RUNCK: We could try to research it and see what it would be.

MR. CLEMENTS: It would be interesting to see exactly . . .

MR. CHAIRMAN: It's either that or if you send the example that you're using to my office, Mr. Kennedy, I could look into it to see whether that particular one has been charged back to the worker — with the exception that the policy has been fairly open. I think some representation was made — and you're making representation — that the policy needs to be tightened up.

MR. KENNEDY: The other thing is that worksite is defined in the Act, but what you are administering it as has nothing to do with what is defined at all. You wouldn't know it was the same administration.

MR. CHAIRMAN: We'll welcome any further suggestions from the discussion, because that's the area that I think we agreed on: the policy needs to be tightened up.

MR. KENNEDY: That's what we asked for in the Task Force, to give us a set of rules so that we know where we stand. Let's not have it wide open. As you said at the Task Force, we haven't had a budget in the WCB until three years ago. Before that, it was an open-ended fund. The policy, which your people have assured us they are working on — Mr. Clarke said they were supposed to get it a year ago in December; we've been

promised it this December.

MR. CHAIRMAN: Policy manual, you mean.

MR. KENNEDY: The policy manual and how you are going to implement it. Every firm that has more than a few employees has some kind of policy manual that they can read. Apparently it is not defined or in a binder where you can sit the new employee down and say, here are the rules.

MR. CHAIRMAN: Okay, continue.

MR. CLEMENTS: Basically that finishes our concerns. I only have a few things to mention.

Budgets: I think we would like more information to find out how our money is being spent. We would like to know what's happening to it. As we are paying for the system, we would like to see what is being done with our money.

MR. CHAIRMAN: When you review the 1982 report, could you send to my office what information is lacking in the annual report?

MR. CLEMENTS: Okay. I haven't see it yet.

MR. CHAIRMAN: No, I'm just giving it as an example — or even the '81. One thing is that we try to keep the report simple enough for you and I to understand it, because you and I are not accountants, I trust, yet we feel that there may be some information lacking. I'd welcome that, because it's an ongoing thing and the Board is also interested in providing the information.

Your reference to 26 or 30 per cent of annual costs for administration, I would like to see your figures.

MR. CLEMENTS: I have a letter from you on that subject that I just received from Tom.

The point that remains — whether my percentages are right or wrong — is that in business, we have to watch our costs. Our increases and overheads, in most companies that are surviving, have gone down. We'd certainly like to see some attempt made to do the same thing in government.

MR. CHAIRMAN: Any questions of the gentlemen on the association?

I want to get back to your presentation that it sometimes seems workers are rewarded for injuries, particularly with the \$40,000 ceiling.

MR. CLEMENTS: When somebody is injured in the construction business, what are their wages calculated from? Their previous three-month salary history?

MR. CHAIRMAN: John, what's the present practice?

MR. RUNCK: What happens is that we try to get as much information as we can on earnings, and there is a pretty complex way of balancing what we get to try to ascertain which figure reflects what he was earning at the time of the accident. At the outset, the access for the first 30 days, he will be paid on that. Then we also try to determine what his average earnings were for the year — either his average or, if that's not available, the earnings of a worker employed in a similar capacity. After the 30-day period of time, he's entitled to the average; before the 30, he's entitled to the actual. That's in the Act.

We are talking about the average. We go to employers, and we try to get this information from them. If he's had two or three employers, we may go to the two or three employers. If we find somebody who hasn't been employed more than six months, we will probably contact his employer to ask what somebody in the same grade of employment would have made. We do try to get a realistic figure.

MR. CLEMENTS: A lot of people in our industry work on a per-job and sometimes seasonal basis. Typically, a dozer operator might get \$12.50 an hour and work 12 or 14 hours a day, seven days a week, for a period of one month or a month and a half, perhaps on a specific job, and then be laid off when the job is finished. And he may not work again for two months. Depending on the calculation, sometimes the injured worker can end up making more money during the year.

MR. WISOCKY: Generally speaking, as Al said, the calculation of wage base is very difficult. We have three key pieces of information that you as an employer provide us: his actual rate per hour per week, what the person actually made during a period of time — it could be three months to a year — and what somebody similarly employed earns over a period of one year. Between the three, we can get a pretty good average or the proper average; there's no question about it.

The other thing I may add is that you mentioned about him working two or three months. We also rely on the worker's report, which gives us some idea of what he declared as income tax and so forth. So it's complex in some cases, and we have some problems in that area.

MR. CLEMENTS: I can see that it would be a problem with the kind of people who may work for a very short period of time and make a large amount of money.

MR. RUNCK: Mr. Chairman, I would just like to make the comment — which may or may not help the perspective — that more than 85 per cent of our claims are finalled before the first month, before 30 days. Of the balance, the majority are finalled within a year. So the ones with the problem of overcompensation results are quite small in number. If you will accept the premise that for perhaps a month after he is hurt he should be based on his actual earnings at the time he was hurt, you can say that 85 per cent of those are closed within the first month.

MR. CLEMENTS: The thing that we object to is the premise of \$40,000 a year. That's quite a high amount. I believe it's the highest or second highest in Canada.

MR. CHAIRMAN: But they get compensated on their income, not on the \$40,000 if they're not earning \$40,000.

MR. CLEMENTS: Yes. Okay, fine.

We also have some employees — when the job is drawing to a close, there tend to be a few back injuries and things like that. I don't know how to get around that problem, but it does exist.

MR. CHAIRMAN: When you collectively come up with a solution, we elected people would welcome it, to direct them.

MR. CLEMENTS: Maybe one way to help it on its way is to provide some information. Do you have a file of chronics, these repeaters?

MR. RUNCK: We don't have what you'd call a black list of people. We have individual records — individual claims and accident profiles — for each person.

MR. WISOCKY: With every new claim set up, there's a piece of paper which documents the prior claims a person had. If he has had a few prior claims, you can rest assured that the adjudicator is right on it.

MR. CLEMENTS: Good.

MR. R. MOORE: Mr. Clements, you said that there is far too much waste going on, that workers' compensation is not a social welfare program but an insurance plan. I agree wholeheartedly with you that it's not a social welfare program, or it shouldn't be. But have you any hard facts that there is far too much waste, or is it just an assumption based on the escalation of cost, that it's gone so high in relation to inflation and so on?

MR. CLEMENTS: It's an assumption based on the escalation of costs. I suppose we all see it in our own businesses. And maybe we've fallen prey to the same problem as well. Our organization expands larger and larger. If we have a manager, we have an assistant manager. He has an assistant; then they need secretaries. And it goes on and on. Soon a company like SRB pipelines could fill a \$72 million building, perhaps; it might be hard for us to do. I have no hard facts but would certainly like to have the time to look into it. If I did, I am sure I could find something.

MR. KENNEDY: The other thing we have, Mr. Moore, is that it's better to have a back injury than to go on UIC, because it pays a lot better. We've discussed this in the Task Force; it has come up. To prove it is another thing, but even I could figure that out.

MR. MARTIN: We as MLAs get the other side. You'd be surprised about all the claimants we have who figure they are getting screwed around by the Board, at least in their minds. Backs are always the most difficult ones, of course. I know there is some feeling among industry that there is abuse. And I expect that in every system you develop, as long as there are human beings around there will be some abuse. When we're sitting here, we get the feeling that many industry people feel that this is a serious problem. We've asked industry to document it if they could. I know what you're saying to Mr. Moore as a general caution: make sure you're doing everything efficiently. I think that's a reasonable thing to ask any government or company to do. Can we document that there is large-scale abuse by workers, or is it just a general feeling that there is a fair amount of abuse? Is it just one or two, or what?

MR. KENNEDY: I think you could go up in the number of claims that we've got in the last few years. They keep climbing. It should have levelled off with the recession, to some extent.

MR. CLEMENTS: And with the dollar volume that we have and the number of man-hours we work.

MR. CHAIRMAN: The indication, in response to that, is that the '82 claims reduced in number but not . . .

MR. CLEMENTS: In dollars.

MR. CHAIRMAN: . . . in the time that they were on compensation.

MR. NELSON: Mr. Clements, do you have any thoughts regarding the possible redevelopment or the development of another rehabilitation premise, incorporating with it the large offices that the bureaucracy needs or thinks they need?

MR. CLEMENTS: Yes. I really don't have any thoughts on it. We discussed this at the Task Force, and maybe Lyle can refresh my memory; he was involved in that.

MR. KENNEDY: What we are saying is that the rehabilitation program appears to be working well. One of your people — was it you, John? — mentioned that if he's off for six months, he's basically off forever.

MR. WISOCKY: That's the literature.

MR. KENNEDY: Yes. We don't disagree with rehabilitation. I am from Calgary, and we have a lot of vacant office space down there. Why don't we move them down there and fill some of the office space instead of building a new mausoleum in Edmonton?

MR. CLEMENTS: In Calgary, isn't the rehabilitation handled by the local hospital?

MR. NELSON: No. John can probably answer better than I can. But what I'm asking is, with the economic climate and what have you — and let's face it, industry is going to have to pay for anything. Most people don't think it's going to come out of that fund, but it's got to be paid for somehow.

However, what I am asking is, do you have any thoughts on the redevelopment of it? If you do, let's hear them; if you don't, fine. It doesn't help us a lot.

MR. KENNEDY: We listened to your people from the task force, and they basically convinced us that we were better off to be centralized rather than to scatter: one rehabilitation facility basically for serious rehabilitation. For the stiff arm or leg, you can go locally in Calgary, Edmonton, Red Deer, or in the major cities. But for long-term disability, we would be better off to be in one spot. They feel that they have better control of it and can do more, and we agreed with them.

MR. NELSON: Do you feel it's necessary to do that, though? We have a facility up there.

MR. KENNEDY: No.

MR. NELSON: Have you been through it?

MR. KENNEDY: No, I've never been disabled.

MR. CHAIRMAN: I suggest that your membership go, because my office is getting complaints about the run-down facilities. The 1981 estimate to upgrade the building was \$8 million to \$10 million.

MR. KENNEDY: It's a long way from 75.

MR. CHAIRMAN: I know.

MR. NELSON: In 1981. It's probably only \$6 million today.

MR. CHAIRMAN: No, no. But I am just sharing with you that several associations have visited the facility. It wasn't the Board that asked for a new facility. When consideration was given to spending \$8 million to \$10 million on the present rehab facility, it was then reviewed by an internal task force that I asked for. The recommendation was to combine the two facilities, the central office and the rehabilitation staff.

MR. KENNEDY: Were the people on the Board the people that were paying for it, the employers?

MR. CHAIRMAN: No, this was an interdepartmental committee.

MR. NELSON: Good question. I was going to ask that one.

MR. CHAIRMAN: In fairness, Mr. Kennedy, here you are responding to Mr. Nelson, and you haven't even seen the rehab facility. But you like the program.

MR. KENNEDY: We talked to your people, and we have to take their word for it. If they say it's good, it must be good. What I know about rehabilitation you can stick in your ear and never notice it.

MRS. FYFE: It may be worth while to have a further examination, with input from industry, to study this. I don't know what the figures are for rehabilitation. But I know that for hospitals, the cost of the hospital is equal to the labor and operating costs in two and a half years. So it's not the capital cost that is the long-term cost; it's the operating cost.

We just went through this in the constituency I represent, to put an addition on the existing structure. The long term is going to be far more expensive in operating costs because of the staffing procedures. It meant two towers and not good utilization of time.

I think this is part of the decision. The existing structure, some of it is very old. It can last for a while longer, and it can be patched up. It doesn't look so great, but what the heck; maybe that's an incentive for people not to stay there too long. There are pros and cons. But I really think it has to be looked at and understood by the people that are paying for it, exactly what it is that would be built and what advantage it would be to you people in the long term, as far as the costing.

MR. KENNEDY: That's right.

MR. CLEMENTS: Maybe we should go further than that and say that instead of being informed of their reasons for doing it, maybe the people doing it should have some voice in the decision.

MRS. FYFE: Well, that's what I meant: instead of an internal task force, another group made up of representatives of industry be part of this.

MR. CLEMENTS: Yes, I think so. The more industry representation that we can have in the WCB in all its workings, I think the system will improve rather than deteriorate.

MR. CHAIRMAN: Any time any of your members would like to visit the rehab centre, all you have to do is contact my office for an opportunity to schedule you there. I know that

several associations have visited, including representatives of the Edmonton Chamber of Commerce. To me, that would be welcomed. That is why Stan Nelson asked that question, what do you think of the proposed new building that is on the drawing board? It's rehab combined with the central office.

MR. KENNEDY: I think the most disturbing part of that is the way industry found out about it, by reading it in The Edmonton Sun.

MR. CHAIRMAN: It was gazetted long ago, but we don't read the Gazette.

MR. KENNEDY: They don't publish it.

MRS. FYFE: They publish it.

MR. KENNEDY: I mean we don't get a copy of it. We get a copy of the Sun.

MR. NELSON: I'd rather read the Sun, too.

UNIDENTIFIED SPEAKER: The pictures are better in the Sun.

MRS. FYFE: Well, the Gazette is not very interesting to read.

MR. CHAIRMAN: Any other questions of the gentlemen? Very good. Thank you very much, Mr. Clements and Mr. Kennedy.

MR. KENNEDY: Thank you very much for the oppportunity to express our views.

MR. CHAIRMAN: As I indicated earlier, if there is an employer who wants to make a verbal presentation, this would be the time. We have finished at 4:30. We would welcome it. If not, we will be back here tomorrow morning at 9 a.m. Thank you very much for attending and observing.

[The meeting adjourned at 4:35 p.m.]