

[Chairman: Mr. Diachuk]

[9 a.m.]

MR. CHAIRMAN: Good morning, ladies and gentlemen, and welcome to the select committee hearings on the Workers' Compensation Act and the Occupational Health and Safety Act.

Alberta Roadbuilders Association

MR. CHAIRMAN: I see we have Mr. Walls. I gather, being in the middle, you're the spokesman? The others are going to assist, come in from the bull pen and pitch when they warm up. Do you want to introduce your colleagues? We have some information on who they are. But in your own way, could you advise the select committee what companies or what type of background they come from in this industry of yours, the Alberta Roadbuilders Association?

MR. WALLS: All right, sir. Starting on my left is Dave Molineux. Dave has had a variety of positions as safety co-ordinator in companies in Alberta. He latterly worked with Wimpey Western and is presently an independent safety consultant. Al Forest is with Wimpey Western, which, as I suppose all of you know, is one of the world's larger general contractors. On my right is Scott McLeod, the assistant manager of the Alberta Roadbuilders Association. And on my immediate right is George Ford, safety supervisor with PCL, the largest general contractor in Canada.

I think these gentlemen probably have more on-the-spot kind of experience in safety than I have, but I am with Border Paving and have been very interested in safety for about 25 years of my career. I come from Saskatchewan, and they have always had a very active safety association in the roadbuilders' association there. That's where I cut my teeth in the business and as far as safety is concerned.

The Roadbuilders is the largest voluntary roadbuilding association in Canada, founded in 1945. Our membership represents the largest portion of the contributors to the class 6-07 group. We have 260-odd regular members and 200 associate members. From January 15 to August 15, '83, the total contract work called was \$269 million, of which our membership did an estimated \$190 million or about 70 per cent. Our estimated 1982 payroll was \$652 million, so we think that we have something of a vested interest in things to do with the Act. While we don't wish to state that everybody should pay attention to employers' desires only, we feel there is something of a problem that we'd like to be associated with solving, with respect to the Act and its administration.

Because of time constraints, I'm just going to skim through a few of the items in our recommendations. One of the problems I see with this is that we think it's very important that we meet with people that have to do with the Act and its administration. We're really pleased that there is a review four years after the last one. We commend the Board and the Legislative Assembly for calling the reviews and would like to encourage you to do that on a very frequent basis.

We haven't had the time, physically, to go through the Occupational Health and Safety Act. That's very important to us. But we think we'd like to see the hearings held at a little different time of year. I think for perhaps everyone but the oil industry, the summer is the busiest season and, believe me, it has really been a problem trying to get people together to put our submission together.

We have some problems, I think, that we'd like to mention. With all due respect to Mr. Bahry, who is here this morning, we believe there isn't too much problem with the

Act itself, but we have some very major difficulties with the manner in which the Board itself operates. I believe that with very little effort on anybody's part, there could be much better dialogue with members of the Board. I'd just like to give you one example that's a first-person incident I happened to have the good fortune to be involved in.

About three years ago, the Roadbuilders made a submission to the Board. I happened to be in the Roadbuilders' office that morning and invited myself along, so I wasn't an official member of the delegation by any means. We were to be there at two o'clock. We went into the building and assembled in the lobby area — as it turned out, outside the boardroom; we had no idea where the boardroom was. There were insufficient chairs, so we stood around in the area for about 20 minutes. The phone rang on the reception desk, and we were ushered into the room which led right into the boardroom, which was accessed right off the lobby.

My impressions were that the Board table was about as long as a bowling alley. The three Board members at that time were sitting at the far end with two or three administration people, and we were told to sit at the far end of the table. I fancy myself as something of a student of transactional analysis and, let me tell you, if there was anything there but an intimidating experience, I don't know what it was. Whether it was designed or otherwise doesn't really matter, but the atmosphere wasn't friendly.

I and my company have no particular complaints with respect to Board activities, especially to the administration; we've certainly been very well treated by them, and I think that is pretty much the case with our membership. But I don't think the Board needs to have the kind of absolute autonomous power it has, or they don't need to exercise it so often. I believe they could be just as effective, if not more so, if there were just a little bit less seeming animosity between Board members and individual companies, perhaps, or industries as a whole.

I reviewed the last select committee review comments, and in them it states that the committee considered that the existing Board was acceptable as far as size was concerned and that they have a long-established record of responsibility and efficiency. I think we question their efficiency. I'm not sure how you judge that, but I think it shows up at the bottom of the balance sheet in terms of the very considerable deficit. There are greater deficits in this province, I suppose. Perhaps that deficit could be considered an important one in view of the fact that it relates to individuals, many of whom can't fend for themselves otherwise. But I think that if someone had a really hard look at the composition of the Board, I believe that by its composition, it is very heavily weighted in favor of labor.

I personally — and I think I speak for the membership as a whole — don't want to see an entirely business background type of Board. I think I know what would happen if that were the situation. But we believe there is considerable imbalance. We do not agree with the premise that the conclusion reached by the previous review committee that a balanced, partisan Board, tending to foster contention and delay of decision-making, is necessarily bad. Just because you have some dissension in the committee doesn't mean that it is ineffective. I think there is reason to believe that the composition of the Board at present lends itself to the exact opposite of any kind of contention. It comes across to us as being a situation where you know what the decision is going to be before the Board meets, and we don't think that is really a very healthy situation.

We'd like to see the establishment of a voluntary advisory committee. I have a thing about this kind of thing myself. I believe there are many people in our society who would be glad to serve on voluntary committees to have some input at all levels of government in the province. I believe a voluntary board that had to do with matters of compensation might prove beneficial. It might be a very simple way to keep the Board a very small group of people and effective, and yet have some outside input from people who over time became knowledgeable of Board policy and regulations and, I think, work some

considerable good for all concerned.

In the matter of independent operators, this one really bothers our industry. Mr. Diachuk, you know specifically of the problems that the change in the legislation had with respect to truckers. We think that most of the truckers in the province are independent businessmen and should be treated as such. You'd have to be out at a scale somewhere in the province early in the year to appreciate how many truckers really do want to be independent business people. There are all kinds of them that want to ride both sides of the fence; that want to be treated as an employee when it suits their purposes and, at the other end of the spectrum, treated as an independent business person when it serves their purposes.

But I think this independent operator section should be reviewed. We've made a few recommendations on how we think it could go together with reinstatement of independent operator status. I see nothing wrong with an individual being allowed to be a subcontractor. I know there are some problems as far as the Board is concerned. We understand and appreciate that they have problems collecting the assessment. I believe the minister agrees with something similar to the proposal we have made in that regard. We would certainly like to see a card system implemented so that we don't have the administrative problems that we're now experiencing, trying to determine who has and who hasn't got an account and whether or not it is current. It is a really big administrative hassle.

We have time, and I'd like to call on George Ford just to give you a bit of a first-person account of the kinds of problems they've run into. He's had a lot of experience with this one with PCL.

MR. FORD: The major things are particularly that even since this new system has been in effect, although the proprietorship section hasn't been taken out of the Act, it's still there. So when we went, as did all other companies, and said to the truckers, you must have a WCB number before you can work for us in 1982, we still had truckers who came to us with numbers; then at the end of the year, that number hadn't been reinstated properly by them. They had been cancelled, and then hadn't been properly reinstated. So again we were sitting with a bunch of operators with that liability. Fortunately for us, none of them got into any difficulty, so we didn't have any claims, although we still were being held responsible to pay their assessment.

This year, to make it even more difficult, we've demanded that they bring a letter with them. So that makes it more difficult for the trucker, and it makes it more difficult for us. I know the administration for the Board is very difficult too. But if upfront I want to be a trucker, I go to the licensing bureau, for example, tell them what kind of licence I want, and they tell me how much it's going to cost. If I walk out of that building and go on the highway and I'm incorrectly licensed, the licence bureau doesn't accept any responsibility for that; I have to accept the responsibility for what I ask for, and I have to be accountable for what I have. That's all we're saying: allow these individuals to be accountable for what they ask for. If they ask for too-low coverage, then they have to live with it.

MR. WALLS: Next, in the area of non-work-related accidents: I only caught the last part of the Oilfield Contractors' submission yesterday, but I'm sure you've heard many, many comments on this one. We too have some problems. We think there are too many claims paid for auto accidents. We understand that a very significant percentage of claims have to do with highway accidents. If you consider that statistics from the police state that around 50 per cent of accidents on highways involve at least one person who's been drinking, there is a really touchy area here where we think that compensation becomes involved. I won't bother going into that. There was a good discussion yesterday

on an alcohol-related accident, I believe, so we'll leave that.

But we see some problems in areas where there are major plant shut-downs and a rise in the number of claims. In our industry, just in general construction work, whenever fall comes on the claims start to climb, because people are taking advantage of this system and basically abusing it. George was mentioning to me yesterday that they can count on two or three claims from the start of the season until the first part of September; from September until November, their claims double. It happens year in, year out.

We don't have that much experience — we don't have that large a payroll that we can honestly say that this is what happens with us. I think PCL has enough people that they can do some statistical analysis on it. I believe it is time to do what the Unemployment Insurance Commission did a few years back. We had many young fellows on our payroll who wouldn't look for work all winter. In fact, there is a fairly well-known young fellow in this city who worked with us back then and who got caught right in the UIC squeeze. He had his UIC cheque going to Banff. There were about four of our fellows living up there in a house, skiing all winter. They just had their cheques sent up to Banff and had absolutely no intention of getting any work, ever, or of looking for it. They were taking the winter off and doing at the general taxpayers' expense. It hard to quantify, but I think a fair number of people take similar advantage of the compensation scheme to take time off during the winter at a pretty good percentage of their summertime earnings.

Pension and disability awards are a big problem as far as we're concerned. We think there are many instances where there are pensions paid to people who have no loss of income. Pensions for fatals and disabilities have increased 43 per cent between '81 and '82. There has been a 140 per cent increase from 1978 to 1982. The number of fatals hasn't gone up very much. There were 156 in 1979, and it's stayed between 156 and 170 since that time. I don't wish anybody ill will in terms of what happens if they do have a bona fide disability and can't earn a living. I'm sure there are many cases where people have a job-related disability and don't have adequate income.

We believe that there is a lot of room in this area for examination of the payment of claims and that there are many cases of duplication of payment, where somebody is getting a pretty fair pension and is back to equal or greater earning power or income than they were before the accident. That seems to me to go against the premise on which I think workers' compensation was originally based and on which I think industry in Alberta and right across the country feel it should be based at this time. It should not be an instrument of social policy; it should be a means of compensating people for work-related accidents. There may be some justification for using the compensation system as an instrument for social policy, but I don't know if we can afford it. It's the same as everything else that we seem to have ourselves wired into in this society. The accounting is starting to be done now all around us, and I think we're just spending too much money.

I'd like George to comment on a couple of first-person incidents that I think he knows of on this one, right off the top of his head, if he would.

MR. FORD: Pensions weren't involved — or at least I don't know whether a pension is going to be involved in one of them or not. But just to briefly outline one situation, a mechanical type bumped his elbow, a relatively minor incident. But he had trouble with his arm, so he was sent for medical attention. The doctor very wisely sent him to a neurologist, and it was found that he had nerve problems. But in investigating the accident — or the situation rather than an accident, because I don't really call it an accident — it was found that as a youngster at four years of age, he had had a badly smashed elbow; it had been badly set. The company involved was relieved of the cost, but the class wasn't relieved of the cost. I haven't got the final situation on him, but I understand that's been restructured and I know that he is drawing compensation for

several months. A very nice young man, and I am really happy for him. I agree with what Vic said. From a social conscience point of view, that's the ideal thing to do, but I don't know whether we can afford it or not.

The other situation was an older operator who slipped and had to see the doctor. It was diagnosed as a mild strain, and he went back to work. Six weeks later, the project shut down because of winter conditions. A few weeks later, the costs started appearing on the statement. When it was checked out that he has a hernia, it was related back to this slipping incident. But now he can't be operated on because he's tremendously obese. I think it took six months to get him to a position where he could be operated on for a hernia. Here the company was relieved of all costs with the exception of six weeks, which is the normal procedure for a hernia operation. But the class was still charged with all this other time. I don't know whether we can afford that.

This is the type of situation that's going on quite often. It relates to many other things, and I think Vic has some of that later on.

MR. WALLS: We agree with the points of view of others in the construction industry across the country, in the area of the calculation of annual salary. Ours is a very high income type of industry in the summertime. Many of our people don't even bother looking for work in the winter. I'm speaking of people who are a long way from being considered irresponsible. We think our own organization is loaded with good people. We don't have any trouble finding good people. There are all kinds of them around. I think I'm a "good people" too, and I don't have too much trouble remembering when I was on the end of a shovel either.

They make enough money in the summertime that they just don't have to work four months of the year. The maximum we normally work on income-producing work is about eight months. They've made enough money and learned over the years how to live within that income and, with unemployment insurance supplements, they're fat and happy for the 12-month period. I can think of one in particular who is one of the best drivers we have. You can't get him to work between the end of November and the first part of April. He's just not interested.

I think that in your deliberations on this one, some kind of attention should be paid to how to really come down on that. I know you had quite a discussion yesterday with the oil people on that one, but we have the same kind of feelings they exhibited.

Maximum earnings ceiling. We don't have too much to say about that. The association, as stated, recommends a ceiling of \$30,000. In Alberta we are some \$13,750 over the average of all the rest of the provinces, and that includes Newfoundland, at \$45,000 as the highest. We're 52 per cent higher than the average. While I personally have some second thoughts about that and don't disagree with the minister's published statement on that ceiling and the problems that are created by too low a ceiling, perhaps the problem area is in the combination of maximum ceiling and the method of interpreting annual income. We talked yesterday about a truck driver we have who consistently earns very close to \$50,000 a year. If he were injured and on a \$26,000 maximum limit, for instance, I can see where he would feel he was not being treated properly. But we think there are many others who earn much less than that who are compensated extraordinarily on compensation because of the method of calculation of their annual income.

We have a young fellow who broke his wrist pretty badly in an accident with a roller, and that was about five years ago. He came back on our payroll after about two years, and he'd really learned how not to work. Today he's still drawing pretty good compensation. I personally think he's pretty fit and able to do a day's work. But there isn't any use having him at our place, as far as I'm concerned, because he just doesn't want to work, period. I don't think that particular case is an exception.

Merit rebates. We have some real concerns with the statements that have been reported on the minister's point of view on this one. We don't want to see this merit rebate system discontinued. We think it is the basis . . .

MR. CHAIRMAN: Vic, you don't want to see it discontinued or continued?

MR. WALLS: We want to see the merit rebate system continued, for sure. We don't want you to knock it out of the regulations. We think it really forms the financial basis for safety operations, particularly in large companies. In our own organization, it rationalizes a very expensive safety award program. I don't know of any in the province that costs as much money per employee as our company's does. Believe me, we set it up so 100 per cent of the merit rebate is paid to our employees in safety awards. That costs a lot of money. This watch is a first-year safety award that cost us \$200. They go on from there. We try to keep them all around \$200, but some of them run up higher than that. That's perhaps a little tokenism.

At the moment, we can't see our way clear to hire a full-time safety person, but the professional safety people in the roadbuilders' safety association all say the same thing: if you drop the merit rebate system, I'm in danger of losing my job because that's where my pay cheque comes from; I have to work at our company getting a merit rebate. I think it's a worth-while incentive. Perhaps employment of one, two, or a dozen people in the province isn't justification for keeping the system going, but I think that's an example of why it should be kept going. I know that our organization really looks forward to receiving that merit rebate when we get it, and it's just like found money. We've already spent it anyway, because the safety awards have gone out about six months before we get it.

The example we have given here is far too lengthy to go through and by the time I finished I wouldn't understand it either, but we offer that as one example of a system we think will work. We are concerned that there was only \$3 million in superassessments in 1982. We think perhaps you could look at the superassessment area as similar to what I understand is one of the bases on which unions think they should exist; that is, to keep bad companies out of business. I think that's not a bad reason to consider coming down a little harder on superassessments.

I applaud your efforts, as outlined in the last review, where you thought there should be some form of check made by the occupational health officers to disallow unworthy companies from receiving the merit rebate. In the industry, I think it's felt you should have a little harder look at superassessments. I know it's kind of tough, it's hard to administer, and it may be hard to collect the superassessments. But if you were to try it on for size, you might find in that five years' time you didn't have the problem. You'd certainly catch people's attention. You get a \$50,000 superassessment coming through in the mail, and I'll bet you it opens a lot of eyes. Fifty thousand dollars wouldn't break the average company in any event.

Before I conclude, one more thing. Yesterday you asked the oil drilling contractors for their comments about a new building. We've discussed this ourselves. I have a thing about trying to get by with what you have. I like cleaning out cupboards. Every time my wife squawks at me about not having enough cupboard space, I just go through and clean out all the empty boxes, throw them out, and all of a sudden you have enough free cupboard space. Before spending \$70 million or \$80 million, in spite of the fact that perhaps you can prove on paper, at least, that the cost of running the operation is what is most important and not the capital costs, I think a really hard look should be taken.

I believe that putting a rehabilitation centre in the centre of downtown Edmonton isn't nearly as conducive to rehabilitation as the environment surrounding the present rehabilitation centre. That's a really nice area. You can go for a walk. You can fall

down, and you don't get run over. You go for a walk and fall down in front of any building downtown and you're liable not to get up forever. You say \$8 million to \$10 million to upgrade that facility. That's only debt burden for one year on the \$70 million proposed capital cost. I think we too agree that a second look — a really hard look — should be taken at that one. Your operating costs may be higher under the present set-up, but it really doesn't cost that much to run doctors back and forth across the city. You can move a lot of doctors around for a million bucks a year, and that debt burden has to be paid by somebody. We think more consideration should be given to that one.

Before I conclude, does anybody have any questions of our group?

MR. CHAIRMAN: Well, we were just waiting for you to finish your presentation.

MR. WALLS: Okay. In the 1979 committee review, you mention that the only way to reduce costs is to reduce accidents. I guess that's self-evident. If there were no accidents, there wouldn't be any compensation Board or Act or anything else. It is implied that the Act should be used as an instrument for social policy. I could read the particular statement, but it doesn't matter. I believe it comes across fairly clearly that there is a feeling the Act should be used to cover some areas of social responsibility in our province. If that is your decision, I personally think all people who are employed in the province should be covered and have premiums paid on their behalf — all workers, individual business people; everybody should contribute.

We don't have any statistics, but we understand that only 60 per cent of employed people in the province have premiums contributed on their behalf. I don't know whether that's true. But reading through the rate schedule, there are many areas where people can be covered by application. I think that should be deleted and the number of people covered should be increased only if you're going to treat this as a social project. We should all contribute in a manner similar to Alberta health care and other things that operate in our society. You have farm workers not covered, and I know you addressed that last time. I understand farm work is the second most hazardous industry to the forest industry. Their rate is \$7.15 this year. That supports that point of view. In the rate classifications, you have rates from 45 cents to that \$7.15 level where people are exempt unless the employer makes application. I believe some thought should be given to including more people in the premium payment.

I believe those are all the specific remarks I have, ladies and gentlemen.

MR. CHAIRMAN: I wonder if we could possibly go in the order Mr. Walls and his colleagues presented, and that was with the opening remarks on the preamble and the Board. Was that the area you had a question on, Ron?

MR. R. MOORE: That was on a couple of statements Mr. Walls made.

MR. CHAIRMAN: Go ahead. That would be in the preamble?

MR. R. MOORE: Well, it came during the process.

MR. CHAIRMAN: Go ahead.

MR. R. MOORE: Mr. Walls, there were a couple of items you said there, and I wasn't clear how you thought we should correct the situation. One was that you mentioned that it seemed to you and your colleagues that claims went up about double in the months before the fall/winter layoff to what they were during the working season. You weren't saying compensation fraud, but you were indicating that you wondered why this was.

How do you combat that? What is your people's suggestion that we should have there to offset that?

MR. WALLS: Well, I don't think I have a good enough background to properly answer that, but I'll ask the other fellows to contribute. I think it has to be through encouraging employers to find out internally what has happened — and this is a management problem — to generate upward flow of communication in the organization. It doesn't specifically have anything to do with safety. In my view, it's something that has to be done in all companies if they're going to survive in this environment. That's a very general kind of statement, and I think that's one way.

For instance, we used to have a sick-pay policy that covered from zero to seven days or something like that, the short-term sick-pay policy. We got off the insurance aspect of that because it cost so much money. Short-term sick pay is the most expensive part of a fringe benefit plan. Now we pay sick pay, and pay it gladly, but you have to get clearance from the foreman. You'd be surprised how many foremen say: that fellow isn't sick; he has a very bad headache, but he's not sick; he does not qualify. It comes from that level. The fellows on the job almost always know what the problem is, but it's sort of seen as squealing. I really think that's the only way you can effectively combat that type of problem.

I'm sure the people in occupational health go through hoops trying to figure out who is and isn't supposed to be qualified. The very first exposure to compensation I ever had in my life was when I was 16 years old. A fellow twisted his ankle. He was an independent truck driver, always had been, and still is today. He twisted his ankle on a curb going to the show at nine o'clock one night and drew a pension. That turned out to be a lifetime pension. I know it took him about two years to get that pension. That was wrong. I knew it; there were other people that knew it. But he got himself a pension.

MR. CHAIRMAN: But you didn't say anything about it at the age of 16.

MR. WALLS: You know, there's a great deal of peer pressure. I'm 16 years old. I don't think it's right, but that's the way it goes. It's not one of my best memories, but it's a memory none the less.

MR. R. MOORE: The second question. You made a statement about the Board being labor dominated — had absolute autocratic power.

MR. WALLS: It has by legislation. That's not my idea. Section 12 gives it that.

MR. R. MOORE: No, all right. Those are statements you were making. What do you suggest as the make-up of that Board? If it's labor dominated in your opinion, how should the Board be?

MR. WALLS: I don't know how you handle these things when you're just an ordinary human being, never mind a person that has all the pressures put on them, the way politicians do. That's a tough area to handle; I admit that. I think I agree with the statement Mr. Diachuk made to me a couple of years ago, that we don't want the Board increased. It's not going to do any good to increase the Board to five members. Yes, it's now increased to four, and I'm not sure that the number of people is really a problem or going to solve a problem. Because it is a political process, through having five members maximum you just might overcome the kinds of problems a particular political administration might have to face in appointing people to that Board.

Another area — and I didn't mention it; it's in our submission. Another area that

might be a solution would be to cut down the length of term from 10 years to something shorter, With all due respect to those concerned, 10 years . . . You know, it creates problems if it's three years. What do I do? I'm an income-earning individual. What do I do after the three years is up? I have to look for a political type of appointment after that time or I'm going to starve to death. I have to give up a good job and go sit on the Board for three years; then go back out on the street looking for work. We think there are some problems with that 10-year term. I don't know; it's a very difficult problem.

Maybe the way around it would be an advisory board that had a little bit of stroke. Somebody just might be able to get something across. I know enough about politics to know what 20 constituents can do to you when they're on the phone day and night. If you had to sit down as a Board before, say, a seven-member advisory committee once in a while and listen to them repeat the same thing three or four times — you just might catch a feather, you know, if you keep shooting.

MR. CHAIRMAN: Can I just ask a further question? Is that three-year suggestion in your association's brief the association's position?

MR. WALLS: Yes.

MR. CHAIRMAN: What is the thinking? Where did you come up with the three years? You raised concern about even the three years. That is the lowest number anybody has presented to us. We've had other submissions that 10 years is too long. From your submission, I was trying to understand where you came up with the three years.

MR. WALLS: I think I'll ask Scott to answer that question.

MR. CHAIRMAN: He just inhaled a whole cigarette.

MR. WALLS: Because obviously I have some problem with it.

MR. McLEOD: Well, the three years wasn't exactly pulled out of a hat. It could have been four, like MLAs, but 10 years is definitely too long. The thought starts to stagnate.

MR. CHAIRMAN: I thought you'd negotiated.

MR. McLEOD: Yes, it was a negotiation process. Anything less than that, and I think you would have trouble attracting people. Nobody wants to leave industry for one or two years and try to get back in. We feel three years is sufficient to find your way around, to become effective, but not to get that comfortable.

MR. CHAIRMAN: One question. You just said something I want to ask you about. You said it's sufficient to get around. Do you reappoint him after three years, or do you bring in a new person? Every time you're giving him just three years just to know how to get around.

MR. McLEOD: Yes. You could reappoint him for another three-year term, but that would be maximum.

MR. NELSON: Well, I would just like to throw something out. Would any of you gentlemen take an appointment of three years on the Board?

MR. McLEOD: Sure.

MR. MOLINEUX: Yes.

MR. McLEOD: You went out and got elected for four years. I think you could definitely have no problem.

MR. NELSON: But I still have a business, so that's not my only avenue of income. This Board thing would maybe be a full-time situation where you don't have any other opportunities. Would you be prepared to give up a career and take on an opportunity like that for three years?

MR. McLEOD: I think there are sufficient people in industry that would.

MR. NELSON: Has your industry put forward a name to represent industry in the upcoming selection of a chairman?

MR. McLEOD: Yes, we have.

MR. NELSON: Good. Would they accept it for three years?

MR. McLEOD: I would have to ask them.

MR. CHAIRMAN: Any further, Ron?

MR. R. MOORE: No, thanks.

MR. CHAIRMAN: Ray? On this same area, the preamble and the Board?

MR. MARTIN: Yes. Just for clarification, to come back to your advisory committee. You're a little hazy. It said it:

would consist of representatives from industry, labour and the public. The employers, however, should maintain at least an equal representation.

Are you saying that employers would be equal to labor and public or that labor and employers would be equal, and the public . . .

MR. WALLS: We're a little concerned about being swamped. I think I said previously, and I mean it, that I don't have any trouble remembering when I was on a shovel. Maybe nobody does; I don't know. I have a great deal of sympathy with problems faced by the individual worker in the work place. In my travels I see very few companies for whom I personally would work, and I look. That's a very general statement, a broad statement and a real one. I don't see very many places where I'd like to work. I really feel that protecting himself in our environment is a problem the individual has. On the other hand, I think the pendulum has swung far too far the other way. I believe there is reason to think we have to have more people involved who understand how to make a buck. I wish it weren't true. I wish we could all go out there and forget about it. I wish we could all work for the government. It would be just great, and would I have some leisure time. I'm not complaining at all.

MR. CHAIRMAN: It sounded like you were complaining.

MR. WALLS: No, I'm not complaining. But I think it's a Utopian kind of thing to expect

the world to be cost-effective when there are not people involved who understand cost/benefit relationships. That's all we're asking for on a voluntary board. I firmly believe the way around this length of appointment for Board members — length of term and number of Board members appointed — is to have a voluntary advisory board. If business were to have fairly good representation, more than one out of 10, and pretty strong representation, I think some good might come of it.

MR. MARTIN: Okay, just to follow up so I understand, because you talk about three groups in your brief. I suppose the public could be distorted toward labor or employers, depending who that person is. Then you would basically be satisfied with equal industry, equal labor, and hopefully as neutral a public as possible.

MR. WALLS: Yes, I think that's our feeling.

MR. MARTIN: Okay, just one other question. To come back to something Ron was talking about, I think Mr. Ford indicated you have a high rate of so-called injuries toward September, where it seems to double. I believe it was you that said that.

MR. FORD: Yes, this is true.

MR. MARTIN: This gets a little confusing, because when they deal with the Board I expect they have to go to a doctor and all the rest of it. I guess I'd ask two things. Is this not the case? And, if it is abuse, surely we should be able to nail it down in that way. The other thing is, has the company appealed when you see a settlement coming up to the Board?

MR. FORD: Oh, yes. Most definitely. You must understand this doubling has many other aspects to it too. I don't think there are genuine malingerers out there either. There are people who have conditions, and they accelerate toward the end of the season. If I have a bad shoulder that's been bothering me for a long time, I'm going to try to get this season done and it's going to accelerate. But when fall comes and I'm packing it in, this is when I'm going to make a claim, because I don't want to lose work.

MR. MARTIN: What you're saying is that it's a gray area.

MR. FORD: Yes, it's a very gray area. The other situation — not so much this year because of the economic situation — is that normally in September we have all the university students going back, so then we have to practically regroup. Now you're getting the people who have not been able to get jobs before, so they're going to go on a short-term basis too. You're getting a group of people that are worried about their existence for the rest of the year.

MR. CHAIRMAN: Mr. Ford, in your company have you ever taken that issue up in your joint worksite health and safety committee?

MR. FORD: We discuss this on a regular basis in our association meetings and this sort of thing.

MR. CHAIRMAN: I mean right at your own company level, instead of your association.

MR. FORD: Oh, yes.

MR. CHAIRMAN: I know you have a joint worksite health and safety committee.

MR. FORD: We work on this all the time.

MR. CHAIRMAN: What do the workers say?

MR. FORD: Well, basically we come back to what Vic said. The workers are not going to subscribe to a situation. They're going to simply say: that's the way it is, and this is what you have to live with.

MR. CHAIRMAN: So who is to resolve it? Vic pointed out that it's management problems.

MR. FORD: Yes, definitely.

MR. CHAIRMAN: Even with a Board with all kinds of magic abilities, or their staff, if it's management problems and if it's accepted — and it shouldn't be; you and I agree it shouldn't be accepted, but for some reason they accept it — who would resolve it?

MR. FORD: The resolution part, or the part the Board needs to be aware of, is not only this doubling toward the fall of the types of claims that are also coming in on a regular basis, but about 30 per cent — and we can substantiate 30 per cent — are non-accident related. Nothing has happened. A man is only doing what he was employed to do, and these are areas of a great deal of expense. I'm not condemning the Board for accepting these situations. It's just that a lot of money is being spent in these situations. If I went back on a shovel, whoever employed me is going to have a problem, because I have an arthritic back. Sooner or later it's going to show up. Now, should that employer really be penalized, or should the class even be penalized? These are the kinds of questions that need to be asked.

MR. CHAIRMAN: At the same time, we're here to get some suggestions from you. You've been asking questions. We have questions; we want some answers from you.

MR. FORD: What we're saying is that in the administration of the Act, reasonable recovery periods and pre-existing conditions have to be more effectively analysed. We can't do it. If we went into a premedical situation, say, where we knew what the employee's condition was when he went to work, we would either eliminate about half our work force, which wouldn't be fair, or else we're assuming a responsibility for a lot of conditions which we don't feel we should be assuming responsibility for.

MR. CHAIRMAN: A premedical is open to any employer.

MR. FORD: Yes, I know they're open to any employer. But do you realize the highly transient nature of our group here, the Alberta roadbuilders? We would be swamped in premedical situations. And it wouldn't be that effective, because we would be denying employment to so many people.

MR. CHAIRMAN: Well, that's why I interjected on Mr. Martin's question on this concern you gentlemen have raised about the fall syndrome. That's why I'm asking you, how do we resolve it?

MR. FORD: Part of the resolution is by getting the dialogue Vic was talking about,

getting with us, knowing what we are experiencing, and working it out together. We're not getting that now. We're sort of coming up against a wall, where it is said that if we can relate this situation to an incident, compensation is going to be paid. We can't get away from it. If we can argue it and argue it effectively, and we have in many cases . . .

MR. CHAIRMAN: Just to conclude that point, is your concern — as some of the other submissions have made, and I think you touched on it today — that when you as an employer raise a concern the employer is relieved of the cost but the class is there.

MR. FORD: It's still not helping the fund.

MR. WALLS: It seems to me that that's part of a major problem we're facing, this business of suspect claims, if you like. We don't think those claims form a very large percentage of total claims. But we have a problem in trying to solve safety matters in our own organizations; we don't know what to do.

Use the example of speeding tickets in the city of Edmonton. I understand that for six months there have been 46,000 speeding tickets. People know the law, they know they are going to have to pay if they get caught, and they still do it. You can walk onto any worksite — I don't care if there are five safety officers on the job — there are people that will not wear hearing protection, they won't wear a hard hat, and they won't wear safety boots. You can supply all of that, and they won't do it. We have a really big social problem in that area, and I for one don't know how to solve it, except to keep hammering.

Thank you very much for your time. We really appreciate it.

MR. CHAIRMAN: No other questions?

MR. WALLS: You're running out of time.

MR. CHAIRMAN: Well, the issue is important, your dialogue is here, and we did run behind time. Is there nothing more?

MR. NELSON: No, they are very clear.

MR. WALLS: We would really like to see you continue these and have another one in three or four years. Next time maybe we'll have it in the winter, and we will get into the Occupational Health and Safety Act.

MR. CHAIRMAN: Mr. Walls, let me conclude on this basis. There are certain things, as you indicated, that can be structured. As you appreciate, the Legislature sits in the fall and spring. We would love to have select committee hearings in the winter; however, from the experience I have had, many of your colleagues are in the south in the winter, and I would have some difficulty scheduling it. Thank you very much.

MR. WALLS: Now wait a minute. Unfortunately, not very many employers participate, and that is a problem we have with safety also.

MR. CHAIRMAN: That's right. Thank you very much for coming forward.

MR. WALLS: Okay, thank you.

Alberta Provincial Pipe Trades Association

MR. CHAIRMAN: The next gentlemen are Mr. Evans and Mr. Hubler from the Alberta Provincial Pipe Trades Association. Would you two gentlemen come forward?

I want to announce that if there is any individual or an employer with their own concerns, please let my secretary know. I have staff here that will assist you with it. If it's about a claim, we would like to accommodate you. If it's about your assessment account, please let us know — signify, raise your hand. My secretary is right behind you, and the staff will look after you shortly.

If there is any employer that wants to speak to the committee after the hearings, we will make some time available. But the secretary is sitting back there, and one of the staff members is here from the WCB, and they would be pleased to assist you on any concerns that you have. The two gentlemen in the front — there is an office they will take you to, over at the side, and work on it.

If I could ask the people that have completed if they would accommodate us by discussing outside the building, it would permit the audience to be able to hear and the rest of us to continue with the submission.

Who is the spokesman? Mr. Evans?

MR. EVANS: I am going to start off, Mr. Chairman.

MR. CHAIRMAN: And Jack will be the catcher.

MR. HUBLER: Right.

MR. CHAIRMAN: He's a baseball player. I know that — or was.

MR. HUBLER: Right. I strike out every time. Maybe not this time.

MR. EVANS: I would like to thank the committee — and say good morning to you — for the opportunity of coming here to speak with you on this report. I am assuming that the committee has had an opportunity to look at some of these points in the report.

Alberta pipe trades, by the way, for people that are not knowledgeable, is the plumbers' and pipefitters' union. Some of the major points that we are concerned with are the functional aspects of the Act. In my own particular representation, which I sort of initiated — I'd like to let you know that I am the administrator of the pensions and health and welfare trust funds for a number of plans within the trades, not just in Alberta but across Canada. I have had 18 years' experience dealing with the Compensation Board at the claims level, the lowest employee to the top, as it were. So the major points of my report concern the effective aspects that I've had in representing people making claims to the Board and so on.

The first point I am suggesting we change in the Act is that an injured worker have the right of access to his files. The Board presently allows — and it was recently amended under Bill 51 — the medical director to have access to claims. I discussed this point with a number of significant people, including the Ombudsman, who the Alberta government very reluctantly gave the opportunity to view an injured worker's file. He had a hell of a job getting that right. Today, one of his employees will go down to the Board and examine an injured worker's record, and he is allowed to take a photostat of the file. I think we are 100 years behind the times in allowing people the right of access to their own medical information.

The issue that arises is that when some doctor puts in a contradictory medical report to another doctor, everybody then starts trying to protect the medical profession instead of giving representative of that worker access to all reports, contradictory or otherwise. So I think that's a very major point. I have been watching it happen all the time. I have sat in Board hearings and each time, whether it's a review board hearing or a Board hearing, people will make reference to reports that we never see. So that point is very essential. It is the number one point as far as we are concerned. It has already been adopted in two other provinces; it's already allowable in Ontario and B.C. Saskatchewan is presently looking at changing the Act to conform with this situation, and I am hoping that Alberta will do the same thing.

The second point I want to make is on a worker leaving Alberta who has an injury in Alberta but changes his domicile. Once he leaves the province, it's difficult for him to keep supporting his claim. It tells you in the Act that once he leaves the province, he's going to have his benefits cut off. The point of this is that many of these workers — and it's not particularly the change of domicile but a person who comes in here from another area. I can use the example of Syncrude, where we had 500 people from Quebec working here. Many of these people got injured. The rehabilitation department presumes that any worker should be rehabilitated in his own particular environment, with his family and stuff like that. But the Act says that if you leave the province, you're going to be cut off your benefits. We are suggesting that the Act should be amended so that acceptable evidence from a doctor anywhere should support his claim. That's a short one. What I've said about that is in the report that committee members have.

I would like to see the definition of "accident" changed in the Act, and I am speaking on behalf of the Alberta pipe trades. It currently defines an injured worker. I have had a great deal of problems with people, where I have been told the only time that a person is covered is when he's under the active control of an employer. Now in a large camp job like Syncrude, we have a few thousand captive employees held there because they have come from other parts of Canada to finish that job. And because recreation and everything else is laid on for them within the campsite area, people do have accidents.

Recently — not that recently — at the Syncrude job, I followed up on a claim where a person had fallen down a manhole. It was close to the camp cafeteria, and it was a hazardous area to walk through. The guy almost died from that accident, and he was from Vancouver. So I took it upon myself to represent that man at the Compensation Board because eventually, when he was able to be moved, he was moved back to Vancouver. But it's the only claim for a captive employee that I had approved by the Board, in that his accident didn't occur while he was actually working on the tools. What I am suggesting is that the Act be amended to provide for captive employees to be covered while they are under the control of the employer.

Now they've used the objection with me many times where members of the union, employees, the employer, and so on, have contracted in their own terms very often, and it's very often contradictory to the collective agreement. They've decided that for a job out of town, they will live in some small town near the jobsite and make an arrangement to travel from the hotel they are living in to the jobsite. During that time they are getting paid wages, the employer is contributing to unemployment insurance, workers' compensation, and so on. But if a claim comes up, I have been told that he's not under the control of the employer until he gets on the jobsite. That's an area that I think also is applicable in this particular change that I would like to see.

MR. CHAIRMAN: Mr. Evans, I don't want to interject; I want you to make your presentation. Could you tell the committee where you got that information that they're not covered?

MR. EVANS: Personal experience, dealing with claims.

MR. CHAIRMAN: Can you give the committee some examples of claims?

MR. EVANS: I've just given you two.

MR. CHAIRMAN: No, no. I mean claim numbers, so we can look into it. You may want to search your files.

MR. EVANS: I've already gone through Board hearings on these.

MR. CHAIRMAN: Then you could give me the name and the claim number.

MR. EVANS: Right. I think that's enough on that point, Mr. Chairman. I would like to continue with the next one, which is simply the question of bringing into line the definitions of dependants and spouses. I would like to see these definitions in the Workers' Compensation Act follow the Canada Pension Plan legislation. Medicare legislation has more or less followed the Canada Pension Plan legislation, and I don't think there should be any variances in that type of thing. The main point about it right now is that under the Workers' Compensation Act, children are covered until they are 18, whereas under other situations dependent children of a disabled person are covered until they are 25, providing they are going to an accredited school, institutions and so on.

I made a point about uniformity of the Act. I realize, and probably most people do, that jurisdiction of the Workers' Compensation Act is within each province. It's the same with the Insurance Act and probably the Hospitals Act. There are a number of areas where provincial jurisdiction supercedes federal. But I see no reason on earth why we can't have a set of rules in Canada that each province will apply — there may be variances in benefits because of economic situations — as to what is an injured person and what is an accident. I just can't see why we can't have a uniform Act. I have pointed out the fact that the Insurance Act was changed in '67 to bring uniformity, and it has functioned extremely well ever since. Apparently the pension benefits branch, in each province that has one, is also trying to come up with legislation that will be uniform.

I'd like to ask Mr. Hubler to cover the occupational health aspect.

MR. HUBLER: Thanks, Evan. The first one that we've outlined, Mr. Chairman and committee members, is for mandatory safety committees. At least as far as I know now, there are no safety committees designated for the construction industry. I don't think there are any in the province whatsoever. Many employers have them voluntarily and do a good job at it. But as far as I can understand, there are no safety committees designated in any fashion for the construction industry. Since our group is part of the construction industry, that's our concern.

MR. CHAIRMAN: Mr. Hubler, Mr. Ford from PCL admitted that PCL has them.

MR. HUBLER: They do it voluntarily. That's what I'm saying: some do it.

MR. CHAIRMAN: Okay. But you said "in any fashion".

MR. HUBLER: There are none designated through any legislation; they do it voluntarily. We are saying that because a few of the larger employers do it in the province really doesn't make it... It covers it for those situations, but it leaves hundreds of employers out, of course.

Consultation with the various sectors. The reason I'm saying that is in the construction industry, if you get on certain jobsites, it becomes very complex. You can have a multitude of employers, and how do you arrive from the tailgate meeting to the toolbox meeting to the safety committee to finally one safety committee that has the overall say for that jobsite? It becomes very complex, and we're prepared to sit down — at least this group is — with whoever it may be from your department and try and sort it out to see if we can arrive at a resolution to this.

The next one, Mr. Chairman, is safety equipment for those whose skill is welding. I think probably in your department you are aware that there have been some problems on various jobsites where it is sometimes necessary to wear a shield and a hard hat, particularly if someone is working overhead. But in the industry that we are representing, piping, probably 90 per cent to 95 per cent of every joint that's welded has to be 100 per cent X-rayed and done properly or the guy's job is on the line. The equipment that is on the market now is really not practical for those situations. All you have is the heavy shield and the hard hat, and that's all there is on the market. I have met with people in your department, and they have started some meetings across the country with your colleagues in various departments, the CSA, and things like that. We are asking you to carry that on, no matter how long it takes, to see if you can arrive at a proper piece of equipment for those situations.

Right to refuse. We think you made some good steps forward. We would like to see it really put into operation and enforced. When I am talking about enforcement, there is one other area I would like to raise; that is, this asbestos problem that came up last year — and I'm sure you're all aware of it — particularly at the Suncor site. The Act and the regulations cover it to quite an extent, but the problem is that it wasn't enforced. In many plants, buildings, and worksites throughout the province, asbestos is everywhere. When you're going to tear it out or take it apart, it's not known until you are into it for a number of days or a number of weeks; that's when the problem arises. Then everybody gets concerned and does everything right, but it's too late. Many people are upset, and it's hard to get things back on track. We are saying that maybe somebody has to take a look into the asbestos situation in the province so that if somebody is going to go in to repair, demolish, or whatever, everything is known long beforehand. I think that's all that would be necessary, so those types of situations don't arise again.

The last one you see on the list, Mr. Chairman, I think is to do with a draft copy of a regulation for sanitary facilities. With the people that I'm representing, there is no way I can mention Johnnys-on-the-spot or I'd be in a lot of trouble. So you see our proposal.

MR. CHAIRMAN: That's still out there for input.

MR. HUBLER: Yes.

MR. CHAIRMAN: Okay.

MR. HUBLER: That concludes it.

MR. CHAIRMAN: Okay.

MR. R. MOORE: Mr. Evans, your first recommendation was that the worker should have access to his file. You stressed that very much.

MR. EVANS: I have difficulty hearing you.

MR. R. MOORE: The employer is involved there, too. Do you feel that the employer

should have access to that file also?

MR. EVANS: I wouldn't object to that at all.

MR. R. MOORE: Then your recommendation would be that the worker and the employer should have access to the worker's file.

MR. EVANS: Yes, when you're dealing with the claim, when you're dealing at the Board level hearing.

MR. R. MOORE: That's right. But you include the employer in that recommendation?

MR. EVANS: Yes.

MR. R. MOORE: You people include the employer in that recommendation as well as the worker?

MR. EVANS: Yes, I have no objection to that at all. I'm looking at it strictly from divulging of all information.

MR. R. MOORE: Thank you.

MR. EVANS: I would like to make one point on that, if I may. In a recent claim that I was dealing with, one doctor did an ear examination if a guy. Another doctor was asked to verify. Because the claimant himself had a residue of material left in the ear, the second doctor refused to do it. He thought he would also be in the hot because of that second examination to try and prove it. So as far as I'm concerned, that guy had a raw deal and he's still getting it. But I didn't come here to debate individual claims, Mr. Chairman; that's the last thing I want to do. I am talking about some improvements to the Act, functional aspects in this area.

MR. CHAIRMAN: But when you make references to examples, the committee would welcome — because you indicate that you have the information — receiving the examples so we can look at the specifics. That's the only reason I ask. It's not that we're debating it. If you need the permission of the worker you represent, we acknowledge that. But if you want to consult with the worker and the worker says, Mr. Evans, give the select committee the information on my file, we would welcome that.

MR. HUBLER: You mean it might help you in your proceedings and whatever.

MR. CHAIRMAN: Yes, it helps us.

MR. NELSON: Mr. Evans, I just have one little comment to start with. First of all, I assume that you know the Act probably better than I do at this point. But I understand with regard to a worker leaving Alberta, the Act states not that he will be cut off but that he may be cut off benefits. I think it might be a little misleading insofar as your statement is concerned, in that if some workers left the province they may of course be entitled to continue their benefits.

MR. EVANS: Again, I can only speak from experience.

MR. NELSON: Well, that's what the Act says.

MR. CHAIRMAN: That's what the Act says, it "may", not "shall".

MR. EVANS: I'm fully aware of that.

MR. NELSON: I would like to deal with this area of worksites that you brought up. If we can get into the area of people that are in fact concluding their work for the day or have concluded their work for the day, their normal payroll activity, and are on the site, or for that matter on an access road, in their own time; they have an accident, be it through horseplay, be it by slipping on a bit of ice or something on the site . . .

MR. EVANS: Or if he's drunk. Let's put it that way too.

MR. NELSON: . . . be it an accident in a vehicle, their own vehicle, on an access road. Why should they be compensated for activity outside their normal employ, similarly as to a person going home in the city or living in a motel?

MR. EVANS: I have indicated that he's under the control of the employer. If a guy stays in the camp over the weekend, he's being paid.

MR. NELSON: I thought through my dialogue that I asked the question: after his normal hours of payroll employ.

MR. HUBLER: I think so. That's true, Mr. Nelson. But still, I think he is in the captive area and is still under the control of the employer to some degree. If something happens, he still uses their first aid and ambulance facilities. He has to, that's all that's there, no matter how he got injured or at what time of the day.

MR. NELSON: Well, if he's horsing around or having a fight with a guy, should he be compensated for injury?

MR. EVANS: That is normally disallowable to anyone, regardless of whether he's on the tools or not.

MR. HUBLER: Each one becomes an individual situation, then, to some extent.

MR. CHAIRMAN: So you concur, or as the question was, that if it's an altercation, a fight, you wouldn't support the worker.

MR. EVANS: No, you wouldn't expect payment for a fight.

MR. HUBLER: There are going to be situations that we wouldn't take up with you anyway, even if the people came to us and asked us to.

MR. EVANS: Regardless. I wouldn't represent a guy in those situations at all.

MR. NELSON: I am disturbed to some degree, I guess, that a person not on his normal payroll duties, through some activity within his own control, generally speaking — you're suggesting they should be compensated for some injury that may happen outside that employ.

MR. HUBLER: Oh sure, because they are on that site, and it's the client's site. In our

situation they are contractors or whatever the case may be, and somebody there has to be responsible for whatever is going to happen. Mr. Evans mentioned the manhole situation in the north somewhere. I'm not sure, but I understand that particular fellow was going for supper.

MR. NELSON: Under normal conditions, shouldn't the worker also have some responsibility to protect himself, rather than suggesting that the employer deal with what you might call social conscience by holding the hand of the worker whilst he's on that site for the full period?

MR. HUBLER: That's true to some degree, but I think we qualified it to quite an extent when we said "captive employee".

MR. NELSON: That would have to be defined, though, wouldn't it?

MR. EVANS: We are talking about responsible people, Mr. Nelson, not irresponsible people. I am talking about accidents, not self-inflicted, whatever means. That's the kind of captive employee we're talking about.

MR. NELSON: Well, I guess we could kind of get into a debate here, and I would certainly be attuned to doing that.

MRS. FYFE: I'd just like to come back to the question regarding access to medical records. This is one that we discussed four years ago and that I think is an ongoing concern on the part of many workers and those representing them. However, the arguments that have always been put forward to me are that this is done primarily to protect the worker, from the perspective that if the medical record is not made public or kept confidential, those making the medical judgment — often a medical opinion is an opinion and not necessarily a defined scientific fact — will give a better opinion if the physician that has examined, usually the worker's family doctor, knows that opinion is not going to be made public.

I will give you an example. If the family physician thinks that the worker's injuries, ailments, complaint, or whatever the case may be, is compounded by a psychological fear or something related to it, he is more apt to put that in writing if he knows that is not going to be public. If it is public, he is simply not going to put down comments unless he actually has a test that says, out of this test came such and such a result. In the long term, that would work against defining what's really wrong with the worker and, consequently, he would not be able to be treated to the same degree. What's your response to that?

MR. EVANS: The medical profession is the strongest union that we've got. I don't have to say that twice. You see, no doctor will contradict another. No doctor in practice will argue a case for the compensation worker in court or anywhere else. So if you're talking about that kind of public exposure of medical information, it's still the right of the worker to give that right to the person if it is going to be disclosed publicly. I'm not talking publicly; I'm talking about at a Board hearing or a review board hearing, where the worker will have access to those medical records as anybody else that's implicated in that decision.

MRS. FYFE: The information is given to the worker; that's public, though.

MR. EVANS: But I am absolutely frustrated with doctors who will not speak up for

themselves and take action against another doctor who is negligent.

MRS. FYFE: I think that's a different question. There are lots of cases where a physician will make an opinion, and a second opinion is required. I'm sure we've had that in our own families. You don't go to another doctor and say: listen, that guy is a real dummy, I want you to contradict him. But you may get a second opinion which is totally opposite to the first opinion. That's very different from ethics in any profession. I think we have to stick to the point of what I'm saying. Would giving this information to the worker not go against the worker in the long run?

MR. EVANS: The last point I make on it is that you, this provincial government, have no right to not give it. Under civil rights legislation and the Constitution, I think you are obligated now to change the Act.

MRS. FYFE: Mr. Evans, I don't think that's really the point, though.

MR. CHAIRMAN: You have just contradicted yourself: you said we have no right, but then you asked us to change the Act. The Act gives the Board the right.

MR. EVANS: Yes, I've got to put some pressure on you.

MR. CHAIRMAN: Okay, but the Board has the right to maintain the confidentiality of the medical information.

MR. EVANS: Well, it's not going to last long, I don't think.

MRS. FYFE: I don't think that you're really answering the question. What I'm concerned about is the worker, and you're concerned about the worker. I'm not talking about human rights under the Constitution or even what happens in other provinces. I am concerned about how we get the best information for the worker, so a judgment can be made on each individual case.

MR. EVANS: I have given you one specific case. There were two doctors involved in this particular area. One doctor did a spinal injection. The residue of that material ran into the spaces in the guy's ear. It congealed, and they can't remove it. It has upset the person's balance, and he can't be employed in the pipe trades any more. Now whether he will be able to do anything else, I don't know. But he is a welder, and every time he bends over, he topples over; that's when he's working on the floor. Now a welder is required to work 500 feet up on a highline. So he can't do that any more.

The results of this accident and the inability of this employee to succeed in a claim from the Compensation Board destroyed his family. He had a young family with three children. The next thing, his wife told him to get the hell out. That's what happened. I feel very emotional about this particular case, but I don't want to destroy my thinking at all. The main frustration I had with it was the two doctors. The second doctor would not commit himself in any way, and that's the brotherhood of the profession.

MRS. FYFE: Did this go to a medical tribunal?

MR. CHAIRMAN: Did you take that case or the worker to the medical tribunal, the medical profession itself?

MR. EVANS: You know what galls me, the action of the review committee . . .

MR. CHAIRMAN: But did you complain to the medical profession, to the college?

MR. EVANS: The Compensation Board says you can't take action against . . .

MR. CHAIRMAN: No, I'm just saying about the fact that one doctor will not respond.

MR. EVANS: No.

MR. CHAIRMAN: Every professional group — and doctors, as strongly organized as they are, have a professional body that will accept a complaint like that.

MR. EVANS: Mr. Diachuk, I have constantly called the College of Physicians and Surgeons on things that I get riled up about, but I have never once succeeded in the college even listening to me.

MR. CHAIRMAN: Mr. Evans, there is a proper way to place it. I'm sure you've been through this. You present it in a documented complaint to the college.

MR. EVANS: Yes, I've done that.

MR. CHAIRMAN: Have you done it on that case?

MR. EVANS: I don't have sufficient information, because they won't disclose the entire thing. What I've picked up so far is the fact that the second doctor just wouldn't do the medical examinations required to prove this person's disability. So a second doctor won't get involved now, and he's stated that.

MR. CHAIRMAN: Well, if you want to and it's an Alberta worker, please refer that complaint to my office too, because it's an area I would be just as interested. I don't look at medical reports, but at least the process.

I did want to just raise with you this confidentiality, as Mrs. Fyfe did. Yes, as a committee we will be looking at the programs of other provinces. If you have some good success stories from your union and your colleagues on where the confidentiality is now removed in Ontario and British Columbia, the committee would welcome it to give us a better feeling. We intend to visit with those boards and administrations, but we may not get the other side. If you have some good success stories on that, would you please let us have the information?

MR. MARTIN: Yes, I'd just like to move into a different area, the Occupational Health and Safety Act. Number one, Bill knows how I feel about that. We went for a private member's Bill, so I won't go into that any further. But I'm interested. I wasn't quite sure about the welding, Jack. Would you explain to me what is happening with the welding?

MR. HUBLER: The Act says you must wear head protection at all times if the employer determines the jobsite's going to. If he determines it's a hard hat job, that welder has to wear the hard hat at all times. We've had some major problems with this, because there are just many cases — if a welder is doing a pipe along that wall, he can't wear the hard hat; he can't even wear the face shield; he has to get special equipment for it. The Act doesn't make many allowances for that. In my mind, to wear this equipment seven, eight, nine, 10 hours a day, day in and day out, if you don't have to, is really unnecessary for this particular type of occupation. I'm not taking away from any safety factor, because

nobody has fought harder for safety in this province than I. But when you're doing a piping thing, and it's got to be 100 per cent work, you can't wear this type of equipment. And there is none on the market in the world that we can find.

We're asking you people and Mr. Diachuk to meet with his colleagues or whoever the people from the department would be, the proper people to meet with the various other people across the provinces, and start putting something together with manufacturers and CSA people and come up with some equipment for it. In many cases, if you're just welding along at this level and you stand there, no problem. But if you have to bend down and work around corners and what have you, it's impossible to wear that equipment. Your inspectors on the sites are sometimes even writing up citations, and they can't be lived with. You can't comply with them. The employer says, you have to wear it. The guy says: I can't; look where you put me; I can't wear it. So it contradicts itself, and we're asking you to put some alleviation in the Act or regulations or come up with some equipment.

MR. MARTIN: Could I just follow-up with this. Is this fairly common in the department, and what is happening?

MR. SMITH: I think the way Mr. Hubler has described the situation is correct. The regulations require that where there is a hazard of head injury, they must wear head protection. I think the incompatibility between certain types of protective equipment is the issue, but we do call those situations.

MR. MARTIN: Is there some ongoing research in what they're talking about?

MR. SMITH: Constant discussion, I would say, rather than research. We're trying to eliminate the problems, but it does exist.

MR. HUBLER: Throughout the country, you're saying?

MR. SMITH: Right across the country, yes.

MR. MARTIN: Just one last one. You mention asbestos, and I understand what you're saying. Maybe it's too late, and everybody is in a panic after. People don't want to go back. It's not good for industry.

MR. HUBLER: Yes, and it gets headlines in the Legislature, and Mr. Diachuk has defended himself and everybody.

MR. MARTIN: What can be done ahead? People don't know where this is?

MR. HUBLER: Sure they do.

MR. MARTIN: Do they?

MR. HUBLER: Everybody that is managing a plant knows where every speck is in the whole plant. They have to relay that information if a new contractor comes on the site with employees.

MR. CHAIRMAN: Jack, on that question. On all of these major jobs now, there is a preproject planning meeting. Is there sufficient involvement from your union, the work force?

MR. HUBLER: There is now, since the major keffuffle up there last year on that one plant.

MR. CHAIRMAN: That's to take place on all, as a result of that.

MR. HUBLER: Okay. I don't think so, because I understand it arose the other day in one of the power plants out west of Edmonton.

MR. CHAIRMAN: Occupational health and safety staff are always available at any jobsite with a preproject planning meeting. I would hope that where that doesn't take place, you communicate to your members so that they let the regional office know.

MR. HUBLER: Well, what I would ask, though, Mr. Chairman, is that this procedure be stressed and really laid out to all employers in the province working in this type of situation. Once they are into it, the procedures you have laid out aren't that bad. They could be improved too, the watering down, the suits, and all this stuff.

MR. CHAIRMAN: Part of the reason for the sort of limbo we're in is that we're still working with the regulations that have been with us for some time, because the new regulations have not been approved. That's why most of the sections of Bill 51 have not been proclaimed. Once all the regulations are in place, we will rescind the old regulations, and some of that will be taken care of through codes of practice and regulation.

MR. HUBLER: I see. You're saying, then, that Bill 51 lays out some of the procedures that have to take place in the event you're going into a plant like this?

MR. CHAIRMAN: Well, it provides for the new regulations, that's right. That's why you have some proposed draft regulations that you refer to. The division is awaiting the input from your union and the employers. I have all hopes that all the regulations will be in place by early next year.

MR. HUBLER: Just for the time being, if it can be stressed by your department to those particular jobsites and plants where we know asbestos exists.

MR. CHAIRMAN: I know, but the preproject meetings are to take place on all major projects, whether it's demolition and rebuilding or totally new.

MR. HUBLER: I think it would if it were put into practice fully and everybody aware of it.

MR. CHAIRMAN: We'll take that back to the division, to be sure the communication is there. Ray, anything more?

MR. MARTIN: Well, I don't think I'll get into four.

MR. CHAIRMAN: Oh, why not?

MR. HUBLER: You've got to get into that. That's my pet one, for goodness' sake.

MR. EVANS: Mr. Chairman, I would just like to make a point to Keith on this

[inaudible]. I went up to Keephills two weeks ago. I didn't find one pair of welding safety glasses out there that would cover a pair of eyeglasses. So a welder is strapped, you know, unless he's wearing contacts; some types might fit over his face. But most of them allow the back draft of welding to come up under those glasses. There's no way he has proper protection. We get a lot of injuries like that.

MR. CHAIRMAN: Okay, any other questions from any member?

MR. THOMPSON: Mr. Chairman, I'd like to ask Mr. Evans about his primary recommendation here. I can see that the worker should have access to all information on his claim file. You agreed, then, that the employer should have the information.

MR. EVANS: I don't see how we can get a certain resolve on a claim unless the significant people involved have access.

MR. THOMPSON: The point I'm making is that that then becomes public information.

MR. EVANS: It's not public within that committee; it's strictly confidential to that committee.

MR. THOMPSON: The point I'm making is that it's just the workers here. Does your association support the idea of the employer having the information too? Or is this just your own idea here, as you're meeting with the committee today when it was brought up?

MR. EVANS: It hasn't been debated at great length, but in principle we believe the file should be made available to significant parties.

MR. THOMPSON: That's somewhat different from your recommendation, as I see it.

MR. EVANS: It's not exactly, because you've asked some other questions which I perhaps didn't give enough thought to there. I've been dealing with the question of confidentiality of medical records since 1947, because I've been in the insurance field part of that time. I've been obtaining medical reports myself from all kinds of sources, in dealing with the claims — I'm talking about our benefit plans and so on — and making these reports available where it assists the employee to support claims of disability. But in this particular case that I've talked about, to go to the Compensation Board about this problem here and medical opinion arises — the Board came back to me and said: let's offer this guy a 1.5 per cent, 2 per cent, or 5 per cent permanent pension. To me that's a lot of garbage. They asked me what I would recommend. I told them. I've been on disability pension myself since 1941, and I find one of the things . . . If you really want some criticism, I would like to see that the people on that Board are not employees of the Board but independent people to start with. That's another pet peeve of mine.

MR. THOMPSON: We're getting off the subject.

MR. EVANS: Not political appointees on a board like that. And see how other pension boards that I go to operate. I get free access to my medical files — mine's a veteran's pension — but the board is non-partisan.

MR. CHAIRMAN: Any more? Okay. Thank you gentlemen for coming forward. Mr. Evans, again I repeat that I would welcome any of that information you referred to. It helps the committee to look at the more pertinent information. I can get summaries and

evaluations from the files. If the specific claim concern you had about the worker is brought to my office's attention, I have a certain amount of information I can share with my colleagues. Thank you for coming forward, and get it in to us. Okay?

MR. EVANS: Thank you very much.

MR. CHAIRMAN: We'll have a five-minute break for people to get a coffee, and Mr. Arthur Thomas can get ready here to make his presentation. We'll be with you in about five minutes.

[The meeting recessed at 10:45 a.m. and resumed at 10:50 a.m.]

Mr. Arthur Thomas

MR. CHAIRMAN: Can we reconvene, and would the other people present be courteous enough to let Mr. Thomas make his presentation? Mr. Thomas, we have been made aware that you have some interest in seeing some amendments to the compensation Act. We didn't have your submission until this morning. Would you please present it orally and refer to any portion; then we'll enter some discussion if the members have some questions on it.

MR. THOMAS: I wonder if I might read this first. It will provide continuity for what I wish to say afterwards.

MR. CHAIRMAN: If it's not too long, go ahead.

MR. THOMAS: No, I think it will only take two or three minutes.

MR. CHAIRMAN: Okay, you read fast. We'll try to listen fast.

MR. THOMAS: Mr. Chairman and members of the committee, on May 14, 1980, my son Kenneth Morgan Thomas, a service supervisor employed by Dowell of Canada, was instructed by that company to proceed to Halkirk to do a stimulation job on a well owned by Husky Oil Company. In the course of carrying out this program, he was killed.

Upon learning of the accident, we immediately contacted Dowell and requested a full report on the incident. It is noteworthy to mention here that this report contained absolutely nothing insofar as causes or reasons for the fatality. A somewhat different story emerged from the ensuing investigation conducted by the Department of Workers' Health, Safety and Compensation. They revealed that Dowell had failed to supply remote control with its equipment, which Husky Oil neglected to rectify. Also the latter failed to ensure that the piping on the discharge side of the pressure release device was securely tied down.

Now, I'd like to just interject here. When we learned of this, I phoned the manager of Dowell and asked him why there was no remote control. I have no recording of this, so I can only tell you what he told me over the phone. He said, I've never heard of remote control. He said: I've been in the oil business 20 years, and I know nothing about remote control. I said: well, I've been in farming all my life, and farmers have had remote control devices since the 1940's; with the expertise that you have in the oilfield, what do you mean you don't know anything about remote control?

Attention should be drawn here to the fact that this was a deliberate disregard of an established Alberta safety law, section 32(1) of the Occupational Health and Safety

Act. It was because of this lack of remote control that my son had to manually inspect the wellhead where he was killed. Because there was no remote control, he had to go up and check these gauges intermittently. An extra heavy flow of gas came out of the wellhead into these pipes that hadn't been securely fastened down. They ripped apart, and he was struck on the head and killed.

Husky Oil Company was charged on the above two counts, to which they pled guilty and received the usual slap on the wrist, a paltry \$5,000 fine — \$5,000 for a young man's life just because two companies flagrantly disregarded the law. It's worse than a disgrace. The tragedy of it is that this is by no means an isolated case. It is happening all the time. What compounds the tragedy is that there's little that I or anyone else can do because of the Workers' Compensation Board and its unfair and outdated section 15, chapter 87, and related sections of the Workers' Compensation Act, which protects these companies.

The following quotes are from Martin's Criminal Code, page 180, section 203:

Every one who by criminal negligence causes death to another person is guilty of an indictable offence and is liable to imprisonment for life.

Page 181, section 205(1):

A person commits homicide when, directly or indirectly, by any means . . .

I'd like you to note that "by any means".

. . . he causes the death of a human being.

According to Webster's Dictionary homicide is defined as manslaughter.

Page 196, section 219:

Every one who commits manslaughter is guilty of an indictable offence and is liable to imprisonment for life.

An established safety law enacted for workers' protection when ignored and disregarded by an employer constitutes criminal negligence. When this in turn leads "by any means" to an employee's death, according to the Criminal Code manslaughter is committed. I therefore submit to you that section 15, chapter 87 of the Workers' Compensation Act contravenes this. Why is it that in nearly every area of our society today, the lawbreaker is given all the breaks and the victims left to suffer their wounds, bury their dead, and provided with little or no recourse to justice?

I'm perfectly aware of the reasons for and the provisions provided by the Workers' Compensation Act. The WCB is in essence a government accident insurance agency and, as such, has done a commendable job over the years. However, it should have no right to afford legal protection to those employers who disregard or ignore provincial laws of safety. This Act grants such employers and related companies immunity from the kind of law suits that an individual can face if guilty of manslaughter in a car accident.

There's a spinoff closely related to all this that should be brought out at this time. Immediately following the Husky Oil Company trial, the details were published in several newspapers. As a result, several people contacted me who had lost sons through employer negligence. One man in particular who, like myself, was not seeking personal remuneration but only wished to see court action bringing an end to this sort of carnage, had run into the same legal roadblock imposed by WCB. He passed through the hands of five lawyers who each in turn assured him of results but in fact accomplished nothing. He emerged a poorer but wiser man.

Our own legal counsel was prevented by the same reason from proceeding further and very candidly advised against any continuing action. However, he did recommend two more lawyers that I might try. That's quite a little racket they have going here. Should this not be classed as exploiting the helpless? I submit that section 15, chapter 87 and any related portions of the Workers' Compensation Act are restrictive and totally unfair

and long, long overdue for a change.

Now I'd like to add to this. About that time, the W5 program had a documentary related to oil rig workers quitting their jobs. The whole reason they quit, which this documentary was dealing with, was the fact that these men were scared off the job by the disregard for safety factors being carried out. Many of these men were threatened with being fired on pain of not proceeding with their work under these unsafe conditions. I didn't count how many were there; it was a large roomful. If you ever wanted to check back on that, you could have a running of this W5 program. It wasn't any specific rigs; they were taken from all over the province.

I think what has prompted what I want to say next is a clipping from the Red Deer Advocate. It has to do with this accident at the Gulf plant out west of Rocky, where a man was struck in the head by a chunk of sulphur. Both companies were fined. Gulf didn't provide overhead protection. This came out at the trial. I'd just like to take time to read this.

Paralysed worker David Henderson says a \$5,000 fine against his former employer is "totally inadequate" as a punishment for his injury.

Mr. Henderson, 31, of Black Diamond, said recently he's "disgusted" with Alberta law which he said sets minimal fines for employers and prevents him suing for his injuries.

He is paralysed from the waist down and confined to a wheelchair due to his accident June 14, 1982 at the Gulf Strachan sour gas plant . . . southwest of Rocky . . . A three-kg, icicle-shaped piece of sulphur fell from the prilling tower, striking him on the back.

His employer, Quinn Contracting Ltd. of Rocky, was fined by provincial court Judge Douglas Crowe for failing to ensure Mr. Henderson's health and safety. Quinn works under contract for Gulf and Judge Crowe earlier fined Gulf \$7,500.

Court heard that a Quinn foreman had asked for sulphur to be knocked off the 45-metre tower but his request was rejected by a Gulf superior and work under the tower proceeded until Mr. Henderson was hurt.

"It's been a pretty terrific nightmare all the way around," Mr. Henderson said. "You don't have any bowel or bladder control." He takes valium to control muscle spasms and suffers phantom pains from his paralysed legs.

He said he receives \$1,300 monthly from the Alberta Workers' Compensation Board and isn't allowed to sue the companies because of the coverage.

"I can't touch Quinn or Gulf," he said. "As far as the law stands you've got no rights that way at all, which really disgusts me.

"A man can literally get killed and the maximum fine is \$15,000."

Derrick Pieters, senior communications officer for the Workers' Compensation Board, said no province in Canada allows employees covered by compensation to sue for injuries.

I'd like to ask the question here: what about a death? There's always a dead silence there.

MR. CHAIRMAN: It's the same.

MR. THOMAS: Death isn't an injury.

MR. CHAIRMAN: No, but you're not fair to Mr. Pieters. Mr. Pieters may have said more. And you're not fair to the Red Deer Advocate. They had compressed the article a certain amount.

MR. THOMAS: But my son was killed.

MR. CHAIRMAN: No, but I'm just . . .

MR. THOMAS: I know. I'll finish.

"In return for prompt payment of benefits the right of (legal) action has been removed," Mr. Pieters said. "That is a basic principle of compensation throughout Canada."

He said compensation pays all medical expenses related to an accident and saves the worker from having to wait years for court cases to be settled. He said employers contribute to the plan but workers don't.

"There have been trade-offs, but we consider them very fair to both the worker and the employer" . . .

I'm not here arguing for money, but I'd just like to refer to money here. At \$1,300 a month, that works out to \$15,600 a year. Isn't that classed as the poverty level?

MR. CHAIRMAN: That's tax free, Mr. Thomas.

MR. THOMAS: But it's still classed as the poverty line.

MR. CHAIRMAN: But it's all tax free, and it's based on his income at the time. However, we had an understanding we wouldn't get into the specific claim.

MR. THOMAS: No, I'm not. I'm just bringing this in. And I'd also like to say that as far as I was concerned, I was given \$600 for my son's funeral. Now it cost me \$600 to bury my father 20 years prior to that. Now they talk about being very fair.

In this instance here, we're not talking about accidents per se. We're not talking about accidents that are just accidents. There is a different issue being raised here; it's altogether separate. I think Mr. Pieters here might have enlarged upon it, but he deliberately ignores it. I think the Workers' Compensation Board ignores this. Every time one of these ugly incidents takes place, all this smoke screen goes up.

I'm not criticizing what the Workers' Compensation Board does in the case of accidents. What we are condemning is the protective aspects of certain parts of the Workers' Compensation Act that affords these employers who deliberately disregard these safety features. Now I heard a gentleman say here a little while ago that a lot of the employees disregard using their safety hats and so forth. I know this happens, but isn't it even worse when safety devices aren't even provided? It isn't a case of a man disregarding it; this just isn't there. When you don't have a remote control, what's a fellow supposed to do? What's this man supposed to do when he goes underneath this tower of sulphur?

MR. CHAIRMAN: Mr. Thomas, in fairness can I just interject here and make this comment? You used the example of the sulphur injury. The regretful part was that the worker did not comply with the Occupational Health and Safety Act, which means refuse

to work in an unsafe place. Appeal to the local regional office, and the officers would have been out there. I appreciate it's hindsight. We try to get the message out.

As the representatives of the union indicated a while ago, they're quite pleased with Bill 51 that has amended the Occupational Health and Safety Act for the right to refuse where it's unsafe. It's judgment. You and I sit here, and both of us haven't lost our hair for nothing. It's because as we get older we get wiser. Young workers sometimes do not appreciate the danger. That's why the legislation of Alberta back to 1915/1918, provides a worker compensation even if they were in wrong judgment.

In the case of your son, the right to sue after a fatality has been debated many times. It's classed the same way. Politicians, legislators throughout the country, have wrestled with it and still come up with the same position: in return for no legal action against an employer, the employer pays the workers' compensation assessment to compensate the worker for injuries or the dependants for the loss of the wage earner.

In your son's case, can I ask only — and it doesn't have any bearing — do you believe he was aware there was such a thing as a remote control, and it wasn't there? You don't have to answer. Think about it. For some reason, the Dowell representative said to you that he didn't know anything about it. If he didn't know anything about it and your son knew nothing about it, who do you fault for that, that there was a remote control available but neither party knew about it?

I would like to have any of the members of the committee ask you any questions on this right to sue, because this is basically the representation you're making here. Possibly, before we do that we'll have John Wisocky, the executive director of claims, comment. Do you have some comment on it, John?

MR. WISOCKY: Just a bit of information. I can sympathize with Mr. Thomas' point of view. I think the chairman has described what happens in the compensation system, but that's one of the founding principles of workers' compensation, as the chairman said, and I won't repeat it. But on the other side of the fence, under the Act there is such a thing as serious and willful misconduct. It says that if a worker is guilty of serious and willful misconduct, the Board will allow the claim in spite of it, if there's serious disablement. So if your son was guilty of serious and willful misconduct, that claim would in fact have been allowed by the Board. That's just the other side of the fence. But there's no easy trade-off.

MR. CHAIRMAN: Any questions from the members of the committee to Mr. Thomas before Mr. Thomas concludes?

MR. MARTIN: Just one question. He's talking about the right to sue and also the fines, which I gather you think were inadequate. That was the other part of it, when they're breaking the law. I'm just curious; I don't have the Act here. What are the fines on that?

MR. CHAIRMAN: Maximum is up to \$10,000. Am I right?

MR. RUNCK: Fifteen.

MR. CHAIRMAN: I'm sorry; \$15,000 now. The \$5,000 ceiling was still under the Act before it was amended. I believe in that case, Keith, that was the maximum under the Act back in 1980? Something tells me. Nevertheless.

MR. MARTIN: Mr. Thomas, I take it that's the other area you want to look into, that the fines are not high enough. Is that correct?

MR. THOMAS: For the company?

MR. MARTIN: Yes.

MR. THOMAS: No, I think they're a farce. You see, I think the whole problem here is that if a company knows there's just a slap on the wrist . . . I'll just use my son's case for example. If they had to run around looking for remote controls, supposing they had to go to another plant, it might take them half a day. With 10 or 12 men on a job, with what it's going to cost in wages to hold these men idle, they can take a chance on it for \$5,000. That's not only my opinion, that's a good many others' — that it's done in order to save money to make money. If there were something realistic, like \$500,000, you can say that's getting unrealistic. Is it? What's a man's life worth? If this was an established minimum fine, these fellows would think twice before they started playing around with safety Acts.

MR. CHAIRMAN: Mr. Thomas, there is more to it. You heard the discussion this morning on merit rebates/superassessments. I think, Mrs. Fyfe, you . . .

MRS. FYFE: Yes. I was going to mention that we are dealing with two Acts. One is the Workers' Compensation Act, and the two basic principles of that Act are that industry will not be sued by a worker if an industry is in a position where they're wrong and that the worker will not be sued. The industry pays the benefits. The worker does not pay into workers' compensation. They pay into other social programs such as unemployment. Workers compensation is total funded by industry, or by the employers. So that is the basis of the two basic principles of workers compensation.

During the last hearings, we travelled to some other jurisdictions. One we did look at in some detail was Great Britain, where they still allow the worker to sue. What happens is that a very small number of workers are actually covered. In certain cases like your son, where the industry was clearly wrong, his case may have come before the courts and some judgment imposed over a shorter period of time, but nothing brings back the life. And that's the tragedy of work place accidents.

I forget the percentage, but it was a very high percentage of workers, like 75 per cent — I may stand to be corrected, but it was a very high percentage — did not receive any benefits or did not receive a benefit for a very long period of time until the courts were able to deal with these. In the meantime, what happens to a worker and his family while they're waiting for some kind of settlement over a 10-year period? They go on social assistance or some other means of support. So it's a very cumbersome system. Many states in the United States have this type of system, where a lot of workers simply get no benefits because of the time factor in the courts . . .

MR. CHAIRMAN: Until it goes to the courts.

MRS. FYFE: . . . or because there's no way to prove liability on the part of the company. If, for example, the worker was not wearing a hard hat or had taken it off or was cleaning his glasses at the time and got something in his eye, he took that responsibility, even though he was injured and lost an eye. There was no liability on the part of the employer, and he received nothing. In our system, he receives benefit whether the worker is right or wrong, whether the employer is right or wrong. The system will still plug in to the benefit of the worker.

The second Act that you were speaking about was the Occupational Health and Safety Act, which will impose a penalty, a fine. There are department people that inspect sites to ensure that there are safe procedures. If they're not safe, action can be

taken under that Act. So that was the \$5,000 fine you were speaking about. But in addition to that \$5,000 fine, under the Workers' Compensation Act that company would lose their merit rebate they get each year if they have a safe record. If they're not operating programs that are conducive to safety and accidents result, then that is a direct fine or a direct penalty, whatever you want to call it, each year. Under the Act, we term it the merit rebate. So they would lose their merit rebate, which is the percentage they receive back. In addition to that, they can receive the superassessment . . .

MR. CHAIRMAN: The 33 per cent.

MRS. FYFE: . . . which is an additional financial concern.

If you were here this morning, you heard a lot of industries saying: we're really concerned about the bad actors in our industry; how can we get certain companies to comply with safety procedures? I know of a situation just this summer in the constituency I represent. It was a matter of trenching, which is regulations that came in — what, two years ago? — regarding the angle the trench must be. A worker cannot go into an unshored trench unless the dirt is pulled back or they are shored.

There was a situation where the supervisor told a worker to go in, and the worker came in. One of the company men was on the spot, and they fired that supervisor immediately, because it was totally against the regulations. If anything had happened to the worker — firstly, the worker had the right to refuse to go in to an unsafe situation. If he didn't know — if he was a new worker or whatever and didn't realize the regulations — and went in and something had happened, even though it was not the management that said they were following those policies but one supervisor that was clearly wrong, that company would have been fined under the Occupational Health and Safety Act, would have lost their merit rebate and had a superassessment imposed.

So there are a lot of different aspects to companies. Many of them are saying that it's gone too far and they can't afford to support the system, that you're imposing too much on us. But the ones that follow good safety procedures are primarily concerned about those that are giving their classification a bad name and also causing them all to pay a higher number of dollars. In the long run, prevention is the only way that, firstly, you save lives and reduce injury and, secondly, ultimately reduces the total cost to the consumer, because we pay for it through the goods and services we buy.

MR. THOMAS: Isn't that a really long way around to achieve the results I'm suggesting, that you slap a heavy fine? Then it would clean out the bad actors.

MR. CHAIRMAN: But Mrs. Fyfe just pointed out that it's there, over and above the occupational health and safety fine that goes through the court, and prior to 1977 that wasn't available. In most jurisdictions in this country we now have the Occupational Health and Safety Act, which provides for the company, the employer, the foreman, to be brought before the court. That's another experience for them. But they do, as Mrs. Fyfe pointed out, in most cases lose their merit rebate, which is up to a third of their assessments. We don't want to get into what Dowell cost them . . .

MRS. FYFE: It could be \$200,000.

MR. CHAIRMAN: It could have been another \$200,000 of merit rebate that they lost.

MR. THOMAS: In that particular instance, you see, I don't know whether Dowell got nicked for anything, because it all came onto Husky.

MR. CHAIRMAN: Whoever it was, somebody loses. As you heard this morning, the employer Roadbuilders Association indicated that they can't afford this cost that is being legislated on them, and that's why we're here.

But I want to say that your representation was accepted today because it involves what could be changed through an amendment to the Act. That's why we welcome this. We tried to share with you the difficulties of legislators to bring in a law that will satisfy everybody because, as Mrs. Fyfe pointed out, the other side is that if you permit legal action, then you're weakening the system that has been working fairly well. The indications are that some 95 per cent of claims are resolved in three or six months, whatever it is. Al, what is it?

MR. WISOCKY: Thirty days.

MR. CHAIRMAN: Thirty days. Only about 5 per cent of the ones the Board has to deal with are in difficulty. Yours possibly wouldn't even be in the 5, because it's a fixed program. The question of the \$600 paid to you was based on legislation back in '76, upgraded annually. We were advised by the undertakers in this province that that would provide a minimum funeral. We've increased it now, as of 1982, to \$1,350. So you see, we try to bring some changes in. And to some people, maybe the Irish and the Ukrainians, \$1,350 won't be enough, because we have a wake after that.

MR. THOMAS: Thank you for your explanation. I might say that I'm still not really satisfied, because I think that when you have highway traffic laws, impaired driving laws, there's a specific penalty there. You can't go out and weave around up the highway; you're going to get nailed if you blow over .8. Why is there one set of laws for one particular set-up, and one for another? This is the thing I don't see. I can't see, with a heavy fine to start with, that it would take out a lot of this excess legislation. If these fellows had a deterrent right at the beginning so that they knew, it would take out these bad actors, and I think you could eliminate an awful lot of this — when you get into legislation you get into an awful lot of preamble and rubbish, really.

MR. NELSON: Mr. Chairman, it's very interesting listening to some of the dialogue from here. I think it should be noted — and I guess I've said this many times publicly — that there are too many lawyers making laws that most of us can't understand. All it does is fill lawyers' pockets. They're the only ones that become winners.

I do agree in part with Mr. Thomas's statement regarding the area of society, that the law breaker is given all the breaks. I also firmly believe that the law is made generally for the guilty and, in many cases, does not protect the victim or the innocent because of the way the law is written by lawyers who, in many cases, endeavor to fill their buddies' pockets. I say that with all due respect to lawyers but, at the same time, I think that maybe we need to examine this area and certainly the area of fines on some of the really bad actors. I think we've used the terms "bad actors" and "good actors" in these hearings.

I've made certain notes here possibly to make some suggestions later on in these hearings. At the same time, it's difficult to bring back one's life, or if a person is permanently disabled, it's difficult to bring that back. However, by the same token, I guess that part of our job as legislators is to endeavor to make regulations or laws that certainly assist as many people as possible, and it's not always possible to help everybody. I personally appreciated your dialogue here this morning, because I think it's helpful.

MR. CHAIRMAN: Thank you, Mr. Thomas, for coming forward. We welcome it.

MR. THOMAS: Okay.

MR. CHAIRMAN: As I indicated earlier, if there is any employer that did not get scheduled for making representation, or anybody else, this would be an opportunity to come forward to make a submission. I haven't had any indication of anybody sitting in the audience. We're trying to resolve claimants or personal claims from employers' assessments, and we'll continue to do that. I doesn't appear that anybody was present.

Mr. Bruce Sutherland

MR. CHAIRMAN: Could you come forward and give us your name?

MR. SUTHERLAND: My name is Bruce Sutherland. I can give you a copy of this. I don't have a lot of copies.

MR. CHAIRMAN: That's fine. One copy will be fine. We'll distribute it later.

MR. SUTHERLAND: Before I go into this, I guess I should tell you first of all that my feelings are that I'm probably tilting at windmills here. I know that's a bad way to look at it, and I know you're trying to do some good in these hearings. But at the same time, what I'm doing is making a presentation to a group of people who represent an Act, or the Workers' Compensation Board, which has been in existence for quite some time. Really, it's like turning the Queen Mary around; you need a lot of tugs in order to bring it back into tow. But we'll give it a shot anyway.

Ladies and gentlemen, my name is Bruce Sutherland and I represent two gravel truck firms, one as a manager and one as a shareholder. The reason I'm attending this hearing is because I'm concerned with the application and effects of the Workers' Compensation Board with the companies I represent. My concerns can be broken down into several points, although they may not be prioritized as to importance.

My first concern is the all-encompassing authority of the WCB with regard to the administration and collection of their accounts. As a company, we have experienced a great deal of problems because of our inability in the past to collect our accounts receivable because of letters of clearance that were required before payment. This action alone represents more absolute control than has been exhibited by any other agency that we have dealt with, including Revenue Canada, the sheriff's office, or the bank.

To illustrate my point, we were faced with a particular incident where one of our contractors refused to pay our account because of the inability on our part to produce a letter of clearance from the WCB. The irony of the circumstance was that we were unable to bring our WCB account up to date until we had collected the receivables in question. It was a classic catch-22 situation; we were caught with nowhere to turn.

My next area of concern is the actual application of the services of the WCB within our industry. Speaking from personal experience, I can honestly say that of the total amounts paid into the WCB account since 1980, we have used only approximately 35 per cent towards compensation payments and medical aid. From our own system of recourse, the actual compensation payments and medical aid would have amounted to something closer to 6 per cent of the amount paid into the WCB during that same period. Anyone who is involved in any kind of business can realize that an investment that loses that kind of money is not worth keeping. If a private concern were to try to sell me this kind of

program, I think I'd be more interested in investing in a bridge somewhere.

My third point deals with the abuses within the WCB system. Through our own unofficial audits of injury claims with our companies as well as other companies we are associated with as well as work for, we have found that as many as 80 per cent of these claims could have been dismissed for various reasons ranging from bogus injuries, which are difficult to diagnose, to injuries which were not work-related but still claimed through the employer. The structure of WCB begs abuse and, as a result, suffers the economic woes of these abuses.

The fourth item in my brief is the obvious lack of ongoing inputs, other than monitoring by industry. The WCB system shows its lack of continuity by its inability to communicate, other than assessing the various companies for their yearly obligations and investigating the odd claim. What is most obvious to me about the WCB is that I see a bureaucracy which is [burdened] with a system which not only is abused but is so weighty in other aspects that it continues to run in a deficit position.

Another point I have problems with as a contractor is our responsibility for our subcontractors or owner/operators for their WCB accounts. As a small company, I find it difficult to position myself as a collector for WCB when it is obvious to me that the WCB has more than enough employees to cover this responsibility. All too often I have faced tears from truckers' wives who have come to collect their cheques, only to find that they won't be able to buy groceries until they're able to obtain a clearance letter from WCB.

From my perspective in the industry, there are several characteristics of the WCB which are in need of obvious change. The growth of industry in Alberta spurred the growth of the WCB, but has the decline of the industry resulted in a paring of the WCB? This is an interesting question.

As well, we in the trucking industry have seen a WCB rate increase of approximately 24 per cent from the 1982 period to the 1983 period and yet, as a gravel truck contractor, we have been pushed into the position of bidding for work at rates as low as 55 per cent of the existing government haul rates, which haven't changed in two years. Combined with fuel costs running as high as \$1.80 per gallon, the effects on the industry have been disastrous.

To come to a hearing of this nature without offering solutions would be a waste of time. The Workers' Compensation Board is in dire need of any inputs which may help to bring it in line with the industry it serves, and perhaps some of these suggestions may be considered: first of all, a review of the basic philosophy of the WCB to determine whether it is fulfilling the needs of the industry or has become another agency which is unable to support all its programs with the moneys contributed; a continuance of these types of hearings in order to narrow in on the actual industry and streamline the system to attempt to make it less costly.

My final suggestion is the creation of a parallel system to the WCB, not governed by the state. The system would offer an alternative to the industry, which may even instil a competitive nature in the WCB. The alternative would be a privately owned system, which could give the industry a different look at this type of responsibility. Ironically, this idea follows the basic philosophy of the government presently in power in the province of Alberta.

To this end, I presently have at hand a basic blueprint for an alternative program to the WCB. But in order to continue this endeavor, it has to be made clear what direction the people responsible for the WCB are willing to take. My opinion is that the WCB is overtaxing the industry on one hand and being badly abused within the industry on the other hand. With the present economic state, no company can afford the WCB in its present form and, should the economy reverse its trend, the WCB is not a workable program.

Thank you for your attention

MR. CHAIRMAN: Any questions of Mr. Sutherland?

MR. NELSON: Just one. What companies do you have, Mr. Sutherland?

MR. SUTHERLAND: I represent Portline Hauling Ltd. and Tri-Alta Contracting. It's a division of a numbered company.

MR. CHAIRMAN: Some of the submissions we had, even the Alberta Roadbuilders and others, on the question of the independent operator proprietor — a card system, where the subcontractors you have working for you would produce a card showing that their premium is paid for the next quarter or the next year, would remove all these clearance letters. Most of your concern is the problems you're encountering with clearance letters that accounts aren't paid up. But that would then require, just as licence plates and trucking insurance, that that independent operator prepay his coverage in advance. Have you shared that with your subcontractors, and what do you think about that program?

MR. SUTHERLAND: Prepaying is coverage. First of all, if you look at a lot of owner/operators presently working in the trucking industry in Alberta, they can't afford to prepay anything.

MR. CHAIRMAN: Have you talked to them?

MR. SUTHERLAND: Absolutely. On the Paddle River dam site, which is a government project, we've had as many as 160 operators.

MR. CHAIRMAN: Mr. Sutherland, the independent gravel truckers' association have met with me and made their submission, and they say they support that program. That's why I'm sharing it.

MR. SUTHERLAND: You're talking about the Alberta Gravel Truckers Association?

MR. CHAIRMAN: The Alberta independent gravel truckers' association.

MR. SUTHERLAND: Okay.

MR. CHAIRMAN: They're independent: one-man, one-truck operation.

MR. SUTHERLAND: Exactly.

MR. CHAIRMAN: And they say they would welcome to prepay their coverage, so they won't need a clearance and you wouldn't need the clearance letter. I'm asking you, for the benefit of the committee, whether you think that would work. Possibly, rather than putting you on the spot, would you look at it and even share it with the people you do business with or do subcontracting for you? See how it would be acceptable, because we appreciate that the proprietorship section created hardships. The independent operator section was not working.

MR. SUTHERLAND: It was disastrous.

MR. CHAIRMAN: Okay. Take a look at that, and you could drop my office a letter that I'll share with the rest of them. I'll share this submission. We welcome it at this time.

Anyone have any other question? Thank you very much for coming forward.

MR. SUTHERLAND: You're welcome.

Mr. David Thomas

MR. THOMAS: Mr. Chairman, my name is David Thomas. I'm an injured worker, and I'd like to voice my concern.

MR. CHAIRMAN: On the legislation?

MR. THOMAS: Yes, sir.

MR. CHAIRMAN: Because I know you've been looked after by my staff.

MR. THOMAS: Yes, sir. I would just like a specific answer to a couple of questions from you or the committee.

MR. CHAIRMAN: Okay. Go ahead, David.

MR. THOMAS: First of all, I would like basically just two answers re long-term disability, as per se 1978 to when the legislation was changed in 1982. The 1978 maximum rate was \$238.05 to a maximum of \$14,410, with a cost of living increase of 10 per cent in '79, 20 per cent in '80, and 10 per cent in '81. The Act was amended in 1982 to 90 per cent, up to a maximum of \$40,000. We previously injured workers from the 1978 rate were not even added to the Act. We were not brought up to the standard of the '82 rate. Basically we were just left in the back. We have had no increase for two years, '81, '82, and '83 and, as we all know, our mortgages go up . . .

MR. CHAIRMAN: Yes. You had an increase on January 1, '82.

MR. THOMAS: No, sir. We had an increase in August '81 to \$345.64, which is based on the \$238.05 maximum rate.

MR. CHAIRMAN: Al, did I misunderstand? Wasn't Bill 81 effective January 1, '82?

MR. WISOCKY: Yes, it was.

MR. CHAIRMAN: The last increase was January 1, '82.

MR. THOMAS: Not according to my records, sir. What I'm saying is that as of '82, as of '83, I have contacted your office, I have contacted my MLA's office, I have contacted the Ombudsman, and I am told "Alberta compensation rates are the highest in Canada". And I said: yes, I agree with you, as 1983 rates; not prior 1978 rates, at which time I was injured. I am still on compensation, 100 per cent TTD, but there is no amendment to the Act when the Act was changed to 90 per cent to a maximum of \$40,000.

MR. CHAIRMAN: David, did you not get an increase in your rate in 1981 to the 1980 level?

MR. THOMAS: No I did not, sir. I got an increase of 10 per cent.

MR. CHAIRMAN: I'm sorry. We're getting to your specific claim. There was a legislative increase to every pensioner that has a 50 per cent disability and higher.

MR. THOMAS: I am on 100 per cent TTD, sir.

MR. CHAIRMAN: Fifty per cent and higher. You are in the temporary total disability; therefore you don't fall into the permanent and that is why, as you heard the representation today. But I accept you here to make your dissatisfaction known to the select committee. I don't want to get into debating your own claim here.

MR. THOMAS: I just feel that when it was brought to 90 per cent in 1982, there was no amendment in the Act to bring the previously injured worker to the standard.

MR. CHAIRMAN: As you understand, we welcome your presentation here to make the members aware that there is a dissatisfied worker, a claimant, here. Maybe if there are some employers around, they will also appreciate that there is the other side to the workers' compensation story.

MR. THOMAS: We can't put input into the legislation Actor to the Act of council, because it takes an Order in Council to have it changed, sir.

MR. CHAIRMAN: Yes. An amendment to the legislation.

MR. THOMAS: Yes.

MR. CHAIRMAN: Okay. We'll look into it further.

MR. THOMAS: Thank you.

Mr. Doug Moeckl

MR. CHAIRMAN: Yes, sir. You are?

MR. MOECKL: I'm Doug Moeckl. I'm representing the Alberta Federation of Labour and the Red Deer Labour Council. I just have three short questions, Mr. Chairman.

MR. CHAIRMAN: Okay. But as you know, in all fairness, we're as frustrated as anybody, and I'm sure that your colleague here, Ray, would say: where were you; why didn't you schedule it?

MR. MOECKL: No, I didn't. I just have three short questions as a result of some of the presentations and some of the answers that were given.

MR. THOMPSON: Mr. Chairman, on a point of order. These hearings are for us to get input from the public. I don't understand why the public is here asking us questions on what is in the Act. I mean . . .

MR. MOECKL: Then I'll enter them on my own behalf, if that is what the committee wishes.

MR. CHAIRMAN: Doug, in all fairness, the Federation of Labour is coming before the committee in Edmonton. We have a fair amount of time scheduled with them. I can only urge you to communicate to me directly, and I'll share it with the committee. We did accommodate the other people of the public, but I have to say we'd have expected that an organization like the Federation of Labour should have scheduled you. We'd have welcomed you here. To question the submissions of other people, that's fair. But put it in writing to us or bring it up when the federation is scheduled in Edmonton.

MR. NELSON: Mr. Chairman, the only thing I would say, if he has a direct submission to make . . .

MR. CHAIRMAN: Yes. If you have something in writing, leave a letter with us. But if you don't, send it in to us, Doug. Okay?

MR. MOECKL: All right.

MR. CHAIRMAN: Thank you very much.

We'll conclude the hearing here. We have the schedule to the occupational health and safety officers. Thank you very much, ladies and gentlemen.

[The meeting adjourned at 11:40 a.m.]