[Chairman: Mr. Diachuk] [1 p.m.]

United Mine Workers of America

MR. CHAIRMAN: May I have the committee's attention. For the people present, we will be receiving the first submission from the United Mine Workers of America this afternoon: Mr. Mike Tamton. Mike, we have a half-hour. We're on a fairly tight schedule here at Calgary, with the number of groups. I trust you will be able to briefly comment on your brief, and then reply to questions from members of the committee.

Before you do that, I want to announce for any member or any of the public present that if you have a concern about your claim or your own account, if you are an employer, please indicate to my staff on the right. My staff will be pleased to assist you with it. In other cities, sometimes we had a little time available at the end of the day to hear from a claimant or an employer. The schedule is such today that I doubt if it will give any opportunity other than the people that are scheduled. I don't want to discourage anybody from waiting all afternoon, but if you do wait all afternoon, I'll do my best to see what we can do for you at the end of the day.

If there is anybody here with a claim, or an employer with an account problem, in the next break just walk over to any of the gentlemen over to my right, and they'll assist you with it.

MR. TAMTON: Thank you, Mr. Chairman and members of the select committee. The United Mine Workers of America welcome the opportunity to present their views and concerns on workers' compensation to you. We hope that the appointment of the select committee is an indication by our government that they are sincere in considering and making progressive changes to the Workers' Compensation Act and regulations that will correct some of the inequities which prevent full and just compensation of injured workers.

Our comments are predicated on the concept that anyone who suffers a loss of income because of an occupational injury or disease arising from employment is entitled to full compensation. We will not accept the concept that an individual must sacrifice health, life, or limb in return for wages. But when that does happen, the benefit of the doubt must be given to the injured worker or his survivor, and full compensation instituted.

We understand the concept of contributing to the workers' compensation accident fund, whereby employers are protected against legal action on behalf of workers who are injured or who may contract diseases through or as a result of their employment. The protection to workers under the legislation must therefore reflect the immunity from legal action granted employers under the Act by fully compensating employees when they are injured, or their survivors when they are killed or die from an occupational disease.

At present the legislation does not provide that security. Workers continue to pay an inordinately high price in terms of loss of health and income for some form of economic security, which may be destroyed should they have the misfortune of being injured on the job or coming in contact with substances that may be injurious to their health and which may eventually result in disease.

Of course, our primary concern is, and always should be, accident and toxic material exposure prevention. To this end, we have been forced into negotiating occupational health and safety into our collective agreements because of the lack of protection under the Act. We must therefore insist that the Alberta government enact stricter occupational health and safety legislation to protect all workers, including those that

may not enjoy the privilege of being organized.

Compensation benefits. The purpose of compensation should be that no worker whose earning capacity has been impaired should fall below the level of his earnings at the time of accident or occupational disease. The ceiling of $40,000 of the aggregate gross annual earnings does not permit total compensation for those individuals earning in excess of that amount.

Exemptions. No employer should be exempt from contributing to the compensation fund. That way, all employees could be covered by compensation.

Lump sum payments. Lump sum payments for disabilities above 10 per cent should not be permitted. The legislation is specific in providing that any worker who accepts a lump sum payment in lieu of periodic pension payments still retains a right to medical aid and vocational rehabilitation but does not provide that a worker's case can be reopened if the condition worsens at some later date. Although it is Board policy that workers are notified of their options and a full explanation may be given, it is our recommendation that the legislation be amended; that would make the Board's policy legally binding.

Survivor benefits and pensions. Survivor benefits and pensions should keep pace with the cost of living so that dependants do not suffer financial loss in addition to having lost a loved one. The fatality benefits to cover funeral costs are not sufficient and should be raised to cover the total cost of a modest funeral which, according to Alberta funeral information services, is now approximately $1,700.

Pre-existing conditions. Where an accident causes injury to a worker, and that injury or disease is aggravated by some pre-existing condition, the worker shall nevertheless be compensated for the full injurious result. Our experience has been that where pre-existing conditions have contributed to a disability following an accident, the greater degree of disability has not always been recognized. The language in section 59 must be changed so that the Board "shall" compensate for the total disability, rather than "may" compensate.

Medical reports. Fundamental to any system of justice is the requirement that an adjudicating body reach its decision only on the basis of evidence presented, where the parties have had an opportunity for cross-examination and reply. When evidence is taken in secret, the right to challenge it by cross-examination is lost. Natural justice is denied. We feel that in order for natural justice to flow, it is absolutely essential that section 29(3) be amended to provide that whatever reports are made available to the Board also be made available to the affected worker, surviving dependants, or his designee, and not just the Board, as is now provided for in the legislation. The worker, his surviving dependants, or his designee, should also have access to all other information on his claim.

Security of employment. At present the Act does not provide for workers to be reinstated by their employer following a lost-time injury, nor is the employer prevented from firing a disabled employee, so the worker is not guaranteed that his job will be available to him upon his return to work. Concern by the employee about job security may lead him to not report an injury or he may return to work too soon, or a worker with a permanent partial disability may be declared fit by his personal physician or a WCB doctor for light duty or some modified form of employment. In either of these cases, the worker may be re-injured. The employer may suggest a return to former duties before the worker is fully recovered, or the worker may be fired because the employer determines that the employee is unable to perform to the standard prior to his injury.

The increase in industrial accidents in Alberta last year, Mr. Chairman, when the number of workers was declining, may suggest that the workers' compensation program is not doing its intended job. One of the mainstays of that program is the carrot and stick premium concept, designed to reward industries with good accident records and penalize those with bad ones. It must be considered unacceptable that although a number of the

WCB's funds are deeply in deficit, premium increases this year were limited to 15 per cent, with the co-incidental decision not to increase benefits in line with higher living costs on the grounds that industry just can't absorb it at this time. It does nothing to alleviate hardships imposed on the injured workers or survivors.

The primary consideration must be workers' safety and the payment of a decent level of benefits to the accident victims, despite employers' arguments to the contrary. Premiums must be high enough to deter employers by making it uneconomic for them to allow unsafe working conditions to exist.

We are further concerned that current merit rebate/superassessment system encourages employers to keep injured employees on the job. In many cases, the employer will keep injured workers simply sitting idle and pay their wages to avoid having to report a lost-time injury. Any system such as the merit rebate, which permits an employer to gain financially by retaining injured workers on the job, must be eliminated. Legislation needs to be enacted that would penalize any employer that keeps injured employees on the job. The exception should be rehabilitation authorized by a physician.

Board independence. It has come to our attention that there may be political interference in the day-to-day functions of the Board and its workers. This situation cannot be tolerated and must be eliminated in order for the Board to make fair and equitable adjudication based on all the facts of the case, without undue political pressure from the party in power.

In conclusion, Mr. Chairman, we respectfully make this submission on behalf of all workers, and do so out of our concern with the rights of workers to remain physically and financially whole while earning a living. We plead with the select committee to seriously consider the plight of the worker, or his dependent survivors, by making recommendation to our provincial government to make the necessary corrections of the inequities in the present legislation.

Respectfully submitted by the United Mine Workers of America. We thank you, Mr. Chairman.

MRS. FYFE: Mr. Tamton, I'm curious about the statement that lump sum payments for disabilities above 10 per cent should not be permitted. I can appreciate the comments you make that if there are extenuating circumstances to any injury, the case could be opened up at a later date. But we've had submissions now from workers that would like to have lump sum payments for disabilities that are greater than 10 per cent.

MR. TAMTON: That's probably true, Mrs. Fyfe. If I may use an analogy, records show that out of those individuals that may at some time or other have contributed to a pension fund, only approximately 10 per cent will ever get anything out of that pension fund. In the same way, then, we are saying that there are times when the best interests of the individual may not be his own wishes; that we have to enact certain legislation that would protect the individuals down the road. For instance, if an individual took a lump sum payment and had, say, a 35 per cent disability, and the extenuating circumstances may be that down the road somewhere along the line, that condition may worsen or be aggravated, he would have very little, if any, recourse to getting back onto compensation. He's already taken his lump sum payment.

MRS. FYFE: It seems to me, though, that there may be some cases in which that lump sum payout is not in the best interests of the worker. But I would think that in the vast majority, if the worker desires it this may be the best solution.

MR. TAMTON: That may be the worker's position at that point in time, that he may feel that it may be in his best interest. But we feel that it may not be in his best interest.

Up to a 10 per cent disability we can agree, because that generally is considered minor — if I may use that word — as disabilities. But beyond that, we feel there may be other things. The individual may be better off in not taking a lump sum payment.

MRS. FYFE: One other point, if I may, on a different subject, and that's regarding Board independence. Again I'm curious about the comment about involvement — interference, you said. Often, the majority of calls we as elected representatives receive, are on workers' compensation; they're from workers that feel they have not been treated fairly and, in a certain way, the elected representative acts as an advocate to have the case reconsidered or looked at from a different perspective. Surely you're not saying you don't want that to continue?

MR. TAMTON: No. But we are saying we would not want to see the other condition exist, whereby pressure may be introduced or applied to the Board to do things other than that that may be in the best interests of the individual. It has come to our attention that some of those have happened.

MRS. FYFE: I don't know of any, but I certainly know of a lot the other way.

MR. TAMTON: I can appreciate that.

MRS. FYFE: Thank you, Mr. Chairman.

MR. R. MOORE: Mr. Tamton, your submission was very interesting. I'd like to know what your concept of workers' compensation is. Is it an all-encompassing social program, or is it a program to protect the income of a worker so that he doesn't lose income because of accidents or hazards at the worksite? Where are you coming from?

MR. TAMTON: Our first position is of course accident prevention. That's our primary concern. As I stated in our brief, even though we may have done the utmost possible to prevent an accident, if an individual becomes involved in an accident whereby he is denied an income at least level to the one he was at when the accident occurred, then the program needs to be such that the individual does not suffer financial loss in addition to the loss he's already suffered because of the accident. In a nutshell, that is basically our concept of what we're talking about.

MR. R. MOORE: You spoke in here about the employee — the worker, his surviving dependants, or his designee, should have access to the information regarding that worker. Do you feel this should be available to the employer too? Should that be open information?

MR. TAMTON: To have natural justice flow — and again I'm talking strictly about justice, as I indicated in there — you have to be able to examine and cross-examine. So if we're going to have justice in the way it should be done, if it's good for one it has to be good for the other.

MR. R. MOORE: And you believe that hospital records, medical records, should be available to both workers and employers?

MR. TAMTON: To the designee of the individual, if the individual so deems that, because that still is private information. After all, he is the accident victim, if you will. He's the one that should have access to the information that was available on him.

It's his accident. He was the guy that was injured. If he's not available, if he only has survivors, or if he decides that he's going to designate some other individual or group of individuals to act on his behalf, then I think that information needs to be available to those.

MR. R. MOORE: On security of employment, you are concerned and are suggesting that there should be a guarantee that that worker returns.

MR. TAMTON: Why should an individual be dumped on the scrap heap like a piece of equipment when he is not longer able to perform like a piece of equipment?

MR. R. MOORE: Do you mean that you're opening up that any job should be guaranteed?

MR. TAMTON: I'm saying that the individual should be in a position where he can retain his dignity and earn a living.

MR. R. MOORE: Even if that injured worker isn't capable of working at that job, he should go back into something like this, or better?

MR. TAMTON: Again, he should be able to do something he would be able to retain his dignity at. At the same time, he's got to be able to earn a living that would be sufficient for himself and those that depend on him.

MR. R. MOORE: There's another one here, being connected a little bit to the political end of it. You had an innuendo, I guess you would call it — and if you put it in your brief, you must have facts. I'd like to hear some of the facts that backed up your putting in a statement that there's political interference with the Board. Just one fact.

MR. TAMTON: I apologize for the apparent innuendo. I cannot reveal those sources to you at this point in time. But I can say that it has come to our attention that there has been pressure put on individuals, field workers, to do certain things that were not beneficial to the individual that was involved.

MR. R. MOORE: Mr. Chairman, if I could just make one comment. As this gentleman said, natural justice should flow; all parties that are involved should have access to this information. I'll leave it at that.

MR. TAMTON: Touche, Mr. Moore.

MR. MARTIN: I'm not too worried about the political end of what you said, so I'll go into it on some other occasion.

I'd like to look at the occupational health and safety on page 2, Mike. I think you talk almost industry and labor. I think that's one thing they can fully agree on; that it's good business for both sides. If we have good occupational health and safety, we'd cut down on accidents. You say the government should enact strict occupational health and safety legislation to protect all workers, including those who may not enjoy the privilege of being organized. There has been a recent Bill brought in by the minister, Bill 51. What's your assessment of the most recent Bill passed in the spring session, without going clause by clause? I know we can't do that.

MR. TAMTON: Actually we're still into the study part of that, Ray, if I may. I think the jury's still out, as far as we're concerned, on that particular aspect. We haven't gone

through the whole thing. There are still some sections in there that we're working on. There are some in there that are positive, and I give credit where credit is due. But there are still a lot of areas that need to be strengthened. At this point in time, I haven't got them here with me. I can't go into clauses with you, except the ones I've quoted in here, some of the ones I've talked about in here.

We're still into those areas. The chairman is well aware that we keep pretty close tabs on some of those things that go on and communicate with his office on those various aspects, as well as some of the Board policies we've been asked to comment on. We've done that as well. We keep pretty close tabs on those, Ray.

MR. CHAIRMAN: Just to add, Mr. Martin, that I'm very pleased with the involvement of Mr. Tamton and his colleagues on committee work on studying the impacts of Bill 51 and the regulations. I want to say that Mr. Tamton has been a good member of the committee studying the regulations.

MR. TAMTON: Thank you, Mr. Chairman.

MR. MARTIN: Okay. May I just follow up? I think I know what you're saying, but would you enlarge on the exemptions for the committee? "No employer should be exempt from contributing to the compensation fund." Can you enlarge on that somewhat, to indicate what you mean?

MR. TAMTON: I think our position is, and should be, that no employee should be barred from having access to compensation or the compensation process. In order to do that — and again, looking at some of the figures that have come out as of 1982, some of the Board's industrial subfunds are in fact deficient. One of the ways to perhaps bring them up into some efficiency would be to have all employers — if we have to put an arbitrary number on the number of employees to be considered, whereby it would be mandatory for an employer to belong, or pay premiums to the compensation funds, that may be an area that may have to be looked at. But our position is that all employers should contribute to the fund, and thereby all employees employed by those employers should be protected under the fund.

MR. CHAIRMAN: You're supporting or encouraging compulsory universal coverage.

MR. TAMTON: Yes, we are.

MR. MARTIN: Can I ask just one more?

MR. CHAIRMAN: One more.

MR. MARTIN: Mike, we have had industry briefs indicate that, especially with the recession, there is a tendency for people to abuse the system more, if I can put it that way. We've asked for examples, and they said that would be forthcoming. On the other hand — I'm not going to ask you here specifically — do you have examples dealing with the security of employment, where people are fired because they've been injured, and these sorts of things? If you do, because it's important to know what we're dealing with before we make some decisions, would it be possible to have information sent to the select committee?

MR. TAMTON: I can do that if you wish.

MR. CHAIRMAN: Do that. Send that to my office, and we'll get it distributed through the secretary to the members of the committee.

MR. TAMTON: Sure.

MR. NELSON: Mr. Tamton, some of the recommendations you've placed in here would add an additional burden to the employer, cost-wise. I'm just wondering whether, in making recommendations and defining different areas that should be improved for the worker, you've done any cost analysis. If such is the case or not the case, have you determined whether the employer should be fully responsible, or should there be a shared costing between the employer and employee?

MR. TAMTON: We feel that the employer should be fully responsible. When the individual employee goes to work for an employer, he goes to work with the concept that he will be protected. And as I have said in my brief, we need to make it so stringent on the employer that he will not permit an unsafe condition or an unsafe act on his premises. I think that in too many cases, production comes before safety. We maintain that production and safety can go hand in hand. Normally you'll find that if you have a rigidly safe operation, you also have a productive operation. In too many instances, you find that where the operations are relatively or marginally unproductive or lax, that's where you find problems with safety at the same time.

So our position is that the onus must be put on the employer. He's the one that has the opportunities of enforcing standards; he's the one that has the opportunities of educating the employees as to what the safe practices are and what the safe conditions are. It can't be on the employee.

MR. NELSON: Have you done a cost analysis?

MR. TAMTON: I'm sorry. No, we haven't.

MR. NELSON: Notwithstanding that certainly, I guess, the employer does maintain — in all probability, from most people's point of view — the basic or the majority of the responsibility for a safe operation, does not the employee also have some responsibility to ensure there is some safe operation around him or her, as the case may be?

MR. TAMTON: That may be so.

MR. NELSON: In other words, should the employer be holding the hand of the employee, day in and day out, to ensure that he operates in a safe manner?

MR. TAMTON: No. But attitude emanates from the top in an operation. If the employer has a good attitude, the employee will have a good attitude. That again being the case, that it is the employer that makes the rules, he's also the one that can enforce the rules. It's poor management to let an employee conduct himself in an unsafe manner. So the onus must still be with the employer in that particular aspect.

MR. NELSON: To what extent should the employer continue to have that responsibility, providing that he has given the tool to the employee, be it by education, by material equipment, and other than having a supervisor standing around holding the employee's hand? How can the employer be held 100 per cent responsible when the employee also has to have some responsibility? Because in some cases — and we were discussing this as early as this morning — the employee may, through his own negligence, after having all

this equipment provided, cause an accident either to himself or another person.

MR. TAMTON: In most cases I think you will find that an employee, as you said, through his negligence causes an accident. I think being the injured party would probably be sufficient deterrent, or should be sufficient deterrent, to most individuals. Once they have been given the proper instruction and the proper tools to do a job safely, they will go ahead and do that job safely.

In most instances, that is not the case. The employee is given an orientation rather than a training. For instance, for a truck driver in a coal mine, which is an area I'm familiar with, rather than giving that new employee a rigid training period, they will give him an orientation: this is the clutch, this is the steering wheel; have him ride around with an individual no better trained than himself for a couple of hours; then turn him loose and say, here you go, you're away. He has no concept of what he's doing in most cases, except making that thing go forward and back.

MR. CHAIRMAN: Okay. I want to say to you, Mr. Tamton, thank you for coming forward. If you have that additional information Ray Martin asked for, I would be interested if you would send it, and possibly if your union has a survey of any kind with regard to the lump sum that Mrs. Fyfe asked about, particularly from your claimants, because we're interested in number representation. Recently in one of the hearings, a gentleman that's been awarded a 70 per cent disability still wants a lump sum payment, and that's what we're wrestling with. If you don't have a survey, that's understood; but I thought you could.

Thank you for coming forward and for your time. We will now ask the gentlemen from ATCO to come forward and prepare to make their presentation.

ATCO Ltd.

MR. CHAIRMAN: Who is the spokesman?

MR. CONBOY: I am, Mr. Chairman.

MR. CHAIRMAN: Mr. Peter Conboy?

MR. CONBOY: Yes.

MR. CHAIRMAN: Please proceed. You know that we have about a half-hour, and we'd like to have a few opening remarks. We've had your brief. After a few opening remarks, we'll possibly enter into a question and answer period. Go ahead.

MR. CONBOY: Thank you. Good afternoon, Mr. Chairman and ladies and gentlemen of the select committee. The ATCO group of companies is pleased to have this opportunity to present its brief to the committee on the Workers' Compensation Act. As you can see, my name is Peter Conboy. I am the vice-president of human resources for ATCO Ltd. On my left is Mr. Joe Clarke, who is the safety co-ordinator for ATCO Ltd., and on my right is Mr. Walter Mitchell, who is the safety co-ordinator for Alberta Power Ltd.

The ATCO group of companies consists of a number of companies: ATCO Components, ATCO Development, ATCO Drilling, ATCO Metal, ATCO Housing, ATCO Industries Ltd., ATCO Structures, ATCO Resources, ATCO Well Servicing, Canadian Utilities, Canadian Western Natural Gas Company, Northwestern Utilities Ltd., and of course Alberta Power Ltd. These companies contribute to WCB classes 4-03, 4-05, 6-

01,6-02, 8-02, 8-03, 8-04, 12-02, 16-01, and 19-02. So we have a well-rounded number of companies in many different industries and businesses.

Our group of companies has grave concerns that further increases in Workers' Compensation Board costs at the present time, in light of current economic conditions, will place an additional hardship on businesses. We therefore submit that your committee should not entertain any legislative changes which would increase costs to the employers and eventually be handed down to the consumers. It is our contention that any changes or revisions to the Act should reflect the need for prudent and efficient use of employer funds in order to bring workers' compensation costs under some reasonable control.

This submission does not endeavor to cover all our concerns, as we are members of many and varied associations, all of whom have appeared or will appear before your committee. I am sure that these associations will adequately express our concerns and viewpoints on these other matters. We have, however, zeroed in on six issues, and I will confine myself to just a very brief overview of these in the hope that that can lead into a free exchange of information.

Firstly, I would like to address the powers of the Compensation Board as they relate to administering the Act. There have been many occasions when an employer has been relieved of a liability, and the worker still receives compensation paid out of the general fund, which in reality is still out of the employer's pocket. If the injury did not ensue in the course of his employment, then surely no compensation should be paid.

On the question of proprietorship, it is our strong belief that every citizen has the inherent right to go into business for himself in our Alberta if he so desires and, in so doing, should be able to apply and receive Workers' Compensation Board coverage. To achieve this goal, we're suggesting that section 11 of the Act be rescinded and that the definition of a proprietor must be changed.

We believe that the payment of compensation to workers on construction camps, parking lots, or access roads as a result of an injury, is contrary to the basic principles of the compensation law or laws, which are based on a master/servant relationship. To achieve this, section 19 of the Act will have to be changed.

On partial disability awards, we feel that the award should achieve two measures: firstly, to supplement any loss of earnings resulting from that disability and, secondly, to take care of the off-the-job social aspects of that disability. If there is no loss of earnings, there should be no pension paid. For the social aspects, a lump sum payment similar to the current practice conducted in Saskatchewan is our recommendation. We would ask that the select committee look at that.

On the compensation ceiling question, we feel that as the Canadian average — with the exception of Alberta and Newfoundland — is $23,300, the select committee should seriously contemplate lowering the Alberta ceiling, especially when one considers that the average compensation rate in Alberta in 1982 was $23,000.

Finally, with regard to the merit rebate/superassessment system, we feel that the purpose of this system was initially to recognize the accident-prevention efforts of those employers who reduce job accidents and to penalize the poor performers who are really responsible for a disproportionate share of industrial accidents. We have suggested in our written submission, ladies and gentlemen and Mr. Chairman, how we feel this may be better accomplished.

I propose to stop at this point and, with your permission, Mr. Chairman, avail ourselves for your questions.

MR. CHAIRMAN: Mr. Conboy, in your first presentation with regard to a claim being accepted and the employer being relieved of the costs, as you can appreciate I am advised that very often — and we will ask one of our resource people — it is because the

principal that was to blame for the accident could not be identified. I am using the example of the worker in Edmonton that was working for a glass company, and he was badly injured in a fire. You couldn't really blame his employer, because the glass company wasn't to blame for it. You couldn't identify it. Yet the worker was injured in the course of employment. How do you respond to that? Your presentation was very hard and fast, that workers shouldn't be given compensation.

MR. CONBOY: Yes, Mr. Chairman. And unlike my predecessor that was on before me, we do have facts and figures from experience through our own companies. I would like Joe Clarke to just answer that with an honest-to-goodness, realistic example that we have.

MR. CHAIRMAN: And I know Joe will answer it honest-to-goodness.

MR. CONBOY: I am sure you have run into him before, Mr. Chairman.

MR. CLARKE: Thank you, Mr. Chairman. That's fair ball. Let's look at the Mill Woods accident, wherein this chap was delivering glass for his employer's business and the pipeline blew up. Unfortunately the pipeline happened to be under his car at the time of the accident, and it resulted in rather serious and painful damage to this worker. Now there is no way that you can fault the gas company. This comes back to a thing I think we've mentioned before: there has to be a limit of liability. Were it not — and I would say happenstance — this particular individual at that particular time, but if I were behind him in my very expensive Beetle Volkswagen and that happened, I would have to rely on what liability insurance or the rest.

Now if we're going to build the Workers' Compensation Act on a master/servant relationship, which is a liability we assume when hiring these workers, there has to be a limit. Although I have a great deal of sympathy with this chap in the Mill Woods disaster — and "disaster" is the right word — there is no way that the general fund should pick that up. That stops being compensation per se and becomes a socialistic deal. There are probably better qualified socialistic efforts to look after that.

I can recall — to go out of province — that last spring we had a great tornado go through a small oil field in Saskatchewan. Although it did a great deal of damage to pump jacks and the rest, it also blew certain houses and the rest away. Because these people were living in these houses, working in the oil field, and the tornado took their houses away, should they be compensable? It's the same sort of argument.

MR. CHAIRMAN: I gather from your presentation that your position is that that worker should not be covered under the Act.

MR. CLARKE: That's what we're saying.

MR. CONBOY: I think we have a specific example, though, Mr. Chairman, within our company at ATCO Metal. Joe, if you would recite that.

MR. CHAIRMAN: That one was known to the public, and that's why I raised it here. You have clarified your position. Basically we want to know your position.

Further questions here?

MR. MARTIN: Just to follow up on the general fund, because I think there is some confusion here, and I am going to call on the staff. We talked about this — I can't remember whether it was Lethbridge, Medicine Hat, or where along the line. But if the

company wasn't charged as such and it was taken out of the general fund, it doesn't necessarily follow — and I'm asking for clarification — that the compensation . . . They try to collect that money back. Is that not correct, John or Al?

MR. RUNCK: I've been listening to this, and I think we're talking about a number of situations. There's the one that Mr. Clarke just addressed. Then there's the one where a claim has been accepted in error, and the error is not really confirmed until appeal, and payments have been made. That's the one that was raised before, and we discussed it in either Lethbridge or Medicine Hat. We said that initially you would take it out of the employer's experience, charge it to the general fund, and then try to recover from there.

Then there is a third one, and this seems to be the one that is coming through to me, rightly or wrongly — and these gentlemen can correct me if I'm wrong. We have a number of claims where the enhanced disability reserve comes into play — back claims, knee injuries, et cetera — where the worker has some form of disability which is aggravated by reason of an industrial accident. Now the aggravation has enhanced the underlying disability, so we say to the employer: we're not going to charge you with the costs of the enhancement; we're only going to charge you the portion which we can say is directly related to the accident. The balance is removed from the employer's experience and charged to the enhanced disability reserve, because the enhancement was in effect attributable to the accident. It gets complicated, but the condition was there before.

I think this is the one that the gentlemen are saying: when you give us that kind of relief, it's not right that you should be accepting any responsibility for the enhancement of the underlying disability. Am I on the right track?

MR. CONBOY: No, Mr. Chairman, we're not talking about that at all. We are not even broaching the subject of enhanced funds. We're simply talking about where the Compensation Board itself has investigated and decided that it was not the employer's fault or derived out of the course of his employment; however, he is still paid his compensation payment. It is not charged to the account of the individual employer. We'll throw it into the general fund, and everybody will pay for it. We understand the philosophy of the enhanced fund; we have no hang-up with that. We can understand that can happen, a recurring back injury, and so on and so forth. We are not addressing that at all.

We are talking about the case where a chap reports to work in the morning, and he has a back injury. He goes on compensation, he gets a disability award, and he is paid compensation. The company disputes it, and it goes before a board. An inspector comes out, and his findings are that indeed it did not derive out of the course of his employment, because they look at his job and it's a light job, and so on and so forth. The company is relieved of the costs; however, the costs still go into the general fund which, of course, all employers pay. Those are the cases we're talking about, not the enhanced fund at all.

MR. RUNCK: It would be interesting to have some examples of this submitted, because I'm confused by the picture. The picture is a little different from what I understand, unless there are specific examples which could be submitted to the committee that we could look at.

MR. CLARKE: Would it help if we brought up this incident? This belonged to one of our sister companies, and I appreciate it was one of these difficult cases. It was a heart attack. Apparently, for some weird reason, the heart attack was brought on because the chap was an older fellow working with younger fellows and trying to keep up. That is briefly the story.

The Compensation Board relieved our company of all the costs of that heart attack, with the exception of $500, and charged the rest to the class fund. We pay 51 per cent of the entire class fund in that particular class. Our contention was — and there is some evidence, from our efforts — that this type of heart attack took 12 years in the making. It was not that the chap needed by-passes and so on, or had plugged arteries. This does not just happen at work, yet no matter how you cook it, we're paying for it. The point is the Board could not prove or didn't intend to prove that this was compensable, yet we're paying for it anyway.

Do you want some more?

MR. RUNCK: No, I can answer that one. The heart policy recognizes that in some situations, an employment situation can determine the time of onset of a heart attack. So under this policy, which is supported medically, although we can't say it caused the heart attack, it could have determined the time of onset. Because of the very thing you say, the pre-existing disease taking 12 years in the making or whatever, the Board's policy is that the employer's experience, the class experience, is charged only with the first $500 of costs. The balance is charged against the reserve for enhanced disabilities, not the class fund. That's policy.

MR. CHAIRMAN: I think I must ask here if you would, as Mr. Martin has suggested — and we've suggested to others — give us the claim number, send it to my office. We would look at the specific one a little closer for the benefit of the select committee.

MR. WISOCKY: Just a point of information. We're all talking about accidents; in other words, traumatic effects. But under the Act, very clearly, one of the things that constitutes an accident is disablement arising from the employment, and that goes beyond just traumatic injuries. All of us in this room have some pre-existing conditions or developing degenerative conditions. Maybe for some of us, a less traumatic injury will bring on a disability; i.e., you may have degeneration of the back and, because of your advanced degree, maybe lifting 50 pounds will cause your back to go out, whereas it may not cause it to me. That's one of the facts of life, and that's one of the difficult areas. As Al explained, that's why the Board has this cost-relief program. A disability usually happens not as a result of a trauma necessarily, but because aggravation precipitates something on a vulnerable area and accentuates a pre-existing condition.

MR. CLARKE: If I may, Mr. Chairman. Just in answer, John, the whole argument you based that on I believe is from section 19(4) of the Act, which says that if a man suffers from an industrial disease, by regulation it is "presumed" — that's the word, "presumed" — that the disease is the result of his working activities. Now one of our contentions in this brief is to say, let's get rid of that part of the Act.

Secondly, a heart attack is not, by the Board's regulations — and there is that dirty word again — considered an industrial disease. Now here we are again with Board policy, and we're damned if we do and damned if we don't, because of a presumption — and there is nothing the matter with a presumption done well and conscientiously and so on, which I'm sure the Board does. What I am saying is that in any law, presumption is only a presumption of innocence, not of guilt.

MR. CHAIRMAN: If you have the tort system in place, Mr. Clarke. I must interject. But when the tort system is removed, there is no presumption. Right? We then presume that the benefit of the doubt — and that's pretty well universal in Canada in all boards — if there is any doubt, goes to the claimant, the worker.

MR. CLARKE: True.

MR. CHAIRMAN: You're using this word in law. I sit here, and I'm sure you welcome it, too, that we don't want the law involved in presuming whether there was a disability on the job or not.

MR. CLARKE: A presumption, though, can cost us $250,000. That's what a heart fatality is worth.

MR. CHAIRMAN: Some very high-priced lawyers in the States also draw that kind of money.

MR. MARTIN: I will follow over into another area. It's an interesting debate, I'm sure. I know the answer to this, but I will ask it again because Joe has been around. But I think it's important to bring it out, about the compensation ceiling. You're not saying here that the Industry Task Force — I know you were part of the Industry Task Force; they had a specific figure. Are you saying that you're just talking about a reasonable approach because of the Canadian average? Is that what you're suggesting, that the compensation ceiling be $23,000? Is that what I'm hearing? That's different from the industry one, which was $30,000.

MR. CONBOY: Mr. Martin, what we're simply saying is that the last select committee recommended, and it was enacted, that we raise it from, I think at that particular time it was . . .

MR. CHAIRMAN: Twenty-two thousand dollars.

MR. CONBOY: . . . $22,500, or something, to $40,000. We are simply saying: you went overboard; have a serious look at it. The average salary of the injured in 1982 was $23,000. What are we doing assessing on $40,000? You are simply padding the compensation account.

MR. CHAIRMAN: Mr. Conboy, I must correct you there. The assessment is based on the actual salary of the worker.

MR. CONBOY: Up to a maximum of $40,000.

MR. CHAIRMAN: That's right.

MR. CONBOY: I am simply saying that what you are doing is coming up with an unrealistic class rate, because you are taking the top of the people who are in that top bracket up to $40,000, who are not really exposed to accidents or injuries, and you're padding your account. Let's get some fundamental accounting done and call a spade a spade.

MR. MARTIN: Okay. Just one follow-up.

MR. CHAIRMAN: I'd better move to Mr. Thompson, because he was ahead of you, I think.

MR. THOMPSON: That was my question, so I'll let Ray carry on.

MR. CHAIRMAN: John was going ask your question.

MR. MARTIN: A supplementary question, Mr. Chairman. What I am asking — and I guess I know the answer — you and I may disagree on. Let's say, for example, a person making $38,000 is injured on the job through no fault of his own — not the ones that we can argue about in terms of who is liable or not. Is it really fair that that person would then go down to, say, $23,000? Do you consider that a fair and reasonable assessment?

MR. CONBOY: It's the merry-go-round. We have carpenters working up north in Tuktoyaktuk making $80,000 or $90,000 a year. Is it fair to give them 90 per cent of $40,000, I ask you, Mr. Martin?

MR. MARTIN: I could add to that. I disagree there.

MR. CONBOY: We are simply saying to draw off it where it should be, the average. The average rate is $23,000, and we're saying, have a look at it. We normally plan our budgets and accounting on where we think the average is going to be, and I think this is what we should do in this case.

MR. CHAIRMAN: Mr. Conboy, I must say here that if we do what you're suggesting, then the average wouldn't be $23,000. The average happens to be $23,000 because the ceiling is at $40,000. But if we had a ceiling at $23,000, you know well that the average would drop to around $15,000.

MR. CONBOY: I question that, Mr. Chairman, because the average in other provinces that have their ceilings at $25,000 or $23,000 is not down at $15,000.

MR. CHAIRMAN: I'd welcome your figures, your study, or whatever you have. We are only going by the Alberta experience. When we raised the ceiling to $40,000, our average compensable income of a claimant has only gone up by about $2,000, from about $21,000 to about $23,000. So that's what happens with averages, and that's why Mr. Martin asked that question. You're putting a strong representation on the $23,000, because that's the average now. But if we bring it to that ceiling, then the average will come down.

I would like that information, if you have the comparisons of the averages of other provinces. I think we have it too, but see what you have.

MR. CONBOY: We can get it, Mr. Chairman.

MR. CHAIRMAN: I'd like to compare your information with mine.

MR. CONBOY: Yes.

MR. NELSON: Mr. Chairman, there is an area that hasn't been touched on that has been brought up and is, I am sure, of interest to the employers. It is in relation to the possible development of a new facility encompassing both the Board offices and the rehabilitation centre. Some have indicated that there's no real direct cost to employers, but I question that. I am just wondering if you have any views on the development of this facility at this time, because you are going to pay for it.

MR. CONBOY: When we put our brief together, Mr. Nelson, we weren't aware of the combined facilities — at least I wasn't. Off the top of my head, I would only comment that in this economic downturn in Alberta, I would question the philosophy of any new

facility unless it was drastically needed at this particular time. I would suggest, without a doubt, that it is going to have to be paid for out of the fund, which is funded by employers.

MR. NELSON: Have you been in the present centre at all?

MR. CHAIRMAN: The rehab centre.

MR. CONBOY: Yes.

MR. NELSON: You feel it's adequate as it is at the present time?

MR. CONBOY: That's a tough question. It may not have been adequate last year. But as we are all well aware, employment figures are dropping daily in Alberta, and it may be adequate for the next three or four years.

MR. NELSON: One further question. You have a number of classes that you've identified here in your brief, that you participate in. Considering a dialogue has taken place here with the experience of some workers being excused from your classification but included in a general fund, which you're paying for in any event in one way, shape, or form, do you have any thoughts about reducing the number of classes one might carry, putting it all in one particular activity and putting the fund together?

MR. CONBOY: We do. I think we've addressed that in the back of our brief. I'll let Joe speak to that.

MR. NELSON: Well, the back of the brief, of course, is one that was taken from another brief.

MR. CONBOY: Right.

MR. CLARKE: We'll hold that for the task force.

MR. NELSON: So you understand it, do you?

MR. CLARKE: Yes. What was that about a barn, Mr. Chairman? Any time, Mr. Nelson.

MR. NELSON: Because when we heard this brief before, I don't think the guy who presented it really understood it himself.

MR. CHAIRMAN: That's not fair. They guy may not be present to defend himself.

MR. CLARKE: Briefly, what we're saying is that right now, we contribute to 10 classes. Even in our industrial part we can move — and we do — a chap from class 8-04 to 6-02 because of the change in different activities at the time and the fact that we want to keep our good employees. The man is no more at risk in one class than he is in the other. He's a basic risk. One time it costs us about 3.5 per cent of the payroll to have him working there; the next month it costs us 5.5 per cent of the payroll.

When you look at our whole contribution — and we're pretty generous in our contributions to the Board, because we have no other choice — we give you $3 million a year, of which we get back roughly $750,000 in rebates. To me, that's one hell of a way to run a railway. We would be a lot happier to give you $2,250,000 a year and have one

class, and we'd make money on it, just for example. That's a brief fact. The merit rebate costs us — and as I said, we get $750,000 back — about 12.5 per cent overall, because we have to put the money upfront and wait to get it back. The Board, in its generosity, figures that it makes interest on our money, so they can lower our rate. But we don't get the money back; nor do we notice the rate falling.

What we're saying is that you could take our parts of ATCO and say, okay, you've got four classes: you've got a high-risk class, which is your drilling industry; you've got a semi-high risk class, which is generally your manufacturing part; you've got a third class, which is reasonably sedentary; and by damned, we've got a great many people, particularly in our drilling industry, who make the drilling industry look good. They're all in an office a couple of blocks away. Some of them make $40,000, but none of them get on a rig floor. And they pay 9.2 per cent of their payroll because they are in a drilling industry. That's where the question and the anomaly come, and this is what we're trying to address in this business.

MR. NELSON: Any thoughts on how to balance the budget?

MR. CLARKE: Well, how long have you got?

MR. CHAIRMAN: We've run out of time, with the exception of a short answer, Mr. Clarke.

MR. CONBOY: Which budget?

MR. CHAIRMAN: The WCB budget.

MR. CONBOY: Quickly, I think realistic classes and realistic costs.

MR. CHAIRMAN: When you say realistic, you support what Mr. Clarke said about fewer classes.

MR. CONBOY: Without a doubt. Also, as our submission said, merit/superassessment is: those that are good performers get the breaks; those that are poor pay the [inaudible]. It's not new to compensation. They have it throughout the States and many other countries in the world.

MR. CHAIRMAN: Thank you very much, gentlemen. We have used up the time. Thank you for coming forward. I'm going to ask the participants for Esso Resources Limited, Messrs. Miller, Ashford, and Crucefix to come forward.

My secretary advises me that there is coffee out in the hallway, if anybody would like a coffee. We won't have a coffee break until after two more submissions, but for the public if they'd like to have a coffee while they're sitting there.

Esso Resources Canada Limited

MR. CHAIRMAN: Mr. Ashford, I gather you're going to be the spokesman in the middle? Okay. As I indicated to others — you were present — we'll try to give you about a good half-hour. We have your brief. You may have a few opening comments, and then we'll be into some exchange. I can't promise you that it will be as lively as the people just before you.

MR. ASHFORD: We appreciate this opportunity to address your committee. For us this is really very timely, as I'll explain in a moment. I am manager of human resources for Esso Resources Canada Limited; Mike Crucefix, on my left, is co-ordinator of loss control in our department; and Peter Miller, on my right, is a lawyer on the staff of Esso Resources.

By way of background, safety in the work place is an important subject for us. We work hard at it with a good deal of time, effort, and commitment. Mike will be giving you some information about our safety program, and I think you will probably agree that it has produced good results.

Our relationships with the Workers' Compensation Board have been excellent. I think in the main we have worked collaboratively and co-operatively toward a common objective of a safe operating environment. In recent months, though, we have become increasingly concerned about some administrative aspects of workers' compensation. We mounted a study, and have now produced some tentative results that we want to investigate in more depth with the Workers' Compensation Board.

Esso Resources is a company that was formed in 1978. Since that time our assessments have increased 1,000 per cent, or tenfold. But over that same period of time, since 1978, our claims have averaged only 12 per cent of the assessments. In that five-year period, the Workers' Compensation Board has assessed us approximately $4 million more than they've paid back to us in claims.

Our concern about this situation is twofold. One, we think it's an unreasonably high charge on our earnings. We also monitor our group insurance programs, for example, and there we look for claims ratios of 80 per cent, 90 per cent, or even higher, contrasted with our 12 per cent return from workers' compensation. But our second concern is in terms of motivation. Here I'm speaking broadly for all employers and in the interest of the whole system, notwithstanding our particular interest. We feel there is little incentive in workers' compensation administration for a company to work diligently to reduce its accident record, when there is so little financial reward for doing so. In other words, we think there should be a much closer relationship between claims and assessments. We strongly believe safety can be managed, and we advocate a system that promotes diligent safety management.

That's the theme of our presentation, and Mike and Peter are going to elaborate on those concerns. Thank you.

MR. CRUCEFIX: The health and safety of employees are of paramount importance in the conduct of our business. This statement is the first section of the corporation's health and safety policy, signed by the chairman and chief executive officer. I believe it reflects our management's total commitment to safety and therefore becomes a critical part of our management philosophy. It is noteworthy to mention that the entire corporation's performance in safety is reviewed by our president and chairman on a quarterly basis, as well as regular stewardship reviews that are conducted by all levels of management. I would like to break down for you the components I will be addressing: the safety rating system, corporation statistics, staff positions, and safety recognition.

First let's deal with the safety rating system. In the late '70s our accident experience took an upswing, which naturally promoted us to look at ways to turn it around. One of the options we considered was the International Loss Control Institute's program. This five-star rating system is a modern safety and health program audit. The audit serves two purposes: to provide international recognition of excellence in safety programming and to provide a blueprint for safety program development.

The primary objective of the system is to determine the loss control effectiveness of a company's safety activities. More complete objectives could be stated as follows: to carry out a systematic, critical evaluation of all elements of a safety program; to

analyse and critically appraise a company's efforts to identify, evaluate, and control all potential accident losses; and lastly, to critically evaluate the level of occupational safety and health standards' compliance to legal requirements as well as to those established by the individual company.

We chose the international safety rating system as an audit system because it is an effective management tool to audit management's compliance with good safety program standards. The system also ensures that programs that are in place are working effectively. Throughout the audit system, an evaluation of programs is made, recommendations are written for deficient areas, and programs are developed by local operating departments to improve content. This last point, that the revised programs are developed by the local operating department, should be emphasized. The international loss control system is in part a tool; it is not a complete safety program in itself. The system allows management and on-site people to design loss control programs that meet their specific needs, and those needs are identified by the international loss control audits.

Let me briefly discuss how the program works. The extent and quality of safety and management performance is evaluated against 21 program elements. Some examples are: leadership and administration, planned inspections, job analysis and procedures, emergency preparedness, employee training, and accident incident analysis. Standards have been established for each of the 21 program elements, based on what is being done by leading organizations. These standards have proven to be reasonable, effective, and practical, and a perfect rating is in the reach of any company desiring maximum results in safety. Once the audit has been completed, the company has a base to develop its comprehensive loss control program.

As I mentioned earlier, this is an international program; therefore we can compare ourselves with other companies and countries that have selected the program. Over the last 40 months we have achieved the following results: one five-star rating, 13 four-star ratings, 49 three-star ratings, and two two-star ratings. Our corporation was the first organization in North America to achieve a five-star rating for a gas plant, in Alberta, at Niton; a four-star rating for a drilling rig; and a three-star rating for a company international airport, also located in Alberta, in Edmonton. We are presently the biggest user of the program in North America, spending approximately $240,000 over the last two and a half years for courses, audit verifications, and course design. Our company supported development of an audit for our drilling department, called the international drilling audit, which we have been using for approximately two years.

Now that you have an understanding of how the program works and our involvement in the program, let me spend some time on the results. For this part of the presentation I will break our corporation, Imperial Oil Limited, down into its operating companies active in Alberta: Esso Petroleum Canada, Esso Chemical Canada, and Esso Resources Canada Limited. You might want to refer to the sheets I gave you earlier, because these are statistics, and it might be confusing.

Esso Resources, lost time accidents, 1980 versus 1983 year to date, 67 per cent improvement; contractor lost time accidents, 1980 versus 1983, 78 per cent improvement. Now more specifically by department. Operations (production): lost time accidents, 1980 versus 1983 are 19 versus 4, 79 per cent improvement; lost time frequency, 79 per cent improvement; contractor lost time accidents, 58 versus 10, 83 per cent improvement. Research department: 100 per cent improvement for the years '80 versus '83. Development, or our drilling department: lost time accidents, 67 per cent improvement, 12 versus 4; medical aid, 80 per cent improvement; preventable vehicle accidents, 90 per cent improvement. To help you understand even more the drastic changes we experience, let me share with you another aspect of the changes experienced in the development division, based on a two-year rolling average. Recordable injury

frequency: 11.5 down to 2.4; lost time accident frequency, 5.0 down to 0.7.

Esso Petroleum Canada, Strathcona Refinery, Edmonton. This year the refinery has a zero frequency, year to date; that is to say, no disabling injuries. At the time of this presentation, they have worked 939,498 man-hours. The all-injury index, year to date, is .04, which includes other injuries like medical aid. In their Workers' Compensation Board class 4-04, they are presently sitting second out of 47. An average taken from '78 to 1983 indicates that Strathcona Refinery's frequency is .67, but the average of the class they are in is 11.13. These figures were received from the Workers' Compensation Board research and education branch.

Esso Chemical Canada, Redwater Fertilizer. This year the fertilizer plant has a zero frequency, year to date; that is to say, no disabling injuries. They have eight recorded incidents based on the all-injury index scale, which represents 2.29 frequency. In both of the above examples, Esso Canada, Esso Chemical Canada, Esso Petroleum Canada, their previous year's experience has been similar. In both of these locations, construction projects have just been completed. I would like to detail some results for your committee.

Let's deal with Strathcona Refinery first. The project was called Project Alpha. It involved over five million man-hours, with a final result in frequency of .52 for disabling injuries. Their total for the all-injury index was 1.6, based on 200,000 man-hours. Redwater Fertilizer: the project here was called Alberta Nitrogen Project. The construction company, Bechtel, had experienced a 1.15 frequency for disabling injuries, based on 5.2 million man-hours, and a frequency of 3.22 under the all-injury index.

We feel that the frequencies achieved during construction are well worth mentioning when you compare them to the provincial figures: Alberta, education and research branch, occupational health and safety, construction of buildings and plants, 10.16 frequency; Manitoba, Workers' Compensation Board, construction of civil plants and buildings, 8.19 frequency; British Columbia, Workers' Compensation Board, construction of buildings, 26.00 frequency. We also feel that the results achieved during the construction are due to our management's involvement with the projects. Our corporation has very high standards involving the safety and health of our employees or any person performing work for us. For the reasons I have just described, it is becoming increasingly difficult to understand why our workers' compensation assessments have increased approximately 30 per cent per year for the last five years, when our accident experience keeps decreasing.

I would also like to describe the care our corporation takes to ensure that our employees have a clean, safe work place to perform their duties. For the province of Alberta, we have 27 people dedicated to the function of safety or, as we call it, loss control. These people are located as follows: all the head offices, four; Esso Resources has 10 in production, six in development division, two in heavy oils, one in minerals; Esso Chemical has one at Redwater; Esso Petroleum Canada has three at Strathcona Refinery. The above numbers do not include support staff, physicians, occupational health nurses, and industrial hygienists working in the province. All these employees are dedicated to their jobs and perform their duties professionally, with the health and safety of all employees in mind. I could take the time to illustrate their job functions to you, but to list just a few will enable you to understand the complex tasks they perform: firefighting, first aid, search and rescue, defensive driving, industrial hygiene surveys, medicals, audits, emergency preparedness, work methods, back care, employee orientation programs. As you can see from these few examples, our corporation views health and safety as a very important aspect of management's responsibility to our employees.

Before I conclude my part of this presentation, I would like to share with you an example of how other people view our corporation. For the year September 1, 1981, to

August 31, 1982, we will soon receive 14 awards from the Canadian Gas Processors Association for our gas plants that achieved a zero frequency, or no accidents. Since 1979 we have received 30 similar awards of recognition from the association. Other parts of our organization, like drilling and heavy oils refining, also receive similar awards. I believe it is an indication that the outside world also believes, as we do, that our corporation is a safe place to work. Thank you.

Now I'd like to ask Peter Miller, from our law department, to conclude our presentation.

MR. MILLER: Mr. Chairman, it is the submission of Esso Resources Canada Limited — and the submission is also made on behalf of Imperial Oil and its subsidiaries operating in the province — that the program of workers' compensation as established under the Workers' Compensation Act is not being administered in a manner envisioned by the Legislature of this province. The result, the one intended, has the effect of defeating the object to which all the parties are aiming, that being the reduction of work-related injuries. This comment is made not with respect to Board administration; our views in that area are based primarily on perception rather than quantifiable evidence. Esso Resources has not seen, nor to the best of our knowledge does the Board release, any details of its financial status. We are therefore in no position to assess the efficiency of the Board's operation, its management of its financial planning. This shortcoming of the present Board procedure has been identified in a number of submissions, and I think it would be better addressed at times when the Board considers those parties. Esso Resources endorses the submissions of the Industry Task Force, the Canadian Association of Oilwell Drilling Contractors, and the Canadian Petroleum Association.

Industry generally recognizes and has reached consensus on certain structural and procedural changes which will greatly enhance the operations of the Board. Accordingly this submission, then, is not intended to fly in the face of current financial realities but is premised on the belief that the present system will be restructured to ensure that the Board is not faced with its perennial budgetary deficit. I intend to summarize our argument addressing two matters: first, the merit credits and superassessment, contained in the provisions of section 110 of the Act; and the other, reduction of contribution, contained in section 107 of the Act.

The original philosophy underlying a government system of workers' compensation was based on the principle of individual liability. Employers were responsible to the Board for the compensation awards which were made to their employees. Early in this century, however, governments generally recognized that this philosophic approach could not provide for the best long-term insurance to the worker, nor could it form the basis of a financial system which would operate independent of government subsidy. Accordingly in 1918 the concept of collective responsibility was incorporated in the Alberta legislation. This philosophy survives today.

At present the accident fund is supported by a universal assessment based on the number of employees on whose behalf contributions are made and the needs of the fund. This represents the collective nature of the fund. The present Act, however, also contains a notional application of the individual liability concept. This may be found in section 110, which provides for merit credits and superassessments. I say this concept is notional because, as evidenced on page 16 of the Industry Task Force submission, the ratio of merit rebates to superassessments is 23:1.

It is the submission of Esso Resources that although the present legislation sets in place a mechanism where a proper balance may be maintained between individual liability and collective responsibility, in its application the pendulum has swung too far in the direction of collective responsibility, thus creating an inequitable situation whereby employers evidencing a high accident-free experience are called upon to subsidize those

which have a poor experience. You've heard the evidence of this fact and read our statistics on table 1 of our written submission. Of course, the presumption which we make here is that the concept of individual liability is necessary not only for the apportionment of costs for the operation of the fund but also for the fostering of an overall system which is geared toward accident prevention. Accordingly the consideration of a superassessment must not be based solely on the ability to pay. I might add that we don't mean to imply that that is the only criterion that's been employed to date in assessing superassessments.

Section 110(2) of the Act provides that the amount of a superassessment shall not exceed the assessment otherwise made under the Act by more than one-third. While no similar restriction is placed upon merit credits, to our knowledge no merit credit has been granted in excess of one-third of the assessment made against the employer. As indicated in table A of our submission, we have been receiving the one-third merit rebate. It is the submission of Esso Resources that no such limit — that is, the one-third limit — should be placed on merit credits either by statute or by policy of the Board. Guidelines should clearly be set in place which would assist in the implementation of a merit credit scheme. These guidelines should include an absolute right to a merit credit, limited only to the point where an employer makes a contribution to its share of the fixed costs of the operations of the Board.

Now turning to section 107 of the Act, a great deal of time has been spent in our submission describing to the select committee the extent of Esso Resources' commitment to safety on the job. The achievement of Esso Resources in this regard has received international recognition, but regrettably it has not received the recognition of the Workers' Compensation Board. Section 107 of the Act provides — and I'll just summarize — that where the working environment is of such a state of modern standards so as to reduce hazards of accidents, where all proper precautions are taken by the employer for the prevention of accidents, and where the accident record is consistently good, then the Board may reduce the amount of any contribution to the accident fund for which the employer is liable, in an amount it considers appropriate.

Esso Resources has never received a reduction of its contribution to the accident fund pursuant to this section of the Act. It has always been assessed 100 per cent of the rate in each class to which its employees belong. No legislative change is required to recognize the efforts made by an employer to reduce accidents in the work place. As presently worded, however, this right to a reduction in contribution, section 107, is discretionary and, to the best of our knowledge, this discretion has never been exercised in favor of an employer in this province. Again we are working on limited information, though we have canvassed our colleagues in the industry as extensively as we could.

Esso Resources is confident in its belief that it has one of the most superior safety programs and safety records in the province. Therefore if any employer in the province were entitled to receive this reduction of contribution, it should have been Esso Resources, yet no such consideration has ever been given to our assessment. It is in this respect — the respect of both the merit credit under section 110 and the reduction in contribution under section 107 — that we submit that the application of the provisions of the Act is not consistent with the philosophy endorsed by the Legislature in passing this piece of legislation. The Legislature has provided for a means by which conscientious employers may be encouraged and in fact rewarded for their efforts in the prevention of accidents in the work place. It is the submission of Esso Resources that neither the levy of a superassessment nor the reduction of contribution has been enforced to create an equitable workers' compensation scheme as envisioned by the Legislature.

Esso Resources is committed to safety in the work place. To this end, it has consistently allocated financial resources which are at least equivalent to the assessments made by the Board. While it is true that we are dealing with competing

demands for limited resources, it is not the intention of Esso Resources to reduce these expenditures on its own programs correspondingly with the increases in assessments. We always intend to continue to make developments toward the safety of our employees. None the less, we do seek fair and equitable treatment from the Board in recognition of our low-cost, low-accident experience record and our employer-initiated safety policies and procedures. The present legislation provides for this recognition; however, it has been left to the discretion of the Board.

It is the submission of Esso Resources Canada Limited that should the granting of this recognition be left at the discretion of the Board, clear direction must be issued by the Legislature for the implementation of this policy. In this way, we believe the overall objectives of the legislation will be met.

Thank you.

MR. CHAIRMAN: I regret we have about five minutes for questions of you because, Mr. Ashford, your colleagues made such a fine presentation. As the principal of any of your projects, I gather Esso Resources was successful when they had all the other subtrades and subcontractors on it. One of you gentlemen also referred to the fact that you support the Task Force. There's a certain amount of representation made by the task force to us to eliminate the responsibility of the principal for subcontractor liability. Can you give the committee your view and that of Esso Resources?

MR. ASHFORD: Just for clarification, the principle of subcontractor liability; that is to say, that the main contractor should be liable?

MR. CHAIRMAN: The present program is that the principal contractor, Esso, if you use the example of Redwater or wherever it is, had the safety program in place and was responsible for making sure the subcontractor complied. But there's also the legal liability, that the subcontractor have the coverage too.

MR. ASHFORD: I think in the main we favor the subcontractor retaining that legal liability. It's in our interests to monitor that subcontractor's safety performance, just like we monitor many other aspects of his performance. Financially that will come back to us through contracting costs, but we would in no way want to take the liability directly from the subcontractor.

MR. CHAIRMAN: I may not have been too clear, but the responsibility presently rests with the principal to be sure the subcontractor has coverage. It's in place and has been for many years. Some of the submissions to us have been that they don't feel the principal should have any responsibility for it. I know your Redwater project, because I was invited there to a recent recognition.

MR. MILLER: I can respond to that. I think as long as we as the owner of the property are able to confirm by certificate with the Board that all assessments have been paid and can release money on that basis, we wouldn't request a change in the legislation. To the extent that a certificate cannot be relied upon, and we release money on the faith that all payments have been made, and then find at the end of the year that his status was not current with the Board, we don't see it as being fair that we should be liable for those additional costs.

MR. NELSON: Bill, just one quick one. Mr. Ashford, possibly through to you. Over the past number of weeks, we've heard different accusations, so to speak, that employees are sloughing off or management is discouraging reporting of accidents, and in cases where

people appear to have good safety records, as you have indicated here, that companies such as yours may be discouraging reporting an accident to show a good record. Could you make some comment relevant to that issue that has been raised here?

MR. ASHFORD: Would you like to comment on that, Mike?

MR. CRUCEFIX: Sure. We've recently put in a computerized accident prevention program strictly to assist us in giving out faster reports to our field operations. We insisted on the reporting of accidents. We wanted them all — the lost times, the medical aids, the near misses — because we couldn't even attempt to design a safety program until we know what we're dealing with. Our accident stats have gone up from about 500 incidents per year to over 1,700 incidents a year, because before we weren't getting the true picture. Now that we are, we can design programs to reduce the occurrence of those.

MR. NELSON: So in essence what you're saying is that in so designing this, you've recognized accidents that may not have been reported previously, that through design of a new program you are able to bring this forward to assist you in that prevention.

MR. ASHFORD: That's correct. It's sure not part of our culture to suppress any accident data.

MRS. FYFE: Just a quick one to Mr. Ashford. Right at the beginning of the presentation, you made a comment related to private insurance. You used figures 80 to 90 per cent deterrent versus 12 per cent workers' compensation. Could you just explain this a little bit more fully, how you'd based the figures and what type of coverage you were looking at?

MR. ASHFORD: Yes. Typically in a group life insurance plan, which requires very little administration, for a competitive quotation we would be looking at a claims ratio well above 90 per cent. In a hospital/medical one, where there was more administration, we would be looking at a claims ratio of 80 per cent or something. I don't think we've ever worked with a program that has less than an 80 per cent claims return. There is a lot of administration in workers' compensation, but moving down to 12 per cent, we just think it's a non-competitive world. If we were free to negotiate with the carrier, we'd be moving pretty close to that pretty quickly, from the Worker's Compensation Board.

MR. CHAIRMAN: Have you seen the U.S. report on the June issue of the occupational health and safety comparative?

MR. ASHFORD: I haven't.

MR. CHAIRMAN: I don't believe I have one here, but it points out that the number of private carriers in the United States stepping out of workers' compensation coverage is increasing.

MR. ASHFORD: Our major point: we have a figure here that 22 per cent of your assessments go — maybe that's not too bad. What bothers us, of course, is the way you distribute the other 78 per cent, and we don't think we're getting our fair share of money.

MR. CHAIRMAN: Okay. Thank you very much, gentlemen.

We'll call on the other party, the Building & Construction Trades Council. We would

like to remind you again that right after this submission, we'll have a 10-minute break for a coffee. To those who have been listening intently, we'd like them to have their coffee with us; we'll welcome it. Otherwise, if anybody wants to have a coffee, it's out in the hallway.

Southern Alberta Building & Construction Trades Council

MR. CHAIRMAN: Mr. Tackaberry, do you wish to introduce your colleagues? You will be doing the presentation?

MR. TACKABERRY: Yes.

MR. CHAIRMAN: We have a half-hour and would like to accommodate it in that half-hour.

MR. TACKABERRY: Oh, I think we can. Mr. Minister and members of the committee, I'd like to introduce to you Bob Heikkinen, chairman of our building trades health and safety committee; and Jim Kennedy, one of the members of that committee. We have Bill Green here, representing the insulators from Edmonton.

The committee met and made up a short brief, which I'll read. Although it doesn't cover in detail, I think it covers most of our concerns at the present time.

Mr. Minister, a submission to the select legislative committee on the Worker's Compensation Act and the Occupational Health and Safety Act, from the Southern Alberta Building & Construction Trades Council health and safety committee. This is endorsed by the provincial council too; we took it to them for their concurrence.

Our committee met and reviewed your request for submissions concerning the principles and provisions of these Acts and found very few problems. In fact, we wholeheartedly endorse the current Acts and regulations and compliment the government on the recent proposed drafts for changes and revisions to the Acts and/or regulations, which we feel have provided additional promotion and protection for the health, safety, and well-being of workers on the worksite. Our organization will oppose recommendations that may arise from your committee, as a result of the submissions and hearings undertaken, that may cause a digression from the health, safety, and well-being of workers. You may feel this to be a premature analogy. However, we understand that there will be considerable opposition to portions of the Act or regulations. We hereby recommend for your consideration the following.

One, medical examinations. Medical examinations should be administered free of charge to all workers who work with or are exposed to known and unknown health-hazardous vapors or materials. We do not propose any specific interval that the examination should be administered. However, we'll suggest a minimum of every two years, with varying shorter intervals depending on the degree of toxicity or duration of exposure and whether the exposure is continual or periodic.

We believe that this type of program would be an asset to the health of workers who, in this scientific age, are exposed to many materials, the toxic values or effects of which are relatively unknown. This could also be an asset to the Board, by being able to monitor workers and if a worker's health may have been attributable to exposure on the job. Examinations should be administered to workers involved in or exposed to: one, sandblasting; two, welding or fusion of materials with hazardous properties; three, painting or application of special coatings; four, the use of toxic chemicals; and five, the use of any other material that may be considered health hazardous.

Two, pocket safety manuals. The occupational health and safety division should

undertake to publish for distribution to all workers a pocket-type safety manual with a condensed version of the more important safety regulations, safe work practices, and safety tips. We realize that this may be quite an undertaking; however, we feel it would be very worth while in making the worker more aware and safety conscious by having at least some information readily available that he can carry on his person. Most workers do not have the current regulations readily available to them, nor will they read such lengthy regulations. The Board is spending money on publishing safety posters, but we believe this money could be better spent publishing pocket manuals, especially for the construction industry, since seldom is a construction worker in a position where he may see a poster. One pocket manual may not be the answer, and possibly manuals or various portions of the regulations could be made up for the various industries or various types of work.

We have encountered numbers of situations where workers have been on compensation due to injury or disability, and it has been determined that the person is rehabilitated sufficiently to do some form of work, though not necessarily in his trade or occupation. Often at this point, the person is removed from compensation, provided with a small disability pension, and set free to find his own employment. In many cases, under these situations the person is left destitute with very little income, and unable to obtain a job that may provide a respectable income in relation to previous employment as experience or training in other lines of work is lacking. Sometimes after lengthy hassles, the Board has undertaken to provide some form of retraining and additional income during the retraining, but during the interim the person has suffered undue hardship and frustration. Sometimes the person has been driven back to his previous employment or occupation, only to suffer recurrence of the injury or disability. This practice by the Board is totally unfair and inequitable and must be corrected.

We recommend that a person should remain on compensation until such time as he is sufficiently rehabilitated to return to his previous employment or occupation, or until such time as a person has been retrained and provided employment in such other suitable work as the situation may warrant.

Work place inspection. In these economic times, a major contention is the competitiveness of the union contractor versus the non-union contractor. We believe that, to some degree, one of the factors that creates this imbalance of competitiveness is the unsafe manner in which the work may be performed to save costs. We are not in any way attempting to insinuate that the inspection service branch or its officers discriminates between organized and unorganized workers or work places, nor are we attempting to insinuate that the unorganized contractor or workers do not practise safety. We have, however, on many occasions observed work being performed in an unsafe manner at work places in which we have no jurisdiction, which would appear to be a method of cost saving. This creates potentially dangerous and hazardous situations for the workers.

Over the years organized labor, through its officers, stewards, and committees, has stressed safety, which has been generally accepted by the union contractor and therefore, in our opinion, has made the work place involving organized labor potentially safer and more safety conscious but to some degree has created a more costly job. Since organized labor does provide assistance in promoting and practising safety at its work place, and at the work places of the unorganized there is on many occasions no assistance provided in the promotion and practice of safety, we recommend that the inspection officers provide greater scrutiny to the work places of unorganized labor, especially in the construction industry.

We are pleased to have had the opportunity to provide this submission. Respectfully submitted by the Southern Alberta Building & Construction Trades Council health and safety committee, Bob Heikkinen, chairman; Terry Bosma, Jim Kennedy, Martin Piper,

and Carl Victor, members of the committee.

MR. CHAIRMAN: Thank you, Mr. Tackaberry.

MRS. FYFE: Yes, thank you, Mr. Tackaberry. I'd just like to ask a question regarding the medical examinations. You've recommended that medical examinations be administered free of charge to all workers who work with exposed known hazardous material. I thought this was a requirement now; that there would be a regular medical checkup.

MR. HEIKKINEN: Not to our knowledge.

MR. SMITH: It depends on the regulation. It is required for workers exposed to certain [inaudible] dusts, for vinyl chloride, asbestos, silica, and noise. So for specific types of occupations or hazards, yes, it's required.

MR. HEIKKINEN: We realize that there are some specific areas that are covered, but we feel this should be expanded greatly. It just doesn't go far enough.

MRS. FYFE: So you're asking that the regulations be encompassed to incorporate the five areas you've listed. Would you like those detailed in regulation? Is that your position?

MR. HEIKKINEN: We're looking for anything basically detailed as to what trade or what occupation would come under it, but anywhere where people are working with hazardous materials for a length of time, where it may be hazardous to their health.

MRS. FYFE: Where you say "free of charge to the workers", are you assuming that the employer would pay for the examinations?

MR. HEIKKINEN: No. We were actually assuming that they would be put on by the compensation branch, because it would be basically to the benefit of the branch to determine if a person's health problem may have been attributable to a hazardous material that he was working with on the job.

MR. CHAIRMAN: You may want to respond later on it, but according to Mr. Smith's and my understanding, all these hazardous materials are covered in the regulations. The regulations are now being reviewed, and I particularly would welcome if there is any area not covered that is a hazardous substance in the work place. According to Keith Smith, the regulations presently cover practically all the known hazards. Right, Keith?

MR. SMITH: I wouldn't go quite as far as that.

MR. CHAIRMAN: I said practically all the known hazards, but . . .

MR. SMITH: Certainly several.

MRS. FYFE: Thank you. That's all.

MR. MARTIN: Just a couple of areas. Number one, it's very much in the news now in terms of union contractors versus non-union contractors in your area. You say at the bottom there that you have observed work places, I take it in non-organized areas, which

seem to be unsafe to you. Can you give me some examples of what you're talking about there?

MR. HEIKKINEN: As far as specific examples, no. I'm not prepared to give any specific examples.

MR. MARTIN: I'm not asking for companies or a place; I'm asking for what's happening.

MR. HEIKKINEN: It's a generalized statement. Certainly union representatives of the building trades do visit various jobs which may be organized or unorganized. On visits to those jobs, it certainly appears that the unorganized jobs are not as safety conscious as the organized jobs. On many occasions you can visit a job where unorganized labor is, and there are no hard hats worn, and various other situations.

MR. CHAIRMAN: What have you done about it when you've seen that?

MR. HEIKKINEN: Certainly in a lot of cases we have phoned the inspection service branch and advised them, but . . .

MR. CHAIRMAN: That's what I wanted to hear.

MR. MARTIN: I wasn't asking for the specific companies. I was asking for the types of things you mentioned, one of them being people not wearing hard hats.

There's somebody back there — I think he's with your committee.

MR. BOSMA: Please, gentlemen, if I may respond.

MR. CHAIRMAN: Could I have the name, please?

MR. BOSMA: I'm sorry. It's Terry Bosma.

In relationship to the gentleman's question here — and no specific companies named or anything like this — pertaining to safety belts or running shoes, proper clothing and equipment. There are other areas I could probably go into, but these are the major specifics in regard to the type of work ironworkers do. The fatality rate in our industry is quite high. These things are not adhered to in relationship to the other part you proposed to the union people.

We in turn tell our office everything of an [inaudible] nature that comes to pass, and phone the occupational health and safety right away to get them on the job, but they can't see them all.

MR. MARTIN: Okay. Thank you.

The other area I want to look at is under rehabilitation. I understand precisely what you're driving at. Let's look at the last paragraph, where you recommend

> that a person should remain on Compensation until such time as a person is sufficiently rehabilitated to return to his previous employment or occupation or until such time as the person has been retrained and provided employment in such other suitable work as the situation may warrant.

My question is: how would this be decided, and who would decide when this rehabilitation has occurred?

MR. HEIKKINEN: I guess we run into many situations where it has been determined that

some of the people we represent are fit and able to go and do light-duty work, for example. They're cut loose by compensation, and they're unable — the construction industry does not consist of light-duty work, so they can't return to their trade. So they're stuck there, out in limbo, with no training in any other area and unable to get a job because they haven't got any training. We feel it's grossly unfair to be cut loose in that situation. If the compensation branch determines that the person is rehabilitated in order to do some form of work, then they should retrain him into doing some other form of work that he's capable of doing.

MR. CHAIRMAN: Possibly just a further question on that to you, sir, because you didn't address it and we've had a certain amount of representation. With regard to the worker returning to full pay, what is your view about his receiving a permanent partial pension? He's back to his full pay, rehabilitated, or back to his original job.

MR. HEIKKINEN: Certainly in a lot of cases workers do return to their original job, receive full pay and, at the same time, may be receiving some form of disability pension, depending on the amount of disability and so on. In some circumstances, we certainly believe that the person is entitled to that disability pension, because his work may be limited due to the disability, although he may have returned to his work for a period of time. In other circumstances, where that disability does not affect his work, we're not so sure that receiving a disability pension is warranted.

MR. NELSON: Just a couple of areas, Mr. Chairman. Gentlemen, have you done any cost analysis relevant to the presentation you have here today?

MR. TACKABERRY: No.

MR. NELSON: Notwithstanding the current situation, especially in the construction industry, and the difficulties with the organized labor movement and the companies they work for having been competing with the non-organized, in some cases what you're asking for here is additional costs to those companies. When you suggest that it's no direct cost, there is a cost, because they have to pay the Workers' Compensation Board on assessment. Do you not feel you may even be additionally hindering opportunities for your members to be in the work force or the work place by placing additional burdens on these various companies?

MR. TACKABERRY: Let's get one thing straight here and quit talking as if this is company money. This is our money we're talking about, even though it's paid on the payroll basis. When it comes to negotiation time, the amount they pay for compensation is put right in there as part of our wages. So let's not talk about the company money. It is not the company money; it is the workers' money. It's not an additional cost to do something properly. They only pay the assessment on whatever their payroll is. If they have a big payroll, they pay a big assessment. According to what the accident rate is in their industry, that's what their assessment is based on, if I read the Act right.

So if they have a safe industry, or safer industry, then that's a money saver.

MR. NELSON: If they get a merit rebate, certainly it becomes an advantage to them.

I didn't realize that workers' compensation was a negotiable factor in a job. I thought it was a benefit provided for injured workers in the work place.

MR. TACKABERRY: It's not a benefit in that sense. When we go into negotiations and they list the wage costs, or labor costs, compensation is charged against our wage

package.

MR. NELSON: I have one other question regarding the safety area. You were talking about pocket safety manuals and suggesting that the Workers' Compensation Board provide these. Whether they do now or not, I don't know. Here again, it's another cost. I'm just wondering, why doesn't the union possibly assist in this manner, in assisting their members to become more safety conscious?

MR. HEIKKINEN: As we said in our brief, we as organized labor have practised safety and do instil safety, and we are currently considering our own safety manuals. In fact, some industries do have their own; some do not. But as an overall building trades, we are considering thinking up our own safety manuals. As we're saying in our brief, we believe that rather than posters, for example, the Workers' Compensation had better spend its money on a safety manual. The current regulations are very cumbersome. The average worker never sees them and never reads them, because they're just too lengthy. We believe that something that could be carried in a person's pocket, where it's available to him and he can sit down and read it at lunchtime and so on, would be a great asset to all concerned.

MR. NELSON: Wouldn't you feel it would be better distributed by the union? Don't you feel your membership would have confidence in your activity?

MR. HEIKKINEN: No, we don't feel it would be better distributed by the union, because the union only covers part of the work force.

MR. CHAIRMAN: One more question to you, gentlemen, with respect to your closing comments, where you recommend that inspection officers provide greater scrutiny of unorganized labor in the work place, especially in the construction industry. Can you give the committee a comment or two about the joint worksite committees you have? Do they not carry out a certain amount of inspection, and is it working? As a minister back in 1979, I would have physically needed 250 inspectors for all the oil rigs in the province, and then two years later I'd have had 249 unemployed. I'm interested, because you're sort of indicating that you almost want a traffic policeman on every project.

MR. HEIKKINEN: No, I don't think that's the case. Certainly worksite safety committees have not been mandatory. It appears that they are going to be in the future, but they have not been mandatory. They've been basically voluntary. Certainly in the unionized industry, in many of our jobs and major jobs, there are worksite safety committees. They do provide assistance.

MR. CHAIRMAN: Can you give the committee a feeling of where you have joint worksite committees? Do you still need the inspector there, as you recommend? The OH&S officer.

MR. HEIKKINEN: Of course we're talking — basically in a lot of cases, on certain jobs, a safety officer is not necessarily required, but they do make periodic visits to all jobs. We feel that with the input of organized labor on safety, there are more criteria for the safety officers to visit the unorganized jobs than the organized labor ones.

MR. CHAIRMAN: I won't disagree with you on that.

MR. NELSON: Mr. Chairman, just one more. I didn't realize this, gentlemen, but the

manuals seem to be available. I think your presentation has suggested something additional, although in looking through these and one produced by the Alberta Construction Association, I would question whether your members are in fact aware that these are available and, if not, maybe your union should possibly make them aware.

MR. HEIKKINEN: Certainly we're aware.

MR. NELSON: I didn't realize they were all there myself until they were handed to me, and I think that possibly . . .

MR. HEIKKINEN: We're aware that there are certain manuals, but basically none of their manuals is — what we're talking of is pocket-type manuals in direct relation to the regulations and so on.

MR. NELSON: That's a pocket manual.

MR. CHAIRMAN: However, I think we've used up the half hour. I want to say thank you. You may want to look at those and talk to Keith Smith about those manuals.

MR. HEIKKINEN: We're aware of those manuals.

MR. CHAIRMAN: You're aware of them. Mr. Nelson, they are aware of them.

Thank you very much for coming forward. We'll have a seventh-inning stretch, a 10-minute break for coffee. Right after coffee break is Professor Reasons from the University of Calgary.

[The meeting recessed at 3 p.m. and resumed at 3:10 p.m.]

Dr. Charles Reasons

MRS. FYFE: We'll call the meeting back to order. Is Mr. Reasons here?

DR. REASONS: Yes.

MRS. FYFE: Please be seated.

Mr. Diachuk is talking to the press, and he will be joining us in just a few minutes. In order to keep with our schedule, we're going to proceed with the meeting.

Is it Mr. Reasons?

DR. REASONS: Dr. Reasons.

MRS. FYFE: Okay. You have about half an hour, if you would like to proceed.

Could we have order in the room, so we can hear the comments by Dr. Reasons, please?

DR. REASONS: I would like to thank the chairman of the committee for giving me this time to speak as a concerned citizen, also as a professor, researcher, and criminologist who has done some study in this area.

It may surprise you that as a criminologist, I am involved in the area of health and safety. But I use the terms crime, assault, and violence in discussing this area of workers' health, not only for effect but because much of the death and injury in the work

place is a logical, premeditated, rational consequence of actions and inactions, commissions or omissions, of those responsible for ensuring a safe and healthy environment. Assault and violence occur daily in the work place. The research I completed with labor lawyer Craig Paterson and journalist Lois Ross entitled Assault on the Worker: Occupational Health and Safety in Canada, addresses this fact.

Unfortunately most people in Canada and most people here think of something which is violent as being illegal, perpetrated by a person or persons against another person or persons. So if someone sprays mace or throws acid in your face, that's violence. If you are forced to inhale substances at work which can kill you, such as asbestos, it is uncomfortable but we don't term it violence. According to The Concise Oxford Dictionary, violence is the "unlawful exercise of . . . force". To violate is to "disregard, fail to comply with, act against the dictates or requirements of, (oath, treaty, law, terms, conscience)." I suggest to you that while the inhalation of a substance which could kill you may not be unlawful, it violates the health of the worker or workers who are inhaling that substance.

As we noted in our previous research — and it still remains today — more Canadians die yearly from violent deaths due to cancer, automobile accidents, heart disease, suicide, and occupational injuries than from what we as criminologists usually study, murder and manslaughter. However, we tend to focus upon murder and manslaughter and not upon automobile accidents, heart disease, suicide, and occupational injuries.

I am sure you would argue, and many do, that when we have a homicide, we have a readily identifiable victim and offender, and of course it's included under the Criminal Code. Furthermore we have criminal statutes concerning automobile accidents and suicide, not concerning occupational death. None the less, deaths due to occupational diseases and hazards yearly are much higher than for murder. If we look at a table I've included on how Canadians die, we find that occupational hazards are the third leading cause of death, only behind heart disease and cancer; that is, you are about 18 times as likely to be a victim of violence in the work place as of murder outside the work place. As I am fond of telling my students, you're more likely to die of peptic ulcers than you are from murder. I must suggest and point out that this fact on occupational deaths is conservative, because it does not include extrapolation of a number of occupational diseases.

In our research, and still today, Alberta has been a leading province in the rate of killing workers, specifically in certain industries. In our previous research, we found that Alberta led the country in mining fatality rates, the severity of injury rates in mining, trenching death rates, and construction death and injury rates.

How should we approach this? As a student of crime, I would like to suggest that we approach it like we do other areas of study. I have done some research, apart from this on traditional common law crimes in this city, on a new approach towards crime called crime prevention through environmental design. I'm sure you've heard about it. The local police department had — but no longer has, due to budgetary cuts — a division on crime control through environmental design. This is the kind of approach where you emphasize what we would call the hardware approach, dead-bolt locks, better lighting, sturdier doors and windows, alarm systems: technological means of preventing what we commonly call street crime.

Another aspect, apart from hardware, is fostering a sense of community cohesion and vigilance. We are immediately reminded of Neighborhood Watch, Lady Beware, block organizing, and other such approaches. These hardware and social aspects of preventing crime through environmental design emphasize prevention before the act occurs.

In my research in the area of occupational health and safety, there appear to be parallels to this approach in dealing with violence in the work place and dealing with violence in the community. For example, the field of ergonomics emphasizes the

relationship between workers and their environment. Much of the attention in the area of ergonomics appears to be focussed upon preventing death and injury from the job by designing a safer work environment, which reduces worker exposure to hazards. And we can see this often in the attempt and proposals for safer equipment and machinery in order to reduce the potential risk to workers.

Furthermore, apart from the hardware approach, the desire to foster social concern and cohesion among workers is evident in such things as educational programs, worksite safety committees, collective bargaining, and establishing what has been called the three Rs of workers' health: the right to know, the right to participate, and the right to refuse.

My own bias concerning these attempts to thwart violence in the work place and in the community, is social awareness and social action. I noted before that much of the problem of crime in the community can be addressed through citizen involvement and action in combating social issues in the community: adequate day care, proper traffic signals, unemployment, building standards, and other types of efforts. Likewise I would suggest that the problems of workers' health are not essentially or even finally problems of technology or problems of hardware but problems of attitudes, philosophies, awareness, and action among those persons who are directly involved. I suggest that if the appropriate attitudes, philosophies, and actions are evident, the needed technical and physical changes will follow. What I am saying is that the way we philosophically approach our basic assumptions about why people die and are injured in the work place, suggests certain kinds of solutions. In our book, we get into this to a great extent.

As a student of the law, I'd like to discuss the law as it stands, what we say about the law, and what we do with regard to the law. In any analysis of the law aimed at regulating and controlling any kind of behavior, whether it's robbery in the streets or violence in the work place, students of the law ask two questions: what are the law's symbolic effects, and what are its instrumental effects? Symbolically, what kind of values does a law reflect? What groups or classes does the law represent? Instrumentally, how effective is the law in its enforcement and in its pursuit?

So I believe we can say that workers' health laws — the ones we're concerned with at this moment — represent a concern about the well-being of workers' lives. It's a victory of labor over capital. It indicates that workers' health is more important than profits, which is good. We value life, and that's why we have such laws. However, while this may be the symbolic meaning of the law, what actual effect does it have? How often is it enforced? What kinds of enforcement penalties do we have?

More specifically, for example, if you provide a fine up to $15,000 and/or six months in jail, that may be okay if it's applied. But if inadequately applied, it will be of no worth. Furthermore, particularly in the fine area — because the actual punishment of incarceration is never used — a fine may not act as a deterrent, as it purportedly is, if profits greatly exceed the cost of the fines. Finally, this amount reflects the value of a worker's life, and I would suggest that's very cheap; whether it be the maximum $15,000, which is not too evident in penalities meted out, or the more likely $3,000 to $5,000.

Think about this scenario: a man who kills another man in a drunken brawl is liable to life imprisonment for manslaughter. What about the person who loses his life at the hands of an unsafe or unhealthy work place? If you are buried in a trench due to violations of trenching regulations by your boss, who for economic and/or time reasons failed to comply, is this rational, calculated harm any less offensive than that resulting from a crime of passion? The point is that what a law says and its penalty structures and enforcement practices, reflect on the importance given to that law in any society.

What I would like to talk about now is something that we often talk about in the media, but we don't talk about it with regard to violence in the work place; that is, coddling criminals. In the only national study of safety enforcement policies and practices in Canada, the Department of Labour found great variation in the effectiveness

of safety enforcement legislation. It found, in summary, that while penalties may be effective, they are rarely applied. For example, while all jurisdictions in Canada have potential imprisonment of an offender, no one has ever been incarcerated. In fact, we have been unable to find any case in the history of Canadian occupational health and safety laws where a conviction resulted in imprisonment. Of course, this can't be said for murder, manslaughter, or even common assault.

Professor Gordon Resechenthaler at the University of Alberta did an extensive, lengthy comparison between British Columbia, Alberta, and Saskatchewan health and safety. He notes the following with regard to Alberta:

> A record high fine of $5,000 recently imposed in Alberta following three totally needless deaths due to failure of the employer to provide portable respirators makes a sham of the law. The possibility of permitting prosecution of some employers for criminal negligence should be seriously considered where fatalities result from the failure of an employer to meet standards. The view that 'embarrassment' can be relied upon to induce proper behaviour where there exists the possibility of death and life-long suffering reflects either extreme naivete or callous insensitivity to the scope of the problems.

We noted in our book — and I suggest it's still evident — that Alberta has one of the highest workers' accident and death rates in Canada. Recent '82 data suggests that. Its philosophy still remains largely one of kid-glove treatment of violations of occupational health and safety laws. The last data that I have regarding stop-work orders suggests that in 1980, 124 were issued throughout the province, and six prosecutions were recommended to the Attorney General.

Since our research was published in 1981 on health and safety in Canada, with a fair amount of material on Alberta specifically, the Alberta Occupational Health and Safety Act has been revised, and there has been an increase in penalties for a first offence from $5,000 to $15,000 and for a second offence from $15,000 to $30,000. Of course, there is a maximum of six months in jail for a first offence and 12 months for a second, but they have never been used.

Let's look at what the life of an average Alberta worker is worth from some data. The average fine issued in Calgary for a first conviction under the Occupational Health and Safety Act is reportedly $2,500. In a recent case, Anthes Equipment was given a $3,500 fine for killing a 21-year-old carpenter. A 31-year-old worker died of drowning, and the Lethbridge Northern Irrigation District was fined $500 for failing to protect the worker's safety. One worker was killed and two were injured, and Suncor Inc. was fined $10,000 after pleading guilty to failing to ensure a safe work place.

Canterra Energy was fined $4,000 for injuring three workers at its sour gas plant near Rocky Mountain House. One worker spent two months in hospital after burning his legs when he fell into a pool of molten sulphur. The conviction was for allowing insufficiently trained workers to do a high-risk job. Two other employees in the same accident were knocked out by deadly hydrogen sulphide gas, and the company was cited for allowing workers to enter a contaminated area without proper respiratory protective equipment.

Gulf Canada Resources was fined $7,500 in provincial court after pleading guilty to charges of failing to provide overhead protection for workers, where such a danger existed. The consequence of their violation was that 31-year-old David Henderson received a broken back and is a paraplegic.

Although a Syncrude worker testified that he received no safety training during his first five years of employment, Syncrude was found not guilty of criminal negligence

causing the deaths of an 18-year-old and a 23-year-old. A Court of Queen's Bench justice found Syncrude was very concerned about safety.

Finally, more recently, workers in Calgary have been falling from buildings like flies, particularly last summer, due to faulty cranes, scaffolding, and other defects. I would suggest that there appears to be a massive crime wave in this province, and the law should do something about it. More recently, since I was able to put this brief together, the 1982 WCB report came out noting that 169 Albertans died in '82 from their jobs, which is a record even though there are fewer jobs and fewer workers. Also, a new record was set with regard to permanent disabilities.

I would like to suggest a few changes. We've made numerous suggestions previously in our work on health and safety, nationally and provincially. I'd like to comment on just a few specific provisions in the Alberta statute.

Section 32, offences and penalties. I believe the maximum penalty for a first offence should be a $30,000 fine and $5,000 a day for a continuing offence. I suggest that this would add a little more significance to the health of workers and possibly allow fines to affect even the richest violators. I suggest that the maximum for a second offence should be a $60,000 fine and $10,000 a day for a continuing offence. This is all in line with everything we know, criminologically speaking, about the use of fines to deter business action, employer action, whether it be in the area of combines, for example, or in the area of health and safety laws.

I believe there should be a distinction made between a violation of the Act and the consequences of that violation. If a worker is killed or seriously injured, then the potential penalty should be, say, double that already established. So you'd have a $60,000 fine plus $10,000 a day for a continuing, and a potential one year in jail for such a conviction. In fact I would argue, as many do for other common-law crimes traditionally, mandatory minimums for such consequences: at least a $30,000 fine, $5,000 a day, and/or six months in jail upon such a conviction. This would give evidence that the province really does value the worth of workers' bodies and make the legislation more reasonable in that respect.

Imminent danger is another section I would like to address briefly; that is, the right to refuse and the use of imminent danger. In Professor Resechenthaler's comparison of B.C., Alberta, and Saskatchewan, he observed:

> The right of refusal to work in Alberta is view by labour, academics and occupational health and safety officials as being very weak.

Fortunately I would say that this section has recently been amended to include the reasonable beliefs of the worker and thus addresses part of its deficiencies, but it is still based upon a notion of imminent danger. Because of the ambiguity of what is normal for an occupation, the concept of imminent danger has been found to be ineffectual in providing workers any real protection.

If the purpose of the legislation is to provide a worker with a method to protect her or him and fellow workers, it should provide that

> a worker may refuse to do any work that he or she has reasonable grounds to believe is dangerous to his or her health or safety or to the health or safety of any other person at the workplace.

The term "dangerous" should be defined to include specifically any apparent breach of environmental health standards.

I also suggest that the right to refuse should be a representative one besides an individual one; that is, a representative of workers, whether they be unionized or non-unionized, should be statutorily provided with the right to refuse for affected workers. What this means is that the harms would not affect any worker on the site. This

obviously places the bias in favor of the health and safety of workers, but I believe that's where it should be, since workers are the ones who are subjected to death.

Section 25 concerns the establishment of joint worksite health and safety committees. While they aren't a panacea to health and safety problems, I would suggest that they increase the number of inspectors on the job. Unfortunately such committees aren't mandatory in this province and aren't widespread. Many students of health and safety have noted the potential and real significance of these committees, but only when they are widely prevalent. I would suggest that they be made mandatory in the province. As a recent survey concludes on this issue:

> Joint labour-management occupational health and safety committees are an important factor in reducing hazards in Canadian workplaces. Where the collective bargaining process is unable or unsuitable for reducing occupational hazards, legislated committees and safety representatives may well become the major instruments for ensuring that workers participate in resolving the problems of industrial injury and disease.

The report goes on:

> Indeed, the current lack of success of the more traditional approaches, such as regulations and their enforcement, and economic disincentives via workers' compensation programs, together with greater demands for industrial democracy, means that reliance on both the joint worksite committees and the worker safety representatives will undoubtedly increase in the future.

Now I have merely touched the surface of my concerns today in my comments. They suggest some concrete areas to address. I hope and trust that you will work to ensure that Alberta falls from the national leadership in killing and injuring its workers. Thank you.

MR. CHAIRMAN: Thank you, Professor Reasons.

Any questions?

MR. NELSON: I just have one. In your presentation, Dr. Reasons, one area I'm very familiar with is the area of environmental design that you brought forward regarding the police department in Calgary. You basically effected that by identifying that particular area as emphasizing hardware such as dead-bolt locks, lighting, et cetera. I am just wondering where you did your research regarding that particular area, and whether in fact you have the total aspects of that development together. The reason I ask is that I was involved with that and sold it to city council some time ago.

DR. REASONS: And I did research here in the city on it, yes. I did research for the federal Solicitor General, and I worked in co-operation with the local police department in the city of Calgary. In fact, I wrote a report which was the basis, in my understanding subsequently, for the actual unit which, to my further understanding, has ended in demise because of budget cuts. So it was here.

MR. NELSON: Good. The reason I brought that up is because the area of that department — and I don't want to belabor this, Mr. Chairman; it's not really prevalent.

MR. CHAIRMAN: If you two do, I will let you have a committee room later.

DR. REASONS: Yes, we can talk about it.

MR. NELSON: The reason I asked that is I wanted to quantify it for the credibility of your report, insofar as the environmental design unit that was set up, with some federal funds I might add, was not for the area of dead-bolt locks and what have you on housing; it was for environmental design of housing stock and communities. Rather than developing communities as housing, they were to development communities to prevent crime within them. It wasn't in the area that you've identified here, as I understand it.

DR. REASONS: As you note, I've identified two areas. One is what we call social engineering, dealing with behavioral community approaches: Lady Beware, et cetera. The other is what is called, in criminological literature, hardware. Both of these were looked at in setting up this program. In fact, I did the report looking at both of them. Subsequently the unit was set up and the emphasis, which I wholeheartedly support, is not upon just building fortresses but upon the social cohesion aspect of environmental design.

MR. NELSON: That's part of it.

MRS. FYFE: I'd just like to come back to the penalties that you've suggested under occupational health and safety. Of course, they are only part of the penalties that are provided for an accident in the work place. The real monetary penalties come under workers' compensation, superassessment or the loss of rebate, which is something that's very tangible to the company but often not public.

In my opinion, the real benefit of penalties under occupational health and safety is not to try to put a dollar value to a life, because there is no such thing; a life isn't worth $1 or $1 million. We have some kinds of judgments to try to prevent future accidents, but we can't define what a life is worth. But it seems to me that the penalty under occupational health and safety is to highlight the offence publicly through the court system. There are many businesses that do not want to have a work record publicized in this way, which may provide a greater penalty to them than the actual dollars that they would be assessed under the Workers' Compensation Board.

Are you suggesting that, in your opinion, this would have a greater penalty than the existing system? Secondly, would you rather see us do away with the superassessment/merit rebate system and put a greater emphasis on the occupational health and safety penalties?

DR. REASONS: Well, I concur with you that economic penalties can in fact be a deterrent. I am not suggesting that we throw those out the window. That's the problem I get into in making a presentation for just a short period. I suggest that you have a multitude of approaches. In fact, that's what we suggest in our research. You don't just emphasize prosecution per se, you don't just emphasize criminal prosecution, and you don't just emphasize superassessment. You have a number of different things, including worksite health and safety committees, strong legislation and its enforcement, penalty assessments: a number of factors which collectively can have an effect. In fact, there is evidence to suggest that they do have an effect, collectively. So I'm not saying that I want to eliminate superassessments, for example, because there is some evidence — in fact, we point out a couple of studies in our research — that suggests it can have some deterrent effect.

MRS. FYFE: I think probably every submission that we've had from industry in this presentation to date has suggested that this system should be revamped to provide a greater monetary incentive for businesses that are the so-called bad actors to clean up

their situation. But I wanted to clarify whether you felt there should be a transfer of that penalty to occupational health and safety. Or do you not think that the large monetary assessment penalty that's currently applied to businesses would do the same amount of deterring? I'm not sure that doubling the penalty for occupational health is going to make that much difference to what's already in place.

DR. REASONS: Okay. What I am suggesting is both, as a matter of fact; that is, we increase penalties with regard to prosecution under the Act, in terms of the Occupational Health and Safety Act, and the firm or firms will also be hit with regard to superassessment. I am not suggesting that one is necessarily mutually exclusive of the other, that if we increase fines, as I am suggesting, we should reduce or eliminate superassessments.

MRS. FYFE: Because the other ones may be many times greater, there may be $1 million penalty to a company rather than $60,000.

DR. REASONS: Right. As you were pointing out, which is a very good point, the publicity is an important factor, too, as a potential deterrent.

MR. MARTIN: Just one area about the worker's right of refusal that we talked about. You're suggesting it's "based upon the notion of 'imminent danger'", and then you go on to say:

> it should provide that "a worker may refuse to do any work that he or she has reasonable grounds to believe is dangerous to his or her health or safety, or to the health or safety of any other person at the workplace."

Can you just enlarge on what differences you would see in terms of the two concepts?

DR. REASONS: As you're well aware, the statute has a couple of different sections. One aspect of imminent danger is duties which are not ordinary for the job or are unusual to that job, and those which you haven't previously done or come in contact with on the job.

Those who have studied legislation, like Resechenthaler and others across not only Canada but elsewhere, have pointed out that there is problem with imminent danger because in fact every job has things which are normal to it which may or may not be dangerous and which are in fact dangerous. It puts the person in somewhat of a catch-22 if a normal part of their job is something — let's say even a violation of environmental standards, or whatever — which potentially puts someone in danger and even violates a statute but is a normal course of that occupation on that particular kind of site.

What I'm suggesting is, as I am sure you're all aware, really what has been documented again and again: that kind of language has tended to prevent persons from refusing because of the wording of the language, because it's essentially non-enforceable.

So what I'm suggesting is really what a lot of other persons are suggesting: that you carefully look at that, eliminate that term. And I would agree with the recent changes with regard to reasonableness being incorporated in the statute if imminent danger still exists as a concept — and I'm just saying that my observation, like many others, is that it's a useless concept if in fact the right to refuse is to have any kind of real impact at the work place. That's all I'm saying.

MR. CHAIRMAN: Professor Reasons, I welcome your comments on that recent amendment. As you are aware, that portion of the Act has not been proclaimed. We are in the final stages of working on the regulations. When the regulations are in place, I

hope that sometime you would give us the benefit of your opinion.

I wanted to ask if you have had a chance to look at the approach of code of practice. You're constantly referring to "by statute" — to have the legislative statute. A code of practice moves away from it, and we have several where both employers and workers have agreed to it. Have you had a chance to look at the code of practice?

DR. REASONS: No, I must say I haven't. I would be interested in looking at that, and particularly the nature of the arrangement with regard to the agreement and the nature of the particulars.

MR. CHAIRMAN: The worker that was killed here in the collapse of a crane was working under a code of practice that both the union and the employers had agreed to, and it's one of those little documents that I think Mr. Nelson raised earlier.

Any other questions of Dr. Reasons? I want to say thank you to you. It's not the significance of the fact that you are making a presentation, Professor Reasons, that we have half the room empty. But I know we all listened intently and welcome your submission. I had known previously of your involvement. I only say that as legislators, we sometimes really are between a rock and hard place, and it's the students you educate that have to come and give us advice.

DR. REASONS: Hopefully.

MR. CHAIRMAN: Thank you very much.

Construction & General Workers' Local Union No. 1111, Laborers International Union of North America

MR. CHAIRMAN: Next is the Laborers International Union of North America, Local 1111. Are they present?

MR. SHIFFLETT: Yes, we're here.

MR. CHAIRMAN: Mr. Jim Shifflett, you got deserted by your colleagues?

MR. SHIFFLETT: No, sir.

MR. CHAIRMAN: We had indication that there were supposed to be some other people present. But you're doing it alone?

MR. SHIFFLETT: Yes, sir.

MR. CHAIRMAN: Okay. Very well. We have a half-hour's time and will welcome any comments you have, and we hope for some time for questions and discussions. Is that the way you welcome it?

MR. SHIFFLETT: It won't take me nearly that long, Mr. Chairman.

MR. CHAIRMAN: Okay, Jim. Go ahead.

MR. SHIFFLETT: I'd like to begin, if I may, by reading our letter of July 26 in answer to your invitation to attend the hearing, and to add a few comments after that.

MR. CHAIRMAN: Go ahead.

MR. SHIFFLETT: The Construction & General Workers' Union, Local 1111, as a representative of labor employed in a high-risk industry, does have many concerns with regard to the principles, provisions, and operations of the Workers' Compensation Act and the Occupational Health and Safety Act, and we would certainly appreciate an opportunity to discuss these important subjects with the select committee.

We note with great interest the reference by Mr. Bill Munroe, chairman of the disability evaluation committee, as mentioned in the WCB Info, volume 7, issue 1, May 1983, to a table of percentage awards developed by Dr. Bell. Our subsequent request to the Calgary Workers' Compensation Board office for a copy of this table was refused. Realizing that this table is used at least as a guideline in establishing per cent permanent total disability pensions, we feel we have a legitimate interest in the application of this table to workers who experience severe disabilities.

We're also concerned that many workers accept a decision by the claims department that is not in their best interest. Many workers feel intimidated or simply lack the knowledge required to support an appeal of a decision that is unjust or perhaps based on erroneous or incomplete information. This, we submit, is a natural result of the fact that Canada is essentially a nation of immigrants, and perhaps nowhere is this more evident than in the construction industry. The recent boom in Alberta's construction industry resulted in great pressure on all services, including government boards and agencies, which suddenly found themselves ill-equipped to deal with the large numbers of people who came to this province from every nation of the world.

We continue to have a great many persons working in Alberta without the benefit of a Canadian education. Some of these workers have been injured on jobsites. Some of them were assisted by employers, unions, or government employees, and received fair and equitable treatment. But many had no friends and few acquaintances here. In short, they had nowhere to turn and felt forced to take what was offered.

The injustice which results from this situation becomes most apparent when a person who has little or no formal education but a wealth of construction experience suffers an injury and is advised by the Workers' Compensation Board that his wounds won't heal; he is now unfit for construction work and should go out and find a desk job. This, we feel, is a largely futile suggestion and results in humiliating and pointless searches for work that simply does not exist for someone with such qualifications. The fact is, many people in the construction industry who work hard and earn high wages in that industry are simply not qualified to work at much else.

In such a case, when the worker is elderly and/or uneducated formally, the impact of a severe injury on his life is tremendous. For the Board to grant to such a person a pension based on, for example, 8 per cent disability because his feet are permanently damaged and his feet represent 8 per cent of his body area, would be ridiculous. We hope that this would never happen. But what can and does happen is that the full impact of the injury on the worker's future employability is not reflected in his disability pension.

We're also very concerned with the administration of the Workers' Compensation Act. Simply put, it seems to be unnecessarily slow. All too often, months pass without response by the Board to letters of appeal, for example. While you have indicated that the select committee does not wish to discuss specific cases, we wish to point out that if the administration of the Board is sufficiently slow to discourage workers from pursuing legitimate claims and/or appeals, then it would seem to us that the objectives of the Workers' Compensation Act have been thwarted. As workers and taxpayers, we insist that the administration be improved.

With regard to the principles and operation of the Occupational Health and Safety

Act, we believe safety has definitely improved on construction sites in recent years. However, we have had incidents of unsafe practices being performed on jobsites at the same time that a pink sheet showing that an occupational health and safety officer has visited the site hangs on the wall of the superintendent's shack. These directives from the officer generally allow the employer some period of time to remedy the unsafe situation, and in the meantime, it's the workers that pay for this.

We fear that the officers try to be diplomatic, hoping this will accomplish more in the long run. Instead, the directive becomes meaningless, at least temporarily, and the workers tend to become cynical about the subject of safety. This should never happen. The occupational health and safety officers must have the power and the will to stop work on a project until it's safe for employees to work there, even if diplomacy has to be sacrificed.

Finally, we have long been concerned that an employee calls an unsafe work practice to the attention of his foreman, the union, or the occupational health and safety office at his own peril. It remains an unfortunate fact of life that a worker jeopardizes his employment by refusing to perform an act which he believes to be unsafe. The 10 minutes spent by a worker to go down 20 storeys and get his safety belt is regarded as time wasted by all too many employers. They care about safety, certainly, but their day-to-day jobs consist of eliminating inconveniences of any kind. We strongly urge that fines for violations be imposed. We feel that only when it's tangibly and demonstrably cheaper for the jobsite to be operated safely, will the employer equate safety with production, quality, and cost.

We applaud the proposed amendments to protect the worker from dismissal for exercising his rights under the Act, but most workers seem to feel, we believe quite correctly, that the employer will find a way to terminate their employment if he wants to. Consequently workers will by and large continue to do exactly as they are told on that site. Again, increased vigilance, a stronger posture, and direct economic penalties by the occupational health and safety department must be forthcoming.

Thinking about the two Acts that are being addressed — since we wrote this letter and from speaking to workers, we'd like to make a few more comments from workers in this high-risk industry. With regard to the Worker's Compensation Act, workers who are used to hard work at high wages have a lot of difficulty accepting the fact that they are through as construction workers following a serious, disabling accident. This results in and largely explains the negative reaction to suggestions made by your well-intentioned rehabilitation counsellors. Consequently they fail to look for work, fail to take the advice of these people, and this costs them money. It costs them money because when you don't co-operate with the rehab official, he's very limited in what he can do for you financially.

What we would like, and what we ask you, is that the Workers' Compensation Board find out if a person is a union member or a member of a labor organization of some kind, has any third party interested in his welfare, and advise them as well. So a first-generation Canadian, for example, won't react in a negative way to the rehabilitation officers and effectively limit the financial benefits available to him for a period of time. We're not advocating reverse discrimination here but just a recognition that extra effort should be made to ensure that injured workers understand their position before they do something foolish.

With regard to the Occupational Health and Safety Act, conversations with site supervision in the construction industry all over southern Alberta — and I've visited hundreds of sites in the last three and a half years — on the subject of safety and occupational health and safety officers, with few exceptions get a response something like, they're a pretty nice bunch of guys. I suggest to you that that is not a job for a nice guy; it's a job for a son of a bitch like me. It's a job for a go-getter.

Usually when you phone in a complaint, an officer can answer a request to visit a site within a day or two. Of course, it's easier now. There are no cranes up, and they can usually get there within an hour. But some of the sites we've seen in the last few years are truly horrendous, really poorly managed. Your less-established forming subcontractors that moved in and out of here were something else. It does very little good for one of those officers to come to the site, have coffee with the superintendent, and hang a pink sheet on the wall if nothing changes on that worksite.

The workers know he's been there. They see his car coming a mile away. Quite often they phone the site before they come. Once again, I think I know the reasons that started. Perhaps the officers feel they may get further in the long run with the use of diplomacy, but I think the price is too high. I think the proof that the price is too high for this diplomacy is forthcoming from some of the people who are giving presentations here. We want sites like that shut down until it's safe for our members to go there. We don't want to be, any more than we have to be, dispatching our members to death. In the current economic climate, it's a rare worker who will say anything about an unsafe condition on that worksite. I've met a couple; they've got more guts than I have.

An employer will fire or lay them off on even a suspicion. The only guys that are going to be working out there are company men. The employer still regards occupational health and safety measures as a cost, not a saving. Even in the good days, very little was said. Instead, a worker would simply move to another site after a few near misses or minor injuries. He did that believing rightly or wrongly that little would be done in any case. We think this is of real significance. It's really clear to us that whether the officers are doing their best or not, the workers don't believe they are. We think that's very significant. We think you might want to change that.

Part of the problem may be the standard that's used as well. For example, a case comes to mind of exhaust fumes in a building where they're pouring concrete. You may have bobcats and concrete trucks backing in there. There are probably standards, and an officer may come forthwith and bring his meter, his measure, whatever it is, and check that out according to his standards. But we suspect that standard may not be applicable in all instances. Construction work involves a lot more huffing and puffing at times than warehouse work. The standard should perhaps be tougher there, because if you're huffing and puffing you're going to suffer greater damage in an equal amount of exhaust.

Finally, we realize that to shut down a site — and it's been done — is a pretty heavy scene. You don't get any kudos for it. Some employers have a lot of clout, and we're sure that, at least informally, there can be some flak coming down when sites are shut down. If workers see that the site is essentially unchanged after an officer visits, they're not going to be impressed. The pink sheet doesn't help to make the job safer, and it's little wonder they become ignored after a few such instances.

Thank you kindly.

MR. CHAIRMAN: Questions?

MR. R. MOORE: Yes, just for clarification, sir. You're asking basically for stronger and more thorough inspection of sites. Is that one of your recommendations?

MR. SHIFFLETT: Yes, sir.

MR. R. MOORE: And higher penalties?

MR. SHIFFLETT: Yes, sir.

MR. R. MOORE: I read that in your last sentence. I think you said something about

increased vigilance and stronger posture.

MR. SHIFFLETT: Otherwise they're just a permit, Ron.

MR. R. MOORE: I just wanted clarification of what your basic recommendations were, those two items. Were there other ones you would say in so many words?

MR. SHIFFLETT: There was one more request that I think is a little bit more unique to our brotherhood, because we're essentially an unskilled trade. We're recognized as one of the building trades. But I think in any country you go to, the laborers' union would be where you would find the highest percentage of immigrants in that country. Because of that, we're asking that we be contacted when workers are going in there. We don't always know if they've been injured, and we don't always know what's going on with them and the status of their claim at the Workers' Compensation Board. We realize it's extra trouble, but it might save trouble later. I'm sure it would, in fact, because going there on appeals all the time isn't free for the government or the taxpayer. It would save us time. We spend an increasing amount of time in appeals. If we could be informed right away so we counsel the guy and say: look, don't tell that guy where to go; he's on your side. But you have a frustrated, angry guy there. He's been told to go out and get a desk job that I probably couldn't get, because there's so little work out there right now, and he's mad at almost everyone who talks to him. If we could be informed, it would help us. We're asking for that.

MR. R. MOORE: You feel that as the claim is made, the union should be informed by the workers' compensation people.

MR. SHIFFLETT: Please.

MR. MARTIN: One area that you talk about on page 2 is a very difficult one. You point out that the people that are often involved, especially in your union, may lack a lot of formal education because perhaps they're immigrants and even have a language problem. Once they're hurt on the job, what else do they do? I think I understand what you're saying. I guess I'm asking, do you have some suggestions when this happens? I know about bringing the union in, these sorts of things, and I think that suggestion has some merit. I guess what we're talking about is what can be done about a very difficult social problem. What would you suggest?

MR. SHIFFLETT: From what I've seen of the people in the rehab department, they're doing more than I would have imagined could have been done already. But I hear a lot of criticism about the rehab centre in Edmonton. I haven't been there, so I'm not going to say anything. Just to answer your question, I think when we sent this letter we weren't as completely aware of the operations of the Act as we have become since. All I can suggest is that we could be informed so that we can make sure the injured worker is aware of his position — what the Act says and means, and what they can and can't do for him — if we can help him understand that in his own language.

MR. MARTIN: So you can act to help the person that has little formal education to at least accept his situation and begin to look for some alternatives that are realistic. Is that what you're talking about?

MR. SHIFFLETT: Yes, Ray. You know, we have an agent who speaks French, an agent who speaks Italian, and an agent who speaks Spanish. A lot of these fellows won't trust

you if you're speaking English to them.

MR. MARTIN: Thank you.

MR. CHAIRMAN: Jim, your request so far with regard to being notified is a new request from the trade union movement. To date we've had several presentations. Is it unique to your work force that the workers don't know they can contact their business agent? I'm trying to put the shoe on the other foot. What is your local doing about letting your members know you're there to help? I'm not suggesting the system they have in Britain, where every time there's an award made in a tribunal, the business agent there says: see, I got you that much. But we haven't had this request from others, and I don't recall that problem in '79. That's why I'm asking you. There's a certain amount of confidentiality to even the claim. Unless the worker wants somebody to know, the Act presently prohibits the staff letting anybody know. Even I don't see the files.

MR. SHIFFLETT: To know what, sir?

MR. CHAIRMAN: About the claim, that he's filed a claim.

MR. SHIFFLETT: But we just ask to be informed that there is one.

MR. CHAIRMAN: I'm wondering why your membership isn't alerted that you have a service you can provide for them.

MR. SHIFFLETT: Once again, our monthly bulletins to them, for example, are in English. In several thousands of those households that would go straight through into the garbage at 35 cents a shot. Union meetings: you don't want to hear my story about attendance at union meetings.

MR. CHAIRMAN: It's possibly like all other meetings other than this afternoon, which is well attended. I appreciate it. I'm asking, Jim, because it's unique. Is it because of the unique type of membership you have?

MR. SHIFFLETT: I think in part. Although I've spoken with representatives of other trades, who were here until 15 minutes ago, on this subject. They share the concern. They find out too late, and then they're going there on appeal. Even if you get your justice at the appeal, it's been delayed and therefore to some extent denied. There could be an optional endorsement on the claim form. I don't see anything wrong with having a question on the application for Workers' Compensation Board assistance, giving him the option to have his union notified.

MR. CHAIRMAN: Okay. Al, presently the workers' claim form doesn't have any question where the worker could indicate that?

MR. RUNCK: I missed the first part of it, sir.

MR. CHAIRMAN: Notifying his union.

MR. RUNCK: No, there's nothing on it about notifying the union.

MR. CHAIRMAN: It doesn't even ask whether you're a union member or not, because we treat all workers the same, you see.

MR. SHIFFLETT: Sure.

MR. CHAIRMAN: Whether they're union or not, they get the same difficult treatment.

MR. SHIFFLETT: Sure.

MR. CHAIRMAN: Well, you agreed to that.

MR. SHIFFLETT: Sure.

MR. CHAIRMAN: No, I'm jesting a little bit. I want to say that that's why I asked you whether it is unique to your work force. I know they're not prohibited; a claimant can always bring any agent with him or her to the WCB.

MR. SHIFFLETT: Okay, Bill. But first of all, as a trade union we're larger by far than the others. Some of the 18 building trades are in the happy position that every single one of those members knows every other one. We hit 5,800 members some years ago. We're going down now, but you can just imagine trying to get hold of some of these people. Secondly, some of them have been members for a relatively short period of time. I don't think it's unique to us. We are more multicolored; we have more of a mixed-bag membership, perhaps, than the electricians, for example. But I think were they here, they would say they would really appreciate that.

MR. CHAIRMAN: The other question I have — and it's an observation — is that you indicated that sometimes an OH&S inspector even phones ahead when he is on his way. I would welcome any indication that that took place, because to the best of my knowledge — and we've gone through that several times — they do not let the employer know they're showing up on the work place. They don't even wear significant type of clothing; they're not in uniform.

But if that is happening, please indicate. Somebody must be feeding it to you, and you say: look, we need the specific example because, if it's happening, we'd like to curtail it. We'd like to stop it from happening. The director of the southern region is not here now. But in most cases, the practice is that they are not to let any party know they're going to show up at a work place. However, if there's a report of an accident, then everybody's expecting one of them to show up. Or a phone call that there's been an incident, even if it may not involve an injury, they will then expect them to show up. But if that is in place by any of your membership, you can share with them at your next meeting that they should let you know so that you can let us know.

MR. SHIFFLETT: We knew, and we stopped it ourselves in the instances we knew of.

MR. CHAIRMAN: That the phone call came in ahead of time?

MR. SHIFFLETT: Oh, yes.

MR. CHAIRMAN: I haven't had a report from your local. I'd like to have it in the future. Okay? It's just an observation.

MRS. FYFE: Just a quick question regarding the length of time to process a claim. You said that you're not getting responses sometimes and that the length of time is unduly long. I wonder if we could just get a response from the members from the Workers'

Compensation Board. Is there a problem in certain cases, or do some take longer than others?

MR. RUNCK: The biggest problem we have, of course, is with the mail system; we can't control that. By and large, once a claim is entered in our registry system, the average delay in payment of compensation is about four days. But there are some very difficult claims that will take longer. I suppose that you could say, if you want 100 per cent of our claims as an overview, you're looking at no more than three weeks. But there may be exceptions. While that's the norm, an exception could occur. But the postal service has given us real problems.

MRS. FYFE: And the reports from employers, sometimes, or medical reports also? Do those cause problems?

MR. RUNCK: In about 13 per cent of our claims, we never receive an employer's report. The majority of our claims are opened on a doctor's report, firstly, doctors and workers. And in some form, either with the other reports or by itself, in about half the total cases we will have an employer's report at the outset.

MRS. FYFE: I guess, once again, if you're dealing with specifics or if you have specific information regarding a delay in a claim, please communicate that through either the minister's office or through the MLA in the area. Could you advise your membership? It's easy to track it down after you know it's a problem, but you don't know it's a problem until you hear about it.

MR. SHIFFLETT: Their own people at the front end tell us six weeks is normal, so you have an image problem there if nothing else.

MR. THOMPSON: I'd just like to clear one thing up, Al. If we're going into page 2 of your letter, we're not talking about the claim itself; it's the appeal process I understand you're concerned about, not the actual claim itself.

MRS. FYFE: I think we talked about both of them, did you not?

MR. WISOCKY: Mr. Chairman, if I may, the gentleman is quite right that in 1980 and the early part of '81 there were delays; no question in my mind about it. But we have improved the situation, as Al explained. In fact, my latest figures say that all claims are adjudicated within an average of 30 days. It means some are before and some after. There have been some delays in appeals because of the numbers involved. But right now and for the past three months, an average of two weeks elapses between receipt of the appeal notice and a hearing date in the claim services. The Board itself is a little further behind than that, but we are trying to catch up as quickly as possible.

MR. RUNCK: Mr. Chairman, one other point is that because of the delays we've experienced with the mails, we do accept verbal requests for appeal in some situations.

MR. CHAIRMAN: Okay. Thank you very much.

MR. SHIFFLETT: Thank you very much.

MR. CHAIRMAN: Pass my regards to your colleague Mr. Costa. He has come in to see me on a couple of occasions.

The next participant is Mr. Webster. Mr. Webster, would you please come forward.

Mr. G. Webster

MR. WEBSTER: Mr. Chairman, I'm pleased to appear before the committee and to find that I am given as much time as Imperial Oil, at least Esso. I'll try not to use it all. I'm pretty sure that at the end of the afternoon, you can probably get by without it.

MR. CHAIRMAN: They used a half-hour, Mr. Webster; you have the opportunity to use a half-hour too.

MR. WEBSTER: This is my third time to appear before Mr. Diachuk and the second with Mrs. Fyfe and Dr. Buck, and I saw Mr. Thompson a long time ago in 1976.

MR. THOMPSON: You have a good memory.

MR. WEBSTER: Well, I have all the reports of the previous select committees, and I'm referring to one of them in that handout I just gave you. I don't have any PhD; all I have are two artificial limbs. I'm a worker. I'm not even an ordinary worker; I'm an old worker. These are two artificial limbs. I walked in here quite reasonably. But if there were snow outside, I'd have trouble walking in here. I've given you that supplement there. Do you want me to read my application and the supplement?

MR. CHAIRMAN: Go ahead.

MR. WEBSTER: This submission is in response to a recent newspaper notice. As noted in a previous letter, I wish to appear before the committee in Calgary.

Section 53(2)(b) of the Act, referring to the supplement under subsection 1 reads "is payable until the injured person reaches the age of 65 years. This should be removed from the Act for the following reasons. It has been suggested that the supplement is terminated because other pensions would be payable at that age, but this termination is not conditional on the receipt of other pensions or the amount of same.

Some permanently disabled workers who have been able to find work since the accident would not be able to earn up to their income before the accident and, as a result, any company or union pension or the Canada Pension Plan would be smaller because of the accident. The possibility of a worker finding a job after 65 is reduced if he is disabled. The purpose of the supplement is to equalize pensions for similar reductions in earning capacity, but the worker who suffers a permanent disability just before 65 or after 65 receives the updated pension for life in addition to his other earned pension, Canada pension, and his old age security. Terminating the supplement terminates the attempted equalization.

Since there are no conditions about terminating the supplement except age, the subparagraph contravenes the recently enacted Charter of Rights in the new Constitution unless you put notwithstanding legislation in the Act, which I rather doubt you would want to do. That is one interpretation of it. Another opinion expressed is that it also contravenes Alberta human rights legislation. The withholding of the supplement because of age is discrimination. Now I know the Alberta human rights legislation doesn't take regard of age over 65 as concerns employment. But this party contended that when it is not with employment, it does contravene the Alberta human rights legislation.

This submission is on behalf of all permanently disabled pensioners of the Workers'

Compensation Board who have reached the age of 65 or who hope to live to that age. I am in receipt of a permanently disabled pension and was born in 1913. It is to be noted that Canadian military disability pensions are not reduced at age 65 even though the federal government sends out old age security.

The above is respectfully submitted for your consideration by the select committee when it convenes.

After sending that off I had some more thoughts, and they're in that handout I just got. Submission of August 11, supplement: dear sirs, my apologies for not including this in the original submission, but the notice included a very short time for submissions. Page 45 of the April 1980 report of the select committee — that was the other attachment there — suggests that old age security is equivalent to the supplement. The supplement set out in 53(1)(b) is $1,140 minus $675, or $465. Old age security this month is $257, $208 less than the supplement which terminates at age 65. This termination occurs even if the pensioner does not receive old age security. The [inaudible] pension of a worker injured in 1980, which was used as the basis for calculating the supplement of $1,140 — but this is for all his life and is not reduced at 65. The parity referred to in the first line of reasoning — on the select committee's report again — is not maintained because of the reference to 1980 pensions, not current ones. Pensioners receiving the full supplement now will probably have to adjust to a loss of income at age 65.

This submission is on behalf of all pensioners injured before 1975 who have reached the age of 65, or hopefully will reach the age of 65 and will then not receive the supplement. The 1973 report — a copy is supplied to you, Mr. Diachuk, with those bar graphs on it — shows 3,346 permanently disabled pensioners over the age of 55 who would now be over the age of 65. I couldn't find any similar data to that, and I had to use that; that was the only thing I could use. Some of these people will have died in the last 10 years, but we must add the people injured in '74 and '75, so I think 3,346 is in the order of the number of pensioners who will lose the supplement. That's a lot of voters.

My presentation is on behalf of all pensioners who ever reach 65. In addition, except for the current-year pensioners, it is on behalf of pensioners injured since 1975 who will not have the supplement to keep parity with the present pensions. A person that got a pension in '81 isn't getting what the man gets today, the top worker again. Nowhere near. I'm quite willing to talk about $22,000. This $40,000 stuff gets way out of my calculating; I can't understand it.

Except in Ontario, workers who have sustained a permanent injury do not have a union to speak for them. The modern worker has been trained to let the union speak for him about grievances. As a result, he is reluctant to appear before this select committee, maybe in fear of having benefits reduced. For myself, I'll take the gamble. The 1980 select committee received 95 submissions, but only 15 were from individuals, showing the reluctance of individuals to appear as compared with professionals appearing on behalf of an organization or union who may have provided legal assistance to preparation. I think we saw that this afternoon. There were several people here on behalf of unions, Esso, and ATCO.

This afternoon I noticed that the Alberta Trades Council and the Union of Construction & General Workers didn't have anything to say about the old workers at all. They did talk a little bit about the problems new immigrants to this country had accommodating to reduced work habits, but they didn't say anything about their old-timers, those guys that used to pay the dues. They've forgotten, because they don't get their dues any more. There was no representation on their part from these two unions that spoke. I'm not privy to all the other presentations; maybe somebody else has presented this.

That completes my submission, sir.

MR. CHAIRMAN: Questions of Mr. Webster? My only question to you, Mr. Webster — and I have talked and discussed this on several occasions.

MR. WEBSTER: Oh, I'm sorry. I forgot to read your letter. We had this discussion. That was my punch line. Mr. Diachuk sent me this letter December 11, 1980. He and I used to discuss this over the phone too: The supplement which is payable to workers who have sustained an injury that left them with a permanent total disability pension is not intended to be payable after the worker has reached the age of 65 years. The select committee of the Legislative Assembly on Workers' Compensation unanimously agreed at age 65 an individual is eligible to receive old age pension, free medicare, dental assistance, and other benefits offered by the Alberta government. Thus the supplement will be terminated at that time. For this reason I cannot concur that a heavy penalty is imposed for growing old.

My comment on that is that everybody receives the free medical care, the dental assistance, and other benefits. All you have to do is get to 65. You don't have to ever have worked in your life; all you have to do is make it to 65. You could have been on the pogey all your life, but once you get to 65 you get the free medicare.

MR. CHAIRMAN: But you are also aware that this is the only province that pays such a supplement.

MR. WEBSTER: But do you pay it for everybody?

MR. CHAIRMAN: No. But I say that workers in other provinces have not received a supplement as was recommended in the 1980 report. Right, Mr. Webster?

MR. WEBSTER: I'm not privy to all those reports. I understood some of them are. Those fellows in Ontario all marched down to the legislature, and I understood that they got some more.

MR. CHAIRMAN: As I tried to explain in the letter — and I think you understand — the supplement was to bring your pension and other pensions of people disabled 50 per cent or more to a 1980 level, because even the legislated increases were not keeping up with the level current pensions were getting. That's what we struggled with. We came up with that formula. I know you and I have disagreed on it, that the termination take place at the age of 65. The only thing I would really like to see an example of is where a worker, a claimant, doesn't qualify for old age security.

MR. WEBSTER: Well, there must be a lot of your people that live out of the country and are getting workers' compensation that don't qualify. You don't have to be an Alberta citizen to get a workers' compensation cheque. There are people in Italy and Germany, right?

MR. CHAIRMAN: I think that's a very low number of cheques that go out. I was referring to old age security. You indicated that the termination occurs even if the pensioner does not receive old age security, and I haven't heard of one that had his supplement terminated when he reached the age of 65 and didn't get his old age pension. Not one. I'd like to see that.

MR. WEBSTER: Does the Board investigate that? I was more surprised — I never got the supplement. I wrote them a letter, and they told me how old I was. Now how they knew how old I was, I don't know.

MR. CHAIRMAN: It's on your file.

MR. WEBSTER: When I was injured during the war a lot of people had funny birthdays. For my old age security, I had to come up with a birth certificate.

MR. CHAIRMAN: Maybe you got into the armed forces underage.

MR. WISOCKY: Just a point. Every time we do consider a pension, we get proof of age of some sort from every worker, including yourself, Mr. Webster. If I may, Mr. Chairman, just for information . . .

MR. CHAIRMAN: You're satisfied the Board had your correct age?

MR. WEBSTER: I think they had it a year out. One letter I have seen over at the hospital, referring to me, said I was born in 1914. That wasn't so, but it didn't really make any difference. All I wanted was an artificial limb.

MR. WISOCKY: My mathematics is not too good, but I don't think it made any difference in your case, even if it was off one year.

MR. WEBSTER: No, it didn't. That's why you didn't hear from me.

MR. WISOCKY: I guess the point is that there's a distinct difference between a pension and a supplement. A pension is a lifetime award that you are in receipt of and every gentleman in your situation is in receipt of for life. A supplement is intended to be a sort of temporary measure. The classic example is: a person is hurt on a job, goes back to a new occupation, and does not earn as much as before; then the Board can pay a supplement, and it usually terminates at age 65 or sooner in a lot of cases when a person gets back to pre-accident earnings.

MR. WEBSTER: Well, I got my pension. I didn't have to qualify because of those simple rules. There are two feet off at or above the ankle. It's pretty easy. I know we aren't supposed to get personal in this thing, but I know another fellow who, at age 66, was on pension — getting his old age security, getting his Canada pension. He was injured in an oilfield accident, lost one leg, and now gets a pension of $850.

MR. WISOCKY: I guess your point is that rather than the Act saying that this should be a supplement to age 65, the whole thing should be a pension for life.

MR. WEBSTER: I'm not really concerned about that. If you just take out the over-65, you can call it a pension or call it the pogey, as long as it goes through the bank.

MRS. FYFE: I just want to ask a different question. It's not related to your submission, and if you don't want to answer it, that's quite all right. We've received some conflicting information regarding lump sum settlements. We've received some submissions that certain workers, at the time of their injury, would like to have a lump sum settlement so that they can invest it in a business or go back to school: do their own thing. Other submissions say: no, that's not fair; the condition may change. As a senior citizen that has experienced difficulties for a lot of years, what would your advice be to us? Do you have any feelings on it?

MR. WEBSTER: I've had fellows working for me — one fellow lost three toes, and he got a very small supplement. Another guy lost a couple of fingers, and he got a very small . . .

MRS. FYFE: I was speaking about over the 10 per cent disability. Now they can pay lump sums up to 10 per cent, but I'm thinking about for a more serious disability.

MR. CHAIRMAN: The lump sum settlement program just came in in 1974. Prior to that, there were very few lump sum settlements. In your case — and that's why Mrs. Fyfe's asking — have you any view or position? Would you have rather had a lump sum settlement?

MRS. FYFE: You may want to think about it.

MR. WEBSTER: I never heard the option.

MR. CHAIRMAN: No, that's right. You didn't have the option.

MR. WEBSTER: If I'd had it maybe I would have bought some real estate, and look where I'd be now.

MR. CHAIRMAN: You'd be paying taxes on your real estate.

MR. WEBSTER: But that's looking backwards; we're all pretty good at that.

MRS. FYFE: We're looking at policy for the future. Maybe you'd like to give it a little thought and just drop a letter through Mr. Diachuk to the committee if you have any advice for us on this issue.

MR. NELSON: If you had the option today, would you accept it today?

MR. WEBSTER: If I was 30 years old?

MR. NELSON: If you had the option today to accept a lump sum payment rather than a continuation of your pension, do you feel you would accept that?

MR. WEBSTER: I'd have to get the mortality table out.

MR. CHAIRMAN: I'm glad you didn't commit yourself. That's fine. Any other questions of Mr. Webster?

Thank you very much. It's good to have you around. We'll see you in four years, Mr. Webster, we hope.

MR. WEBSTER: The only other thing I could say is that if you can't give that reduction, establish a grocery store that has the 1974 prices in it. If you can't do that, at least give me a ticket I could take up to the liquor store.

MR. CHAIRMAN: Thank you very much for your time in coming forward.

We've concluded our hearings for this afternoon. I just want to mention that tomorrow morning, the hearings will continue at this same place at 9 a.m. Thank you very much.

MR. WEBSTER: The only other thing I can say is that you people should really look at these reports when they come out. When they introduced the last legislation, which included that 65, I phoned up Andy Little, who was a member of that committee. He said at that hearing: now, I have a constituent the same as this guy, except he's blind. I phoned Andy up, and I said: Andy, how old is that guy that's blind? He said: well, I don't know. I said: well, is he 65? He says: no, he's not 65, but he said he's quite glad he's getting the supplement. I said: well, you read the Act, and you'll find that he's going to lose it one of these days. I wrote Grant Notley a letter, and he wrote back to me. He told me about 53(1) applying to compulsory retirement.

MR. NELSON: Who is he?

[The meeting adjourned at 4:37 p.m.]