

[Chairman: Mr. Diachuk]

[9 a.m.]

Alberta Medical Association

MR. CHAIRMAN: Dr. Anderson?

DR. ANDERSON: Yes.

MR. CHAIRMAN: Welcome. We were told that doctors are usually late . . .

DR. ANDERSON: Two minutes.

MR. CHAIRMAN: . . . but you're not too late.

DR. ANDERSON: Emergency surgery.

MR. CHAIRMAN: Do you have some additional handouts?

DR. ANDERSON: Yes.

MR. CHAIRMAN: Do you have an extra one for the secretary?

DR. ANDERSON: Yes, I do.

MR. CHAIRMAN: Dr. Anderson, we have approximately a half hour. If more is required, we could. We'll try to have any exchange after your presentation. Make your presentation and some comments on your additional submission. We welcome you here as the president of the Alberta Medical Association.

DR. ANDERSON: First of all, Mr. Chairman, I should correct that; I'm not the president.

MR. CHAIRMAN: Not the president?

DR. ANDERSON: No.

MR. CHAIRMAN: What happened? Got demoted?

DR. ANDERSON: I'm just here representing the Alberta Medical Association. I would ask the committee and the chairman's indulgence to refer primarily to this supplementary report, if that would be acceptable. We had some difficulty, as most voluntary organizations do, getting ourselves organized during the summer months. So if it would be acceptable, in my submission this morning I would like to primarily address this supplemental report.

MR. CHAIRMAN: I know our equipment will pick it up well, but possibly if you would speak up a little more the public that are present may want to know what you and I are whispering about.

DR. ANDERSON: As you've not had an opportunity to peruse this report before, perhaps the best way to approach it would simply be to go through it, and suggest to you that the

association has four areas of concern that it would like to point out to the committee. The first is in an area of financial concern, with respect to which I'm sure you've heard from other groups. The second area is with respect to confidentiality of medical records, and the third is the general comment with respect to our perception of the diminishing role of the physician within the Workers' Compensation Board itself.

We still remain concerned, as we were prior to the adoption of the Workers' Compensation Board Act of 1981, about the overall philosophy governing the Act. Particularly we are concerned that it has become an instrument for implementing government social policy in a broader sense, rather than restricting itself to the original intent of defining the rules by which injured workers could be assured of reasonable compensation on the one hand and employers saved from litigation on the other hand. We feel that broadening the terms of reference of the Board to include non-physical injury, socio-economic considerations, broadly defined occupational disease, non-occupational disease, and extensive rehabilitation and training programs, in addition to adopting a trend toward a universal, no-fault insurance concept and expanding the role to include occupational health and safety in general, have set up a significant situation where the program for cost increases that has occurred has been set. In addition, there has been a significantly reduced role of the physician in the whole process and an altering of the medical assessment rules that pertained prior to the Act of '81.

We feel that the dramatic increase in costs and the resulting funding deficits that occurred and continue to occur were anticipated by the administration of the plan, if not by the politicians, at the time the new Act was involved. At that time, the increase could not be predicted accurately, in our view, because of inadequate budgetary controls within the plan. There were no cost impact or utilization studies done at that time and, further, we feel there continue to be no budgetary pressures or incentives within the plan. Our perception is that you're simply able to pass on the costs to employers and have sweeping powers to recover those costs from employers, and also the power to borrow from the Treasury in the interim and assess the amount to the employer in the subsequent fiscal period.

We also feel that these increases have occurred despite the Act's intention at the last revision — the intended assumption by the government through the Alberta health care insurance plan of the cost of all basic health services for all workers. This in fact has not occurred, and the Board is still paying the Alberta health care insurance plan costs by a charge-back system for all such costs incurred. Bill 38, which I understand is being considered, will allow the Workers' Compensation Board and the Alberta health care insurance plan to negotiate who would administer medical payments.

The general feeling as we perceive it appears to be that the Board will continue to incur these costs, and the AMA's position always has been that it would in fact prefer to have the plan continue to administer these costs and that negotiations with respect to these costs continue between the Board and the profession. The ambivalence of the current position of the Board with respect to the funding of medical services provided to workers by physicians continues to cause the Board and the profession at some levels some significant administrative headaches and in some cases, in our view, may be affecting the level of care and counselling offered to the injured worker.

We'd like to address ourselves to specific assessment areas in the Workers' Compensation Act and within the Board's policy that we feel have had a significant impact on cost increases over the last three years. The first is the policy of allowing the injured worker a day off with full pay without requirement for medical documentation and no required notice to the employer. The employer may optionally require a medical report, however, before payment to the employee. Further, there is no limitation on the number of such days off an employee can take, and these days cannot be deducted by the employer from the employee's allotted sick time. There is a hidden cost, of course, in

terms of lost productivity to the employer. As you may recall, this is an improvement over the initial recommendation of the select committee in 1980 whereby the initial intent was to allow three days off without requirement for medical documentation. If the employer disputes such time off, the Board can pay the worker and arbitrarily add the cost to the employer's assessment.

There's no dedicated physician or medical representative on the Claims Services Review Committee. The employee does not even have to apply for compensation to be eligible, and his employer is responsible for the assessment. For temporary or permanent injury, the increase in compensation to 90 per cent of basic net wages, as defined by the Board — such a high level of compensation, which is non-taxable, may in some cases be an inducement not to work and to prolong claims. The abolition of the ceiling imposed by substantially increasing the maximum rate of compensable earnings to the region of \$40,000 per annum, the expansion of disability to include a pro rata portion of pre-existing disease, which in our view creates substantial difficulties from the point of assessment of disability, use of an incomplete and broadened definition of the term "occupational disease" — it is defined in two different places in the Act, and there is no general consensus even amongst the medical profession as to what constitutes an occupational disease, with the exception of such things as farmer's lung and silicosis and so on, which have been long-established and well recognized as occupationally related.

There's an increased emphasis in assessments on socio-economic and psychological factors. I'm sure that is creating some substantial difficulties for the Board, to the extent that it's very difficult to quantify — opinion varies substantially on an individual case. Diminished physician input within the Board itself is a concern to us, and we'll allude to that in a moment. There is also a drastic reduction in physician reports to the Board, which I think may be causing the Board some difficulty adjudicating claims in some cases. Further, there is a de-emphasis on the the reliance of the Board on medical measures for control of claims and for the adjudication of the same. The majority of claims are assessed by a lay assessor in co-operation with the employee. The employer can be involved if in fact he objects. The physician involved in the case is rarely consulted. Final assessments of disability are made by a committee, with no one person overseeing the total input or being responsible for the ultimate decision. This was a role formerly played by physicians within the Board. Medical input is now only one factor considered in awarding disability.

The rehabilitation or vocational training of widow or spouse after the death of the worker as well as paying them full compensation benefits, which can go on for five years even if disability is refused — we feel that is more than generous. The granting of additional supplements to workers injured prior to January 1, 1982, whose awards were governed by a predecessor or related Acts is referred to in article 53 of the Act. We feel that the Board's ability to assess employers for costs of perceived needs under the Occupational Health and Safety Act is perhaps an unnecessary duplication of costs as the Alberta government already has appropriate mechanisms for occupational health and safety.

In summation, Mr. Chairman, these are some of the reasons, in an administrative sense, that costs to the Board have increased substantially since the Act was implemented in January 1982. We feel that taking measures such as reducing the employer's incentive to practice good occupational health and safety rules by reducing such things as the employer's rebate would be a negative rather than a positive step, and that some administrative mechanisms should be entertained as a means of cutting costs in the first instance.

These recommendations are really meant as an effort to point out to the Board that there are areas within the Board's operation where costs could be cut. We would prefer to see the Board continue a positive reinforcement approach to occupational health and

safety rather than revert to a punitive one.

In addition, Mr. Chairman, we have some concerns, as the Act is now written, with respect to the confidentiality of medical records. We understand in practice that the medical record, once it's a property of the Board, remains so, and confidentiality is thus assured. But there are two clauses in the Act which cause us some concern. One is clause 13, outlining the Board's investigative procedures and the search and seizure of records. It's not clear in the Act whether or not this clause applies to the medical profession and medical records. Second is clause 141(2), with respect to the open divulging of information by the Board either to those directly concerned or to other government agencies, both provincial and federal. Those two clauses cause us some concern to the extent that even if the information from the medical record is confidential to the Board, through these two clauses there are methods by which the information could be released to the general public.

Also there are some potential problems in terms of relationship with the Alberta health care insurance plan, in that the medicare Act has some requirements, as well, with respect to access of information for audit purposes. We've frankly been assured by the plan that that is not a practical concern, but from the point of view of the Act there are some loopholes there as well that cause us concern.

In principle, we're not opposed to the patient himself or the employee having access to his medical record. However, we feel that such access may inhibit the profession's traditional candor with the Board and may well have a reduction in the value of the reports you receive at the Board for adjudication purposes.

Finally, Mr. Chairman, we wish to express concern over the apparent diminished role of the physician in the rehabilitation function of the Workers' Compensation Board. We perceive an intended shift in emphasis toward rehabilitation occurring largely in initial care institutions and away from direct supervision by the Board, and more particularly by the Board's medical officers, and toward a new branch of rehabilitation with respect to psychological and sociological rehabilitation of the injured worker, over which physicians have virtually no control and no input. Evidence suggests that the emphasis of the role of the Board in rehabilitation is changing from a medical to a vocational one, which in our view is a substantial change. We frankly disagree with this shift and feel that some overall control and co-ordination of all facets of rehabilitation should be maintained by a physician to avoid conflicts in actions or advice which might be deleterious to a worker's rehabilitation.

Of concern to us and, I think, should be a concern to the Board is that if this emphasis continues, a large pool of medical expertise that has been built up over the years will dissipate, and the Board runs the risk of losing the counsel of many physicians who have developed in the Board's employ a lot of expertise in this area over the years. If the shift continues toward a decentralized rehab program, then in our view it doesn't make a lot of sense for the Board to go out and continue to construct a lot of concentrated, expensive facilities.

In conclusion, Mr. Chairman, we feel that many of the trends initiated by the last committee to review the compensation Act and the resulting Act of 1981 may be beyond the scope and responsibility of industry and will continue to escalate costs dramatically if they continue to be implemented. We further feel that perhaps some of these problems should and could have been recognized and dealt with before or after the Act was passed, particularly if there had been more input to the minister's advisory committee, as allowed for in the Act. We further feel that had there been some representation by the medical profession on that committee, some of these points may have been made earlier, and that representation by the profession at large on that committee may, in fact, be an ongoing asset.

Thank you.

MR. CHAIRMAN: Dr. Anderson, just one kickoff for clarification. Has the Alberta Medical Association had regular, ongoing meetings with the medical division, the director of medical services, and the medical staff at the Board?

DR. ANDERSON: No.

MR. CHAIRMAN: I won't ask why not. My second question is: as a minister, I've had some concern about elective surgery for workers' compensation claimants. I know it's not the Medical Association's directive; it's the system of the hospitals that elective surgery is something that may come up in a year or 15 months. Is there any possibility that the medical profession would support that a claimant would not be elective surgery, even if it's corrective surgery for surgery that didn't work out properly or hernias or something like that. As a minister, I've had some concern, and I've shared it with the members of the committee, that we seem to have a system where we develop malingers, and then the medical profession says: what do I do with this man; he's now so frustrated because it took a year and a half to get that corrective surgery. Have you ever discussed that approach, to have workers' compensation claimants speeded up through the system to get their corrective surgery and get back into the work place?

DR. ANDERSON: We haven't had that specific discussion. I think the general consensus amongst the profession and people that do Workers' Compensation Board work would be a supportive one with respect to expediting a claimant's treatment. I think the association would support that approach and make whatever representation it could on behalf of the Board in that regard. Traditionally, I think the profession has made an effort to try to expedite its dealings with the Board. However, we do not have complete control over what happens within the hospital situation and are subject to the control of another bureaucracy. But I think we would be more than happy to support that.

MR. CHAIRMAN: You may want to take that back to your executive to consider.

MRS. FYFE: Dr. Anderson, you've listed a large number of areas of concern where you feel that maybe costs could be reduced or at least stabilized. One of the inputs we have received in our hearings is a comment by a number of employers that doctors tend to be a soft touch: the worker goes to the doctor and says "I have a sore wrist", and he's given five days off or whatever the length of time. Has there been discussion on this issue? I know that a lot of ailments are difficult to diagnose, and many of them take time. We certainly get a number of dimensions in these hearings, depending on the perspective of the people appearing. What discussions take place within the Alberta Medical Association, and how do we deal with that?

DR. ANDERSON: That is a difficult situation, and I'm prepared to concede that that certainly may well be a problem. The only way we can deal with it is through pointing out the Board's concern to our members — the potential cost involved, the administrative problems that that type of situation creates — and more or less take an educational approach to the individual physician. Of course, we can't compel them to do anything in terms of their medical advice to the injured worker. That has to be their judgment decision based on the situation as they see it at that time.

So to answer your question, I really can't promise the Board that anything in a practical sense can be done except through co-operation with the Board in developing an educational approach to individual physicians. The administration of the Board has in fact requested that the association make an effort to improve the quality of reports the

Board is getting. We have supported that request and will continue to do so in our discussions with the Board administration.

So those are two areas where perhaps we can be of assistance, but I don't see that we can compel our members to make certain medical judgments.

MRS. FYFE: I appreciate that answer. With the long list you have included in your submission, I hope your association will ensure, on an ongoing basis through your communication, that physicians are aware that their decisions also add to the cost.

DR. ANDERSON: Oh, there's no question. I'm perfectly prepared to accept that and to accept responsibility for that. This submission was not intended to be one-sided but merely to point out that in our view, there are some areas within the existing legislation and administrative policies of the Board as a structural entity that may be altered or looked at as a means of controlling costs. It wasn't intended to indicate to the committee that the whole situation for costs and so on was one-sided. That obviously is not the case.

MRS. FYFE: Thank you. I'd like to move on to another area. You've suggested that there has been a shift to the psychological and sociological rehabilitation of the worker. Do you perceive that there is a reduction in the involvement of medical people, or is it not an add-on to what has already been in place?

DR. ANDERSON: We perceive there to be a reduction of the input and function of medical people, particularly the medical people within the Board's employ itself. We think that's a negative step.

MRS. FYFE: Why?

DR. ANDERSON: Because our feeling is that the buck has to stop somewhere and that there should be some individual overseeing the award made to an individual claimant. Our feeling is that the individual by training, perception, and experience that's best qualified to do that would, in fact, be a physician rather than having it done, as it is now, by a committee. Committees tend to be a little bit less resolute in decisions they make, and frankly that has been a decision that traditionally was made by physicians in the Board's employ in any event, until recently.

MRS. FYFE: So it's not the fact that there have been new programs in psychological rehabilitation developed to assist a worker, for example, who has a fear of going back up in a crane after a fall. You're not opposed to that, but you feel it should be supervised under a physician. Is that basically the point?

DR. ANDERSON: Right. That's basically what we're saying. Also, when you get into that area there is a tendency to get into an area of duplication of services that are already available in the community. There is a large body of available individuals qualified to help a worker deal with psychological and sociological problems, although I don't want you to misconstrue that to say that we are against aiding a worker in his rehabilitation with respect to psychological and social problems that result from an injury. That's not the case at all.

I guess what I'm trying to suggest to the Board is that there may be an area for more effective rationalization of the service with respect to those areas, given an account of existing programs within the community. Secondly, we feel they would be more effectively administered if there were more medical input with respect to those

programs.

MRS. FYFE: With due respect, I think the workers that benefit from the psychological and sociological rehabilitation programs are those that have gone through many other programs within the community. These are the ones that are the most difficult cases to rehabilitate. I'm not sure what other resources would be available. Maybe you would like to help us find out what other alternatives may be available. When we went through the centre and talked to the people involved, it's a very select number of cases they are dealing with in this program.

DR. ANDERSON: I should say that my comments in that area were more of a philosophical nature, to the extent that the philosophy as indicated by the last review committee and the philosophy as it seems to be spelled out in the Act, by inference suggest that the Board has an intention to substantially broaden the scope of those particular areas of rehabilitation. I think that is an area of potential concern. I wasn't so much concerned with the specifics of an individual, the hard case worker that's now being dealt with by the Board. It was more in terms of an overall philosophical approach that this committee or the subsequent Board may take that was the purpose of addressing that particular issue here.

MRS. FYFE: I think the previous report did spend some detail in ensuring that rehabilitation centres throughout the province be utilized wherever possible, that the worker stay near their home wherever possible, but obviously some of the very specialized areas cannot be handled in a regular hospital facility. So I don't think there was an intention by the previous committee, and I haven't seen anything in this committee so far, to look at a centralized approach. In fact, there has been a lot of emphasis to decentralized services in the workers own community wherever possible.

Thank you.

MR. CHAIRMAN: John Thompson.

MR. THOMPSON: Thank you, Mr. Chairman. To the doctor: are you aware of any medical schools that have courses that specialize more or less in occupational and industrial disease? Are there doctors coming out of schools that specialize in this area at the present time?

DR. ANDERSON: Yes, there are residency training programs in occupational medicine, the major one to my knowledge being at the University of Toronto.

MR. THOMPSON: Secondly, doctor, your point 13 on page 3 regarding widows and spouses, it seems that you imply these ladies get paid compensation for five years. In actual fact it's phased out. They get full compensation the first year, 80 per cent the second, 60 . . .

DR. ANDERSON: Yes, I'm aware of that.

MR. THOMPSON: If you want to talk about full compensation, they are paid full compensation for five years but it totals out about three years.

DR. ANDERSON: I'm aware of that, and didn't mean to imply 100 per cent compensation for five years. What it meant to imply was that they get the full compensation package as defined by the Act for that period of time.

MR. THOMPSON: Thank you.

MR. CHAIRMAN: If I could just add, and you may want to take this back to your colleagues, that that is a reduction from what was previously in the Act. Prior to January 1, 1982, a widow in Alberta would be eligible for a lifetime pension. You have indicated that as one of the items of increased costs. That is why John Thompson asked that.

DR. ANDERSON: What I was referring to in this particular case is not the compensation of widows and spouses in general but the situation where the widow or spouse in effect refuses to co-operate with the Board -- not the comment with respect to the compensation policy in general.

MR. CHAIRMAN: Ray and then Ron.

MR. MARTIN: I'd like to go back, because I'm still a little unclear about the point you were talking about with Mrs. Fyfe in terms of psychological and sociological rehabilitation. We didn't hear this from the medical people when we were there; they didn't bring this up. But one of your concerns seems to be a diminished role for the doctor. Do you not see a committee approach of various professionals -- you don't think that's the way to go. Is that what you're saying?

DR. ANDERSON: No. That is the way it goes. Obviously you can't have a total worker rehabilitation program without involvement of sociological and psychological input. We're not for a moment suggesting that the Board abandon the current approach to doing that. What I am suggesting is that in terms of the final output, the final disposition of the case, the adjudication of the award -- that type of situation is where the physician's input has been substantially reduced. In fact in many cases the medical input is the least important of the input the Board receives with respect to awarding disability, and that is a concern to us.

MR. MARTIN: I see. So you're not so much talking about rehabilitation but the final settlements. You think there should be more medical . . .

DR. ANDERSON: Yes. I'm not for a moment suggesting that the entire rehabilitation of a worker should be done by the medical profession exclusively. If that is your assumption from this report, it is not my intention or the AMA's intention that that should occur. Obviously you need the input of other paramedical people in helping the worker get back on his feet.

MR. MARTIN: Okay. I'm a little clearer on what you're saying.

I just want some clarification on number one on page 2, maybe from the staff, to find out what happens. Is this essentially correct, John, about the day off? How does that work as far as . . .

MR. WISOCKY: The current Act says that the employer is responsible for payment of wages for the balance of the date of accident, and an employer has the prerogative of asking for a medical report, if a company so chooses. This is why, if you remember, we developed this three-part form, with a little white part in the middle, so that when a doctor fills out the form he can easily fill it in on behalf of a worker to give to the employer. But it's not mandatory that a worker take this back to his employer, and a lot

of employers don't ask for it.

MR. MARTIN: When you talk a little later on, "further, there's no limitation of the number of such 'days off' an employee can take" — are you suggesting that there may be times when we have an employee that seems to have a lot of injuries and uses this as abuse? Is that what you're talking about? John?

MR. WISOCKY: I guess that Dr. Anderson has acknowledged that we need the cooperation and help of the medical profession to somehow police the situation. If we find out three days after the fact, it's very difficult when a doctor has given permission. I suppose that's one of the things we will be discussing with Dr. Anderson. He's aware of some of these problems, and we need the assistance of the medical profession per se.

MR. MARTIN: Okay, thank you.

MR. CHAIRMAN: Ron Moore.

MR. R. MOORE: Ray touched on two items I have. One is vocational.

MR. CHAIRMAN: For the benefit of the people here, I'm advised that the Graphic Arts Association has conceded they don't need the full amount that's been allotted. That's why we're continuing past the half-hour. Go ahead.

MR. R. MOORE: The one thing I take note of here and, as I say, Ray touched on it, is that the evidence suggests that the role of the Board is changing from medical to vocational. Is that a definite trend that you see, or is that just a . . .

DR. ANDERSON: It's a trend that is . . .

MR. R. MOORE: I think the vocational end is separate from the medical, which is actually what the Board is set up to be interested in.

DR. ANDERSON: Exactly, and I guess in a general sense the Board is largely still doing a medically, psychologically, and sociologically related rehabilitation function. But here we're trying to address philosophy, and our perception is that the philosophy, certainly of the previous committee and perhaps the Board, is to shift the emphasis on a slow and ongoing basis towards that. We feel it would be a retrogressive step to take that approach in a philosophical sense, and it's really a philosophical approach that I'm trying to emphasize here, not so much addressing what's happening today in the Board. Obviously this committee is charged with amending the Act or doing what it sees fit with the Act for the subsequent period of time, and it's the philosophical approach that concerned us.

MR. R. MOORE: There's another thing. During the course of our deliberations we have heard a lot of statements that when economic times take a downturn, claims increase; that when times are good, workers will put up with ailments. The medical profession is probably involved at that time, and then suddenly it becomes a claim; it wasn't a claim before. You play a very important role in this area if that is so. It has been brought to our attention that in the seasonal occupations, towards when the season ends — they probably had a medical problem during the working season, and as it gets towards the end and the winter season is coming on, if it's a summer job, it suddenly becomes a claim. You are the key factor in that. You have been treating them all summer long. Why does

it suddenly become a claim? Do you think the statements we've heard are justified? I would like to know if it's justified from a medical standpoint.

DR. ANDERSON: I don't think it's justified from a medical standpoint. If the practitioner has been treating a worker for an entire working season, and he's been able to maintain his ability to work, I see no reason why it should suddenly become a claim to the Board because his employment has ceased. I wouldn't support that from the medical profession's point of view. I cannot deny that that happens. I don't have any statistics to support or deny that, and perhaps it's an area that we could look into in co-operation with the Board itself.

The only way you could adjudicate that would be to have some method of reporting the injury in the first place, so that you knew that in fact he was being treated by the physician, and watch as to whether it became a claim three or four months later. There are some situations where a minor injury can be aggravated by continuing work and result in an ultimate claim, and of course those would be legitimate claims. But aside from those comments I can't really defend that, nor can I quantify the incidence of that for you. I certainly can't deny that it happens.

MR. CHAIRMAN: Stan, did you have a question?

MR. NELSON: No, not really too much. Possibly we could get away from your supplementary, Doctor, and deal with the items submitted originally by Dr. Clark. With regard to the relationship between you and the WCB prior to the fees being paid and your report going to the Alberta health care insurance plan, it's my understanding from reading the letter that was sent that the AMA prefers to deal directly with the Board rather than Alberta health care, basically because of fee structure and possibly a little easier reporting system. Industry is somewhat saying the opposite. Maybe you could just expand on this area a little bit for us.

DR. ANDERSON: From a practical perspective, industry is still paying the tab anyway. From our perspective, our relations with the Board over the many years previously, when we had a direct relationship with the Board with respect to financial matters and otherwise, has always been a much more satisfactory arrangement, in that we're dealing directly with the people we're reporting to and talking to in all areas. Traditionally the Board has been much more realistic, if you want to use that term, in its financial compensation of physicians with respect to effort, counselling, and so on that is often necessary in dealing with an injured worker. We get involved in counselling on whether or not he should be making a claim, different aspects of what he can and can't do — does he have to talk to his employer, what forms he has to fill out. They often come in with a whole sheaf of forms and are not really aware of what to do.

So in many cases, there is a requirement for a physician to spend a little bit of extra time with a potential Compensation Board claimant. The Board has always recognized that fact and has always compensated the physicians accordingly. We've never had any complaints about that, nor have we ever had any concerns with respect to our financial relationships with the Board.

However, when you transfer it to the Alberta health care insurance plan, that is no longer the case. That situation no longer pertains, and the physician simply gets paid the same fee he would get paid for anybody else, whether it be a major or minor condition. There's no consideration taken of the extra time he may have to spend with the patient on the Board's behalf.

That's the bottom line reason why we're suggesting that it may be in the Board's interests as well as our own to continue a relationship directly with the Workers'

Compensation Board. The Alberta health care insurance plan is a totally inflexible agency. Everything is done by computer. There is no effort made to assess an individual case on its merits.

MR. NELSON: One other area was touched on briefly, and you identified this in your submission. Industry is suggesting that it be given some access to reports, be they medical or otherwise, regarding an injured worker, possibly for a number of reasons. Is there any reason the profession would have some difficulty in adhering to a request? After all, the industry is paying the shot. They feel they want to know something of what's happened to their injured worker, the progress being made or the source of the injury, et cetera. Would the AMA have any difficulty in adhering to a request of that nature on a confidential basis between employer and employee and the physician?

DR. ANDERSON: No, I don't think so. providing it's done with the employee's knowledge and consent. That would be, I guess, a potential concern we would have. We are and continue to be very concerned about confidentiality of medical records, and that opens up another area of access to the medical record. So we would want to look at that very carefully. But certainly off the top of my head, I would be reluctant to commit the AMA to doing that without the consent of the worker at this stage in the development of that process.

MR. NELSON: Thank you.

MR. CHAIRMAN: Al, did you have a clarification?

MR. RUNCK: In that particular area, the way it works now is that if an employer asks the Board for medical information, the employer is usually told that it's between the worker and his physician. If the employer wishes to contact the physician, the physician may, if he's so inclined, with the consent of the worker, provide him whatever information he requires. The Board doesn't pass out the report.

DR. ANDERSON: Does it not say in the Act — I don't recall the particular clause in reading the Act, but it seems to me that there was an area that did in fact allow the employer access to the medical record in the event of an appeal or disagreement. Is that not the case?

MR. RUNCK: I think it's the one you quote, 141, where if in the opinion of the Board — and there are cases, as you say, in the appeals where there is frank discussion of various reports including medical reports.

MR. CHAIRMAN: John.

MR. WISOCKY: Mr. Chairman, I think Dr. Anderson has dwelt considerably on the field of rehabilitation, and I feel it's worth a few comments. As Mrs. Fyfe indicated, the last select committee did indicate that there should be some shift towards the vocational, as alluded to, simply because when the Board first became involved in rehabilitation, it was primarily medical and physical. In a sense, there was an insufficient number of facilities outside, or in the community. But over the years, there are lots of facilities outside, as you know, and well over 95 per cent of our compensation cases are treated there. It's only the exceptions, the ones that are referred by physicians where they don't know what to do or they require a broader approach, that come to the rehabilitation centre.

If anything, the role of physician will increase rather than diminish in the future, and

I feel our staff are aware of this and support it. I realize that because of your busy schedule you haven't had a chance to come to a rehab centre, but hopefully on the road they'll have an opportunity, as well as your colleagues.

MR. CHAIRMAN: With that, Dr. Anderson, I want to express my appreciation to you and only hope that, in your first answer to me, the association and my office get around to having more dialogue with the medical staff. I am aware they're all members of your association, and maybe in the interests of the workers in this province, we can improve it.

Thank you for coming forward. Again, I appreciate the frank discussion and the fact that we were able to go further than half an hour.

The Graphic Arts people may now come forward.

DR. ANDERSON: Thank you, Mr. Chairman.

Calgary Graphic Arts Association

MR. CHAIRMAN: Mr. Taylor and Mr. Lewis. Mr. Taylor, you see what happens. You allowed us to take a few minutes of your time, and we took more than a few minutes and really encroached on your presentation. Possibly we could get right into it and have you make some comments on your presentation. We did not have it ahead of time, so please proceed.

MR. TAYLOR: Mr. Chairman, thank you very much. We went ahead and said that the medical profession could have a little bit of our time, and that was probably because we're going to take a swing at the medical profession.

As spokesman for the Calgary Graphic Arts Association, I'd like to say that I have as my representative not Mr. Clyde Lewis but Mr. John Findlay.

At this time, Mr. Chairman, I'd like to introduce myself. My name is Jim Taylor. I'm the president of Atomic Press Ltd. in Calgary, a firm that has been in business for 25 years, and we have a staff of 12. I'm also president of the Calgary Graphic Arts Association, which consists of several members. The Calgary Graphic Arts Association represents 63 companies in the printing industry in southern Alberta and has existed as the official voice of the printing industry in this region for 25 years.

We have 13 supplier members, seven allied trade companies, and we are also a member of the national association in Canada, which has 675 members. In concert with our sister organization, the Edmonton Graphic Arts Association, we address the provincial issues, national issues, and other issues that pertain to our industry.

The Calgary Graphic Arts Association and the Edmonton Graphic Arts Association are members of the Task Force, which has presented a brief to this select committee. In our brief, it tells you a little bit about us, some of the exhibits we will be presenting in our brief. Some of the reasons for our being here are to endorse the Task Force report that has been presented. We want to present our brief to you. We will make it short, and any of your select committee that have any questions in regard to the printing industry.

As an introduction, because the printing industry is made up of entrepreneurs, we are mostly small business men. You might say we are Mom and Pop stores. You might say we are very similar to the corner grocery store in the fact that many of our members are one, two, and three shops. They are made up of a husband and wife team. There are many bigger firms, but we are basically considered small business men. We're private entrepreneurs. It's very hard for us to keep our businesses running, and at this time we welcome the opportunity to be heard by your select legislative committee, Mr.

Chairman.

While each of us is concerned about our staff and want to ensure that the hurt and injured are well taken care of, Alberta's compensation is not competitive with other provinces. Faulty policies and overgenerous compensation packages have contributed to a deficit of over \$100 million in 1982. We feel that the Board has acted more as the social conscience of the industry rather than as an insurance company.

In the printing industry we have just received another rate increase in 1983, and this is a 50 per cent increase since 1980. Our costs as small business men are very expensive, and we feel that any increase is very, very hard on us as small business men, especially a 50 per cent increase. For this reason, the Calgary Graphic Arts Association and the Edmonton Graphic Arts Association have joined forces and joined the Task Force to support the submissions to the select committee on workers' compensation.

Some of our problems — and there aren't too many, four — are that we are grouped together in class 11-02 along with businesses that have totally unrelated operations, including hardware, furniture, and department stores, and auctioneers. There were five deaths in 1981 in that particular category, and none was related to the printing industry. Yet the same rate applies to our industry. What we're asking, Mr. Chairman, may be a reclassification of our rating system that assigns a risk to our industry and our work experience. We feel that we are in a higher rating than we should be, and we feel that the accident risk in the printing industry is very low. While we do operate machinery and so on, our machinery is of a very low class. We have an awful lot of people who are like office-type workers and are not in a position to get their hands stuck in the machinery and whatnot. So we're asking that the Board look at our industry for reclassification.

Our number two problem, Mr. Chairman, is that because we are small business men, we are required to pay workers' compensation in three-monthly instalments. As small business men, in the printing industry we don't operate on a cash basis. We operate on an accounts receivable basis, and most accounts receivable are paid in 30 days. But by the time you get your money, you're looking at at least 45 days and, many times, 60 days. Through the small business men, we have to lay out our money for wages right away. Our suppliers ask for their money in 10 days. So what we're saying is that the cash drain on our working capital is very tough for us. Rather than prepay them, we would rather pay workers' compensation payments the same as we pay UIC and CPP — in monthly instalments. If we can get away with paying \$500 a month rather than having to lay out \$1,500 a month, we would rather lay out the \$500. We would rather lay it out the way our customers give it to us — and that's 60 days behind — if you would accept that, but we will go along with the fact that we could pay it 30 days in advance and not pay it in such a lump sum.

It's a small problem, but to many people in our business, small entrepreneurs, the cash flow problem is a big thing. When we have to make a big payment it hurts us, especially if we haven't got the payment back from our customers.

MR. CHAIRMAN: Mr. Taylor, I hesitate to interject, but my understanding of the present system — and you can correct me — is that your first instalment is due, on the calendar year, about 60 days after the calendar year starts. Am I right?

MR. TAYLOR: We pay it four times a year.

MR. CHAIRMAN: Four times. Your first quarter is due when? Al.

MR. RUNCK: Fred could probably tell us better.

MR. FAWCETT: The year end return is filed prior to March 1. It would depend on when the form is actually processed, but normally the first instalment would be due in March or perhaps in April, depending on the date it was processed.

MR. CHAIRMAN: I just wanted to have that out here, because you're giving the committee — that you have to pay a quarter in advance. You pay it practically at the end of the first quarter of the year.

MR. TAYLOR: Yes. Mr. Chairman, we're asking that maybe we don't pay as much so quickly. We're asking for a little bit of relief. I appreciate the situation. We would . . .

MR. CHAIRMAN: Okay. Continue.

MR. TAYLOR: Thank you.

Problem number three — this would be our swing at the medical profession, Mr. Chairman. When we have a claim with one of our workers — and bear in mind again that we're a small business operation. Many times we only have two and three people working for us. So if one of our workers is away because of some accident injury, we are suffering. If you only have three people and one is away, you're in very dire straits.

If one of our workers does have an accident, there's no problem in taking him to the hospital. It's usually an injury-related accident such as a back because he's lifted paper; he might have dropped something on his foot; he might have got his finger caught in a machine. But I'm sure with most workers' compensation accidents, what happens is that you can see the doctor. That's fine, but what you have to see is the specialist.

Mr. Chairman and members of the select committee, the problem we run into with seeing a specialist is that you can't get in to see him. It takes you three months to get in to see the specialist, and in many cases any of our accidents have to see a specialist. You will sometimes have to wait three months for the appointment to see the specialist. In turn, the employee does not want to come back to work because if he does — he says, well, I can't; I have to wait till I see the doctor. So in many cases you're stuck while you're waiting for this man to see the specialist in the medical profession.

We would ask that maybe you hold payment or ask the medical profession that on injury-related accidents you get the man back. In many cases, he wants to come back. If you're a small business man, you can't go out and hire somebody for three months and say, would you like to come to work for three months while I find out if my employee who dropped a skid of paper on his foot waits until the specialist has seen him? So we're saying that that is a bit of a problem for us because we are small business men.

The other problem we have, Mr. Chairman, is that we just ask for a little more consultation with the industry. There was no forewarning to printers of the substantial increase in costs arising from the jump from \$22,000 to \$40,000 in the ceiling on assessable earnings. We also feel that we are not provided with financial statements — give employers our status report. We would like to know a little more about what happens. We do get the periodical that is published by the department. We would like a little more information as to our industry and so on, so that we can have a little better idea of what is going on. We were never told about an internal financial report for class 11-02, which stated that there would be an increase in both 1983 and 1984.

I think basically what we're saying is that we would like a little more information, because it is a big concern to us as small business men. Of course the solutions are outlined in our brief as to what could happen if they were taken into account: reduce the earnings ceiling to at least \$30,000, or a more tolerable level, and notify employers at least a year in advance of any forthcoming significant changes, including rates and assessments.

When we're talking about accidents, Mr. Chairman, we would also like to know how many accidents there are in our industry. The only way we find out about it now is through our association. If you're talking to another printer, he might tell you that somebody in his plant has had some kind of problem. I don't recall any information telling us exactly who or what came out there.

I think that's all, Mr. Chairman. We'd just like to thank you and the select legislative committee for allowing us to present our brief. It is brief, and we realize that this committee is busy. If you have any questions, please ask me.

MR. CHAIRMAN: Mr. Taylor, have you or your association been privileged to attend the rate meetings as part of class 11-02?

MR. TAYLOR: No.

MR. CHAIRMAN: You've never had the interest or an invitation to attend?

MR. TAYLOR: I don't recall our association or myself receiving one.

MR. RUNCK: Mr. Chairman, it isn't every class that the Board meets with.

MR. CHAIRMAN: No, I appreciate that.

MR. RUNCK: For example, 11-02 is such a complex gathering of industries that it is pretty difficult to identify representative associations who could speak on behalf of the class. For that reason, the meetings have never been held.

MR. CHAIRMAN: I appreciate that. The second part is: what would the range of wages be for your employees, referring to the concern of the \$40,000 ceiling?

MR. TAYLOR: Our employees on the journeyman scale are around \$14.50 an hour.

MR. CHAIRMAN: Which gives an annual wage of what?

MR. TAYLOR: They are around \$27,000, I believe. Somewhere in there.

MR. CHAIRMAN: I would welcome some information on that No. 4 problem because, with that wage scale, you shouldn't have the effect that you seem to be indicating in your presentation. I think John Findlay knows what I'm talking about. John.

MR. FINDLAY: I think the concern in the printing industry is, recognizing that the average salary is \$20,000, the ceiling probably doesn't come into effect as much on their employees. But in their class, which includes other businesses, operations for which they don't have any idea of what the average salary might be, it's quite conceivable that in the 1982 increases, the influence of some of the other industries, if they have a substantially higher average salary where the ceiling might have come into play, has actually impacted on the class and therefore on the class rate and on the printing industry. Do you follow me? In other words, it's a question of not really knowing the specific financial implications of the class on the industry.

MR. CHAIRMAN: That part I appreciate. I am trying to get a better understanding. In exhibit 3 it shows an increase for '83 rates for the printing industry that you use here, Mr. Taylor, of 10 cents, from 65 cents to 75 cents.

MR. WISOCKY: Just two pieces of information. The wage that Mr. Taylor quoted comes out to a little over \$30,000 per annum in terms of salary. In '83, to date, on the claims reported for class 11-02, the average wage has been a little over \$16,600. By the way, that information is available upon request to anybody.

MR. CHAIRMAN: The reason I am asking these, Mr. Taylor, is that we are looking at providing this. As you know, the Task Force has made representation for more information to associations. It helps us to know that you are one of those that has not been involved in the dialogue, and the intent of the committee is to correct some of that.

MR. TAYLOR: I appreciate that, Mr. Chairman.

MR. CHAIRMAN: Any other questions?

MR. MARTIN: Just on some of the information you get. Did you get this report?

MR. TAYLOR: No.

MR. MARTIN: Where does this report go to, then? Some of the information he is requesting.

MR. RUNCK: If he wishes to have the report, he simply gives us his name and he is put on the mailing list.

MR. CHAIRMAN: There is a mailing list compiled from year to year. Derrick . . .

MR. PIETERS: Yes, Mr. Minister.

MR. CHAIRMAN: . . . how is that? It's not sent to all employers, is it?

MR. PIETERS: No, Mr. Minister. That would mean we would have to send out in excess of 50,000 to 60,000 annual reports, and we don't print that many. But we do have a list of all the associations that meet with the Board.

MR. CHAIRMAN: You might be one association that hasn't been on the list, Mr. Taylor, and we will do our best.

MR. TAYLOR: We appreciate that. In all fairness to the Workers' Compensation Board, we receive the bulletins that they send out.

MR. CHAIRMAN: Any other comments? Okay, thank you very much, and thank you for accommodating us. There are some areas here that are unique to your industry. We will look at them, and we would encourage you to continue the dialogue. As you know now, you as an association, both Edmonton and Calgary, can get together and meet with them on any of your issues or information.

MR. TAYLOR: We thank you for the opportunity, Mr. Chairman.

MR. CHAIRMAN: Thank you.

We will now have a short break and have the Canadian Petroleum Association get prepared — Mr. Chris Smith. A short coffee break, a seventh-inning stretch.

[The meeting recessed at 10:06 a.m. and resumed at 10:24 a.m.]

MR. CHAIRMAN: The committee will reconvene. Somebody said I referred to the seventh-inning stretch. They said it was too early; it was only a third-inning stretch. Seeing how the Expos did not do, I don't know if we even need a stretch.

Canadian Petroleum Association

MR. CHAIRMAN: The Canadian Petroleum Association. Which one of you is Mr. Smith?

MR. C. SMITH: I am Chris Smith.

MR. CHAIRMAN: And your associate is?

MR. ANDERSON: Bill Anderson.

MR. CHAIRMAN: Okay. We have about a half-hour, Mr. Smith, and we hope we can accommodate everything, including any clarifications.

MR. C. SMITH: All right. Basically, in our written submission we discussed the issues we felt were of concern. I will just reiterate the points briefly. If you have any questions that we could clarify for you, we would like to do that.

The first point we wanted to make was that we reviewed the drafts of several other organizations involved in the Workers' Compensation Industry Task Force and, in general, support their recommendations. We didn't want to redundantly repeat many of those.

The first concern we had was lump sum payouts and capitalization. The concern of the CPA was that at present, injured employees with permanent partial disability assessed at less than 10 per cent of total are given the option of accepting a lump sum or a monthly pension. Those with disabilities exceeding 10 per cent have no option and must accept a pension. Consideration should be given to a revision of this, permitting lump sum payments rather than capitalized pensions to be awarded for all permanent partial disabilities, which would reduce the cost of indexing future payments as well as the administrative costs.

In the committee they felt that the monthly pensions for permanent total disability for spouses and dependants should continue as in the present policy. Where a monthly pension is awarded, it should be reduced by the amount of Canada pension or old age security when the pensioner becomes eligible for these plans, which is comparable to most other types of benefit plans in industry.

One that was of great concern with us was non-Canadian workers in high-risk specialties. Basically, when the two workers were killed — this is a specific example, but it brought to light the problem.

MR. CHAIRMAN: The Lodgepole incident.

MR. C. SMITH: That's right. When the Lodgepole incident happened, it suddenly indicated that there is really no provision in the Workers' Compensation Act for the very large losses that can be incurred in high-risk industry. In the Lodgepole incident, we brought in some workers from Texas who suffered death in Alberta. But in terms of workers' compensation assessments, the actual amount of assessment you would ever recover from these workers is extremely limited. The firm that employs them has no permanent base in Alberta. Like in every other industry in Alberta, if we had another

accident in 23 years, there would be an assessable payroll for 23 years in which to amortize the costs over a reasonable period of time. However, for foreign specialists — and we're talking high-risk things such as demolition of smoke stacks, oil well blowout fighting, and that sort of thing — we felt that there should be a provision in the Act so that it would be conducted, if you like, on a basis commensurate with what a private insurance company would charge for insuring similar risks.

MR. CHAIRMAN: I thought I understood that there should be no coverage for these workers; it would be up to them what they wanted to buy. Would the offshore workers be excluded from coverage under the Workers' Compensation Act in Alberta?

MR. C. SMITH: No, I don't think so. The extra-territorial workers?

MR. CHAIRMAN: Yes.

MR. C. SMITH: They would not necessarily be excluded, Bill. If there is an option for them to be covered, then it should be at rates that would in fact ultimately be commensurate with the risk. So the Alberta Board, for example, could have the option of reinsuring that risk with Lloyd's of London or that type of thing. It would give them an opportunity to reinsure if they wished to do so in that area, but at rates that are appropriate to the risks that we are assuming.

Our concern really is that the accident that happened cost the Alberta Workers' Compensation Board a large amount of money paid out in a claim for which there is really no assessable payroll to ever recover it from. We felt that is a loophole in the Act, if you like, that should be addressed.

MR. CHAIRMAN: Maybe following these hearings, you might send us some information on just how this could be addressed. You indicated comparable to private insurance and so forth. At your initiative, if you can send it to my office I will share it with the committee.

MR. C. SMITH: Yes, I will do that. I would be very pleased to do that.

The third item we were concerned with is a published claims adjudication policy manual. At the present time, in our committee we discuss claims that we feel were improperly accepted by the Board. Again, we didn't feel that we should get into specific claims or examples. But in general, we felt it would be of great advantage to the industry to have a published claims adjudication manual similar to what the B.C. Workers' Compensation Board publishes. That manual would in fact outline the criteria for acceptance or rejection of claims over a much broader area than just a few lines in the Act, and that would then help industry in identifying when they have or have not reasonable grounds to appeal a claims decision. As it is now, since they often don't know the criteria that the claim was made on in the first place, it's very hard to judge whether you should appeal it.

Claims appeal board. We feel that at the moment, the appeal of a claim is heard by the same body that adjudicated the claim. We would suggest that an independent board — again similar to what British Columbia has, a claims review board — be established.

That was all we had with reference directly to the Workers' Compensation Act. It was put in the same order as your original published request for submissions.

The Alberta Occupational Health and Safety Act: we had some concern with posting information, including codes of practice. I think Mr. Anderson could address that one fairly well.

MR. ANDERSON: We feel that some people have codes of practice in books and manuals that may be three inches thick and maybe six or seven manuals. The word "posting" of those leaves some people at a loss. How would they post such a thing? We suggest that they be made available on site and that all and sundry working at that site would know where they are and would have free access and reference to those manuals and that the word "posting" not be used in its connotation of posting in this case. That's basically the gist of the story.

MR. CHAIRMAN: Okay. Keith, could you just clarify for the members of the committee what Mr. Anderson's concern is here?

MR. K. SMITH: Yes. In essence it means that if you take the term "posting" to be strictly the position of a document on some board or some place where notices are normally affixed, what Bill is suggesting is that "posting" be somewhat broader. It means making available to workers. That would be perfectly satisfactory.

MR. CHAIRMAN: Okay, and that's part of what is presently under review.

MR. K. SMITH: That's correct.

MR. CHAIRMAN: Have you sent your feelings on this part of the regulations to Occupational Health and Safety?

MR. ANDERSON: I don't think so. It was all included here.

MR. CHAIRMAN: In this. That's fine.

MR. ANDERSON: We didn't really. We feel that a portion of it would go to them.

MR. K. SMITH: The only thing I might do is read out what it says.

MR. CHAIRMAN: Are you reading out the present or the proposed regulations?

MR. K. SMITH: These are the proposed.

MR. CHAIRMAN: Okay, go ahead.

MR. K. SMITH: The employer shall ensure that the information contained in the order is circulated to or otherwise brought to the attention.

MR. ANDERSON: That's reasonable. Now this is orders. We are including . . .

MR. CHAIRMAN: That's orders.

MR. K. SMITH: That's everything.

MR. ANDERSON: That's orders?

MR. K. SMITH: That's everything specified — 21(1)(u).

MR. ANDERSON: Yes, well you can talk about 21(1) and all those things. There's been so many changes recently that if you don't have today's copy, you're out of touch. So be

that as it may, Keith . . .

MR. K. SMITH: No, that's everything specified in your recommendation.

MR. B. ANDERSON: So this will cover that recommendation. That's good.

MR. CHAIRMAN: As you can appreciate, those regulations have not been approved yet.

MR. ANDERSON: That's right, they're not allocated.

MR. CHAIRMAN: I do hope in the . . .

MR. K. SMITH: But in practise, Minister, that's how it's done on site.

MR. CHAIRMAN: You're in practice now.

MR. ANDERSON: Yes.

MR. K. SMITH: Making it reasonably accessible to workers is what we're asking for.

MR. ANDERSON: That would satisfy the need, I think.

MR. CHAIRMAN: Okay. Go ahead with your No. 6.

MR. C. SMITH: No. 6, a new Workers' Compensation Board facility. Our understanding of the consideration for building a new Workers' Compensation Board facility was that part of the economic justification for it initially was in fact the value of the real estate that their present facility exists on. Present market conditions have altered that substantially. Also, because there is in Edmonton — and in any major city in Alberta — an extensive amount of vacant and available office space, it would seem inappropriate to be building more at this stage in time.

Certainly if you do not conglomerate everything, technology makes interoffice communication very easy today. For example, in our own company we run a system of computers linked with common memory bases, where your communication and document exchange is very rapid and very easy. So we felt that by application of state-of-the-art technology in existing space, the administrative economies would be better served. It would be advantageous to both Alberta and to the WCB to not build.

MR. CHAIRMAN: Mr. Smith, it has been asked of previous groups that have come forward — you may wish at some time to visit the present rehab facility. If you would like to, don't hesitate to arrange for it directly or through my office. I just wanted to share one of the initial reasons that the Board looked at a facility. There is a need for between \$8 million and \$10 million to upgrade the present rehab facilities. After you visit that facility, you may want to drop the committee a letter. Several groups have visited it and seen the condition.

My office is getting complaints from claimants that the facility is not . . .

MR. C. SMITH: Perhaps our understanding of it was not correct.

MR. CHAIRMAN: No, that might it. That's what I'm saying.

MR. C. SMITH: We don't question and never did question the rehabilitation part of it.

It's simply that if they are going to build one large complex, including administrative, that may not serve the best interests. We were thinking in terms of the administrative part of the Board rather than rehabilitation.

MR. CHAIRMAN: Well, the present administrative part has been a very suitable building for quite some time.

MR. C. SMITH: So what they're contemplating in the new facility is just rehabilitation.

MR. CHAIRMAN: No, the intent was to combine both when the new building idea was developed.

MR. C. SMITH: Okay. We will get back to you by letter.

MR. CHAIRMAN: Yes, that's right. Your last item.

MR. C. SMITH: The last item was the expansion of rehabilitation services for injured workers to area offices. Again, our concept was that they were going to put physical rehabilitation facilities in the larger area. My understanding of that is that the rehabilitation experts, if you like, the people who have technical expertise, come from a very limited pool of workers that are not readily available worldwide. To start spreading them all over the province rather than having them in a central facility, may be counterproductive. We feel the staff dilution would tend to produce less advantage than having a central boarding facility, if you like.

MR. CHAIRMAN: Okay, any questions?

MR. THOMPSON: I would like to get back to No. 6 here. To your knowledge, Mr. Smith, has there been any dialogue or communication at all between industry and the Board on the subject of a new facility? Or is it something that, through the process of osmosis, more or less, you picked out of the air?

MR. C. SMITH: I think osmosis would be a fair description, Mr. Thompson.

MR. CHAIRMAN: Or out on the the farm: tell a neighbor.

MR. C. SMITH: That's right.

MR. MARTIN: Just a couple. Just for clarification, under No. 1 on page 2, you recommend that consideration be given to revision of using lump sum payments rather than pensions for all permanent partial disabilities. You say that we should continue with monthly pensions for permanent total disabilities. Are you talking about a choice to the worker, that they could do it either way, or are you saying that it should be lump sum payments?

MR. C. SMITH: For the minor disability, we say it should be a lump sum payment for a disability of less than 10 per cent, for a permanent partial disability.

MR. MARTIN: And what about for higher than 10 per cent?

MR. C. SMITH: At higher than 10 per cent, the recommendation of the committee was that it should be for higher amounts. However, we also recognized that changing

circumstances on the part of the claimants on higher disabilities may make that unfavorable. Having had some experience with that when I worked with the B.C. Workers' Compensation Board, you had claimants who had lump sum payments who then, because of circumstance changes in later years, became disgruntled and were reapplying to the Board. That generated some great difficulties, which pensions wouldn't have. So I think the nature of the disability has to be taken into consideration.

MR. MARTIN: Just to follow up, would you see that at, say, 50 per cent, to pick a figure, that there would be a choice made to the worker for option number one or option number two? Do you see a choice involved in this at all?

MR. C. SMITH: Depending on the disability. For example, for someone who has lost one eye, that's a 20 per cent disability. That one you might look at as optional or non-optional. But depending on what the person is using the other eye for, what kind of circumstance they're in -- the second eye then makes it 100 per cent. In that particular case or for that type of disability, you may want to look at a different situation than someone who we'll say has lost a forearm and has an artificial limb with which they can function very well.

MR. MARTIN: Just one other area. I guess you're using some of your B.C. experience here on the adjudication policy manual. Can you just enlarge a little bit on what you want here? Is this back to the regulations that the Industry Task Force is talking about, or is this a different twist to it?

MR. C. SMITH: No, this is claims adjudication. In British Columbia they have quite an extensive manual of claims adjudication, which outlines the circumstances for claims. An example that came up in our committee and that led to this was one firm where an employee was killed. The claim was accepted because he was driving a company car, even though he was considerably off the route. It was four hours from when he had left work, and he had spent three of those in a bar. They really didn't feel that that was anywhere within the control of the employer or that it should be an accepted claim.

It was accepted, but they felt the grounds it was accepted on were questionable and not defined. Part of the manual deals with the claims that occur off the employer's direct worksite, for example.

MR. MARTIN: And the rationale behind it.

MR. C. SMITH: And the rationale behind it, yes.

MR. MARTIN: Can you fill us in on what the situation is now?

MR. WISOCKY: In B.C.?

MR. MARTIN: No, what happens here?

MR. WISOCKY: As you know, we're in the midst of developing a claims manual which will be made public, as the minister has insinuated. But for the type of case the gentleman is talking about, we have internal documents and policies, which are not necessarily suitable for publication, which cover those types of situations. We don't mind going over those.

If I may, in the B.C. situation they developed a extensive manual, as Mr. Smith mentioned. They also publish what they call "significant decisions", which in essence, to

me, equates to policy changes per se by the Board and possibly in the area of example that Mr. Smith talked about.

MR. C. SMITH: So it's in process, then?

MR. WISOCKY: Yes. If I may, our bulletin info, which a lot of employers get, does contain — and I was checking with our communications department — some of the major policy changes, including the ones in 1980 about the back, and so forth.

MR. C. SMITH: Do you know what the progress on that manual is?

MR. WISOCKY: Well, I have the gentleman right beside me. As the minister has assured, it will be available very soon in the new year.

MR. CHAIRMAN: I have always said "I hope"; I didn't assure. As one of my colleagues says, I'm waiting for the bureaucracy to turn.

MR. RUNCK: A comment I would like to make on that is although we have a fair portion of this done, we really can't take much action in deciding which way to go until the select committee has had an opportunity to review the reports that have been submitted — and this is my own opinion — where some people are saying it should be policy and other people are saying it should be regulations and so on.

MRS. FYFE: I would just like to clarify what you said to Mr. Martin on No. 1, the lump sum payments and capitalizations. You said there should be flexibility and each case should be handled on its own. Yet in (a) you are suggesting that lump sum payouts be made and in (b) that monthly pensions for permanent total disability and for spouses continue. There is just a little bit of conflict between those two statements.

MR. C. SMITH: We are differentiating between permanent partial disability and permanent total disability. A totally disabled worker is very much in a different situation from a partially disabled worker. We feel that there should be an option, perhaps exercised more often, of your going to lump sum payments rather than a capitalized pension forever, for certain types of disabilities.

I don't think you can make it really simple, because what the recurrent problem potential is in certain disabilities is obviously going to have to be taken into consideration. We wouldn't propose to — I think only in consultation with claims, medical, and rehabilitation people could you determine where those lines fall. It's not a simple line, where you could say at X per cent, this is the way it should be. It obviously wouldn't serve the best interests of either the Board or the workers to do that.

MRS. FYFE: Would you see that it would be reasonable to allow the worker to have a greater say in which kind of settlement he would prefer?

MR. C. SMITH: Yes, within the guidelines, that the worker is aware of what future complications may be.

MRS. FYFE: The ones that you said you had previously noticed a problem with in British Columbia, would they have primarily been cases where there was a deterioration or a change in their condition?

MR. C. SMITH: Usually deterioration in the unemployment situation more so than

deterioration for reasons other than the actual industrial injury.

MRS. FYFE: Okay, thank you very much.

MR. R. MOORE: Mr. Smith, under your rehabilitation services, your point No. 7, you make the statement that the money allocated to rehabilitation is well spent. We've had previous submissions that there is a trend in the rehabilitation area to move more to the vocational end than the medical. Do you feel the money spent in the vocational end is well spent, or should it be expanded? What is your feeling on the money being spent in rehabilitation, medical versus vocational?

MR. C. SMITH: To me, rehabilitation that is purely medical does not serve the function of getting that worker back to the work force as a productive member of our society, so I would say it has to be vocational as well. The real objective of all rehabilitation is to get that person back to the work force or make widows who were dependants and on pension capable of looking after themselves, is it not? That's how I would see it.

MR. CHAIRMAN: Any other comments, questions, or clarifications? I want to say thank you, Mr. Smith, and look forward to your contacting my office, if you need to, for a visit for you and your colleagues to the present rehab facilities. I observe that you have a good understanding of workers' compensation, and you've admitted it's from your employment in B.C.

Before I conclude, you refer to a present arrangement on claims appeal. Could you be more specific? My understanding is that there are no members on the Claims Services Review Committee here in Alberta, which is the first appeal level after the claims department, who were in the initial stages of handling the claim. And the last step is the Board itself. Where is the difficulty here in Alberta? In '79 when we reviewed B.C., we were advised that they are running as much as nine months behind time. Could you just elaborate on this concern you have under claims appeal?

MR. C. SMITH: The concern is very simply that the second or third steps in your claims review do not appear to be impartial.

MR. CHAIRMAN: They're all Board people.

MR. C. SMITH: The statement that Caesar's wife must not only be virtuous but must appear to be virtuous applies here. The fact that they're Board people makes it appear not to be impartial. We feel that a tribunal representing management, labor, and government — a tripartite type of appeal board — would certainly appear to be much more virtuous. They may in fact do no better job than is being done now.

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

MR. C. SMITH: But they would certainly appear to be more impartial.

MR. CHAIRMAN: Thank you very much.

MR. C. SMITH: Thank you very much. I will forward more information to you on that insurance situation.

MR. CHAIRMAN: We'd welcome that on the reinsurance of — I refer to them as offshore workers.

MR. C. SMITH: I'll forward more information to you on that.

Canadian Pacific Limited

MR. CHAIRMAN: The Canadian Pacific Limited people, Mr. Garroni and Ms Sugimoto.

MS SUGIMOTO: Sugimoto.

MR. CHAIRMAN: I just about had it accurate.

MS SUGIMOTO: Just about, sir.

MR. CHAIRMAN: We have your submission. We have approximately a half-hour of time. It can be extended a little bit more, but not too much more.

MS SUGIMOTO: I'll talk fast.

MR. CHAIRMAN: No, that's not being asked of you. It's just to give us an opportunity to do both and clarifications. You're welcome to make your presentation on your brief and your elaboration now.

MS SUGIMOTO: Thank you, Mr. Chairman. First of all, I'd like to introduce myself. I'm Laura Sugimoto. I'm with the CP law department. With me is Mr. Garroni, who is the general claims agent for Canadian Pacific Limited here in Calgary. We are appearing today on behalf of Canadian Pacific Limited and three of the subsidiary companies; namely, CP Air, CP Express and Transport, and CP Hotels.

Before we start, I'd like to advise that we are associate members of the Industry Task Force, on the board, and that we endorse the submission the Task Force has already presented to you. I would like to say that we really appreciate the positive approach the Task Force took in preparing their submission. It helped us a great deal. They had access to a lot more specific information than we did.

What we would like to do today is briefly cover certain concerns of the Canadian Pacific group of companies. Presently Canadian Pacific Limited is still on deposit with the Board, and CP Air, CP Transport, and CP Hotels are on assessment. If all the companies had been under assessment this year, the total assessment we would have paid in Alberta would be approximately \$5 million. In 1982 the Board paid out just over half of that amount on those companies' behalf, just over \$2.5 million. So you can see that we have a fairly big financial stake in what's happening in the province of Alberta.

Our first concern has to do with deposit accounts. In Canada Canadian Pacific Limited is still on deposit accounts across the country, except in Saskatchewan. The situation is the same for CP Air and the other subsidiaries. We have never had any explanation as to why the Alberta Board moved to the assessment basis. We've never been given a policy reason as to why these companies have been taken off deposit. From speaking with the other scheduled air carriers and CN, we can only come to the conclusion that it's a money-making venture. We have some very big businesses here, with huge payrolls and good safety records, and the Board is making a lot of money by putting them on assessment rather than keeping them on deposit. I think if you look at exhibits A and H in our submission, which cover CP Air and CP Transport expenses, you'll look at the kind of money that is going out from the company for the return coming back from the Board. CP Air is a particular concern for us because of the volume of funds

that have gone out. If you'll notice, in 1983 the total assessment was just over \$180,000 and, as you can see from looking at the total claims paid between '78 and '82, they probably averaged about \$8,000.

We'd like you to consider reinstating deposit accounts. We're particularly interested from the point of view of Canadian Pacific Limited railway and CP Air. These two divisions of the company are federal undertakings. They are governed by federal legislation, and they're not in competition with any intraprovincial businesses. Certainly from the railway's perspective there is only CN and CP in Alberta, and no one is going to be harmed by their staying on deposit. These companies are basically self-insured and quite capable of absorbing any risk without any detriment to any employees. We would prefer to see deposit accounts retained for such operations.

Turning to the whole area of assessments and merit rebate/superassessments, I think you can come to the conclusion from the submissions that have been made to you and also from the annual report itself that something is not working in the system. Present assessment rates can't be accurate, because the Board should not be operating at the kind of deficit it is presently operating at. The merit rebate/superassessment program is not working either.

With respect to assessments, the current rates do not discriminate between employers in any particular, given class. By that I mean that some employers clearly have excellent records, some are average, and some are consistently poor. If you look at sections 91 and 92 of the Workers' Compensation Act, they authorize experience rating — particularly section 91(2)(c), which specifically authorizes assessments based on hazard. If the Board moved toward some form of exercising these powers on an experience rating basis, I think they might satisfy employers' concerns. As it presently stands, employers are not getting any benefit for any kind of internal safety program they may have. CP Air is an example: a good internal safety program, low claims, and extremely high assessments because it's part of the air industry. It's very hard for us to justify that.

In conjunction with this, I think the merit rebate/superassessment program should be revised. According to the 1982 annual report, 23 per cent of the total assessments were refunded. That's nearly \$84 million. It indicates that generally there is good claims experience in the province. As a whole, employers have a pretty good record. Then why is the Board operating at the deficit it is operating at? I think it must indicate that there has to be a greater increase on the superassessment side. The punitive effect of superassessments has to be increased.

I notice that section 108 of the Act gives the Board the authority to add additional assessments for unsafe working conditions. Does the Board ever do that? I think the thing is that employers with good experiences have to be allowed to keep their money. If you have \$84 million that you're taking out of the economy for a whole year and then giving back, there is something wrong. The money should be kept in the Alberta economy. It's only going to benefit workers in the end if the money can be used in the economy to help generate the recovery of this province.

In the same vein, we're still concerned about classifications. We see a growing trend toward larger classifications and lumping industries together, along with the fact that there is a problem with no recognition of the various kinds of safety records of the different employees within a class. There's no recognition of the different risks within a particular industry.

We would prefer to see people grouped by occupation. Looking at the assessment booklet, we see that the construction industry really is broken down by occupation. As you are well aware, for something like CP Transport, warehousemen are under less risk than drivers, yet we pay everybody on the driver basis. For CP Air, we have ticket agents whose risk is much less than flight crews, and their risk is different from

mechanics' as well; yet we're paying as though everybody were in the air. If it's not possible to go by occupation, we'd at least like to have some greater recognition of the risk differentials. This is one of the reasons we sent you a copy of the submission we made to the Board directly on behalf of CP Air.

There has been some talk about reorganizing the air industry classifications to one, all in the air industry. CP Air made a submission on this point, as did Air Canada, PWA, and Wardair, because we are very concerned with the lumping together of an industry without any recognition for the fact that there may be a considerable difference in the risk between a scheduled air carrier of the size of Air Canada or CP Air, for example, and someone who's operating a crop-dusting service.

One of the problems for us, of course, is that to prepare something like this submission on CP Air takes a lot of our time and costs us a lot of money. Of course, the company has the resources to fight these things, but I think Mr. Garroni would tell you that we'd rather be doing something else. From my own perspective, I put in about 45 hours to do this. That costs CP Air quite a bit of money, because they do have to pay me.

At the same time, one of the things I'd like to bring up — it's not quite relevant to this — has to do with the air lines. Right now out-of-province flight crews are being assessed in Alberta. If an air line flies into Calgary from Vancouver, it's flying on a crew that is based in Vancouver and actually lives in Vancouver and is assessed under the B.C. Board. The air line has to figure out how much time they're in the province of Alberta, let the Board know how much of the salary is assessable in Alberta, and then pay assessments in Alberta. It's a tremendous administrative hassle within the company to prepare those figures, and it makes no sense because, even if an accident happened in Alberta, those people would be covered by the B.C. Board. We would much appreciate seeing our out-of-province flight crews put back under their proper jurisdiction, which would be the board that covers their home base.

MR. CHAIRMAN: Ms Sugimoto, can I just interject here? My understanding is that the air crew would have the option, if they had an accident in Alberta, to claim under the Alberta Act.

MS SUGIMOTO: Yes, I think they would, sir. But I think it's only reasonable to assume that they would claim through their own provincial board. I can't imagine a situation in which someone who is living in Vancouver would want to go to the Alberta Board to recover — just the logistics of trying to deal with another province when you could go to the board that's in your home town.

MR. NELSON: How about a higher rate?

MS SUGIMOTO: Yes, a higher rate might make a big difference.

MR. CHAIRMAN: Well, that's why I interjected, because that's not the experience. The experience is that if the accident happened in Alberta, they are making their claims on an Alberta basis because of our, as somebody said yesterday, more generous approach to claimants.

MS SUGIMOTO: That goes to something else we're concerned about here: continuity across the country.

MR. CHAIRMAN: I hesitated to interject, but I must because of the fact you were covering the coverage in the provinces and you're unique in that. Go ahead.

MS SUGIMOTO: That actually wasn't something I was going to talk about. I'm glad you raised that, sir.

MR. GARRONI: I believe it would only be in the event of a serious accident that an employee would claim under Alberta rather than B.C. It's more convenient, as she indicated, to deal with the board in the province where you work.

MR. CHAIRMAN: Where you live.

MR. GARRONI: Yes. It would only be a serious accident.

MR. CHAIRMAN: My office has had the opposite experience.

MR. GARRONI: I see. Okay.

MR. CHAIRMAN: Benefits dictate a lot to the claimant, where they are going to make their claim.

MS SUGIMOTO: As I said, that goes to what we're concerned about.

Generally, with respect to the classification of industry as a whole, we would just like to see greater consultation with industry to set the parameters of the classifications of the groups.

Now we come to the real essence of what we're complaining about, and that is accountability and accessibility. In our experience, employers have never had any say in what happens under workers' compensation. We feel that we've never been consulted. We're only told what the Board wants to do or plans to do; then we have to fight this rear guard action to come back. For example, with the CP Air submission we're on the defensive. That may be one reason you have this great outpouring of employers coming to you and complaining. This is really the first time we've had an opportunity to express some of our general complaints and concerns and have some feeling that we're being listened to.

MR. CHAIRMAN: Ms Sugimoto, every employer group had a chance in '79, and the air carriers did not come forward in '79.

MS SUGIMOTO: Well, the air carriers had just made a submission a year previous.

MR. CHAIRMAN: I appreciate that.

MS SUGIMOTO: It seems like we're always coming. Our experience has been that we wound up handling everything on an ad hoc, case-by-case basis. I don't think that's a satisfactory approach. The most recent example is the health care statutes amendment Act. That's caused a lot of concern for us. We've seen it substantially increase the deficit of the Board, and yet we had very little input on what was actually going on. That's a concern, because the select committee in 1980 had made completely opposite recommendations. We didn't know that this was coming down. I guess it comes down to a question of who is paying the bills here, and why aren't the people paying the bills being consulted?

For us it's sort of indicative of some kind of overall lack of planning or philosophical approach to the Board. As the Industry Task Force stated, workers' compensation is not a social welfare program, and it's not supposed to be acting as the social conscience of

a social welfare program, and it's not supposed to be acting as the social conscience of the industry in this province. It has to function within the entire scheme of compensation in Canada, and that includes private insurance and the other government-assisted forms of coverage. If you look at what our company tries to do, we provide disability insurance for our employees through Sun Life. We have cases where employees are receiving Sun Life benefits, and then — I don't know whether they realize that compensation may be higher or what happens — they turn around and go to the Board and obtain compensation.

We would like to see the Board take cognizance of the fact that Sun Life benefits are being paid, for example, and in cases where it's questionable whether the injury may have occurred in the course and scope of employment, Sun Life be allowed to continue to carry the risk. A good example of this is one we actually appealed to the Board. It was where an employee had fallen in a parking lot after hours and broken his ankle. He was getting Sun Life coverage, and it was our feeling that he was adequately compensated. But the Board decided it was an iffy situation, and he was given compensation. I don't know exactly how the Board works with respect to return of payments to the insurance company, but I assume there must be some sort of arrangement between the various insurance companies and the Board. Hopefully Sun Life got paid back for what it had already paid out.

Something that would really assist us is some sort of definition of policy. We have found that we have had no access to information and, along with the lack of accountability, this is probably the most frustrating thing we have to deal with. I note that three years ago the select committee recommended the distribution of a consolidated policy manual. We have nothing. In the brief we mentioned some difficulties we've had with the Board's attitude toward secrecy. As an example, when we were trying to prepare this submission for CP Air, we wanted to find out who else was in our classification, 7-04. The Board wouldn't tell us; that was privileged information. Why, I don't know. By some scrounging, we finally managed to put together a list of some of the other people who were involved in our group, but it was not through the Board's assistance.

Another example that Mr. Garroni has had particular problems with is the partial and permanent disability rating schedule. Because CP Rail is still on deposit, we need access to that rating schedule so that we can budget how much we are going to have to put in or at least estimate how much we are going to have to put in some of those reserves, but that is a classified document at the Board. Mr. Garroni has no access to that rating schedule.

I would like to refer you to an article by a professor named Terrance Ison, and I assume you know who Mr. Ison is. He's a professor and he's done a lot of work for the Ontario and B.C. boards. This article appeared in the [1973] Law Society of Upper Canada lectures, and it's entitled Contemporary Developments and Reform in Personal Injury Compensation. He talks at great length about the problems with secrecy in agencies like the Board. This is what he has to say:

The greatest problem with the agencies now administering social insurance is the secrecy that envelopes their operations. This relates not only to the evidence upon which they act, but also to the procedures used, the law applied, and the reasons for decisions. Indeed, there is a risk in these systems of decisions being made by secret people, acting on secret evidence, referring to secret law, and reaching conclusions for secret reasons.

He goes into this a bit in depth. He's primarily talking about the Ontario Workmen's Compensation Board, but he says it "treats almost all the evidence gathered as secret".

He points out that this makes it impossible for anybody to decide whether or not to appeal, or exactly what your position is before the Board.

I have to say that Mr. Ison is primarily interested from the workers' point of view, but what he says holds true for employers as well.

He also says that probably the most serious problem is the problem of secret law. He says that there are "hardly any published regulations to speak of" and:

The operating rules under which the system is administered are contained partly in office manuals and partly in unwritten conventions.

He points out that this makes it practically impossible for anybody dealing with the system to know what's going on.

In the same vein, he points out that there are no written decisions, and again he says that because there are no written decisions it makes it very difficult to determine whether or not you should appeal. When he is speaking of the Ontario Board, he says that it purports to give reasons for decisions, but he says:

most of those that I have seen are not reasons at all. They are simply a brief recital of some evidence followed by a decree.

And then he says something which I think is really important and would really help us:

[These decisions] do not say what principles are being applied, or how these principles are derived, nor do they portray in any other way any movement of the mind from premises to conclusion.

That's our big problem. We deal with the Board. Mr. Garroni writes, and we get a letter back which says that compensation is going to be paid. We really have no evidence or reasons why this compensation is being paid. It's just being paid. That's frustrating for us. If we knew what the Board was using as a policy guideline, we would probably be a little bit less inclined to fight as much as we do. But because we don't know what's happening, we have to fight.

I guess the reason we feel we have to take as aggressive a stance as we have taken in making appeals to the various levels of the Board is that within CP companies we have a very detailed procedure for reporting and investigating accidents. It's part of our internal safety program. One of the things about the railway, I think, is that it is very safety conscious. You just have to go down to Ogden shop and look at the way the shops are run to see how concerned the company is about safety. Under those safety and reporting procedures, employees are required to report any injuries or problems immediately. There are first-aid people on site, and part of that reporting system helps us to report to the Board.

Occasionally, however, we have employees who go on compensation and the first knowledge we have of any incident is when we are notified by the Board that compensation is going to be paid. It has come to the point where our internal reporting system is becoming totally irrelevant, by virtue of the Board's handling of claims. What has happened is that if an injury is such that it could have occurred on the jobsite, the Board will accept it. The policy seems to be that the worker is always given the benefit of the doubt. That's frustrating for us, especially when we've had no previous knowledge of the accident. We've even had circumstances where an employee has said that there has been no accident and we have a written statement to that effect, and then compensation is paid.

Our experience has been that the onus placed on the employer is such in these instances that it can never be satisfied. There is no way the employer can ever refute an employee's word, if the employee is always given the benefit of the doubt. A good example of this is probably the hearing loss claims that we're seeing proliferating. These are claims that generally arise some time after someone has retired, well after the

mandatory age of 65. We have no way of knowing what's happened or whether this hearing loss is the result of a natural deterioration of hearing; yet the Board has started to pick up hearing loss claims.

Another real concern for us in the area of possible abuses of the system has to do with doctors. We've seen a lot of doctor shopping, where an employee will bounce from one doctor to another until he finds somebody who is going to give him longer periods of disability. In a few instances, we have also had cases where we know doctors have been diagnosing over the telephone. We can't do anything about that. This is something that only the Workers' Compensation Board can take steps to control. We strongly recommend that the Workers' Compensation Board sit down with the College of Physicians and Surgeons and work out some sort of program with the doctors in this province, so there is some sort of control over how certain employees are using certain doctors. Again, this would put more expense on the Board. But it may be that any workers' compensation claims should be handled only through Board doctors, who are experienced in industrial injuries and appreciate how long it may take to recover from a particular industrial disease.

Generally, we're also worried about workers' attitudes toward workers' compensation. I think the ultimate goal is rehabilitation. It's not to put somebody on some form of social assistance for the rest of his life but to see that he gets back into some sort of meaningful position and back into the work force. If you look at exhibit J in our submission, you'll see that we're beginning to think that maybe workers don't believe in that goal of rehabilitation.

One of the locals of one of our unions has decided that it's not going to take light duty. If the Board goes along with that argument, how can you argue that any kind of rehabilitation is going to take place? We're prepared to take workers who may be injured and put them into another position where they can work, and they don't want it. They want to stay on compensation. What are we supposed to do about that? Clearly there is a potential abuse of the system there.

The other thing that concerns us is that with the high benefits in Alberta, and the benefits that are not taxable — and as well, they're not attachable, so anybody who has a lot of creditors hounding him would be well advised to go on compensation if at all possible, because nobody could touch his compensation cheques — we have a movement toward compensation being looked at as an alternative to employment. I think that's very, very dangerous. There is no doubt that compensation is very necessary but — and this is a very big but — where is all the money going to come from to pay for this?

If we look at the other forms of social assistance that are in existence in Canada, we have unemployment insurance, Canada Pension Plan, welfare, health care. They're all government sponsored, and they're all paid for through taxes. Well, unemployment and CPP are contributions from employers and employees. They're all in trouble, or they will be in trouble. There has been a lot of talk about what's going to happen when my generation hits pension age.

The only system that seems to be working right now is the private insurance system, where it's individually funded. So if you have government systems based on the entire population of the country and they're in trouble, what's going to happen with workers' compensation, which is relying on payments from only one segment of society? There's only so much that employers can bear. Everyone must realize that employers cannot be an unlimited source of funds. I think now is the time that we have to implement some sweeping changes to the Workers' Compensation Act, to reflect present economic realities.

MR. CHAIRMAN: Ms Sugimoto, if I may just ask: from your presentation here, has Canadian Pacific Limited had the same opportunity to make these presentations in other

provinces, because you are a national employer?

MS SUGIMOTO: Yes. As I understand it, there are going to be some sort of hearings coming up in Quebec fairly soon. But I don't think any of the other provinces have really undertaken any sort of ongoing consideration. I know that in B.C., of course, there is an employers' council. Mr. Garroni may correct me, but I understand that CP has been active through the employers' council in making representations to the Workers' Compensation Board on an ongoing basis in B.C.

MR. CHAIRMAN: You refer to B.C. Can I just have a feeling from the employers' council, if you are involved with the B.C. employers' council, Mr. Garroni? What stand has the employers' council taken on the 35 per cent surcharge on WCB claims and medical costs in B.C.?

MR. GARRONI: I can't answer that, sir.

MRS. FYFE: You made a lot of very general statements, and it may be more difficult to ask a specific question. I guess I'm a bit troubled. You started out by saying you support the position of the Industry Task Force, and you concluded by making some very extreme comments, in my opinion, about radical changes to the basic principles of workers' compensation. The Industry Task Force put forward some alternatives that will be considered very carefully, but to change the principles — greater participation by workers and going to private insurance companies is really a departure from the Industry Task Force. I'm really wondering which one you're supporting.

MS SUGIMOTO: Okay. I think generally the Industry Task Force is very specific. They had access to some specific information we didn't have, so they were able to get down to dollars and cents and different kinds of figures. They were able to give you very specific things that they thought should be implemented, and basically we support them throughout.

What we're saying is that our concerns are more general, and these are some of the things we would like you to look at — perhaps, as we suggested in the brief, private disability insurance above a certain income level, not because those are specific things we think should be implemented right now but just to give you a feel for what we're concerned about and throw out some other suggestions.

In drafting this, I am a lawyer and not an accountant. I don't have the actuarial knowledge or expertise that the people who put the Task Force submission together have, so all I can give you are some general ideas, things that come to my mind. I guess I'm trying to say that we're supporting the Task Force and want you to consider those very carefully, but at the same time we want you to look at some of our general concerns.

MRS. FYFE: You wrote this report. What kind of support does it get within the company? Do you distribute this and your senior executives . . .

MS SUGIMOTO: It's been through the . . . It has gone out to the subsidiaries as well, and everyone has supported us and basically had nothing further to add to it.

MRS. FYFE: So basically, then, this would be a submission from the board.

MS SUGIMOTO: I couldn't say it would be a submission from the board itself because, of course, the board has not seen it.

MRS. FYFE: One last question. Have you done any comparison with carriers in the United States in states where they do have private insurance?

MR. CHAIRMAN: The optional private.

MS SUGIMOTO: Right. I haven't looked at the railway end of it. From the air line end of it, CP Air pays a lot less on anything that may be covered in the states than they pay in Canada. Their expenses are a lot lower.

MR. CHAIRMAN: Would you send us that information on comparison?

MS SUGIMOTO: Yes, I should be able to get it for you.

MR. CHAIRMAN: Thank you.

MR. THOMPSON: Mr. Chairman, I've had some difficulty following Ms Sugimoto's presentation regarding classes, somewhat like Myrna had. They support the Industry Task Force for fewer classes and yet . . .

MS SUGIMOTO: I have to admit that that's one point where I know we're diverging a bit from what the Task Force has said. I agree, that's one area. They have asked to have fewer and fewer classes, I think mostly for administrative cost reduction. It's not that I want to see a proliferation of classes, but I want to see some kind of discrimination within a class to recognize that there are distinctions between employers within a particular class. As I indicated, I think our preference really would be by occupation. That, of course, is not a position the Task Force is taking.

MR. GARRONI: In particular, CP Air is what we are talking about there, I believe, the air lines industry.

MR. THOMPSON: But yes or no. Do you want fewer classes or more classes?

MS SUGIMOTO: That doesn't matter to me. What I would like to have is some form of classification that accurately reflects the risk that a particular employer has.

MR. THOMPSON: Mr. Chairman, one more thing on the confidentiality bit. You went into that to some degree. Isn't it the experience of a company like CP or most anyone else that the less confidentiality involved, the less accurate and more general the reports are?

MS SUGIMOTO: I don't know that that is in fact the case. With respect to confidentiality, I don't think it should cause the Board that much problem. If you look at medical records, for example, I can see this is a real problem because you want to maintain the confidentiality between patient and doctor, and in fact that was a recommendation from the select committee in 1980. But we have found that when we're trying to determine whether or not we should appeal in a particular situation and we ask for some breakdown on medical evidence, so at least we can refer it to our doctors to see what our position is, we will get virtually nothing from the Board.

We had one instance we appealed very recently, and we had no information. The Board gave us a paragraph this big, saying we have sufficient medical evidence to grant compensation. So we appealed it. We walked into the committee hearing and they have a file this thick. Now if they had summarized some of that for us, we might never have

appealed. But we don't know. So our problem is, give us something; don't give us your entire file, but give us something so that we know what's going on.

MR. THOMPSON: On this one subject, isn't it company policy that your doctors are involved in accidents and report to your company on the accident, from a medical point of view?

MS SUGIMOTO: Not necessarily.

MR. GARRONI: I don't think that's really the question, Mr. Thompson. The thing is that we are under a deposit account. It's our money, right out of our pocket. All we want to know is why this claim is being paid. The employee says: I didn't have an accident; nothing happened. The Board says: we are paying this; we are giving him the benefit of the doubt.

MR. CHAIRMAN: Mr. Garroni, I must ask you to give my office an example where the employee said there was no accident.

MS SUGIMOTO: We've got some.

MR. CHAIRMAN: Please, because I haven't received them. I can appreciate what Ms Sugimoto indicated, when she made that statement earlier. The employee said he had no accident, but the Board's paying a claim. We, the committee members, say we just need some information.

MR. GARRONI: No problem.

MS SUGIMOTO: That's fine; we can provide that.

MR. CHAIRMAN: Okay. All you have to do is give us the claim number and we'll look into it. That is the most difficult thing for us MLAs to accept, and we'll try to correct it.

MR. GARRONI: It's very difficult for us to accept as well, sir. At the same time, would you also like the claim numbers of cases that have been accepted only on the benefit of the doubt and for no other reason? I can provide you with dozens of those.

MR. WISOCKY: I guess, Mr. Chairman, we'd like some examples but not the 45 you sometimes give us.

MS SUGIMOTO: It's more than 45.

MR. WISOCKY: More than 45.

MR. GARRONI: I'm sorry; I didn't hear you.

MR. WISOCKY: Some examples, not the 45 or so that you can dig up very readily.

Just a point, Mr. Chairman. Mr. Garroni is a regular visitor to our offices. I understand that he regularly discusses cases in considerable detail with our staff. We're quite open with him at the appeals level or any level. We do have a medical director, and I'm sure that if you get a waiver from the man, you get medical records from attending doctors. I'm sure he can do that if he so chooses. So those are some of the things that I

sometimes wonder about.

MR. GARRONI: If I can answer that, I believe it's only in the last month that — I just forget the chap's name that's here who came to visit me. He said: if you have any problems, I'm your contact man. Before it was correspondence to Edmonton. If this person was available here, it was not known to me. It was correspondence, and as I said: we are paying strictly — not all cases; don't misunderstand me — on Board policy or we are giving them the benefit of the doubt, period; case closed. I don't have the time to appeal all these cases. This is what I object to. If the Board would only say: we are accepting this claim because . . . Give me a reason.

MR. WISOCKY: So you're fairly supportive of the new counselling program we're trying out.

MR. GARRONI: Well, this business only started a month ago. I have been getting a lot of co-operation in the last month.

MR. CHAIRMAN: Okay. I'm glad that's in place. Ray Martin, you had a clarification.

MR. MARTIN: Yes, just to follow the benefit of the doubt. That's a difficult one. Who should it go to? Always to CP? Is that what you're suggesting?

MS SUGIMOTO: No, I don't think we're saying that at all. But I think the problem is where you have a problem that's not reported to the company and no claim is made for a couple of weeks after the supposed incident has occurred and the circumstances are generally dubious. Perhaps there should just be more . . .

MR. MARTIN: You're talking about case by case.

MS SUGIMOTO: Case by case, that's right.

MR. MARTIN: Okay. I'll go into a different area that is specific, because a lot of the things are covered in the Industry Task Force. I think you've anticipated — we were told by the smaller carriers that presented a brief to us in Red Deer. They're arguing the opposite point, and they told us the arguments you'd be presenting.

MS SUGIMOTO: Is this the air line carriers?

MR. MARTIN: Right, the smaller carriers. Of course, this comes down to the whole classification system. Mr. Thompson brought that up, because there was a contradiction in terms of what industry was saying. They're saying that basically they're in the same business as you and, while your accident rate is good, they would point out that if there were one major accident — not to your air line recently, but there's the Gimli carrier and others — that would affect the rates. They are suggesting that there should not be a breaking down. How do you counteract that?

MS SUGIMOTO: I think the first thing, of course, is that we're not in the same business. The air lines are in the business of carrying passengers — the scheduled carriers. They only fly scheduled routes. They fly big planes. They fly under instrument flight rules. They're flying into controlled airports like Calgary, Edmonton, and Lethbridge. You have people who are carrying on different kinds of operations. In the class 7-05 group, particularly, they are crop dusters, water bombers, somebody who might be flying

equipment into a fishing camp or some sort of industry oil camp up north. They're not flying on instrument flight rules; they're only flying under visual flight rules. Of course, then there are the helicopters, who are a different group again.

We have suggested to the Board — and this is basically the recommendation of Air Canada, Wardair, and PWA — that classifications for the air industry be broken down by size of aircraft, fixed wing over 12,500 pounds operating under the respective federal government regulations for such size aircraft; operating on instrument flight rules, which means they have to be flying into an instrument flight airport like Calgary, Edmonton, or Lethbridge. Basically we'll take anything that's comparable to that group. Anybody who's not doing that, we really don't want to be associated with. A good example of who might fall into that group: PWA apparently has a Hercules, which is a very large aircraft. They occasionally fly equipment up north. If they were flying charter flights on a Hercules, which I understand is about 175,000 pounds — well over the 12,500 limit — into a small oil camp up north, they would fall into 7-05. They would not come in under the scheduled air carriers. That's basically what we would like to see for the air lines, some recognition that the risk is totally different.

MR. MARTIN: If I could just follow up. Of course, their perception is that they feel the major industry has much more clout, and they feel quite hard done by. But no matter what classification system — and I understand what you're saying — somebody is going to be complaining about the classification system. It becomes very difficult. Major industry is saying: have fewer classes, because you'll cut down administrative costs. To some degree, you are saying more classes. Of course, that would add to the administrative costs, would it not?

MS SUGIMOTO: I think perhaps it could all be accommodated if we moved to some form of experience rating.

MR. MARTIN: So that's where you come together from.

MS SUGIMOTO: I think that's the direction we ultimately have to go. We certainly don't want to see the administrative costs of the Board increase, but we want to have some recognition of the fact that our experiences are totally different.

MR. CHAIRMAN: Okay, I must say we have extended past the half-hour and apologize to Mr. Klein, who may be waiting. Just before we break off, is Mr. Klein present? Okay, fine.

To you, Ms Sugimoto and Mr. Garroni, we thank you for this. Because you are a national employer, particularly in the references made by Mr. Thompson and Mr. Martin, the select committee would welcome assistance from your office on the area of how you are classed in other provinces. You must have it very handy. My information is that under the Alberta Workers' Compensation Act, we have the most classes of any compensation plan in Canada. That is why the Task Force and many employers have asked us to reduce the classes. So if you have that information, it would help us. I think we're facing a real challenge here to resolve the opposition to your scheduled carriers presentation. You remain separate from the others.

Thank you for your time.

MS SUGIMOTO: Thank you.

MR. CHAIRMAN: As Mr. Klein comes forward, if there are any claimants or employers that have an individual problem, I would welcome the individual concerned to come and

Speak to my staff on the right, to resolve your own concerns about a claim or an account. We don't have the time to permit you to come forward, because it hasn't been scheduled — but if there is a particular concern.

Mr. J. Klein

MR. CHAIRMAN: Mr. Klein is a claimant, but in his correspondence with my office he has some concerns about the legislation. On that basis, Mr. Klein, the committee would like to have you make your representation on the Act, which you feel is unfair to a claimant at present. Please proceed.

MR. PENNER: Mr. Klein is deaf and couldn't hear a word that you said, Mr. Chairman. He has prepared the dissertation he would like to put before you here, if you would like to have him just read that for you. He's quite nervous, and I don't think he would be able to say it off the cuff. So I'll let him read it and, if it's getting too far off the track, perhaps you can bring me back and I'll write it out for you.

MR. CHAIRMAN: I'll signal like this.

MR. PENNER: Okay, fine.

MR. KLEIN: When the original doctor on the injury claim is no longer available due to retirement or death and medical records have been destroyed, WC is the only one that now has these records but won't turn them over to the new doctor. Original medical reports such as exact, true extent of injury, related treatment received, and recommendations are of vital importance. The new doctor cannot prove to the satisfaction of WCB that what happened 15 years ago is all related to the present disability or not. WCB will set a 10 or 12 per cent disability factor based on the original injury; related added disability now has to be proven by the doctor.

Only with an example, as in my case, can I explain properly about original injury. Both knees flared up simultaneously, requiring keeping off feet for one week, off knees for more weeks; warned by doctor that damage is severe. The second flare-up was about two years later but only the left knee this time. There is a medical name for this injury, and I believe it is on the original medical report. I had to keep the leg propped for three weeks; legs felt dead, like weighted down with 100 pounds. Doctor's check shows injury caused nervous system in knee area to severely flare up. This flare-up damaged the nerves to an extent where muscles won't operate, causing this weight factor. Both legs' muscles were damaged on first flare-up. On the second flare-up I was sent to the therapy clinic for a report and therapy. The left leg couldn't lift two pounds; the right leg seven pounds. Normal would be around 30 pounds or more. Three months of therapy failed to improve it to any degree. More months were recommended by the clinic, but the WCB balked at further therapy.

My new doctor required these two medical reports to prove my present condition is related. WCB tells my doctor I have a slight left knee injury, no more. I was able to work 15 years with the disability, when the last flare-up eight years ago put an end to any further work. Doctors estimate that osteoarthritis had set in, in both joints, about 12 years ago or three years after first injury. My doctor says it is typical for such injury. WCB won't accept it.

My new doctor requested WCB to make a full settlement. WCB does this but in such a way that it's to my disadvantage, due to a package of pensions which otherwise should have been a full WCB responsibility. I lost my own meager company pension paid into by

myself, now part of the WCB package. I lost indexing on federal disability pension to deduction on WCB supplement. Had the original doctor been alive and still handling my case or had the new doctors been given photostat copies of the original doctor's medical reports, this WCB minor left injury report would never have come up.

Safety hazards and regulations not enforced by WCB. Some of the jobs, like the Corral, the uptown theatre, and the Edmonton exhibition, lasted five months, six to seven days a week, eight to 10 hours a day, with up to seven hammers in operation and heavy crate lifting, generators up to 1,500 pounds. WCB had personnel check mostly with the employer but never forced the employer to rectify hazards. In smaller town, no doctors are available and the injury was left until we got back to our home base and almost forgotten by then. Then in a city like Edmonton, it was impossible to get proper medical and pension. My left index finger is an example of malpractice by a doctor.

Excessive appointments are asked for by doctors — come back in two or three weeks. It's impossible for workers like me to get to see the doctor in six months. In this case, new doctors won't co-operate, such as getting claims filed with WCB. This comes up a lot in hearing.

MR. PENNER: Read just a little bit slower.

MR. KLEIN: Okay. Most doctors are unfamiliar with small jack hammers, and doctors won't go to the jobsite to check it out. This therefore requires someone with authority, likely WCB, to record noise level and conditions of work and give it to hearing doctor to get the claim properly processed; otherwise, again it is a run around the mulberry bush.

Requests by claimants for WCB to appoint doctors on their behalf if surgery is necessary or recommended are refused. Family doctor or specialist's recommendations are to be accepted. When surgery causes more disability, WCB says it is not recommended by WCB. Now we have two or more doctors on their behalf to verify that it wasn't recommended by them but who refuse to do so when requested by claimant before the surgery. This added disability can be major, and the claimant gets nothing. Yet the regulations are that your doctor's recommendations have to be adhered to; if not, the claim can be lost. This puts the claimant, like in my case — it was damned if I do and damned if I don't. Communication with Edmonton WCB impossible at times and, although the local WCB is very courteous, it hasn't got authority to do anything except get communication started.

Interpretation of contract letter — no way to settle it. The WC interpretation stands.

Now the summary of what all this amounts to for a claimant like me: up to three years to reach a settlement; turned into a package pension instead of a straight WCB pension; claimant loses on his premature personal retirement pension, plus Canada disability pension; indexing on Canada pension loss is deducted from the supplement; supplement not especially a balanced scale in 1983; no indexing of any kind by WCB. The disability is not recognized by anyone if the patient can still crawl on all fours. All extra expenses a disabled person requires are not recognized — no grants or rebates where a person could get some benefits. It stipulates: must be married, widow, or widower; yet I paid taxes for 38 years. The social service guide to disabled Albertans does not apply to WCB disabled, and the WCB has nothing for them if problems come up.

Spending by the civic government, as in my area, can lead to excessive taxes, and insurance companies, utilities, and gas all follow suit. A \$300 increase in pension doesn't cover gas and utilities hikes. Pensioners are up against the wall, and the WCB and the government doesn't recognize this. Data resources statistics are a hoax as far as the disabled person is concerned. Inflation is far over 12 per cent.

Thank you.

MR. CHAIRMAN: Can we have your name, please, for the record?

MR. PENNER: My name is Alex Penner. I'm Mr. Klein's brother-in-law.

MR. CHAIRMAN: Okay. Mr. Penner, as you're aware, there were three areas in the correspondence Mr. Klein had with my office, and that is why I recommended to the secretary to schedule it. This is for the benefit of the committee, and they may want to ask you questions on the supplement that is now legislated to be discontinued at age 65; no increase to permanent pensions in 1983. You'd be prepared to answer on behalf of Mr. Klein if any clarification is needed?

MR. PENNER: Yes. I'll write it out for him, and he will give the answer.

MR. CHAIRMAN: Any questions? Okay, assure Mr. Klein that we welcome that he came forward. What he has read to us will be given to us in transcript. We'll be able to read it and refer to the concerns he has as a claimant. Thank you for coming forward.

MR. PENNER: Thank you very much.

MR. CHAIRMAN: Okay, we will adjourn now until one o'clock. At one o'clock we have Diamond Enterprises Western Ltd., please.

[The meeting recessed at 11:50 a.m. and resumed at 1 p.m.]

MR. CHAIRMAN: If we can have the committee come to order.

Diamond Enterprises Western Ltd.

MR. CHAIRMAN: Mr. Glynn, we would like to give you the opportunity to recap and maybe make some comments you have prepared. We have about a half-hour and would hope that there will be some time for some clarifications or questions.

MR. GLYNN: Thank you, Mr. Chairman and associate members. My name is Andrew Joseph Glynn, president of Diamond Enterprises Western Ltd.

Under section 2 of the Workers' Compensation Board of Alberta [form], our firm applied for coverage for myself in the amount of \$40,000 yearly, for compensation. Our firm has never had a major claim on a director. In applying for coverage in February, we felt we had \$40,000 on myself. A copy was delivered to your office. If \$60,000 coverage were available, we would have applied for this amount.

On April 11, 1983, I was in a motor accident in Toronto while on business. In applying for compensation, I found I only had \$26,520 coverage, which the Compensation Board says is the maximum amount of coverage possible. If in taking coverage in February, we had only \$26,520 coverage, why were we paying 4 per cent of \$40,000 for coverage fees? The Workers' Compensation Board claims it is paying \$40,000, with the \$13,480 deduction for taxes, which Revenue Canada deducts from my wages.

Firstly, I'm under the firm belief that Revenue Canada is the only agency in Canada that has the sole right to deduct income tax from my wages. Secondly, every employee and employer knows that there are no taxes on any insurance settlement of any kind. Thirdly, what is a government agency doing selling compensation coverage at \$40,000 and, when a worker comes to collect, he finds he only has \$26,500 coverage?

Under the documents signed by our firm and coverage accepted by the WCB, we feel that we have a full \$40,000 coverage. Anything less is accepted as fraud by the WCB, as we have asked your permission to take steps to go to the Supreme Court of Canada for a decision. If I had known I was covered for \$26,500, I would have had private coverage elsewhere. This was the agreed amount of coverage back in February. It is very similar to an insurance company denying a claim when everything was prearranged and in writing at an earlier date, and they want to lower the amount of the insurance coverage. Furthermore, this is one claim where the WCB should recover 100 per cent of their loss from the motor insurance company that caused the accident.

I respectfully thank you for your valued time to hear this case.

MR. CHAIRMAN: Questions.

MR. THOMPSON: Mr. Glynn, you said you are a director of a company.

MR. GLYNN: Yes.

MR. THOMPSON: Do you have any employees in that company?

MR. GLYNN: Yes.

MR. THOMPSON: You said that you have paid workers' compensation in the past on these employees but, up until this time, you have never understood the terms: that you are paying up to \$40,000 on payroll, but it's 90 per cent of net.

MR. GLYNN: I have to show you how you may get covered as a director. A director, all by himself, has to list underneath that he is the director.

MR. CHAIRMAN: We have that form, Mr. Glynn. You sent it to us.

MR. THOMPSON: I was just on the business of the misunderstanding you have between the \$40,000 payroll assessment and the actual amount of compensation that your party, worker, director, or whatever, gets. If you had dealings with the Workers' Compensation Board in the past, I would be somewhat surprised that you didn't really understand that.

MR. GLYNN: I understand it very well. I see where my employees are deducted maybe 10 per cent of their actual wages, where I am deducted something like 30 per cent.

MR. CHAIRMAN: No, Mr. Glynn. They're deducted on the same formula as you are. They get 90 per cent of their net take-home pay — as you said, your estimated employee payroll. If you had one employee earning \$35,000, his compensation would be based on the same formula as yours. The net income, take-home pay, would be arrived at, and then 90 per cent of that would be what would be compensated to him for lost earnings. So the employee is on the same formula as you are. Previously that was 75 per cent of gross.

MR. GLYNN: I realize that. At the same time, it appears in black and white that they are selling you \$40,000 worth of coverage, which is less 10 per cent. I would agree on that 10 per cent, but that's as far as I could agree.

MR. CHAIRMAN: Mr. Glynn, how long have you dealt with the Board? I think Mr. Thompson was sort of referring to it.

MR. GLYNN: How long have I dealt with the Board?

MR. CHAIRMAN: Yes.

MR. GLYNN: Maybe over 15 years. We've had very few claims.

MR. CHAIRMAN: But you've had to fill out an estimate of payroll and so forth in previous years.

MR. GLYNN: Yes. But we've never actually got to see the coverage or how the results were made on our employees.

MR. CHAIRMAN: The Act was there, Mr. Glynn. It's always been available to every employer. It was passed in the Legislature. It's not a secret document.
Any other questions?

MR. MARTIN: You had an accident, and you thought you would be covered at the full \$40,000. Is that what you're saying?

MR. GLYNN: At the \$40,000, yes.

MR. MARTIN: And it was a surprise to you that it was at 90 per cent of net earnings.

MR. GLYNN: Ninety per cent is fine. What happened is the Compensation Board came to us and said that our maximum fee was \$510 per week; that's all you're going to get. It comes to \$26,500. Forty thousand [dollars] less 10 per cent is \$36,000 yearly. I'm nearly \$10,000 less than that.

MR. CHAIRMAN: Mr. Glynn, it's 90 per cent of net, take-home pay, not 90 per cent of gross pay.

MR. GLYNN: I would agree with this on an employer, but I will not agree with this in the case of a director, where you state that we have to list how much money we want coverage for. We are allowed coverage from \$9,900 to \$40,000. That's the coverage you state we're allowed: \$9,900 to \$40,000. If we take the \$40,000 and you then dock us 10 per cent, there's no problem. But you don't all of a sudden say that the maximum amount we now pay is \$26,500.

MR. CHAIRMAN: Mr. Glynn, it's not all of a sudden. The Act deals with all claimants equally, in the same way. It's 90 per cent of net, take-home pay. Because it isn't a taxable benefit, in '79 the select committee and the Legislature, which I would say was almost unanimous — I don't recall anyone dissenting — agreed that the compensation would be legislated as of January 1, 1982, on the basis of 90 per cent of net, take-home pay. We've had representation here in the last three days criticizing that the ceiling is too high. Your concern is that section 2 of the form isn't clear for you, but . . .

MR. GLYNN: It's not only not clear, Mr. Chairman . . .

MR. CHAIRMAN: But the Act is here.

MR. GLYNN: If we're paying on \$26,500, why isn't \$26,500 listed? Why are we paying 4

per cent on \$40,000, when we can go to a private insurance company and get \$40,000 at 4 per cent for 24 hours' coverage?

MR. CHAIRMAN: But that's why the director's is an optional coverage; it's not a required coverage. You chose to buy the director's coverage. You could have gone to private coverage. Under law in Alberta, the only person that can't be covered by a private carrier is your employee. But you as a director have the option. As I sit here as chairman, I must say that it was the fact that you were not aware of the Act. The old cliché that ignorance of the law is something that government cannot be responsible for has long been around. If a citizen does not know the law . . .

MR. GLYNN: Mr. Chairman, I've read the Act. Maybe you would have the Board write me the section that covers that.

MR. CHAIRMAN: John.

MR. WISOCKY: I believe it's section 51(7) or (8). I can just get it out.

MR. CHAIRMAN: If I may read section 51(7) for your benefit:

The amount of the periodic payment of compensation is
(a) in the case of permanent total disability and temporary total disability, 90% of the worker's actual net earnings or average net earnings, as the case may be, and
(b) in the case of permanent partial disability and temporary partial disability, a proportionate part of 90% of the worker's actual net earnings or average net earnings, as the case may be, based on the Board's estimate of the impairment of earning capacity from the nature and degree . . .

It's here.

MR. WISOCKY: Mr. Chairman, if I may. Regulation 1 explains how it's calculated.

MR. CHAIRMAN: No other questions? I would like to assure you that we will be looking at the directors' coverage, because yesterday some employers made representation that they had a concern that directors may opt out and may leave a principal responsible for that coverage and open to tort. So we will be addressing it, and we will bear in mind your representation. Presently, it is all within the law.

MR. GLYNN: Okay. Thank you very much.

MR. CHAIRMAN: Thank you.

Calgary Action Group of the Disabled, please step forward.

Calgary Action Group of the Disabled

MR. CHAIRMAN: Okay, let's get the names on there first: Mr. Paden, Mr. Henderson, and Mr. Van Raamt. Who will be the kickoff pitcher?

UNIDENTIFIED SPEAKER: Mr. Paden.

MR. CHAIRMAN: Good. We have allotted a half-hour. You have shared your brief with

us today. We didn't have it ahead of time, so feel free to go through it for the benefit of the committee. Do speak up.

MR. PADEN: Mr. Chairman and members of the committee, before beginning to cover our brief, I would like to mention briefly that the Calgary Action Group of the Disabled is a channel for all handicapped persons, regardless of disability: sensorially impaired persons or physically or mentally handicapped persons. We are not a rehabilitation agency and do not provide direct service. We are also involved in areas where we — through government funding, thank you — are able to provide studies, papers, and workshops for the education of the public. The Calgary action group is a member of the Alberta committee of action groups and also a member of a group called COPOH, which is a coalition of provincial organizations of the handicapped.

In the short time since we became aware of this issue, mainly through the press, the Calgary Action Group of the Disabled has tried to collect the opinions of those handicapped persons who have been permanently disabled by industrial accidents in Calgary and now receive workers' compensation benefits. It should be noted throughout our presentation that the points we are making are all interrelated. One person may be more concerned about a certain aspect of this interrelationship than another. Thus, for example, a newly disabled worker may be more concerned about how to get the money to meet costs not incurred when able bodied than the actual amount of money. This concern for one person may cause disruption of family life for that person but not for another.

The first point agreed upon to be presented is that of new costs incurred as a result of the injury and its permanently disabling effects. The most important of these costs include: moving to adequate, accessible housing, estimated at \$15,000 to \$20,000; exchange of motor vehicle, at a cost of \$3,000 to \$6,000; loss of income by wife or husband, as the case may be, so he or she may care for the injured spouse; and other limited costs. Other cost factors on which we could not place a value include the loss of rights to further insurance and the loss of ability to obtain further financing through ordinary means, causing the need to liquidate necessary assets.

Pain and suffering is our second point. We do not deny the importance of profit and loss in business but, in the end, our most important concerns for ourselves and for others must be human concerns. Mental anguish, loss of self image and social status, physical pain and inconveniences and their side effects must all be considered. The dependency upon others imposed by a permanently disabling injury can certainly be problematic, especially if others in our family or society as a whole have not accepted that dependency as completely as is necessary.

Family life disruptions causing marital breakdown and image loss with one's children accompany all of the points made here. The permanently disabled person also faces a shortened life span due to the injury. To disabled individuals, in spite of society's group concern, the world seems suddenly inconsiderate and intolerant to new individual needs and cares. This emotion may be coupled with constant physical pain; thus the requirement of constantly being on medication, with its built-in hazards of unknown side effects. Finally, in attempting to allay some of these fears, the handicapped person discovers that there is no recourse open to him, simply because he is handicapped or for some other reason which seems to have no relationship to his human needs.

Having made these general points, we would like to comment briefly on the recommendations made by employers through the chamber of commerce. I would just like to mention that the group that formed to prepare this brief was made up of mainly permanently handicapped persons who will probably never be able to work again. We had some advice from people we consider to be in limbo; that is, they are disabled but may be able to return to light duties at some time in their working life. But at that time, they

will no longer be able to receive workmen's compensation. So they were concerned with: if I work and meet my responsibilities, I may not be able to receive compensation, and vice versa. The group that worked on this brief were mainly those who were permanently disabled by industrial accidents.

From the chamber of commerce brief, recommendation 1 — I won't bother to read the recommendation, as you all have it in front of you. Our comment is: as able-bodied workers, we indirectly paid high premiums for good benefits, and we should continue to get good benefits. The stacking benefits are required to cover the extra costs disabled workers incur, not covered by workmen's compensation.

The second recommendation, as you can see, is net earnings. Our comment is that disabled persons should be able to get increased income from income sources responsible for payments to them, just as they did with their employer. We refer you back to No. 1 above.

Recommendation 3, the maximum weekly compensation benefits. Our comment there is that we have no statistics about workmen's compensation premiums paid by employers in other provinces, so we cannot make comparisons between Alberta and other provinces concerning disability payouts.

Recommendation 4, permanent partial disability awards. We agree with this recommendation, as we feel that it is already in effect.

Recommendation 5, indexing of disability awards. Our comment here mentions that CPI seems to currently represent fair amounts of money to keep up with inflation. Inflation generally seems to outstrip CPI. The premiums paid by employers are indirectly borne by the employees through profits. These now disabled workers should receive workmen's compensation benefits in relation to contributions made.

Recommendation 6, financing workers' compensation. We would like to comment that we do not object to investigating Workers' Compensation Board coverage through private insurance programs, with the reservations that private insurance companies may become financially unsound and may find ways not to pay individual workers.

Recommendation 7. Our comment would be that since the percentage of disability is not usually determined until approximately one year after the accident, employers have this approximate year to dispute amounts of payment. Regardless, per existing rules payments should begin immediately. As we have pointed out above, the disabled person's human needs certainly continue and, in fact, increase immediately after the accident.

Recommendation 8, bulletins and manuals. Our comment here is that employees should be included in "interested parties" by means of communications that they have constant and easy access to. Examples are bulletin boards in the work place, company newspapers, information seminars, and safety meetings. If the law is paraphrased for easier understanding by the workers in these communications, the workers should be cautioned about this and should be encouraged to consult the Act itself.

We appreciate the opportunity to present our position and would like to thank the chamber of commerce for providing us with a copy of their brief. We are now ready for questions.

MR. MARTIN: Just on recommendation 4. In your comment about lump sum payments on permanent partial disability awards, you say: we agree with this recommendation, as we feel it is already in effect". My understanding is — and correct me if I'm wrong — that under 10 per cent, it's a possibility. I think what they are saying is that there could be a lump sum with a higher percentage, say with 40 or 50 per cent disability. I would ask how you feel about that, which would be different from what is in the Act right now.

MR. PADEN: Mr. Van Raamt, who has been both an employer and a recipient of workmen's compensation benefits, brought this point up. Perhaps he could answer that

question.

MR. VAN RAAMT: Yes. I wasn't aware that were lump sum payments for under 10 per cent. I would definitely think that for total partial disability, a higher percentage would be agreeable.

MR. CHAIRMAN: If a recipient is receiving 50, 60, or 70 per cent, they should be given the option to make the decision.

MR. VAN RAAMT: That's right.

MR. MARTIN: Is that what you're suggesting, a choice between a pension and a lump sum payout?

MR. VAN RAAMT: That's right. Anywhere between 30 per cent and 50 per cent. I am not too concerned with the percentages. A partially disabled person should have the choice.

MR. MARTIN: The choice. Okay.

MR. NELSON: Gentlemen, I just want to pursue this area of lump sum payment. We have had some comments from a couple of union representatives representing, so they say, the worker and the work that they are responsible for, suggesting that the lump sum payment should remain as it is. Am I to understand that you as the injured worker are suggesting a lump sum payment, at your option — not necessarily reflecting the percentage of the injury or the disability?

MR. VAN RAAMT: I don't quite understand what you mean.

MR. NELSON: In other words, I am saying, should you as the worker have the option to determine whether or not you should take a lump sum payment; as against what the union is saying, that the 10 per cent lump sum should be the maximum available to a worker. In other words, the worker doesn't have that option.

MR. VAN RAAMT: I would like to see the option raised from 10 per cent to a higher percentage. Some people feel a little more comfortable [inaudible] if they do return to work, then they still have that lump sum and can invest it as they please.

MR. NELSON: Would you go as high as 100 per cent?

MR. VAN RAAMT: No.

MR. NELSON: You're suggesting 50 or 60.

MR. VAN RAAMT: I would suggest a maximum of 50. Any higher than that, we are getting more into total disability. No one can calculate the cost of inflation and interest rates.

MR. NELSON: In your case, would you have taken . . .

MR. VAN RAAMT: So it would be more secure for the totally disabled worker or for the more than 50 per cent disabled worker to receive a monthly pension.

MR. NELSON: Would you have taken a lump sum?

MR. VAN RAAMT: No, not in my case.

MR. NELSON: But you think others that maybe have less disability should have that option?

MR. VAN RAAMT: Yes, I think so.

MR. NELSON: In your case, would you have liked to have had that option to say yes or no?

MR. VAN RAAMT: I am totally disabled, so in my case I wouldn't even consider a lump sum unless I was forced into it.

MR. NELSON: What I am asking is: would you prefer to allow the person to have that option, rather than having it legislated for the worker not to have that option?

MR. VAN RAAMT: No, because if a totally disabled person received a lump sum payment, he might not be able to administer his funds adequately and, therefore, would turn to the welfare system.

MR. NELSON: That's the union's argument also. Thank you.

MR. THOMPSON: Mr. Chairman, I wonder if they could expand a little bit on No. 4, about implementing a dual system of benefits, and then it says compensation. You say it's already in place.

MR. VAN RAAMT: We were under the impression that this was already in place.

MR. THOMPSON: There is a dual system in place?

MR. VAN RAAMT: That's the impression I had. I wasn't quite sure whether it was just to 10 per cent or whether it was more.

MR. CHAIRMAN: Joe wasn't aware that the policy was limited to 10 per cent.

MR. VAN RAAMT: That's right.

MR. THOMPSON: Okay. Thank you, Mr. Chairman.

MR. PADEN: We apologize, but we had very little time to prepare this brief. We wanted to present a brief which was representative, as best it could be, of the opinions from the experience of people who are permanently disabled and on workmen's compensation.

MR. CHAIRMAN: Terry, can we then go to No. 7? I think there may also be some misunderstanding there. With regard to the notification, my understanding from the chamber, the Task Force, and some representations has been that where the permanent partial pension award is made — in other words, a claimant is receiving his compensation when that final decision is made of the permanent partial pension or permanent total pension — an employer would like to have at least 30 days' notice. What is in place now

is that the employer gets a copy of the letter that goes to the claimant saying that you have been awarded so much, and sometimes the cheque has already gone. Your concern about the pension continuing is in place now. The compensation does continue.

MR. PADEN: Right. I think Dave Henderson could speak to that.

MR. CHAIRMAN: Dave, is there anything more that I can't read in it?

MR. HENDERSON: Not really, no. It is just that we were under the impression that it takes so long for the pensions to get through, for medical reasons or whatever, that the employers would already know what would be happening.

MR. CHAIRMAN: My understanding through the committee is that the representation was when the permanent pension is already being established; in other words, a claimant gets his compensation within a week or two weeks from the time he gets injured. That would be in place and continued. But when the permanent pension is established, they want 30 days from when the Board decides. That was the 30 days. It is not that the initial compensation would be held up by 30 days.

MR. PADEN: Oh, I see.

MR. CHAIRMAN: You say that you have the chamber's brief. Terry, you may want to write to us once more after you look at it again. That was the way we understood it.

MR. MARTIN: They said that the ordinary ones would still go through; it was just the permanent.

MR. CHAIRMAN: Yes, it's the permanent partial pension.

UNIDENTIFIED SPEAKER: May I address the chairman?

MR. CHAIRMAN: Sir, when we've finished with these people, we will give you an opportunity.

Any other comments?

MR. VAN RAAMT: We were more or less hoping that you would have more questions that we could answer.

MR. THOMPSON: That just shows how clear your brief is.

MR. VAN RAAMT: Thank you.

MR. PADEN: Thank you. We tried to keep it as simple as possible and to express our views from our vantage point as individual human beings who are in this position, without detracting from our value as human beings; in other words, so you could get some idea how these types of things are viewed from a personal needs point of view without a lot of fancy statistics, so you wouldn't be confused between the academics of an individual's position and his feelings.

MRS. FYFE: I really wanted to make a comment rather than ask a question. Firstly, I want to say that we really do appreciate you coming forward. It's very helpful to have a balance with people who have been the recipients of benefits of workers' compensation.

And secondly, because you say you weren't aware of the hearings for very long, if there is anything further that your members want to bring forward, you can always submit a letter to the minister's office. We will be reviewing and working on the legislation for a number of months, so if there is anything else you think is important for the committee, please don't hesitate to send it to us.

MR. PADEN: We appreciate that because, as this gentleman pointed out — without saying so, I might add — it was not possible for us to form the size of committee we would have liked. Perhaps we should have been more attentive to these matters with workers' compensation.

MRS. FYFE: If you think there's something important, make sure you send it to us. Okay?

MR. PADEN: Right, we'll do that.

MR. CHAIRMAN: Stan.

MR. NELSON: Just very quickly, Mr. Chairman. Although it's not in the brief, I'm just wondering if you have any comments relative to the area of job retraining or additional education or what have you of some of the handicapped, wherein some refuse to take this retraining to get out into the work force. I'm just wondering if you have any thoughts or comments regarding this area through workers' compensation.

MR. HENDERSON: When I finally got on my pension, I asked my counsellor, Paul Tamagi, whether or not I could get into a retraining program. He said that due to the fact you are on 100 per cent disability, the Board will not go for that. They won't even look at retraining.

MR. NELSON: Even though you still have the ability to use your upper body and your mind, they don't want to give you that training?

MR. HENDERSON: That's right. That's what I was told.

MR. NELSON: I'd like to have that kind of thing clarified, and get some progression on it.

MR. CHAIRMAN: John.

MR. WISOCKY: Mr. Chairman, there must be some misunderstanding, because we do try to assist everybody, especially in your situation, in retraining and courses and so forth. What may have been said — and I'm speculating right now — is that if there are courses available from other agencies which might be more conducive for your situation, it may not be appropriate for us to train you. We don't actually have training programs per se; we have to buy seats. If something is available through employment and immigration or something like this, we sort of suggest that. But certainly I would go back to your counsellor, or give me your name. If you're interested, send us something and we'll be most happy to pursue it.

MR. HENDERSON: Thanks very much.

MR. CHAIRMAN: There is a bit of a difference, David, between a temporarily totally

disabled person and a permanently totally disabled person. You are now getting permanent, 100 per cent pension, but it doesn't eliminate the possibility of the Board assisting you. Part of that came in, in the 1982 legislation, when it was legislated that the Board may expend some money to get you back to the work force. But there is more emphasis on partially disabled people.

MR. HENDERSON: This is what I was told, as well.

MR. CHAIRMAN: But get back to your counsellor.

MR. WISOCKY: Just a comment. We're fairly proud of one particular individual in Calgary, who is a quad. He's currently working as a computer programmer with the city of Edmonton. We've done many things for him that are unusual and different.

MR. VAN RAAMT: I have a question in that respect. What will happen if the same qualities, he's been retrained and becomes a computer programmer or whatever — what will happen to his pension? Say he gets a salary. Of course, you would assume he would be taken off his pension. But his life has been shortened by a fair amount, he has a fair amount of inconvenience and so on. I wonder whether the pension would stay in place.

MR. WISOCKY: If the Chair will permit, I'll try to answer that question.

MR. CHAIRMAN: Go ahead.

MR. WISOCKY: Your pension is for life, regardless of whether you are or are not working. If you're working, you still get the pension. If you're not working, you get the pension.

MR. CHAIRMAN: Under the present legislation, yes.

MR. VAN RAAMT: If a person on a total disability pension gets back to work and the legislation gets changed, would he be notified of such?

MR. CHAIRMAN: I'm sorry, he wouldn't.

MR. WISOCKY: No, he wouldn't. In other words, in this example I gave, he's working as a computer programmer. He's getting a salary from the city, and he's still getting a 100 per cent pension from the Board and will get it for life because of the present legislation.

MR. CHAIRMAN: What I think is taken into consideration, Joe, is that he is possibly not earning the full salary a healthy person would earn. Am I right, John?

MR. WISOCKY: That's the philosophy. You're right.

MR. VAN RAAMT: Well, I was concerned that the person might only be able to work temporarily, and then he loses his total disability pension and would have to start the whole proceeding again.

MR. CHAIRMAN: That's why it's called permanent.

MR. VAN RAAMT: Fine. That clarifies that.

MR. CHAIRMAN: The other gentlemen that wanted to interject, was he part of your committee?

MR. PADEN: No, he wasn't present when we developed the brief, but we certainly wouldn't mind if he had something to say. I wonder if I could just make one more comment.

This is more or less a personal comment; that is to say, from my past experience as an employment officer in the province of Manitoba for five and a half years with the CNIB, and also having worked as an interpreter at the centre for the deaf in Winnipeg after training. It's my observation that one of the complaints of handicapped persons about rehabilitation and vocational training programs is, for lack of a better word, the institutional nature of them, I think, and their sort of unrealistic approach to the actual employment market.

Unfortunately, a lot of these programs which are of course funded by the government have begun to recycle people, especially those workshops and retraining programs — and I believe this only pertains to the mentally handicapped — where they are paid on a daily basis by head count. So a person who, at the outset, after coming out of the hospital or whatever, is put into a vocational retraining program finds himself either being recycled or kept in there so long for such negligible reasons that it tends to destroy his good attitude toward returning to the work force. It begins to look to the person as if he's a captive audience and customer for this type of system, and so they've begun to struggle against this. We must admit that some of the conditions in the workshops are very, very pleasant, but the underlining concern is not so much always the physical plant but the attitudes.

I have personally seen people who, in my personal opinion, have started out with a very good attitude, and they've just been dulled by these programs, to the point where they really will never work again. For instance, they have not seen any realistic relationship between the retraining they get and what's available in outside industry. They have not seen any exit program that the training leads up to. They haven't seen an individual employment services officer responsible for eventually counselling them and getting them out into the work force. So they have begun to struggle against these kinds of programs, and I think it's not without just cause.

However, I would like to say that these programs do have their place. It is certainly better, with some of their better attributes, than it was before they were available.

Thank you.

MR. CHAIRMAN: To the other gentleman, did you want to comment on something these people have made a presentation on? Could we have your name, please?

MR. WATSON: My name is Philip Watson, claim No. 350-365, 1948.

MR. CHAIRMAN: Mr. Watson, we're not dealing with specific claims. As you heard, these three gentlemen made a presentation on the compensation program and the legislation. If you have a concern about your own claim, my staff will look after that.

MR. WATSON: Well, in 35 years they haven't done so, so I would appreciate this opportunity to suggest that I'm here now and you can talk to me at any moment you want.

MR. CHAIRMAN: Mr. Runck will see you shortly.

MR. WATSON: He can see me right now.

MR. CHAIRMAN: Good, okay. Thank you very much. If there are no other comments to the three gentlemen, we welcome that. Do take a look at the area I suggested, which is the notification. We hope we have not misled you on that 30 days. Feel free, as Mrs. Fyfe said, to forward a further submission to us which would be part of the overall submission. Thank you.

MR. NELSON: Mr. Chairman, I might just note that even though they have permanent disability, they should still take the opportunity to look into the option of seeking retraining so that they can enter the work force.

MR. CHAIRMAN: Yes. That was sort of evident, and I think you're aware that it doesn't affect your permanent pensions.

Is Mr. Chris Testa in?

MR. WISLA: Mr. Chairman, could I make a comment? I am also on claim, and I don't know why there aren't more of us represented. There are scores of claimants in Calgary that are not represented.

MR. CHAIRMAN: I'm aware that you met with the officials here yesterday.

MR. WISLA: I did meet with Mr. Runck, and I got good results. I'm satisfied about that.

MR. CHAIRMAN: That's good to hear. We have some time now, but unless you have something on the Act itself -- not your specific claim. You can come forward and talk to us about where you believe the Workers' Compensation Act should be changed or it's not sufficiently looking after claimants.

MR. WISLA: Well, I'm not really satisfied, but I did not put up any orders, so I couldn't really present it. Thank you.

MR. CHAIRMAN: Okay. Feel free to send a letter to my office at any time. We're waiting for the next people, and that's why I offered that if you had any verbal concern you wanted to present to speak on behalf of claimants, we'd welcome it.

We'll take a short break until Mr. Testa arrives.

[The meeting recessed at 1:44 p.m. and resumed at 1:51 p.m.]

Alberta Siding and Remodellers Association

MR. CHAIRMAN: Mr. Testa, if you'd just be seated, we'll be with you shortly. It gives some of us an opportunity to drive back to where we need to be. It will be a moment before everybody gets back in.

Chris, we don't have the two o'clock one; that's why we're moving up.

MR. TESTA: Yes. I understand; that's okay. I found a parking spot.

MR. CHAIRMAN: So we'll move on it just a little quicker and give you the time that maybe you need.

MR. TESTA: That's great. It might save me a ticket.

MR. CHAIRMAN: Oh, is that what it is. Just like paying for a dead horse?

MR. TESTA: Yes, I suppose.

MR. CHAIRMAN: Derrick, see if you can get my two colleagues back in here.

UNIDENTIFIED SPEAKER: Can we get copies of the particulars that have gone through this session?

MR. CHAIRMAN: You mean the submissions that were made? If there are any in particular that you want, when the secretary comes back just leave us your name and she'll mail it to you.

UNIDENTIFIED SPEAKER: I'd like to get the one on those two fellows that were in wheelchairs.

MR. CHAIRMAN: I think that can be easily provided, yes.

Mr. Testa, you are here as the representative of the Alberta Siding and Remodellers Association.

MR. TESTA: That's correct.

MR. CHAIRMAN: Feel free to go through it as you want to. We have a little more time than what we initially indicated to you. Then we'll have an opportunity for some exchange and clarification.

MR. TESTA: My name is Chris Testa. I am representing the Alberta Siding and Remodellers Association. I am an employee of a Calgary company which is called Brypete Sales & Installations. We are a remodelling contractor. Our business primarily is renovating private homes; that is the vast majority of our business. We employ salespeople — primarily direct sales people. We employ an office administrative staff, and we employ subcontractors who actually install the product on the home or small business, whatever it would be.

I'm sorry if this brief isn't appropriate. I found out about this the day before yesterday. In any event, in 1982 the changes to the Workers' Compensation Act — and I must say I haven't thoroughly researched to know exactly what those changes were — had the effect of including all our salespeople in the WCB's mandatory coverage. This effectively doubled the number of workers we were required to pay workers' compensation premiums for, and obviously this in effect virtually doubled our premium.

The basis of our objection — and if you read the brief, I think you'll find I've outlined it as clearly as I could — is that you have included in the workers we must pay compensation on, a group of workers that have virtually no risk and have no accident record to speak of. As I stated in my brief here, the only salesman that anyone in our industry is aware of that has actually made a claim to workers' compensation was this year. Apparently his being on crutches helped him in selling, because I suppose there was some element of sympathy in seeing a salesman on crutches. So he carried on for a couple of weeks with them. He twisted his ankle while he was in a house measuring someone's kitchen window. But to the best of our knowledge, this is the only claim for compensation from any of our salespeople. So we feel it's unfair to include all these people in workers' compensation coverage.

In the booklet you put out, Classifying Industries, you have one industry classification, I believe 12-01, that includes salespeople and travelling representatives.

They are assessed at a rate of 40 cents, or they were in the booklet I have. Because they sell siding and windows, our salespeople are assessed at \$4.50, which is more than 10 times the assessment. Again, I think this is very unfair, because the environment for one of our salesmen is identical to the environment you would find a real estate salesman or an encyclopedia salesman or any salesman whose job it is to sell and not work besides.

In my particular company, again as I mentioned in the brief, our WCB premiums went from approximately \$22,000 in 1981, and it appears we will be paying \$90,000 in workers' compensation premiums this year as a result of that change that went into effect in 1982. It's true that our business has gone up since then; we have grown. But we have not grown 400 per cent; if we're lucky we might hit a 90 per cent increase, or about doubling our business over 1981. That's the basis of our concern. We employ a lot of Albertans. We don't have every member of our industry in our association, but we have a group of the most solid and responsible ones in our association.

I guess what started all the commotion was when an auditor from WCB was in our office, and I spoke to him. At the time, our accountant was saying to him how he felt it was strange that the government should increase our premiums so much in one year, and he said, is the program short of money? The auditor's response was: yes, this is a way of getting additional revenue for workers' compensation. That made us and other people in our industry suspicious, and we decided we'd like to talk to someone about possibly reviewing that policy which included our salespeople, or somehow reviewing the way companies such as those in our industry are viewed by compensation.

I can read through it if you like. It's kind of boring.

MR. CHAIRMAN: You wrote it.

MR. TESTA: I wrote it. It's good if it's read right.

MR. CHAIRMAN: Ray Nelson.

MR. NELSON: Mr. Chairman

MR. CHAIRMAN: Stan Nelson.

MR. MARTIN: One or both of us is getting insulted.

MR. NELSON: You going to call him Stan Martin next time?

MR. CHAIRMAN: I'm going to get these two together yet. Stan.

MR. NELSON: I'm on the right-hand side.

MR. CHAIRMAN: It depends where you're sitting. From there you're on the left side.

MR. NELSON: I like it just fine, thanks. Mr. Testa, now I've just about forgotten what I was going to ask you in all the commotion here.

Do you get the full merit rebate?

MR. TESTA: Yes.

MR. NELSON: So your actual cost isn't \$90,000; it would probably be two-thirds of that, say \$60,000?

MR. TESTA: I saw the rebates for last year, and there were a few thousand dollars in rebates. But of course what happens with the rebate program is that you don't get the majority of your money back. In tough times, as many of our people in the industry have encountered recently, it's hard on your cash flow to come up with big chunks of cash four times a year to pay workers' compensation. It seems ludicrous to pay a bunch of money and then get a bunch of money back. It causes lots of bookkeeping for us and for you.

A lot of the people in our industry are small operators. They have maybe one man, who is the owner of the business, a telephone and secretary, and a couple of salesmen, and he contracts out his work. For people like that, it's causing overhead and cash flow problems that are needless.

MR. NELSON: I wish my business would double.

What I'm getting at here is that you're suggesting a \$22,000 premium in 1981 and an estimated \$90,000 in '83. I'm wondering if we're talking apples and apples or apples to oranges, where your \$22,000 was net as against a gross in 1983.

MR. TESTA: No, they're both gross numbers.

MR. NELSON: Okay.

MR. CHAIRMAN: I think Mr. Testa did say they had a 90 per cent increase in business in the last year.

MR. NELSON: This is double. I'd like to know your secret, actually.

MR. TESTA: You have to pay a premium for that.

MR. CHAIRMAN: Did you hear that, Mr. Nelson? Mr. Testa said you have to pay the premium for that increase.

MR. NELSON: I'd pay it, believe me.

The other question I guess is basically this: is the only concern that you've raised here today regarding the compensation?

MR. TESTA: Basically, I guess it's the first time you have heard from our association formally regarding the change that was made that went into effect in January 1982.

MR. NELSON: But your basic concern is the premiums themselves.

MR. TESTA: Yes, that is correct.

MR. NELSON: Thanks very much.

MRS. FYFE: I'd just like to ask you a question about your installers, or the people who are actually doing the contracting. Do you hire them on your salaries, or do you subcontract?

MR. TESTA: Their tax classification is subcontractor. They are generally paid piece work. Occasionally, on a unique job, they will be paid by the hour. But their tax classification is subcontractors, although we and most of the people in our industry try to keep the same crews working for them all the time.

MRS. FYFE: So they're on your payroll, are they?

MR. TESTA: Yes.

MRS. FYFE: They're not considered proprietary?

MR. TESTA: Yes. In the case of our company, we deduct their health care for them. We have a group insurance plan with London Life. These things are deducted from their payroll just as if they were normal employees, but their official classification is subcontractor.

MR. CHAIRMAN: Any comments, Ray?

MR. MARTIN: Yes. I just want to follow up. It always comes down to the classification. It's very difficult, because we get varying things as we sit here. You're suggesting that salesmen, I suppose, would be like teachers, and they're not under the Act. That's what you're really suggesting, as I understand it.

MR. TESTA: Pardon me? Maybe you could rephrase that.

MR. MARTIN: You don't feel salespeople should even be under the Act.

MR. TESTA: No, they weren't at one time, I believe. Or if they were, for one reason or another, our companies were not required to pay their premiums. Again, I haven't done enough research in the short time . . .

MR. MARTIN: You see, some other people in industry argue that it should go the other way: it should be universal coverage; that there are too many loopholes right now. For instance, I think the biggest group might be teachers; they're not covered. If you took all the people and made it universal coverage, it would lower the rates, even for the low-risk people. So there is the other way to come at it.

MR. TESTA: I understand the logic in that, and that wouldn't be in opposition to what we're suggesting. There are three things I mention on the second page that I can see as remedies to our problem. The second of the three says that if there were some way of taking the whole group of employees that you now call members of our classification and doing a statistical analysis of their risk on average, instead of just the highest-risk group, then I think the premiums would come down substantially. But that wasn't done. They classed us as people who work on buildings and renovate buildings and caissons, and there's a whole list of things in there. Now all our salespeople and the girl on the typewriter pay the same rate as the man who is on the roof of a house.

MR. MARTIN: It's done by industry. Let me just come to one more point, if I may, briefly. For example, you're talking about low-risk people taking a private insurance plan. I wonder if you are aware — it's unlikely, but it could happen — that employees, if I could put it that way, salespeople or whatever . . . If a scaffold fell on your salesman's head and he was killed or something, you cannot be sued when you're under WCB. But you could be otherwise. Have you thought about that?

MR. TESTA: Yes. To get a bond in Alberta, all our industries are required to take out substantial liability insurance. So that's a business expense we have regardless of the WCB coverage. They would all have that anyway.

I think another point I should make more clear is that it is extremely unusual for a salesman to be in a situation where a scaffold could fall on his head, unless that was the first call. Then it has no relationship to the actual job. I was a salesman for years, and the typical sales call for me involved going to a residence at 6 p.m. and sitting down with the home-owner in his living room with a cup of coffee and no more risks than we're encountering here.

MRS. FYFE: Except the driving back and forth.

MR. TESTA: Needless to say, and I do that to work every day now anyway. But that's the typical environment of salesmen in our industry.

MR. MARTIN: We've been told that this is a fairly risky business.

MR. TESTA: Oh, is that right. Okay. We'd be happy to pay the same premiums.

MR. CHAIRMAN: Further to Ray Martin's questions, in your presentation here you made a presentation that you employ. Therefore, under the Act — and I'm just sharing it with you — all employees must be covered. You keep saying that you employ these people. They are then workers under the Act. The subcontractors are the ones we would be looking at more seriously, because we did bring in some new legislation that needs to be reviewed, and that is the proprietor definition. Do you see some of your problems eliminated by a prepayment by subcontractors of coverage for a minimum of three months or even up to a year — having a card showing you have coverage? Then you don't have to consider them employees; they would be subcontractors.

MR. TESTA: Would it then be possible for all people in our industry to be classified as merely sales organizations?

MR. CHAIRMAN: We've had examples where some employers even want the secretary — they give her the typewriter — to go apply for coverage. You realize there should be some definition for an independent operator/proprietor or whatever it is. When the equipment is even provided, I personally question whether that is really even an independent operator. If your firm provides all the scaffolding and equipment to put the siding on, is that really a subcontractor? So I'm leaving that with your association, because it's an area you may want to discuss at your next meeting. For further clarification you can easily call the Calgary WCB office, and they'll have somebody from Fred's department there — he's sitting in the back — explain what some of the challenges are that workers' compensation assessment people have. Or you can call one of the members of the select committee. They, or myself, are always prepared to go out and address your group.

MR. TESTA: I understand that it's reasonably complex. But for almost two years now, we haven't had much good news regarding the WCB. It has been pay, pay, pay. Even four years ago, I don't think you would have heard nearly the complaints as in the last two.

MR. CHAIRMAN: You're right. In '79 we didn't hear from you people; you were all busy.

MR. TESTA: That's right. We are unusual in that our particular company has enjoyed tremendous growth, but we are not representative of the entire industry.

MR. CHAIRMAN: I thought I would just leave that, because you used the word

"employee"; you employ. And then you want to separate the salespeople. A worker is a worker; an employee is an employee.

Ron, go ahead.

MR. R. MOORE: Are you finished?

MR. CHAIRMAN: Yes.

MR. R. MOORE: Just on a point of information that I might direct to John. Is a salesman selling on his own, getting a commission for selling a product, still the responsibility of the people who pay that commission?

MR. WISOCKY: I think it depends, but Fred can maybe help me better there. I think there are two types: some are and some are not, depending on the circumstances.

MR. R. MOORE: Because I think this would cover your area. Most of your salesmen are on straight commission, as I understand it.

MR. TESTA: Yes, they are.

MR. CHAIRMAN: Fred, am I to understand that if they work for one employer, they are presently considered an employee? If they are jobbing for more than one . . .

MR. FAWCETT: Prior to January 1, 1980, if they sold for more than one company, we considered them an independent. After that, if they sold for anybody, they were considered a worker for that person when they were selling for them.

MR. CHAIRMAN: We would welcome further input on that section from your association.

MR. TESTA: Okay.

MR. CHAIRMAN: Thanks, Chris. Anything more? Closing comments?

MR. TESTA: Not really. I would ask you to give me some direction as to where my best efforts could be directed, because I think there are obviously some changes that we should make. If there is anyone — that would be helpful.

MR. CHAIRMAN: Send them to my office as chairman. I will give you my card shortly.

MR. TESTA: Okay.

MR. CHAIRMAN: The second is the WCB office here in Calgary, which is always available to co-operate and give you information. The third is your MLA.

MR. TESTA: Okay, fair enough.

MR. MARTIN: This is the Calgary MLA.

MR. TESTA: Oh, I see. Okay.

MR. CHAIRMAN: Here is the card that you wanted. Thank you very much.

MR. TESTA: Thank you.

MR. CHAIRMAN: We have concluded the hearings for today. Thank you very much.

[The meeting adjourned at 2:11 p.m.]