[Chairman: Mr. Diachuk] [9:30 a.m.]

MR. CHAIRMAN: Ladies and gentlemen, for the benefit of the public that is here, I hope you can hear. These microphones are to provide us with a recording. But if you can't hear at the back, as they say in every place of worship: move up to the front.

We will start the hearings here in Edmonton on workers' compensation and occupational health and safety. For the benefit of anybody from the public that may have a claim, or a small employer that's not scheduled, we have staff who will assist. We hope that during the coffee break or during the break between one presentation and the next, you will announce yourself to the staff here on the right or to my secretary, and we will be able to resolve it.

I don't foresee any time in the next three days for additional submissions. We had an opportunity in some of the other cities when we welcomed submissions from individuals as we finished the hearings. But the three days in Edmonton are going to be full days, including tonight's sitting. I will repeat once or twice during the day that any individual or employer who is not scheduled, please introduce yourself to the staff, and we will assist you with your concerns.

Greater Edmonton Delivery Association

MR. CHAIRMAN: For the first presentation we have the Greater Edmonton Delivery Association. We have a half-hour. Judy, I will ask you to kick it off as the spokesperson. We hope that we will have some time for clarifications and questions in the time allotted. Please proceed.

MRS. SCHONERT: Thank you, Mr. Chairman. Good morning. Thank you for allowing us the time to make this short presentation to your committee. I will just briefly introduce the people at the table. You all know their names. On my left is Cec Rhodes, first vice-president of the Greater Edmonton Delivery Association, and he is with Crown Express in Edmonton; at the far left, Earl Gerow, executive director of our association, with Grant's Messenger in Edmonton; and on my right, Vic LaVigne, who is a member of the WCB fact finding committee and is with National Courier.

Our delivery association represents probably the majority of the delivery and courier units in the city. It is our purpose to put before you this morning the following points. One, it is our intention to have the reclassification of the delivery and courier industry in Alberta accelerated. Two, it is our intention to accelerate reassessment of the rates within the delivery and courier industry. Three, it is our intention to have the status of the independent operator revert to pre-1981 standards. While these are but a few of our concerns with workers' compensation, we are aware that the problems are numerous and have tried to pick out those of the highest priority to our group.

Because our submission is quite repetitious of the Calgary Messenger and Courier Association submission, it would be preferable for us to have mostly discussion at this time. We have attached both the submisssion and the supplementary submission of the CMCA, which I believe was presented to you people in Calgary on September 26. Mr. LaVigne will familiarize you with our brief introductory remarks. Then if it's all right with the committee and Mr. Chairman, we will revert to discussion at that point.

MR. CHAIRMAN: Very well.

MR. LaVIGNE: Mr. Chairman, members of the select committee, the Greater Edmonton Delivery Association was formed in the fall of 1981 in order to study and react to changes in WCB policy regarding the independent operator. Since that time, the association has grown and has acted on behalf of the express and courier sector of the transportation industry regarding numerous matters of concern. Immediately prior to January 1, 1982, independent operators were able to purchase their own coverage, at a level of their choice. Following January 1, 1982, they could be covered only under their broker's account, at a limited level. For the operator involved, the quality of coverage has greatly deteriorated; and for the broker, the administration and cost has escalated. The Greater Edmonton Delivery Association requests that the status of independent operators revert to the pre-1981 standards, effective January 1, 1984.

Since September 1981 our association has been working in accord with the Calgary Messenger and Courier Association regarding the question of reclassification of the messenger and courier sector. As supported by attached correspondence and notes, we attended the first meeting on class 7-01 on November 26, 1982, in Calgary, and the second meeting on class 7-01 on December 17, 1982, in Edmonton.

During the interval between these two meetings, the president of our association, Mrs. Schonert, attended a meeting at Mr. Thomson's office, at Mr. Thomson's request. At that meeting there were several points discussed. Number one, Mr. Thomson asked Mrs. Schonert if the Greater Edmonton Delivery Association was in accord with the CMCA. A verbal confirmation was made at that time. Two, Mr. Thomson informed Mrs. Schonert of the following information with regard to reclassification. In 1984 each of the following groups will take its own subclassification and rate within the 7-01 ground transportation classification: (a) ambulance, bus, taxicab; (b) courier, express freight, light delivery, hotshot, and movers, and this group constitutes one-third of the present 7-01 classification and represents approximately $136 million of assessable payroll and is large enough to support itself; and (c) trucking. Further, the above reclassification should drop the rate for couriers from the rate at that time of $5.75 per 100, by $2.00 to $2.50 per 100, to a rate of $3.25 to $3.75.

At the close of our meeting, Mr. Thomson requested written confirmation of our position regarding the Calgary Messenger and Courier Association. At that time he informed Mrs. Schonert that he would be unavailable until the first week of February 1982. Rather than have the letter sit at the bottom of a pile of mail, the association chose to send a written request for reclassification and reassessment, and confirmation of accord with CMCA, during the first week of February, as per the attached letter dated February 3, 1983. We do not believe that this correspondence can be used as an excuse or delay by Mr. Thomson's office.

It is the firm belief of this association that the decisions had been made well in advance of our being notified and that changes should have been implemented immediately. We wish at this time to state that we firmly support the submission made to your committee by the Calgary Messenger and Courier Association. We acknowledge the time, effort, and research that went into their application and subsequent submission. We also acknowledge and appreciate the co-operation extended by the Workers' Compensation Board.

We wish to offer our endorsement to those portions of the submission made by the Industry Task Force which pertained to our sector of the industry. We feel we have reaffirmed that there is no question of the validity of the points we made: that there can be no choice other than to implement the reclassification and reassessment, retroactive to January 1, 1983. We will continue to press for a satisfactory conclusion.

We thank you for allowing us to make this presentation, and we welcome your questions and comments.

MR. CHAIRMAN: Very well. Mrs. Schonert and gentlemen, I apologize. We are looking through your material. We just received it this morning. In your endorsement, Mr. LaVigne, you indicated that you endorse the Industry Task Force position. We have had a fair number of representations to reduce the number of classifications. I believe the same or similar question was asked of the Calgary group: have you considered the parts of the submissions that have been raised with the committee to reduce to as few as 20 classes in the province, rather than the number of classes we have?

MR. LaVIGNE: No, we are endorsing the part of their application that pertains to our industry only, the leased operators.

MRS. SCHONERT: To reverting the standard of the leased operator to pre-1982.

MR. CHAIRMAN: Oh no, I'm talking of classifications.

MRS. SCHONERT: Yes, that portion of it we're not endorsing. It is our feeling that certainly — I can understand why they're asking for larger classifications but, by the same token, we have been contributing extra funds and supporting the larger trucking industry for quite some time. For the type of accident record that our group has, it doesn't seem fair that we should have to support the high accident record group of major trucking. Do you follow what I'm trying to say?

MR. CHAIRMAN: Yes. I don't wish to get into a debate. I just wanted a little bit of clarification.

With regard to the independent operator — I gather many of your members are one-person operators — have you had a chance to see the proposal that has been made by some organizations with regard to prepayment and a card system with no cancellation? It was submitted by some associations. If you are not in a position to comment, I appreciate that.

MRS. SCHONERT: I haven't seen the proposal. Mr. Comtois from Calgary briefly mentioned it to me over the telephone. Not having seen the written proposal, it's very difficult to make a comment on it.

MR. CHAIRMAN: Would you get in touch with my office, and we will mail you one of those proposals? It was submitted by the Alberta Construction Association, the road builders, and others. We would like to have some input because of the fact that it has some merit, and the select committee is looking at having the proprietor section amended to require some prepayment.

MR. RHODES: I believe each of those points were covered in the Industry Task Force submission as well.

MR. THOMPSON: I read from your submission that your biggest concern is your rate of assessment, and you are trying to find some way to lower the rate of assessment, which I don't blame you a bit for wanting to do. However, if —and I underline "if" — there is some way that the rates can go down with fewer classifications, would you people be prepared to accept that? I got your figure on the $2.50 differential that you feel you are paying over and above what you should pay. If there is some way, by changing the system around, that the good operators can get a lower rate of assessment of whatever . . . Because we have had many submissions made to this committee, and everybody is concerned about the increase in the rate of assessment. This isn't a philosophical thing

you're talking about; it's basically economics. Is that right?

MRS. SCHONERT: Right.

MR. THOMPSON: Okay.

MRS. FYFE: On the comments regarding independent operators, we have had some submissions regarding a system where the independent operator would prepay his account, thereby advising or making the employer or the person contracting the services aware that this person was fully covered. Would you have any comments regarding this suggestion?

MR. LaVIGNE: This could be a little bit difficult, with the present requirements to pay in advance for one year. If it were done on a monthly basis, it would be somewhat easier for each individual.

MRS. FYFE: Would a monthly basis not add significantly to the administrative costs?

MR. LaVIGNE: Not if the individual has his own account.

MRS. SCHONERT: The administrative costs for the WCB or for the individual?

MRS. FYFE: No, for the WCB, which obviously you're paying.

MR. LaVIGNE: Undoubtedly it would. We are absorbing this cost now. But it's very difficult for an owner/operator that has his own vehicle to pay for one year, or even three months, in advance; whereas if he is paying at the end of each month, as you do with income tax or unemployment insurance, it would be somewhat easier for him.

MRS. FYFE: I am a little bit curious about your comments regarding retroactive payments. If there is no change in classifications and the same costs are applied across your total classification as they are, even though the rates are higher than you would like to see, you know the cost. If that is changed, and yours is reduced and another goes up because of it, would you really expect the committee to recommend this change?

MR. LaVIGNE: We have been operating in a surplus for the last five years. Let me rephrase that. From 1977 to 1981 we have operated on a surplus of over $1 million. This is the figure supplied to us by the WCB. We feel that if we are operating on a surplus, we should get the lower rate. We shouldn't be paying more than anybody else, more than our fair share, which is basically the case now.

MRS. FYFE: For "we", you're talking about your section of your classification?

MR. LaVIGNE: Yes, entirely. The entire group 7-01 has operated at a loss over five years, but our section has a surplus over five years. In effect, we have subsidized the balance of the trucking industry.

MRS. FYFE: Now what about those industries that have both the small delivery or courier services and the large trucking? How would you divide those firms?

MR. LaVIGNE: There would have to be two rates or the system they use now, they will classify one company by the majority of the type of work done. Our receptionists and

accounting people pay a trucking rate now, because they fall into that category. They could do the same thing there.

MR. CHAIRMAN: Mr. Rhodes, you wanted to say something.

MR. RHODES: I believe that definition has already been defined in a recent change in the Act. There has been a definition — I'm not sure what the class is — the subclass that has been recently introduced.

MR. LaVIGNE: 7-03.

MR. RHODES: I think it's 7-03. That definition has been made already.

MRS. FYFE: We asked this question in Calgary, so I wanted to ensure that in your submission you had considered these points. They are ones the committee is going to have to think about when we're looking at recommendations. I was just wanting to get your feelings.

MR. RHODES: I would think that each individual company would have to be classed on their own merits and the type of work they are performing as a public service. Each individual would have to be classed in one or the other. But I think a definition has been made already.

MRS. SCHONERT: For the reclassification.

MR. RUNCK: I think what he is referring to is that they have been told that the class change will be effective. The class change is already in motion, but it is to be effective January 1, '84. Their position is that they would like to see it January 1, '83 instead of '84.

MR. CHAIRMAN: I see.

MR. RUNCK: Is that correct?

MRS. SCHONERT: Yes.

MR. RHODES: I think the classification comes into effect on January 1, 1984. However, our understanding of the situation is that the new assessment will not be in effect until 1985. Our opinion is that this is not acceptable; it should be retroactive to 1983. So we are dealing with three different years here.

MRS. SCHONERT: The news bulletin that substantiates that is within our submission.

MR. RHODES: It's in our submission as well.

MR. MARTIN: You specifically refer to the Industry Task Force report in saying that you agree with it except for the classification, on which you seem to want to go in the opposite direction. Can you tell me specifically — that's a big report — some of the major items that you agree with from the Task Force.

MRS. SCHONERT: The two pages pertaining to the status of the leased operator.

MR. MARTIN: And some of the other things about ceilings and those sorts of things.

MR. RHODES: Just to be a little bit redundant, we are in agreement with the card system that was introduced in there as well. That was part of our procedure section.

MR. MARTIN: That is referring to what Mr. Diachuk was talking about.

MR. RHODES: That's right, exactly.

MRS. SCHONERT: Unfortunately we received the submission by the Industry Task Force not much sooner than you received ours. It was quite voluminous, and we haven't been able to get through it all.

MR. MARTIN: So you think you're in agreement with it.

MR. RHODES: There are some points that we agree with totally. We thumbed through and looked for things that pertained to our industry — a totally selfish view.

MR. CHAIRMAN: Any other questions?

Thank you for your submission. Mrs. Schonert, you can phone my office to get a copy of that proposal. I regret that I don't have an extra copy here with me. If you have any additional information — particularly as Mr. LaVigne mentioned he wasn't too sure about the prepayment done monthly or yearly — we would welcome some data or some survey of some of your members as to what they would like. As Mrs. Fyfe mentioned, every program is costly, and whichever is the least . . . The recommendation was that at least a minimum of quarterly payments would have some merit.

Please send any additional information to my office. Thank you for coming forward.

MRS. SCHONERT: Thank you for listening.

MR. RHODES: Thank you.

MR. CHAIRMAN: We can now have the Guthrie McLaren Drilling. Mr. Harvey Morrison, prepare to be seated. Would these people come forward.

Guthrie McLaren Drilling Ltd.

MR. CHAIRMAN: Mr. Morrison, we have your submission, and we welcome any additional comments you want to make or to review your submission. Please proceed and permit us some time for questions or clarifications later.

MR. MORRISON: Certainly. Guthrie McLaren Drilling is a 100 per cent Canadian-owned oil well drilling company which was formed in 1958. At present we maintain 12 drilling rigs, but we are presently only operating three of our drilling rigs due to a slowdown in the economy. Our company has implemented several major cost-cutting measures to cope with inactivity and the current standstill in the economic recovery of our province.

We realize that the province of Alberta probably has the finest WCB health care system in Canada. But it is now time to show some restraint and concentrate on the financial viability of this organization. A comparison of assessment rates with our sister provinces shows: Alberta, $9.20 per $100 of payroll, with ceilings on gross earnings of $40,000; whereas the province of Saskatchewan is at $7.25 per $100 payroll, with ceilings

on gross earnings of $29,000, and the province of British Columbia is $7.63 per $100 of payroll, with ceilings on gross earnings of $26,182. We feel it is time for a review of Alberta's administration costs in order to re-evaluate our Alberta assessment.

Our particular 1982 assessment amounted to $400,000. The Workers' Compensation Board paid out expenses amounting to $147,000 for 1982. We received a merit refund amounting to close to $131,000, which leaves a balance of $122,344.77, or over 30 per cent of our assessment, for administration costs.

Our company is also increasingly concerned about payments awarded by the Workers' Compensation Board to employees who are injured in road accidents or while in camp accommodations, as these employees are not injured at the worksite and industry has no control over employees in these situations.

Other concerns we have: number one, companies operating in Alberta which have not established an account with the Alberta Workers' Compensation Board. We believe before these companies are allowed to operate in the province, they must obtain a work permit. This work permit must only be issued when the company has established a workers' compensation account or an insurance policy covering workmen who are injured while working in Alberta. Secondly, we are concerned with workers who are receiving and are awarded more take-home pay while on workers' compensation as compared to their regular take-home pay while employed. These injured employees are at present receiving 90 per cent of their regular pay tax free.

In closing, we would appreciate the opportunity to submit these suggestions to you. Thank you.

MR. CHAIRMAN: Mr. Morrison, can you just assist the committee? In your reference to the ceiling, what is the range of salaries in your company for the workers covered? If you don't have it here, possibly you can look at it and consider it. The reason I ask is that the assessment is based on the actual salary, not on $40,000. You don't address that in your submission.

MR. MORRISON: The point of bringing up the figures was to see why the disparity between the $40,000 ceiling in Alberta as compared to $29,000 in Saskatchewan and $26,000 in British Columbia. Perhaps you could explain that to me.

MR. CHAIRMAN: Maybe they should start explaining, not us. I am not being cheeky, Mr. Morrison; I am only saying that the worker gives up the right of legal action in return for compensation of lost wages. The average for compensable earnings for 1982 is only about $2,000 higher than it was in '81. In other words, I am advised that the average for 1981 was something in the vicinity of . . .

MR. RUNCK: Twenty-three thousand.

MR. CHAIRMAN: No, for '81.

MR. RUNCK: I'm sorry.

MR. CHAIRMAN: It was roughly $21,000. The average for '82, when the ceiling was raised to $40,000, was around $23,000.

MR. MORRISON: I am assuming that the payment to a worker would be reached by imagining his salary for one full year of employment. One full year of employment is something that isn't attained too often in the drilling industry these days.

MR. RUNCK: Mr. Chairman, the average earnings in the drilling industry reported by people that have had contact with the Board is just a little over $31,000 per year.

MR. CHAIRMAN: That's the average for the drilling industry?

MR. RUNCK: Yes, sir.

MR. CHAIRMAN: That helps us a little bit here. Possibly you may want to look at your own companies.

The second part, I just want to commend your company for receiving a good merit rebate, which brings your rates down. You must compare it with other provinces that may not have a merit rebate program. I see you got almost your 33 per cent rebate, so I commend your company for it.

MR. MORRISON: Thank you. Perhaps you could explain why the Workers' Compensation Board paid out expenses amounting to $147,000, and the administration costs were $122,000. I am sure we're getting quite close to the one for me, one for the worker situation.

MR. WISOCKY: It's not quite that simple. I think we would have to look at the actual cases. We may have paid X number of dollars in that particular year, but who knows how much we had to put aside for pension awards the reserves for the future cost of workers that were injured that year or in preceding years. The administration cost is certainly nowhere near what they quote there. But if you want a detailed explanation, feel free to call us, and we will go through it with you.

MR. CHAIRMAN: I am advised that the overall administration cost is around 10 per cent, which falls in with most administration.

MR. MARTIN: Just to follow up in that area. I don't think you can just say it's 30 per cent for administration costs, taking what it has cost you. The key point is that it is also an insurance policy. As a result of that insurance policy, you can't be sued. That could be worth a lot, especially to a smaller company. That is also taken into consideration. You would have to remember that in terms of the figures.

I would like to go into your points nos. 1 and 2. No. 1, can you just enlarge — obviously it's in your industry, and you must have some concerns. Can you be a little more specific about what you see happening there, with companies coming into Alberta?

MR. MORRISON: The one example that obviously comes to mind would be the American — particularly Texas, I believe — workers who were in on the Lodgepole incident.

MR. MARTIN: Okay. We have heard a lot on No. 2, not only from you but from other people, about workers who are receiving and are awarded more take-home pay while on workers' compensation compared with their regular take-home pay. Do you have specific examples of where this is occurring?

MR. CHAIRMAN: If you don't, when you get to your office you may send it into my office and we'll share it. We would welcome a specific example, Mr. Morrison.

MR. MORRISON: Certainly.

MR. THOMPSON: I would like to get back to this business about employees who are

injured in road accidents or while in camp accommodation. This seems to be something that keeps bobbing up at the hearings all the time, so I know it's a concern to many people. I may be trying to compare apples and oranges. But basically, we had a brief from ESSO, and in a three-year period they cut their vehicle accidents from 21 a year to two a year, I think it was in '79 or '80. I don't know how they did it; we didn't get into that. It is amazing what some of these companies can do if they really zero in on a problem like that. I am not trying to tell you how to operate your company, but apparently there are ways some of these companies have of cutting down that type of thing. I just want to leave that one with you: that some companies have, to some degree at least, solved their problem with vehicle accidents.

DR. BUCK: Just on that point, Mr. Morrison, would you not consider it reasonable that when these people are on your campsites, waiting for their shift to change, they should not be considered as employees?

MR. CHAIRMAN: In the bunk, in the camp.

MR. MORRISON: The question arises on a non-camp location. Certainly we still consider them our employees if they are staying at a motel. Are we then responsible for them there or if they are staying at home? They are still our employee there as well.

DR. BUCK: I am just trying to see if there is a differentiation. Really we have two: going from their motel to the worksite; then the other one it seems like they are on campsite maybe a quarter of a mile away and so on. If they're hurt there, are you making any differentiation there? In the presentation, I can't see it.

MR. MORRISON: Certainly we are trying to make the differentiation between working on the rig and walking around in the camp. I can see that as being two distinctly different things.

MRS. FYFE: I would like to get back to the calculation of wages for the year. I would like you describe your concern in a little more detail. You are saying that some workers are earning more on workers' compensation payments that they would in their regular take-home pay. Are you suggesting that the way the yearly amount is calculated — and drilling is most often part-time, part of the year, employment — causes the worker to have a higher amount of take-home pay?

MR. MORRISON: I suppose however you choose to calculate it, the problem still arises that we are concerned that some employees may prefer to stay on workers' compensation payments than to work. I don't think any of us want to see a society that evolves into something like that.

MRS. FYFE: So it is lack of incentive you're concerned about, not the method of calculation. Your comments don't go into it. That's why I am trying to zero in on exactly what you mean.

MR. MORRISON: We were just presenting this briefly. But it seems to me that if you were to calculate the amount that is deducted for income tax, Canada pension, et cetera, I presume that is going to result in a worker getting less in his pocket than if he were getting a WCB payment. If that's not the case, please . . .

MRS. FYFE: It shouldn't be the case, unless there are specific circumstances where

overtime or other income was included in the calculation to determine the actual amount that he was entitled to. What the basic formula is intended to do is give 90 per cent of the worker's take-home pay. It was previously 75 per cent of gross. We were told that those are deemed to be equal figures: 75 per cent of gross is equal to 90 per cent of net, which still left a 10 per cent incentive for the worker who maybe tends to say I would rather stay home than to be out earning a fair living. What I want to know is, is it the incentive you're concerned about or the method of calculating what is the worker's normal annual wage?

MR. MORRISON: I will check some specific examples.

MRS. FYFE: Did you have anything you wanted to add to the calculation?

MR. RUNCK: Not really. What we generally do is try to arrive at as reasonable a figure as possible. We use three figures in our consideration. One is what he was actually earning at the time of the accident. Another is his average earnings over the past year. And if those don't appear to be similar or co-ordinated, we look at the average earnings in the past year for a worker in the same grade of employment. But I get the feeling that he's talking about the deductions, and the regulations do require that we deduct the equivalent of his income tax, UIC, and CPP. That's in the formula.

MR. CHAIRMAN: Any other questions or clarifications? Mr. Morrison, we thank you for coming forward. We look forward to the additional information you may send to my office. The camp policy is presently under review. I thought I'd just share it with you and no doubt may be shared with your Canadian Association of Oilwell Drilling Contractors. I would recommend that you communicate with them or . . .

MR. MORRISON: I will be attending a meeting in Calgary tomorrow. Do you have any . . .

MR. CHAIRMAN: You could possibly raise that with them, because it's not a policy that is never left. All policies are always reviewed, and that's one we would welcome your submission on here. But as Dr. Buck pointed out, it's a difficult area where the worker is required to stay at the camp. That is why coverage has been provided. But it's presently under review.

MR. MORRISON: Can you give me any idea of when something earth-shattering will be released on this review?

MR. CHAIRMAN: I can't give you any idea whether it will be a rumble or an earth-shattering thing.

MR. MORRISON: How about just a date?

MR. CHAIRMAN: No, I can't. It's presently under review, and the select committee will also look at that policy sometime later on this winter.

MR. MORRISON: Very well. Thank you.

MR. CHAIRMAN: Thank you for coming forward.

We know we're a little ahead of time. I'm satisfied that some of the Alberta Federation of Labour people may not be here yet, but whoever is here may start to

assemble. We'll have a 10-minute break for a refill of coffee and so forth, and I apologize that we're moving a little faster than what we thought. However, if the Alberta Federation of Labour representatives would start sitting their members present here, we'd welcome that. We'll have a 10-minute coffee break.

[The meeting recessed at 10:10 a.m. and resumed at 10:20 a.m.]

MR. CHAIRMAN: May I have the attention of the people assembled and the committee members.

Alberta Federation of Labour

MR. CHAIRMAN: Mr. Werlin, we have your presentation. If you would introduce your colleagues; then proceed to make your presentation. We received a little more information this morning that we will look at later, or you may want to touch on. Because of your voluminous submission, if you would assist us in what you're referring to, we may be able to follow you in your text. That will help us.

We have the rest of the morning. In response to Mr. Kostiuk's request, we moved you to the morning — we hope that wasn't any inconvenience — to allow a little more time. We therefore have till almost 12 p.m. to work on your submission here today.

MR. WERLIN: Thank you very much, Mr. Diachuk. I should say first of all that I appreciate that you've given us the additional time. As the umbrella group for the labor movement here, we feel we wish to make a thorough presentation and provide full opportunity to answer questions.

Secondly, you'll notice that in our letter to you we made reference to an addendum. Since we have a very comprehensive brief before you already and presented a brief to you in January, we've decided that rather than encumber you with more paper, today we will in fact make an oral presentation, which will simply highlight our brief, and answer any questions you may have.

I'd like to introduce the people that are here with me representing the Federation of Labour. On my immediate left is Janet Bertinuson; on her left is Dennis Malayko; on my right is Harry Kostiuk, the secretary-treasurer of the Federation; and Don Aitken, on his right.

Mr. Chairman, we're pleased to have this opportunity to submit to the select committee of the Alberta Legislative Assembly, recommendations to improve the Occupational Health and Safety Act. You'll notice that we're starting from the point of view of occupational health and safety. That is because, in our view, that is a tremendously important part of what you're dealing with. In fact, we wish to place our main emphasis on that, in terms of providing protection and safety for working people.

Throughout this brief, we make reference in part to our January 1983 submission to the Minister responsible for Workers' Health, Safety and Compensation, and reiterate some of our major concerns outlined in that brief, which have been grouped into five categories. The general duties of employers is the first category. We strongly support the concept that it is the employer's responsibility to provide a work place free from health and safety hazards. There should be no semantic excuses to get the employer off the hook in terms of ensuring that workers are protected from hazards. In addition, a new section defining health and safety must be added to the legislation.

We wish also to emphasize the right to participate. There is currently no requirement for mandatory health and safety committees in Alberta; yet we hear talk of self-regulation, internal monitoring, et cetera. There is no way such programs can ever

begin to be effective unless committees are mandated. The Federation concurs with the Gale commission report that joint worksite health and safety committees are the very foundation of an effective health and safety program.

In order to work effectively to correct hazards in the work place, the rights and responsibilities of such committees must be increased and incorporated into the Act. Specifically, the federation recommends: (a) committee members have the right to shut down or tag out any machine or process which they believe to be hazardous or potentially hazardous; (b) establishment of a dispute procedure; (c) legal recognition of the rights of committee members; (d) establishment of education programs for joint health and safety committee members; (e) information to provide to committee members on accidents, fatalities, and occupational diseases in the work place; (f) the right to accompany all government inspectors entering the work place; (g) information resulting from an inspection be made available to the joint committee; (h) immediate notification of accidents and the right to take part in the accident investigation; (i) health and safety committee members be paid at the regular or premium rate of pay.

The right to refuse. Alberta legislation does not recognize the right of a worker to refuse to work in unsafe or unhealthy conditions, but rather states a prohibition to perform work in a situation where there is imminent danger. Our basic concern is, one, that workers must have the right to refuse. A recent study by Harvey Krahn and Graham Lowe, University of Alberta, showed that 91.9 per cent of people polled in Edmonton and Winnipeg agreed that workers should have the right to refuse to work in conditions which they consider to be unsafe. The law should reflect this attitude.

Two, the definition of imminent danger in law is confusing and further erodes the rights of workers to refuse work. To resolve the variety of problems that result from trying to determine what is normal or not normal for a given occupation, the term "imminent danger" should be used appropriately or eliminated from this section of the legislation. It could easily be eliminated if section 27(1) were changed to provide that "workers have a right to refuse work they believe to be unsafe or unhealthy to themselves or others". We are in concurrence with the new subsection (3) in section 27 of the Act; however, the refusal procedure should involve the joint worksite health and safety committee in an investigation of the matter.

Access to information — medical, monitoring, toxicology data. Employers must fully share with workers the available information on concentrations of toxic materials and their effects. Lack of such information has too often meant that occupational diseases have been ignored or overlooked. Occupational health and safety history is full of examples where workers' lack of knowledge about toxicity and employers' failure to provide protection have resulted in epidemics of various diseases: asbestosis, cancers, black lung, silicosis. As a first step in correcting the current situation, workers and their representatives must have access to information on medical, monitoring, and toxicological data.

Chemical hazard information. Current legislation provides that an employer develop information regarding any designated substances used in the work place. However, the Federation wants to see such language extended to all materials used or produced in the work place. Enabling legislation could provide the basis for this information. If the current system being developed by Labour Canada is judged workable, it should be incorporated into Alberta law.

Penalties. The Federation would like to see penalties increased, an action which may prevent some employers from continuing to violate the Act. We also feel the Attorney General should prosecute more cases for major violations of the Act.

In conclusion, the Alberta Federation of Labour again appreciates this opportunity to voice our concerns about the need to increase protection of workers in this province. We request that the select committee give serious consideration to recommendations

outlined in this submission for inclusion in the Occupational Health and Safety Act.

Mr. Chairman, we have a further presentation with regard to workers' compensation.

MR. CHAIRMAN: I wonder, Mr. Werlin, if possibly the committee members could work on clarification of this first submission; then we'll go to workers' compensation.

MR. WERLIN: Yes. I was going to ask if you prefer that procedure. I think it would be preferable to us.

MR. CHAIRMAN: Mr. Werlin, may I just ask if the Alberta Federation of Labour and you people are familiar with the regulation with regard to the joint worksite health and safety committee? Because the advice I'm getting is that some of the concerns you raise here are looked after in the regulations. Possibly regulations are what we should take a look at. Your reference to the committee members having the right to accompany all government inspectors is provided in the regulations and, at most times, encouraged by occupational health and safety officers. I wonder if you're familiar the regulations? Maybe that's what needs to be reviewed.

MR. KOSTIUK: Mr. Chairman, on that particular one, while they are encouraged to attend, in (g) you'll notice that inspectors have a legal obligation to contact the committee member. In many cases inspectors come on worksites and, unless they are notified, they have no way of knowing that the inspector is there. What we are really looking for is having the obligation, by regulation or statute, for the inspector to contact members or the designate from the joint committee to accompany him — the labor member and/or the company member. We're not saying that it doesn't happen in policy now, but there is that amount of discretion in there. One inspector may do it and another one may not do it.

MR. WERLIN: I think if I might, Mr. Diachuk, I understand that the inspector "may" be accompanied. What we want is that it be legislated that he "shall" be accompanied. First of all, we want the committees to be legislated into existence. Then we want that function legislated so that that becomes a required procedure, not an optional procedure.

MR. CHAIRMAN: So you are familiar with the regulations. Any other questions here on this submission?

MR. THOMPSON: Mr. Chairman, on the point we were discussing, we have had representation from labor that they want these inspectors to come on the site without prior notice to employers.

MR. WERLIN: As I have understood these things being raised, and certainly from our point of view, I believe there are two different circumstances. We're saying that there should be on-site inspection without notification to anybody, and that's one thing. On the other hand, we're talking about inspection of accidents that have occurred. Then we want the committee members involved directly and immediately, and by mandatory provision in the Act.

The other part of it, of course, is simply that if inspectors are going to be effective in seeking out conditions that need to be attended to ahead of time, then there should be no notification so that there can be no change made simply to accommodate the fact that the inspector is coming.

MS BERTINUSON: In addition, I think the point should be raised that what we're

referring to in terms of notification of committee members would be that as soon as an inspector comes to the plant gate, the office, or whatever is the worksite, he or she knows who the designated committee members are and immediately requests that they accompany the inspector on the inspection. So it's not a question of notifying ahead of time but that that notification is made as soon as they reach the worksite.

MR. WERLIN: I think the question is not one of prior warning or prior notice but of when they arrive on the jobsite, they then contact the member of the committee to accompany.

MR. THOMPSON: I'm still confused, Mr. Chairman, because Mr. Kostiuk said that ordinarily these inspectors are accompanied. But there are times that they send a notification but, for whatever reason, the member doesn't show up.

MR. KOSTIUK: Mr. Chairman, for clarification, so I am not misunderstood, when I said we want the legal obligation when an inspector comes on-site, an inspector doesn't normally go on-site and go ahead and inspect the premises without letting the employer know, because he has to go there first to report that he or she is on-site. When that happens, they also notify the joint committee and make certain that there is a designate from the joint committee representing labor that accompanies the inspector on the inspection tour. We are certainly against prior notice to the company that an inspector is coming in to make an inspection. This is something we have always been against, and we continue to be against that. However, when the inspector arrives on-site, that is the time we would have a legal obligation for the inspector to have accompaniment from the joint committee.

MR. CHAIRMAN: Walt Buck.

DR. BUCK: Just on another topic. I'd just like to ask Mr. Werlin, and also people who have something to do with workers' compensation, what type of education program or liaison there is between labor, management, and the department to the young fellows working in the oil patch that are on two weeks, come home and get drunk for a week, and go back to work? I'm not being facetious. I'm really concerned, because some of these fellows come back to work a week later in worse shape than they were at the end of the two-week rotation. What liaison or what educational program is there for those employees, to say to them: look, either we dry you out for a day before you go to work so you don't fall off a scaffold . . . What is labor doing, what is management doing, and what is the department doing to try to keep the accident rate down the day after these guys come back from a supposed rest?

MR. WERLIN: I guess one of the reasons there are very few unions in the oil patch is because one of the first things we'd change is this business of working 18 days straight for 12 hours a day, and then taking your time off all in one lump sum. We're not organized in the oil patch, so we have no access to that very high-risk industry. We've been very effectively kept out of the oil patch, and that's why it is high risk. That's the problem.

MR. KOSTIUK: Mr. Chairman, just further to that, we don't have any first-hand information, for the obvious reasons that Mr. Werlin raised. But if you'll refer to the Sage report on the accident situation within the oil well drilling industry, you'll find that there is virtually no education, no orientation of new workers coming on-site. That is the reason we have the kind of accident situation we have in the oil well drilling industry.

There simply isn't anything, and we take that from the Sage report, which was presented about three or four years ago.

DR. BUCK: Mr. Chairman, is there anybody in the department that can enlighten my education on this?

MR. CHAIRMAN: Keith?

MR. SMITH: I think that in terms of the educational programs generally applied in the oil and gas industry, that's basically a program or series of programs put on by the Canadian Association of Oilwell Drilling Contractors. Much of that was developed from the Sage investigation that took place several years ago. So really the onus is on the employer to conduct those sorts of programs, whether they relate to safety itself or to alcoholism problems, for instance.

DR. BUCK: So the department or Workers' Compensation aren't doing anything for educational programs?

MR. SMITH: Not specifically in terms of the question you raised, Dr. Buck.

MR. WERLIN: I wonder, Mr. Chairman, if I might say that we are quite proud of our education system in the Alberta Federation of Labour, and we're doing our very best and have had considerable assistance from this government in carrying out a program. We're trying to get that into every union and onto every worksite. Our ability to do that is limited, of course, where we're not organized. Also, we have just recently established an organization called COSH, Committee on [Occupational] Safety and Health, which will be open and available to all workers, whether organized, affiliated to the Federation, or otherwise. So we are doing what we can to develop an educational program.

DR. BUCK: Mr. Chairman, this may be irregular, but could I address that question to Mr. Morrison? We're here to try to get information, and Mr. Morrison stuck his hand up. Could I ask that question of him?

MR. MORRISON: The CAODC is currently working on a drug and alcohol abuse program which will be available through the contractors to the employees and also to the management of these companies. We all know that drug and alcohol abuse is a problem not restricted to the proverbial roughneck. So this program is being worked on.

As for the orientation of new employees who have never been on rigs before, in this slowdown those instances are very few. We do have experienced hands to choose from, and anyone who is sent out to a rig and has no experience is by no means coerced into going. He's aware he is going out to a new environment, and he's told that he is going to have to inform everyone that he is new and not be shy at all about asking any questions if he has to know.

DR. BUCK: Mr. Chairman, just to pursue that further, does the industry have any statistics to indicate to them that these fellows that supposedly come back from a week's rest and recovery are maybe showing a higher risk factor and having more accidents after they come back from the so-called rest and recovery period than at the regular work place?

MR. MORRISON: I can't foresee any statisticians on hand at the rig. Something like that is an unknown. Perhaps it does occur.

DR. BUCK: Well, I happened to work a few years in the oil patch, and I know what kind of shape you come back in after a little holiday. I think it's an area of concern.

MR. MORRISON: I could send you some information following tomorrow's meeting on the CAODC drug and alcohol abuse program we are preparing to implement.

DR. BUCK: Good.

MR. CHAIRMAN: Ray Martin.

MR. MARTIN: Mr. Chairman, it seems to me that the crux of what he is saying involves one major item, and that is the mandate for joint safety committees. Basically everything flows from that in his presentation, as I understand it. Right now in some industries, we have voluntary joint safety committees. I wonder if the Federation has any idea of how many of these are around, the percentages, and how they are generally working in terms of the procedures you've laid out.

MS BERTINUSON: We have done surveys of our membership at various health and safety committee conferences in particular, and there aren't that many where they are not mandated. The majority of worksites where you have joint committees are those that have been designated by the minister. For example, if you look at the meat packing industry, I think almost all of them were covered as one group and have joint worksite committees. Certainly workers in worksites within the public service — and Dennis could answer that more fully — have mandated committees. Other than that, I would say that maybe 9 to 10 per cent of our affiliates have joint worksite health and safety committees.

MR. CHAIRMAN: Possibly to assist you, Ray, in most of your union shops you have committees by agreement, don't you?

MS BERTINUSON: No, that's not necessarily so.

MR. CHAIRMAN: I was given to understand that's now part of a package in most contracts, but I haven't looked at contracts. You'd be better able to answer that.

MS BERTINUSON: We are in fact now doing a manual on collective bargaining, and we've asked our affiliates to send us samples of their contract language. There are many, many contracts, and the only language you'll see is a recognition clause or a very simple statement on occupational health and safety, that the employer agrees to provide a safe and healthy work place. I think the last time we did a survey was maybe three years ago, at one of our health and safety conferences, so the situation has probably changed. But I can tell you that from doing week-long classes throughout this province in the past year, when we talk about joint health and safety committees one of the major questions raised is, how do we start one? So I don't think it's as widespread as you had indicated, for example.

MR. CHAIRMAN: Keith, can you assist us here? Then Ray will get back to a further question.

MR. SMITH: I just wanted perhaps to assist the Federation in the collective agreement area, with respect to the number of contracts that have wording respecting

labor/management safety committees. Approximately 40 per cent of the agreements concluded in 1982 contained provisions for labor/management joint committees. The exact figure is 397 out of about 1,062, I think, so approximately 40 per cent of the collective agreements in 1982 did have such a provision.

MR. CHAIRMAN: Ray, further?

MR. MARTIN: Just to follow up, and if I can just enlarge, any information you have in this regard as you collect it would be valuable to the select committee through the minister's office. I guess I'd mainly be asking Janet this. Do you have examples in Canada, or I suppose the United States, where they follow somewhat similar to what you're advocating, in terms of the procedures and this sort of thing?

MS BERTINUSON: Committees having those rights?

MR. MARTIN: Yes. Provinces.

MS BERTINUSON: Yes, certainly we do. I know that there are in fact some committees in Alberta that have extensive rights for committees within their contracts, pretty much following the items we've laid out in our submission. So they do in fact exist. But I would suggest that with that extensive coverage — and this is simply a guess on my part — you wouldn't find that many that would have all these points covered. Where there is joint committee legislation . . . For example, as it existed in Saskatchewan — I don't know how that has changed — these points were covered. In fact, when our health and safety committee was putting together the brief for January of this year, we developed a lot of this language from existing provincial legislation and regulations.

MR. MARTIN: Again, just to conclude, mainly it's been workers' compensation briefs that we've dealt with in this committee. I think that wherever we can get information, even about voluntary committees in Alberta that are working well, that would be interesting for us to take a look at. I think we would all appreciate getting as much information as we can when we start to look at this.

MR. WERLIN: I might say, Mr. Chairman, if I may on this subject, that we have to be careful. I think these figures can be quite misleading. When you say that 40 per cent of the collective agreements have provisions, in fact most of them are simply recognition of the concept of occupational health and safety. That is really all it says.

Secondly, with very few exceptions, the other provisions are very, very difficult to enforce. For example, I know I negotiated 48 collective agreements which are still in effect in the hospital field, and to my knowledge there are not more than three committees that are working at all, and they are very ineffective and incapable of enforcing the kinds of standards that are perceived when you're negotiating a clause. So it simply comes down to the fact that until these these things are mandated in legislation, it's going to be a long, long process before very many people are covered by it through collective agreements. Even that won't be as effective and won't be as helpful in terms of occupational health and safety as would the mandating of these committees in the legislation.

MR. CHAIRMAN: Keith, were you going to supplement some information?

MR. SMITH: Yes, just with respect to Mr. Martin's question on the extent of the provisions or recommendations on joint worksite committees, and whether other

jurisdictions have similar ones. The only comment I would make is that I've been unable to find any other jurisdiction that specifically provides the right to the joint worksite committee to shut down or tag out and, secondly, to arrive at binding decisions with respect to complaints and investigations at the worksite. But it is true that all of the other suggestions you have made and listed in your brief do exist somewhere or other in somebody's jurisdiction throughout the country.

MR. CHAIRMAN: Mr. Werlin, I just want to touch on your presentation on chemical hazard information. I am advised that under the Occupational Health and Safety Act, the employer must prepare a written report when one of the approximately 650 chemicals that are known in this province exist at the worksite. Can you just elaborate on what your difficulty is with this? I believe this was the current amendment that came through this year, wasn't it? Or was this in the Occupational Health and Safety Act — that the employer must provide?

MR. SMITH: Yes.

MR. CHAIRMAN: It's the amendment, you mean.

MR. SMITH: And it's within the regulation as well.

MR. CHAIRMAN: That's right.

MR. WERLIN: I think I'd like to ask Jan . . .

MS BERTINUSON: We did mention in our brief that the legislation did in fact provide that and, as Keith mentioned, there is information that deals with it in the chemical hazards regulation. But our reading was that it was in fact only for designated substances.

One of the major problems we have is that we think it should be for any substance that is used or produced in a work place, because we certainly don't have regulations for all the chemicals that are used in the work place. For many of those chemicals or those combinations of chemicals, we may in fact only have information that says: no toxicology studies have been done, or there is very little information available. But I think workers should have access to that kind of information.

The other point is that we were concerned about the form in which that information is provided, and that there be a uniform type of presentation, as well as recognizing that Labour Canada has been working for the last year and a half, I think, on a chemical hazards or hazardous labelling standard which would provide things that are not currently provided, as far as I know, within current legislation. That is, there would be a standard form for a material safety data sheet, and there would be a standard labelling form or several different types of labelling, as well as a worker information or worker education part of that whole subsystem, which would provide that workers be educated on some of the basic toxicological principles — you know, what does it mean if you see an LD50 on a material safety data sheet? — what materials they are using in their work place, how they are being used, what precautions should be taken, and so on and so forth. We're looking for something that is very clear, is comprehensive, and is standard, more than anything else. Keith may certainly be able to respond to the form and format.

MR. CHAIRMAN: Keith?

MR. SMITH: There are two issues being discussed: one is the collection and provision of

information to workers at a worksite, and the second is the labelling standard that may be applicable to any materials produced, stored, or transported onto sites. They're two somewhat different issues.

The question of providing information to workers with respect to the hazards involved, the composition involved, the first aid treatment, spills procedures, and so on, has been fairly well standardized through the chemical safety data sheet type of procedure. I think it's fairly common in most jurisdictions that this type of information is required to be present at the worksite. We are basically no different from other jurisdictions in our requirements with respect to the type of information and the way it's laid out.

The difference between jurisdictions may be the wording and whether the detail of that information requirement is spelled out in the regulation and supported by a code or a guideline, or whether it's the requirement that that type of information be present and the format of that information document provided in supporting guidelines. We have adopted the second mode: we require the information to be present at the worksite for designated substances under the regulations. As the chairman has said, there are some 600 substances so designated. The way in which that information has to be available at the site is set up by guidelines that are available — I have a copy somewhere — which in essence copy the format that is used throughout North America in terms of these safety data sheets. So I think we differ very little in terms of what information must be available to workers at the site.

The second one is in regard to the labelling of materials, and this is a very, very complex area. As Janet has indicated, the federal/provincial meetings have gone on for at least a year and a half — I'll go back a lot further than that — in terms of trying to come to an agreement as to what label would be affixed to any particular product or container. There are difficulties involved which are attempted to be resolved through a number of very active subcommittees. The only thing I might say at this stage is that Alberta is very actively involved in all of those subcommittees as well as the main committee. The fate of that, I think, depends upon establishing the appropriate agreement between the federal government, several departments of the federal government, and the provincial authorities concerned. It's something we're working on, but it's a future resolution rather than anything I could comment any further on.

MR. CHAIRMAN: Janet, any comment on the labelling part?

MS BERTINUSON: Yes, the only major point I would certainly make is on the question of all substances. That standard that we've been talking about, the Labour Canada, would in fact look at many more than simply the designated substances. I think that was one of our major points.

MR. CHAIRMAN: I thought I would just ask for a little more elaboration on your penalties submission. As you know, the amendments provided for roughly a triple penalty. Have you any comparison — and if you don't have it here, maybe you'd look back and get it to us — on other jurisdictions? I appreciate that when legislators legislate penalties, they also look at the possibility of it affecting a small employer at the same time as a big employer, and therefore a $10,000 penalty to a big employer or a large firm wouldn't have the same effect as on a dentist operating all alone.

MR. WERLIN: Of course, dental assistants aren't covered, and we're coming to that. I'm going to ask Jan if she knows anything about the difference in other jurisdictions, because she is more experienced in that end of it.

But let me just point to one example here in Alberta, Rocky Mountain House. Quinn

Contracting Ltd. received a $5,000 fine following an accident at a Gulf Canada plant prilling tower, in which a worker was left paralysed from the waist down. David Henderson, 31, suffered a fractured back when a three-kilogram icycle-shaped chunk of sulphur fell on him from a height of 45 metres. At a separate trial in June, Gulf received a $7,500 fine for the same charge. The contractor in the first charge was working for the company that was charged in the second case. There you have an instance where the second application of the fine was minimally larger than the first.

With us it's not a question of retribution. You can't get a worker out of a wheel chair by retribution; that's not the issue. The issue with us is the prevention of these kinds of things happening in the first place and ever recurring if they do happen in the first place. You know, the whole system we operate under is to protect the employers from the law of tort. I suggest to you that it would be a settlement well up in the millions of dollars these days for a person who, by virtue of negligence, was confined to a wheelchair, especially a young person like this. I suggest to you — and again I want to reiterate it's without the slightest notion of retribution entering into our thinking on it — that the fines, the penalties, are not sufficient. We have no record of anybody ever being jailed. And there are instances that we're aware of where the negligence is of such a nature that if it had happened in an automobile accident, the person would have been jailed.

MR. CHAIRMAN: Can I just add that I have the same concern, Mr. Werlin? And I'm advised that there's a larger financial penalty to that firm by the loss of the merit rebate and potentially also a superassessment. So monetarily, I'm glad you're not looking for any real hardship but more the preventive part. But monetarily, your presentation said: "would like to see penalties increased".

MR. WERLIN: Certainly I think the example I gave you — and we could produce many others . . .

MR. CHAIRMAN: It was a good example.

MR. WERLIN: . . . indicates that the penalties in many instances are not of such a nature as to cause a serious reconsideration of the lack of safety on the job. That, of course, is our whole concern.

MR. CHAIRMAN: I appreciate your qualifying it, that it's not the monetary thing you're looking at here; as a federation you're looking more at the preventive.

MR. WERLIN: What I am saying is that in a society which leans heavily on monetary fines and other forms of penalties, they're not sufficient and they're not effective in many cases.

MR. CHAIRMAN: You haven't any information on comparing our penalties with other jurisdictions?

MR. WERLIN: I'll perhaps ask Janet. If she hasn't, we could find that out. But if I may, I would like to make this point just before Janet answers that: I wouldn't be overly convinced, in any event, that that matters very much. If it isn't effective here — and we're talking about people in Alberta — then it needs to be made effective. The fact that it may be less ineffective elsewhere would be not very convincing to me.

MS BERTINUSON: When we indicated in the January submission that we wanted an

increase — and I think it was from $15,000 to $25,000 or something along that line — the committee did look at different jurisdictions, but I think that our decision, our coming to that particular figure, was more along the line of trying to indicate that we felt the penalties had to be increased. I wouldn't say that was necessarily an arbitrary figure, but I think that in fact that's what it is, to indicate the fact that we feel the penalties are simply not sufficient, including the superassessments which we talk about later in our submission on compensation. They're obviously not effective in preventing employers such as you just heard about from negligent behavior on the job which eventually leads to severe injury, death, or long-term chronic occupational diseases. So what we're trying to express more than anything, as Dave has said, is our concern that employers aren't really concerned because they're not penalized sufficiently.

MR. CHAIRMAN: The amendments now provide for up to $30,000, so that comes to what your submission was directing itself to.

MS BERTINUSON: Right.

MR. CHAIRMAN: Harry, you had something?

MR. KOSTIUK: Further to that, Mr. Chairman, keeping in mind that the objective is to be a deterrent in terms of fines and the more rigid question of prosecution by the Attorney General's Department, your point is well taken when you say that a penalty of $10,000 could well break one employer, where the other wouldn't even notice it. I think that makes a good case to have maximum fines of such a nature where the court could take that bit of discretion also. So when you have the maximum fines within the statute, there could be some discretion on the deterrent effect on Imperial Oil, for example, as opposed to the three-person contractor working down the street.

MR. CHAIRMAN: Mr. Werlin, those examples that you used, which we're all familiar with, may have yet come under the legislation prior to the amendment. So I believe that could be quite accurate, because the amendments were under the new . . .

MR. WERLIN: This was published on October 26, 1983, and it's referring back to June '83.

MR. CHAIRMAN: I say that it may have been that the Attorney General's Department was working on prosecution under the . . . Okay, any other questions under there? Yes, Myrna?

MRS. FYFE: I'd just like to go back to the issue of the right to refuse work in an unsafe or unhealthy work place. I wonder if you could just expand your thoughts in this area and the suggestion that you have put forward that the wording could be changed to say that workers would have the "right to refuse work they believe to be unsafe or unhealthy to themselves or others." I guess the difficulty I have in understanding this is: really, who is going to determine? Maybe the present wording, "imminent danger", is not perfect, but it does more sharply focus in to the worker that he does have a right if he believes that there is something that's going to injure him. By changing the wording to what you've suggested, I'm not sure that it's going to be as meaningful to the worker. And how do you determine? I assume that you're trying to include occupational diseases in this too; maybe I'm wrong. Would you mind clarifying this for me, please?

MR. WERLIN: I think you've put your finger on an important part of it, and that includes

occupational diseases. When you're exposed to chemicals, dust, and various conditions that you encounter in the work place, there's no way of determining that there is "imminent danger". But when you study the history of cancer and silicosis and various other things, you will find workers who knew there was a danger. They were concerned about it, they knew that nothing was being done about it, and they didn't have the right to refuse to work. That's one example.

Another example might be like the workman who was injured at Rocky Mountain House. I'm sure you're all familiar with his case. It's a very good example, because in fact there was a concern about that large chunk of sulphur. It's not as if they hadn't talked about it, thought about it, and knew about it. In fact there was an order by the foreman not to remove it. A fine was levied because the contractor allowed him to go in, in spite of that order from higher up not to remove it. Surely if I had been there, I think I might even have interpreted that as imminent danger.

Whether that's the case or not, this question of determining what's imminent is very hard to prove until the accident has happened; that's the problem with it. We think that workers properly trained and given knowledge about the work place know when it's dangerous to work and that they're not going to refuse to work unless there is a real cause for it. But the use of the word "imminent" causes a great deal of difficulty in enforcing it.

MRS. FYFE: I can understand that point. I'm not sure that what you've suggested is going to be any more clear. For example, some industries have far greater risks than others. We were talking earlier about the oil patch. That obviously has a lot greater risk than working in a retail store. The worker is paid a higher salary. I suppose that partly compensates for the risks involved in a different type of industry and other compensation. I guess I just leave it with you that I don't think that this wording would necessarily satisfy what you're getting at, but maybe I'm wrong.

MR. WERLIN: Let me take it just a step further, if I may. The Act gives a definition of imminent danger. It means in relation to any occupation and then it says "a danger which is not normal for that occupation". I think that's an important issue. I think we just had an example. We had a response from a gentleman from behind me here. I'm not sure of his name or who he represents, but he was brought into the discussion. He sort of indicated the very thing that we're concerned about. They're warned that, oh yes, it's a very dangerous occupation but that's normal to the occupation. So what happens? Nothing. Nothing's done about it. Nobody can refuse to work because it's normal to the occupation, you see. And that isn't acceptable. What's normal in an occupation now and what was normal in some occupations 30 years ago is quite different. But our attempts to change that, to improve that, and to save workers' lives in the process are hampered by the insertion of that word.

MR. CHAIRMAN: Okay, we can then move to your submission on the Workers' Compensation Act, Mr. Werlin.

MR. WERLIN: Mr. Chairman, in the first couple of paragraphs we again express our appreciation for the opportunity and indicate that we're not going to read our brief to you again. You have it in front of you, and I trust it has been studied. So I'll begin at the third paragraph.

The federation understands that the compensation system was established primarily to protect employers from court action to recover damages on behalf of an injured worker. That is, by contributing to the accident fund, employers are protected against legal action by workers who contract industrial diseases or are injured during the course

of employment. Unfortunately the protection granted to workers under the legislation is not nearly as extensive. Workers continue to pay a heavy price in terms of loss of health and earnings simply by the fact that they have the misfortune to be injured on the job or breathe in a toxic substance which eventually results in occupational disease.

Our foremost concern is with preventing accidents and the exposure to toxic substances from ever happening. To this end we have insisted that the Alberta government enact strict occupational health and safety legislation. While the federation will press further for changes in health and safety legislation that will result in fewer claims being submitted to the Workers' Compensation Board, we will also continue to speak on behalf of those workers and survivors who seek restitution for loss of limb, health, or life.

Compensation benefits. Under current workers' compensation legislation, a worker who suffers a permanent or temporary total disability is eligible for 90 per cent of his net earnings with no regard taken of the aggregate gross earnings in excess of $40,000. The federation's position is that an injured worker must not suffer any financial loss. Therefore the benefits must directly relate to a claimant's economic status prior to the accident and injury, as well as to his potential for advances, wage increases, et cetera.

Exemptions. The federation is concerned with the formula used to calculate 90 per cent of net earnings. Basing the allowable exemptions on the average personal exemption for Alberta is simply not equitable, and the federation strongly supports an individual calculation for each claimant based on the claimant's material and dependent status.

Maximum ceiling and schedule of benefits. The change from 75 per cent of gross to 90 per cent of net for calculating benefits was a positive step in terms of compensating workers having a gross income below $17,500. However, workers in middle-income brackets actually lost by the change, so a worker who is earning $20,000 is now compensated at 72.7 per cent of gross as opposed to 75 per cent. Workers in a higher income bracket also had an increase in benefits, so at the $30,000 level, a worker's monthly benefits increased from $1,375 to $1,719.90. However, doubling the ceiling resulted in less than a 40 per cent increase in actual benefits.

These inequities in the current system lend support to the federation's position that the compensation structure should pay the injured worker 100 per cent of his take-home earnings with no maximum ceiling. No worker can or should be expected to lower his living standard or suffer financial and material losses because he has been injured in the course of his employment.

Lump sum payments. The Alberta Workers' Compensation Act gives the Board the authority to commute periodic pension payments to a lump sum payment computed on the basis of the compensation rate in force at the time of the accident. It is Board policy that when workers are notified of their option to take a lump sum payment, they are also notified that acceptance of such an award does not disqualify them from having the claim reopened or renewed. However, the federation recommends amending the legislation to specifically state that the acceptance of a lump sum payment will not jeopardize a claimant's right to request such actions on the part of the Board. Essentially we want to ensure that the Board's policy is legally binding.

The federation supports the concept of the worker having a choice between a lump sum payment and periodic pension payments only if the disability is rated at 10 per cent or less. The basis for the 10 per cent figure, as you know, is the concept that a worker can't rely on such a low pension for ordinary living expenses. Our support for this concept is contingent on the worker being given a clear explanation of, one, the basis on which the lump sum payment was calculated; two, the potential monetary differences between the lump sum payment or periodic pension payments; three, his right with respect to the lump sum — that is, continued access to medical aid, rehabilitation, and

option to reopen the claim if the condition worsens. The Federation would not support any attempt to put an arbitrary ceiling or maximum amount on a lump sum award.

Survivor benefits and pensions. The federation is concerned that due to increases in the maximum ceiling on insurable earnings, pensions and survivor benefits are not keeping pace with inflation. The federation urges the select committee to seriously consider our position that pension be tied to the level of wages earned at the time of injury or death; for example, that a carpenter's pension or spouse benefits reflect the wages he or she would be earning now and that the benefits reflect the changing economic picture in the province.

The federation is also concerned with other provisions for spouses. Under current legislation a dependent spouse with no children will receive a pension until gainfully employed or 60 months after death, followed by a five-year decreasing pension. In times of high unemployment, a spouse going through the mandatory vocational rehabilitation required under workers' compensation legislation may have difficulty getting into a training program. The spouse could also be trained and find no job or, after a short time at a job, be laid off.

As well, we must look closely at the definition of "gainfully employed". A woman entering the labor market is going to receive, on average, 57 per cent of what her spouse would have received had he survived. A surviving spouse should not have to accept a lower standard of living simply because her spouse had the misfortune to be killed while providing a service for his employer.

Compensation for death. Fatality benefits, which increased in 1981, are still not sufficient to cover funeral costs. The Alberta Federation of Labour maintains its position that the total expenses of the burial or cremation, memorial service, and transportation of the body for a deceased worker be borne by the Workers' Compensation Board.

Determination, pre-existing conditions. We repeat the earlier federation position that where an accident causes an injury to a worker and that injury or disease is aggravated by some pre-existing condition inherent in the worker at the time of the accident, the worker shall be compensated for the full injurious results. We feel strongly that the language in section 59 of the current legislation must be changed, so it is clear that the Board "shall" compensate for the total disability as opposed to "may".

Psychological impairment. The increasing scientific evidence linking work-place stress to adverse health effects, both physical and mental, acute and chronic, supports the federation's proposal that stress-related problems be specifically recognized in Alberta's workers' compensation regulations. The federation also strongly urges that all potential contributors to a claimant's disability be considered when benefits are calculated, because they arose out of the workers' employment.

Worker rights, medical reports. The rights of workers to adequately represent themselves depends on access to all pertinent information regarding the claim, including recommendations made by physicians regarding level of disability and results of medical tests. A British Columbia Supreme Court decision on this same issue supports access rights of claimants. In the decision, Justice John Bouck observed that

> fundamental to any system of justice is the requirement that an adjudicating body reach its decision only on the basis of evidence presented where the parties have had an opportunity to cross-examination and reply. When evidence is taken in secret, the right to challenge it by cross-examination is lost. Justice is denied.

We recognize that workers' compensation is set up outside the tort or criminal law system, but the principle of access to evidence should still hold true. The federation feels it is absolutely necessary that section 29(3) of the Workers' Compensation Act be

amended to provide that a copy of all reports made available to the Board also be made available to the affected worker or surviving dependants; that is, the worker should have access to his complete file.

Medical examinations. The federation strongly supports the principle of Board consultation with affected workers to determine a mutually convenient time for medical examinations which may be required by the Board. In addition, no worker should be forced to suffer financial loss because reimbursement by the Board is not adequate. The policy should be that all necessary expenses for examination should be covered by the Board.

Application of the Act. For certain groups of workers, coverage under the Workers' Compensation Act is not compulsory, and the federation cannot condone such a policy. A number of these occupations are hazardous, for example, operation of laboratories and provision of medical and dental services. In fact, the federation has contact with a former dental technician who has classical symptoms of mercury poisoning. Not one of her employers in Alberta or Manitoba was insured by the compensation system. In our minds, it is discrimination to exempt certain workers from the same kind of protection as workers in other industries. We protest the concept of exemption to the Act and reassert our support for the principle of compulsory universal coverage.

Worker adviser program. Under the current compensation system, the burden to obtain forms, file claims, and appeal a claim decision is carried by or shifted to the affected worker. To resolve the problems related to difficulties in dealing with the claims and appeals systems, the federation considers it imperative that a worker adviser program be established in Alberta. We note that worker advocates exist in other provinces, for example, Saskatchewan and Manitoba. Adviser's duties would involve assistance to workers and their dependants in filing claims, appearances before the Board on behalf of the worker or dependants, review of workers' files, assistance with appeals, and performance of research or recommendations that research be performed by the Board to assist a claimant.

It is extremely important that the worker advisers have access to the claimant's entire file. The adviser's ability to adequately represent the claimant before the Board would be severely restricted if access to the entire file was not permitted. The principle of confidentiality could be served by requiring the worker to sign a release of all information, including medical, to the advisor.

Rehabilitation, reinstatement, and light duty. The Workers' Compensation Act does not provide for workers to be reinstated by their employer following a lost-time injury, so the worker is not guaranteed that his job will be retained while he or she is temporarily disabled. The worker may return to work before he or she is fully recovered, or an injured worker, particularly with a permanent partial disability, may be declared fit for light duty or some modified form of employment by his or her personal physician or a Workers' Compensation Board doctor.

While the rehabilitation centre will assist workers in retraining and finding employment, their efforts are not always successful because many employers are unwilling to hire a disabled worker or a former accident victim. The federation strongly supports a legislative requirement ensuring that the employer provides continued and suitable employment for employees who were injured or developed occupational disease as a result of their work for said employer.

The current merit rebate/superassessment system encourages employers to retain injured workers on the job. Many cases have been brought to the federation's attention where the working wounded are offered light duty work in return for not reporting injuries or illnesses. Avoiding the report of a lost-time injury by having workers remain on the job or return to the work place before they are able affects workers' compensation assessments in an industry class and the particular employer's merit rebates. In 1982

rebates to employers totalled 23 per cent of the 1982 assessments for rated classes of employers.

The federation believes that the select committee must seriously consider the effectiveness of the merit rebate system as an incentive to reduce accident frequency rates in the work place. We have seen no proof that this system really helps to prevent accidents or encourages safer and healthier working conditions. Rather than give the money back to some employers, the Board should be penalizing employers who have high accident cost ratios through increases in the number and amounts of superassessments.

Presumption. Many Alberta workers are exposed to substances which are known, through epidemiological or animal studies, to cause or contribute to conditions including cancer and pulmonary, renal, and heart diseases. However, the presumption in favor of accepting scheduled industrial disease as compensable is not absolute. Diseases not covered by the schedule or guidelines are decided on the available evidence and without benefit of presumption. Therefore the onus is put on the worker to prove that the disease is industrial in origin and arose out of his employment; that is, to gather the necessary evidence so the Board can come to a final conclusion.

It is up to the Board's staff to take an aggressive approach to proving such a worker's case by doing or causing to be done all necessary research. The burden cannot be put on the worker, who does not have the same access to information or training as the staff to do such research. As well, the Board must operate under the premise that the margin of doubt regarding disease causation, however small, must operate in favor of the worker.

The federation also supports the concept of automatic assumption in cases where workers were exposed to a known causative agent for diseases including heart and pulmonary disease for firefighters; asbestosis, silicosis, coal-workers pneumoconiosis — call that black lung — in exposed workers; cancers such as — I'm great on these medical terms — mesothelioma and angiosarcoma; other cancers related to occupational exposure; all conditions included in schedule B. The select committee should be aware that this is not an exhaustive list but simply provides some examples. Therefore, if a firefighter develops heart disease, it will automatically be accepted that the disease is related to his occupation and the firefighter will be compensated accordingly, and likewise in the cases of these others as listed.

Currently, when a worker with a disability of 50 per cent or greater dies, the Board will consider the case that the death may be related to the existing disability, each case being decided on individual merit. However, there are a number of diseases — for example, pulmonary diseases such as silicosis, coal-workers black lung, and asbestosis — which the federation believes should be dealt with on a presumptive group basis. In cases where a worker has a disease, injury, or condition which could possibly cause the resulting death, the federation supports the concept that it shall be presumed that the underlying cause is the existing condition, and the surviving dependants shall be fully compensated on that basis.

In conclusion, the Alberta Federation of Labour has made numerous submissions in the past 10 years on the subject of occupational health and safety and workers' compensation. We have done so out of our continuing concern with the rights of all workers to remain financially and physically whole. We strongly urge the select committee to seriously consider the recommendations put forth in this submission that we feel are absolutely necessary to correct inequities in the present legislation. It has never been acceptable to the federation that workers already suffering physically and/or psychologically due to work place accidents or exposure should have to endure economic hardship as well.

MR. CHAIRMAN: Very well. Any clarification or questions from the members? Myrna.

MRS. FYFE: I'd like to go back — I don't remember the exact page — to the point you made regarding the percentage the worker would receive in benefits. On pages 3 and 4, you're suggesting 100 per cent. Now, I think we would agree that most workers want to be productive and contribute to the economy, want a job and the benefits that accrue from being a worker. However, there are always a few that perhaps want to beat the system. The 90 per cent recommendation that came from the last select committee has been severely criticized by some submissions in that it has taken away an incentive for some workers. There is now a greater feeling that the benefits are so close to 100 per cent that some workers would prefer to stay on workers' compensation benefits rather than going back to work or to light work, even though they are able to do light work.

MR. WERLIN: First of all, I've been working longer than I care to admit or even remember, and I don't remember very many workers who were reluctant to go back to work. I certainly remember a great many who couldn't get back to work. There was no light duty and all sorts of problems in that regard. I suppose that in any system there is a malingerer in any crowd, but it is so minor, to the extent that it exists at all, that I think it should not detract from the kinds of benefits that need to be legislated. On the other hand, with proper administration I think there are sufficient checks and balances and protection for the employer in that regard that there is not going to be any abuse.

Certainly I should say at the outset that there is no abuse in terms of getting hurt. I have never heard of a worker deliberately getting hurt. You don't go and chop some fingers off so you can go on compensation rather than work. The fact that they're on compensation at all is the failure of occupational health and safety procedures on the job to begin with. To place the blame in any way on the victim, regardless of the odd case that may be cited by somebody, is to turn the whole concept of workers' compensation and occupational health and safety on its ear.

MR. KOSTIUK: Further to that, Mr. Chairman, in all cases it's the injured worker's doctor's determination whether he or she is ready to go back to work or not. If it was at the full or partial discretion of the worker whether or not it's their choice to go back, there may be some reason for argument. The Workers' Compensation Board has the option of calling that person in and having him checked by their own doctor. With those kinds of checks and balances, I don't think it's fair comment to say that because there is no financial incentive, the worker would remain back, even if he or she wanted to.

MRS. FYFE: I'm sorry, I didn't mean to interrupt. I think the point is that medicine is still an art, not a science, and not every case can be exactly determined. So there still has to be an onus on the part of the worker, a determination that they want to return to it. I think that's the point that has been raised.

The other aspect relating to the same argument comes from submissions we've received that the benefits in Alberta are now substantially higher than in other provinces and that a lot of businesses feel they are being priced out of the market place. They're less competitive than their sister companies or competitors in other provinces and, if we go any further, it will mean a loss of jobs for Albertans, because they simply won't be able to operate and compete in the market place.

MR. WERLIN: We quite simply take the position that the cost of injury is not a negotiable thing with the worker. The pain, the trauma, the psychological effects, and all these things — you can't put a price tag on that. In any event, that cannot and must not be borne by the worker. When we talk about incentives, I think the greatest incentive that must be emphasized over and over again is the incentive to make the work place safe and not to place the emphasis on the question of cost. If you do that, you're

turning the whole thing into an economic question. Quite frankly I think there's a bit of a red herring being dragged into all of this, where some employers see the economic situation prevailing at the time of these hearings as an opportunity to reduce costs at the expense of injured workers. I want to be very clear that we see that. We're opposed to it and hope there is no consideration of that kind of approach by this select committee.

MRS. FYFE: One last question on a different subject.

MR. CHAIRMAN: I wonder if we could just continue on the benefits question and then continue through that. Walt.

DR. BUCK: Dave, just for the sake of argument so we can kick this thing around — I was on the committee when we raised it to 90 per cent, and I have no qualms that that the right move. Could we look at the difference between the 90 per cent and the 100 per cent as the workers' contribution to make sure he shows responsibility to make sure he's working safely in a safe work place? Is that maybe the reasoning we use to have the differential? Because there is also an onus on the worker to care for himself. We all have to do our bit. Nobody wants to lose a hand. Nobody wants to purposely get injured. I think we're all in agreement on that. I think maybe that 10 or 15 per cent is the workers' responsibility, so he does his thing to make sure that he is working safely in the work place.

MR. WERLIN: I'd like to respond to that in two ways if I may. First of all, I think the workers' contribution is in the pain. I thought I was a pretty safe worker, but I did manage to break my arm on a job and went through the summer with a cast on. I think there was incentive there. I think I paid the price, and I think workers do. They're the ones that are being injured and killed, and their beneficiaries are paying the price.

Secondly, as have many of us here and perhaps many of you, I've also been involved in contract negotiations. When you reach the line where that employer draws the line and digs in and says that that's it, that's all he is going to pay for the cost of labor, I know they're not uncognizant of the cost of workers' compensation. I think we're already paying for it. They talk about total costs, total compensation. While they don't have the right under the law to write into the collective agreement that there will be a cost-sharing formula, the fact is that the price of labor includes the cost of accidents, rehabilitation, and the whole thing. I think we're paying for it.

MR. CHAIRMAN: Okay,. we'll move to the next one on . . .

MR. KOSTIUK: Mr. Chairman, just further to the question to the member of the select committee and her concern that there's some discretion whether a doctor feels they're fit to go back to work or not. I think that ties in with another part that we may discuss in more detail later on; that is, when the worker may have physically healed and as far as the injury is concerned be ready to go back to work but the recognition of the psychological impairment. We may speak about that later.

MR. CHAIRMAN: Under lump sum payments, I thought I would get some elaboration. You recommend amending the legislation to specifically state that the acceptance of a lump sum payment will not jeopardize a claim. I've seen some of the letters that go out from the Board on lump sum payment, and my understanding — always clarifies that this doesn't in any way prejudice a further reopening on that claim. I'm wondering why you would want that legislated when it's in practice. The old cliche: if it's not broken, don't fix it. Could you tell me why you would still want it. I've had no concern raised with me

that a claim couldn't be reopened.

MR. WERLIN: I think I'll ask Jan to deal with it.

MS BERTINUSON: I think the major reason for putting that in is that when we were working on the submission, we were told this was in the legislation. Was it in the legislation at one time prior to the amendments?

MR. CHAIRMAN: Al, you look grayer than John.

MR. RUNCK: Thank you, Mr. Chairman. I believe it was specifically worded in there at one time. But it was considered unnecessary, so it was left out.

MS BERTINUSON: Okay, our point was that there is always the possibility of that slipping up.

MR. CHAIRMAN: That clarifies that. We had the experience of a gentleman coming before us in one of the other hearings who is receiving a 70 per cent award, and he's asking for a lump sum payout. You insist that the Board not move to anything above 10 per cent, yet you don't dictate to the worker how he spends his salary. On certain representations from claimants in the past couple of years, I think the Board has gone beyond the 10 per cent. Your insistence that it not go — could you give us some reason why you want to do that?

MR. WERLIN: We've had many experiences, Mr. Chairman, with workers who have taken lump sum payments and, in spite of the information they receive, they are motivated by immediate needs in having to make that decision, sometimes under very difficult circumstances — they've had a loss of income and psychological problems as a result of not being able to work and everything else — and tend to respond in that way to their overall concern later down the road. That's one problem we have with it. Of course, there are many others, and I'd like Janet and Don to speak on some of these experiences we've been familiar with.

MS BERTINUSON: One of the things we look at related to what Dave has said is the question of someone being given a large lump sum and not fully understanding, even though we point out that we think it's extremely important that they clearly understand what it is they're giving up for what, et cetera. When you talk about reopening for medical and that kind of thing, some people may still get it into their head that it is possible to reopen it at some point down the line. I think one of the problems is that you may have a situation where a worker finds himself unable to work 10 years down the road and comes onto social assistance.

The 10 per cent figure is one that's been commonly used for the reasons stated in our brief, that you don't expect that someone is living on that amount of money on a continuing pension. I guess our general concern is more the concept of a worker who's on a disability finding himself with no money and no opportunity to get a job 10 years down the road because of his particular injury. We certainly understand the concern of some workers that they be allowed to make that choice. It was a difficult concept for us to even come to agreement on, but it was an agreement reached by several unions who met before we prepared our brief. That's about all I can say in terms of background.

MR. CHAIRMAN: Janet, my only comment — then I'll move to Ray — is that the chairman of the Saskatchewan Board indicated markedly good success with lump sum

payouts in Saskatchewan since 1980. We will be looking at it and welcome any further information. I'm really concerned about your fixed position on it.

MR. MARTIN: This is clearly a very difficult one, and Janet and I have had some discussions about this. We have had representation from other unions on the freedom of choice, if I can put it that way. The handicapped association in Calgary was suggesting that there be a choice up to 50 per cent. I believe the worker from Medicine Hat that Mr. Diachuk was talking about whose arm is gone, said he could have used some money instead. He was really unhappy with the amount of the pension he had. He said he would have taken a lump sum pension. He could have used it for education, because he had some background in business administration. For him personally that would have been valuable. So I would say that among workers there is a fair amount of controversy and some disagreement. As I said, the handicapped people did suggest about 50 per cent.

MS BERTINUSON: Could I ask for some clarification in terms of the potential for a lump sum advance. Is that provided for?

MR. CHAIRMAN: John?

MR. WISOCKY: Yes. There are cases where a worker does request an advance, and we look at the case and give some advances. But that has its own problems also, in the sense that if the person is dependent on the income and you advance something and have to pay it back, it gets a little tighter.

Another factor that maybe should be talked about is that the Board does pay lump sums, but one of our difficulties is that sometimes we have great difficulty determining whether a condition will worsen in the future. It could be 10 per cent today, but what about tomorrow?

MR. KOSTIUK: Mr. Chairman, just further to that. It could well be true that even with some of our own affiliates we may not be well received on that, but that goes the same way as a pension plan for a young person when he quits work. Of course they're tempted to pull it out and use it, because they won't need a pension at this point. I think the same argument holds true on lump sum payments. You may get a situation where a worker that is 50 per cent disabled may be working very little in terms of productive wages. They take that 50 per cent and then find themselves out of a means of livelihood. I think that has to be taken into consideration because that could conceivably happen.

On the other question of the statutory provision within the Workers' Compensation Act reviewing pensions after they've taken a lump sum payment, as I understand it from your staff people — and correct me if I'm wrong — this is present Board policy which is established and used rather than having it in statutes. If that is the case, boards and policies change. We have to ensure that policies don't change at the whim of the administrative part but are in fact instituted within the statute.

MR. RUNCK: Mr. Chairman, I think the Act omits that the worker is entitled to temporary total disability compensation. However, the Act specifically states that acceptance of a lump sum does not preclude a worker from the added benefits under other sections such as rehabilitation, medical aid, and so on.

MR. KOSTIUK: But what we're talking about is reassessing the claim after the lump sum payment which may be 10 per cent now but 10 years down the road, because of the aggravation of that claim, may end up being 20 per cent — the ability to reassess that claim as to the degree of disability.

MR. CHAIRMAN: I thought it was answered that it's always open. Even in the letter that goes out with the lump sum cheque, Harry, I've very clearly seen the wording that states that it doesn't jeopardize any reopening of the claim.

MR. KOSTIUK: We don't dispute the letters that go out, but we are saying that they're not enshrined within statute. To our knowledge they are Board policy.

MR. RUNCK: Mr. Chairman, I think what he is saying is that the Act does not specifically state that the pension will be reviewed by the Board in subsequent years, but this is positively Board policy.

MR. CHAIRMAN: Oh, I see, on acceptance of a lump sum payment. Ray, one more question?

MR. MARTIN: I'd just like to follow up because, Harry, you gave one example where it could happen. We have examples where a person would have had a minor pension but, because they had a lump sum, they were able to start their own business or whatever. So there are success stories. Janet, you said it wasn't necessarily an arbitrary figure that was arrived at. I guess I would say that I'm a little betwixt and between on this issue, because we've had different things, even from labor. Perhaps you could even go back and take a look at it a little more and give us some more feedback about it. If 10 per cent was arbitrary, maybe there is a better figure. That's all I'm suggesting.

MR. CHAIRMAN: And be assured, we'll be looking at other experience, including Saskatchewan's.

Any other questions on this point? Go ahead.

MRS. FYFE: I guess the concern I have on this point relates to arbitrary figures. We put an arbitrary percentage on a disability: you're 50 per cent because you have one disability, and I'm 50 per cent because I have something else. That's a judgment. The case the minister raised in Medicine Hat was judged to be a 70 per cent disability, and yet here's a worker pleading with us for a lump sum settlement because it would benefit him. It happens to be an amputee and, in all likelihood, there won't be a serious deterioration in his physical condition related to it. I assume that would be the medical opinion. Here's someone who's pleading with us, and it seems to me that in a case like that the system should benefit the worker. It's not as if it's a recent injury where the claims officer whips into the hospital and says: you've got to make a decision this way or another. This is a case that's been going on for a number of years. The person has thought about it for a great deal of time and would like a decision that he feels would benefit him.

Should the worker not have that ability to make that decision based on what he thinks is best for him and obviously what the Board feels would be the best for him in the long run?

MR. CHAIRMAN: You may want to take it into consideration and respond later. We have about 10 minutes left, and I would like to move on to any other questions.

MR. WERLIN: If I may, while we're on this question of lump sum awards, I'd like re-emphasize the final point we make in that section, and that is that we're very, very concerned at any attempt to put an arbitrary or maximum on these awards. You can't think about one without thinking about the other, and we're very, very concerned about

that.

MR. CHAIRMAN: You're cautioning us about going the way Saskatchewan went in 1980.

MR. WERLIN: That's right. We're very concerned about that and, before we get off this point, we want to re-emphasize that.

MR. CHAIRMAN: Ray has received a fair amount of teasing about the Saskatchewan approach.

MR. MARTIN: That's a Conservative government now, Bill.

MR. CHAIRMAN: That was done by the previous one.

MR. WERLIN: Better he should bear that cross than the workers of Alberta.

MR. CHAIRMAN: Any other ones on the continued pages? With regard to your universal coverage, one of the strongest lobby groups that doesn't want to be included is teachers. We bowed to their overwhelming requests after the '79 hearings, and I'm just sharing with you what's happening.

MR. WERLIN: I should say first of all . . .

MR. CHAIRMAN: I'm not asking you for a response, Dave, if you don't want to get into trouble with the teachers.

MR. WERLIN: I appreciate that, but on the other hand we are not here representing teachers, and I disagree with them. That happens to be a simple fact. While we agree with them on a lot of other things, not only myself but the federation would disagree with them on that.

I think that the whole concept of universal coverage is an important principle with us. I'm glad you raised it. We do want to re-emphasize that. I think this one example we've given you is an indication, and there are many, many others. Certainly it may be like the question of a lump sum payment. There may be some different attitudes, but that's our position on it.

MR. CHAIRMAN: One more area where I would welcome some more clarification is on your worker adviser program. Have you received problems or criticism on the claims advisers program under the existing program?

MS BERTINUSON: I think I'll try to answer that because I'm generally the person within the federation who now gets most of the workers' comp. problems. Don has had . . .

MR. CHAIRMAN: I'm glad you told me that. I'll share them with you from now on.

MS BERTINUSON: Don had many experiences prior to my coming to the fed., and still has some. He can speak to some very recent ones. I have one that occurred in the last couple of days that I'd like to share with you. A worker was injured on the job after being back at work for a week. He had been laid off for six months. Prior to that he had been working for six months. He was injured on the job and was off on compensation, and his compensation rate was calculated on a section of the legislation — 51(5)(c), as a matter of fact. That section says that where a worker has not been working for three

months, their award will be calculated on a sample worker in that category and their average earnings over the past 12 months. Their calculations were made quoting that section. However, they were based on that particular worker's experience, not someone in his class. So what happened was that they were based on his actual experience, not — as the legislation very clearly reads — on a sample worker, or whatever. It was appealed, based on that, even though that section was quoted as to how the amount of compensation was arrived at. I was getting ready to call someone yesterday or the day before, as a matter of fact, and I was notified by the union that it had been re-established at the correct level based on what that said.

That's just one example, a very simple thing that. It seems to me that a claims officer or adjudicator, whoever is dealing with legislation, should understand. That's a very simple thing. That's not even open to interpretation, as far as I can see.

MR. CHAIRMAN: Janet, please indicate to us what your concern is about the present system of the claims advisers.

MS BERTINUSON: What I'm saying is that if there was a claims adviser — the only reason that worker's level was changed, I would suggest, is because the union cared to take the case on. If that worker had not been unionized — and we have a very high percentage of workers in this province who are not unionized — it probably would not have been changed. Don has an example he can relate to you. In other words, people come to us as the Federation of Labour, whether they are unionized or not.

I've been working with a couple of non-unionized workers in the past couple of weeks because they don't feel they're getting the kind of assistance they need. The claims officers, no matter what kind of a job they do — I know they're overloaded, and that's another reason for having a worker's adviser system. There are people in this audience who come from various work places, who could add to the list of not being served properly or promptly. If we had a workers' advocate system, as they do in Manitoba, for example — of course the workers' advocates get very overloaded as well — they would have some greater assistance in getting their cases settled.

I'll give you another example that we've been involved in, even though it's a Manitoba workers' comp. claim. A man working with nickel, asbestos, and a number of other known carcinogens, developed laryngeal cancer. He came to us for help because he had moved to Alberta and it was here that the cancer was discovered. We got some help through workers' compensation here and some through the workers' advocate program in Manitoba. If that workers' advocate program hadn't existed, I really don't know what would have happened with his case. Between the workers' advocate and the Manitoba Federation of Labour health clinic, they developed what we consider to be an irrefutable case for his compensation. It took over two years for his appeal to be settled. He just got the decision. We feel that the reason the decision was made was because of the kind of case that was presented on his behalf by the workers' advocate and the Manitoba Federation of Labour clinic. They put in over 250 hours of research to prepare his case. That's the kind of time, I would guess, that the present claims officers, or whoever would be representing or helping a worker on an appeal, can't handle.

I think it's been made very clear to us that we need some kind of system that's set up strictly and specifically to help workers prepare their claims and appeals, so they get through the system with all speed and we feel that they're judged accurately.

Don, you have that one example.

MR. AITKEN: Yes, there was recently a case of an individual hurt in Lethbridge. His accident report had been in at least six months. I heard about this in August, and I believe it came in in March. At that time he still hadn't heard whether or not it was

accepted. The difficulty was that it was either going to be accepted and he was going to go on workers' compensation, or he was going to be able to claim disability insurance. His point basically was that he was without income, and it was just that for one reason or another the claim wasn't processed. In fact on two occasions the union representative who was investigating it at the time had been told that the file had been found and then lost again. I understand that it has now gone back in the stream. We contacted the Board, and I believe it is now going through.

This was a case of an individual having to suffer not only from the injury but from financial loss as a result of a lack of decision or lack of action. This is just one of many that we have run across.

MR. CHAIRMAN: I must say, Mr. Werlin and ladies and gentlemen, that I asked what the difference was between what you're proposing, a workers' adviser program —presently there is a claims adviser program under the system, and I haven't heard your elaboration of what's wrong with the claims adviser who . . .

MS BERTINUSON: I'm sorry if I wasn't clear. I was saying that there are representations from our affiliates that the system is not working. Basically people don't feel that it is separate enough from the system. I'm sorry. That's the major clarification in this case.

MR. CHAIRMAN: John.

MR. WISOCKY: I guess I share some of the concerns being expressed, that we only have two claims advisers. But, as everybody knows, the intention is to introduce a claims counselling program which will do some of the things you have referred to and talked about. In fact, even today we have some of the beginnings of it. We can give two names right off the bat and, if you get a compensation inquiry, you can phone direct to those people or to the adjudicators. So the system is coming in place. I guess one of the first things is, if you have time — I realize you've been very busy lately — come on in and we'll show you what is happening and so forth, so there's a better understanding.

In spite of all this, in the compensation world the minister, Members of Parliament, or union representatives, will always get inquiries from workers, simply because people are not satisfied, regardless of explanations. This is true not only of compensation but anything else, as you know. So there will always be a role to be played by unions and others.

The workers' advocate or adviser program in our sister province has run into some serious concerns and problems. Maybe it would do you some good to check that out and get a better insight as to how that is working. But certainly we will have a claims counselling program supplemented by an appeals advocate who will help parties in presenting their appeals.

MR. CHAIRMAN: Ray, you had more comments?

MR. MARTIN: I just want to point out that at the political level, in the case you talked about in Manitoba, we had some conversations there too with the appropriate people in Manitoba, so at least that worker knew enough to look at all channels.

MR. CHAIRMAN: I knew you wanted to get some credit too, Ray.

MR. KOSTIUK: What would have been his chances in Alberta, Ray?

MR. CHAIRMAN: I wouldn't say that too often, Harry. You know better than that.

MR. KOSTIUK: Well, we don't know.

MR. WERLIN: Mr. Chairman, I wonder if I may just make one very brief point that we haven't touched on. I'd be remiss if I didn't. I'll make it brief.

I should tell you that we're very concerned. We understand there's a rather strong push by industry to change the current make-up of the Board by increasing their representation. I just want to say that since it's the failure of the employer to provide safe working conditions that results in claims, we hope they don't have another opportunity to injure the worker by tipping the balance of the Board in their favor. I just want to leave that with you. We think that the make-up should not be changed.

MR. CHAIRMAN: Thank you very much, and thank you for your submission and extensive discussion. We welcome any other information you have. Forward it to my office, and I'll share it with members of the committee.

We'll now adjourn for the lunch hour and reconvene at one o'clock for the Alberta Union of Provincial Employees.

[The meeting recessed at 12 noon and resumed at 1 p.m.]

MR. CHAIRMAN: I will call the hearings to order.

Alberta Union of Provincial Employees

MR. CHAIRMAN: Mr. Booth, on behalf of the Alberta Union of Provincial Employees, would you like to introduce your colleagues? We have approximately 45 minutes, possibly enough time to have you give us an overview — we've had your submission — and then any clarification. But feel free to elaborate or touch on any part you want to.

MR. BOOTH: Mr. Chairman, on my far left is Vice-President Dave Potter from Lethbridge. Dave is the chairman of the AUPE health and safety committee. He is also the co-chairman of the province-wide, joint union/employer committee. Next to him is Dennis Malayko, a staff member with AUPE. His expertise is in the field of occupational health and safety. On my right is John D'Orsay, a research officer with AUPE — all areas of research. On my far right is Jim Selby, a public relations officer with us.

The way we intend to approach it — Mr. Chairman, as you said, you have the submissions of the Alberta Union of Provincial Employees. We're not going to dwell on the submissions; we're going to give you an overview. Given the fact that this morning the Alberta Federation of Labour went into the Occupational Health and Safety Act, we're going to concentrate mainly on the Workers' Compensation Act. So I'm going to have John D'Orsay give you the overview, and then we'll be quite prepared to respond to any questions from your committee.

MR. D'ORSAY: Thank you. The first thing is that in our submission and in what we say this morning, we haven't tried to be quantitative in any sense at all. Often when that happens it's too easy to call upon a figure that becomes sensational or questionable, and the figure itself is sometimes of questionable value or foundation. I found a reference of that sort in the Industry Task Force submission to this committee that indicated my point rather well. On page 29 of their report, they refer to indexing of pensions as costing 35 per cent of the assessments. When I looked at page 10 of the same report, I found that

pensions themselves only accounted for 36.8 per cent of the assessments when they were paid out, which to me must mean that 35 per cent of those pensions was indexing, and 1.8 per cent was actual pension. So if we try to deal with figures, we're bound to get into disputes about their meaning and that type of thing. What we have tried to do, in both the brief and what I'll say this morning, is be consistent in the application of some principles.

The principles that we think underlie the workers' compensation framework are, first of all, they have displaced a lot of civil law remedies that workers would otherwise have. The second is that it has replaced those with a form of no-fault insurance. The third is that that insurance and the payments that come from workers' compensation are based on loss of earnings and cost of treatment. Taking those three together, I think perhaps most important is that you have to put them against what else has happened and that in fact the workers' compensation framework actually now protects the employer from awards, suits, and civil suits where people would perhaps seek punitive or special damages — things like negligence or suffering or whatever; loss of consortium and that type of thing. So you have a more orderly system. You don't have recourse to the courts. You don't have the administrative burden of people tying up our courts with small claims and that type of thing.

Finally, we don't intend to — and we don't think you should — approach workers' compensation as a social program either. Because we don't think it's a social program, we don't think that workers' compensation costs and those kinds of damages that we talked about should be shifted. They shouldn't be shifted away from workers' compensation onto medicare. They shouldn't be shifted onto other pension schemes or other things that are funded by taxpayers.

Another important principle is that workers' compensation itself already exists within a large body of employment law, where various definitions — things like the concept of employment, the concept of work, that type of thing — are already defined in existing jurisprudence, and therefore you don't need restrictive definitions in an Act, which in many cases are only going to serve to cause injustice.

Another principle is that of course the normal principles of mitigation apply to workers' compensation situations. An employee is therefore expected to return to work; that's the presumption. It seems to us to be congruent with the displacing of the civil law sort of remedy.

Finally, we note that workers' compensation itself is administered by a government agency, which in our view most of all serves the ends of efficiency, but should also, as an administrator of that government agency, be accountable to both sides of the legal relationship in which they're intervening.

We have a number of areas that I want to touch on rather briefly, things like when we refer to administration of worker's compensation, and references to spiralling costs. We would suggest that first of all you have to take that in context and ask how these costs would rise if you were exposed to the full brunt of the civil law situation. One suspects that if we went along and started getting some substantial damage awards to workers, employers would be asking for workers' compensation type protection, so they wouldn't have to face those spiralling and unpredictable costs. At least with this insurance scheme, they have a predictable cost.

In terms of the administration of workers' compensation, we also don't disagree that the budget-making process and internal administration should be more open to public scrutiny. On the other hand, we say the same thing about Sun Life, Great-West Life, and London Life, where our members have insurance plans. On many occasions, we'd like to examine their books as well. I think they should be open to scrutiny. In that sense, as a insurance company, I guess we think they should all be treated the same.

Another aspect under administration, one that was centred on or dealt with in in

industry presentation as well, is the whole process of investment of funds. Again we have a view on that, and we feel the same way about workers' compensation funds as we do about government pension funds. The funds are there as a guarantee of workers' future income, and the people who are really concerned about their administration are the people whose incomes they are there to protect. They're the ones we think should be represented in the administration of those funds. We don't find that with the pension plans or with the employers' suggestions, at least as represented by the Industry Task Force brief and, from our side at least, we do think it's entirely consistent that that's the way funds should be handled.

I've already mentioned the forms in which we don't think it's appropriate to shift workers' compensation, employment-caused injury, and the costs of that, onto other social programs like medicare. We feel the same way about shifting rehabilitation costs into that sector; it shouldn't be done. In fact we have a very real worry that work-related injuries are already being underreported at the medical treatment stage and that the public is already subsidizing a substantial number of those sorts of accidents. I can recall on the occasions where I've been in a position where I was injured on the job and sought medical treatment. It never occurred to me to state that this should be charged against workers' compensation. I was concerned about getting treated, and I think you have substantial underreporting of that sort of thing, especially for minor treatment.

If you looked at our brief and recall it, you'll note that we stressed one of our main points: the need for access to information on the part of the employee. Our finding, and our experience as a union that of course deals with public sector employers in decision-making and those sorts of administrative contexts, is that all too often an employee, and in this case the claimants, are very much victims of non-rebuttable information. They can't rebut it, because they don't know what information you based your decision on. We think that opening the files is going to give people the ability to rebut that sort of information, to get the evidence in that properly outlines their case.

When I come further along — you'll note that in our brief we also talk about an appeal system. Again the need for open information and access to the information by the employee is necessary and tied into our proposal in that area.

The issue of the merit rebate system was addressed in a recent issue of the AUPE newsletter, IMPACT. Our view of that is that it doesn't seem to work. Quite frankly we'll agree with the employers' submission in that area. We also note that there's a huge imbalance between rebates and superassessments and, as the Alberta Federation of Labour pointed out this morning, I suppose that only echoes our concerns about the less than completely rigorous enforcement of all kinds of provisions to prevent accidents in the occupational health and safety area. We are, of course, interested in systems that would increase the burden on unsafe employers. I don't think we're going to come to you with one that's fully formed, but we would like to be able to perhaps react to proposals in that area. From our point of view and experience, we could advise you as to how they might work to reduce claims and improve employee performance.

I suppose that when you're talking about improving performance in accomplishing objectives in workers' compensation, one of those is the whole area of small claims and that type of thing. We could also admit the industry has perhaps quite a valid point that administration of small claim eats up a lot of the Workers' Compensation Board resources. But I would suggest that when they propose waiting periods and that type of thing, we note the relatively small cost of that. Several years ago when the Employment Standards Act was reviewed, we made a proposal that there should be a legislated minimum standard in this province for employer-funded sick leave, so employees don't have to bear the cost of sickness. The same thing should apply. They shouldn't suffer a loss of income as a result of sickness or injury. The employers can quite properly be asked to bear the full costs of that.

Of course the response you get to that from employer sides is: well, what about abuse; somebody's going to think they have the right to five or six days off a year, if we give them five or six days' sick leave; you're going to have the right to a few days off, claiming it as injury related to work. In our experience, as the people who represent those workers, that isn't what happens. Indeed, certainly with an actual work-place injury, you've got a readily controllable measure of whether the absence is justified or not, and we can't imagine that any concern with abuse should be allowed to undermine something as fundamental as the worker's right not to have the additional burden of loss of income in the event of an injury.

The other main area we want to deal with is the level of payments, and we suggest that that has to be in keeping with our basic principle that what you're doing here is compensating a person for loss of earnings. Thus proposals to reduce the ceilings on compensable earnings, or not to include any more overtime, premium pay, or income from other employment, are fundamentally all adverse to that fundamental principle. You have to include all the worker's forms of income. You have to include the actual income of actual workers, because you are, after all, compensating actual individuals.

Moving towards something like an average industrial wage as maximum perhaps, to our mind is to undermine this WCB framework as a compensation for loss of the ability to earn income and is in fact to move it toward a social program, which, as we said, we don't think it is. We think it's one that deals with actual legal rights in a system that is supposed to balance those rights and reflect what you would otherwise have access to.

One of the very real problems in this area of counting income, and one that affects a large number of AUPE'S members, is the issue of holders of more than one job. Approximately 20 per cent of AUPE'S members are part-time workers. When we analyse our own membership lists, we find that some of them that we represent are part-time workers with more than one employer. These people are obviously working part-time for several employers, in order to get a full income. If you are going to refuse to include all their sources of income, you are going to be penalizing people who, after all, are only trying to make ends meet by doing that.

Tied again to this whole area of actually compensating a person for his loss of earning power is the area of pension indexation. Again, if you are going to compensate somebody for his loss of earning power, you have to recognize that that earning power would increase or change, given the economic circumstances. In our brief you will note that we propose tracking the level of the pension payment with the actual income of the person from the job they held when they were injured, tracking it against increases that they would otherwise get. For example, a tradesman in our Local 4 who was injured would continue to receive a pension increase with each increase that we negotiated or arbitrated in the wages for his local. So he would be fully compensated for his loss of earning power. He would be treated as though he were still capable of going to work, and his income would be kept on that level.

Once you accept the principle that earning power means that benefits have to increase, the only issue that remains is what indicator you are going to use. In our brief, as I said, we proposed actual tracking of the actual job. I suppose another alternative would be actual increases in the average industrial wage, so at least cost of living and productivity increases that the worker would normally expect to enjoy would be included. There are a lot of improvements that can be made over the consumer price index.

That brings me finally to the appeal system area, which we think overlaps in some part with the whole area of policy formulation and policy decisions on workers' entitlements. The employers' submission made something of how a Board-made policy would actually distort the Workers' Compensation Board framework since, they said, it would merely reflect the social conscience of the individuals responsible for developing

the policy. I suppose this union can say that we frankly feel the same way about regulations. The only difference is that perhaps there is a little less social conscience among the people that make and finally pass the regulations.

However, we think there is an alternative here. That would be that if there were put in place a sort of adjudicative tribunal to finally decide the various issues as to employment status, the various fact issues of whether an injury or an illness was caused by an occupationally related situation, and the fact issue of whether or not a person is an employee within the whole existing jurisprudence of employment law: to bring all that to bear and to use a whole system of balance of probabilities as the basis for deciding that, to ultimately bring the decisions about accountability and entitlement closer to the common law standards that employers no longer have to meet as a result of having this insurance fund available; to make that the guiding light, I suppose, of the policy formation. I guess what we are suggesting is that we follow some of the jurisprudence that would then be developed by that appeal tribunal.

I would also suggest that a tribunal like that is much more capable of deciding the value of an arm, leg, or eye to a particular individual or a particular worker than any regulation setting a flat rate would be. When we come back to our basic principle that we're trying to compensate an individual worker for his actual loss, individual attention in that fashion would perhaps be the way to deal with it.

I haven't had a chance to review the exemptions for workers' compensation, but I would suggest that if a piano player lost his arm or his hand and that was his profession, obviously the impact of that upon his overall potential earning power would be much greater than if he had been a school teacher or something of that sort, somebody who could be easily trained or could in fact continue in his previous line of work, with all due deference to Mr. Martin.

MR. BOOTH: Just in closing, I could say that the AUPE presently agrees with the current policy of the WCB, and that prevention is still far better than the cure. We should work towards dispelling the myth of the unsafe worker. The responsibility of employers is clearly to provide a safe working environment and also to provide adequate training and — I emphasize this point — supervision of the work site. It seems to me that management in some areas — not all employers, but some — is shifting its own responsibility to the unsafe worker cop out. If you have a problem with an unsafe worker, I think you have to provide training. If you have an attitude problem with an unsafe worker, then you have to provide proper supervision. That is clearly the responsibility of the employer.

Do you have anything to add, John? Dave?

That concludes our submission, Mr. Chairman.

MR. CHAIRMAN: Questions.

MR. THOMPSON: On page 5 of your brief, Mr. D'Orsay, you say:

> It is our view that Workers' Compensation must move away from compensating disability and towards compensating wage loss.

On page 6 you say:

> What of those cases where a worker sacrifices his ability to lead a full life, but can still function in his job? How much is the loss of ability to hear worth? Or partial loss of vision? [Et cetera]

Now, just reading that superficially, of course, I see that there is some inconsistency

there. Possibly you could clarify those points for me, what you are getting at.

MR. D'ORSAY: I have to admit that it is an area that's hard to emphasize how you are consistent. First of all, you talk about temporary injuries, temporary disabilities. In those cases compensation can clearly be limited to loss of earnings. I guess it's very difficult to quantify what the impact is with the permanent disabilities. Of course, you are looking at disablement not merely from the job you held at the time you had the injury but also from your future prospects. There has to be some way of measuring that. That's a difficult area to get into, as we suggest.

Apart from the pianist example, I suppose another one would be a young person who has been accepted into medical school and is working in a summer job. If he happens to suffer brain damage on the summer job, what has that done to his whole life? How do you compensate him for that? Under the current system, I gather it's based on your earnings at the time you are injured. Don't we have to look at something that compensates the person for the whole disruption to his life in that sense?

MR. THOMPSON: Not entirely, because I think at the present time the Board recognizes that there is a certain mix there. There are people who lose a finger. They get compensated, plus they go back to full-time work.

MR. D'ORSAY: That's right.

MR. THOMPSON: So there is a certain amount of recognition of those two factors, and there has to be, of course.

MR. D'ORSAY: Yes.

MR. THOMPSON: I was just wondering, on your first statement you're saying we should go more towards compensating wage loss and concentrate less on the disability itself. I was really just trying to find out where you stood on those two items.

MR. D'ORSAY: I agree with you that that does happen; that the single finger being lost is now usually compensated with a lump sum payment. I guess what we're suggesting in the case of the permanent disability is that you look at the total impact of that. As you said, it is difficult to mesh all those considerations in the extent to which the Board should consider them in making its compensation awards.

MR. THOMPSON: Thank you, Mr. Chairman.

MR. CHAIRMAN: I wonder, Mr. D'Orsay, if you could take a cue from your president and just speak up a little louder.

MR. D'ORSAY: This isn't an amplification system, I take it.

MR. CHAIRMAN: One is, but you are just too low.

MR. D'ORSAY: Oh. All right.

MR. R. MOORE: Mr. Booth, in this whole area of workers' compensation, the employer, the worker, the union, and the government are involved. You all have concern for the worker and concern to make sure that that worker is compensated, but also that those who are injured or have a disability return to some productive form of employment. I am

sure the employee, as well as the union, wants that too. I appreciate the opportunity to be able to address somebody from the labor area whose concern is expressing the viewpoint of the worker.

When we look at an injured worker — and I have heard this all through our hearings. You will appreciate that we have had several days of hearings, so we have had a lot of viewpoints, not necessarily from labor but from all segments. They expressed the difficulty of getting an injured worker back into productive work. There are certain areas that are under the control of the various segments: the employer, the union, or the employee himself.

One thing that has come forward is that there is a cost factor — a lot of expense, or whatever you want to call it — related to the employer who has had some type of disability and is able to return to the work force but maybe not in the particular line he was in. He is capable of doing another line of work within the work area. I have heard that there are problems — and this falls within your area of responsibility of control — when the question of seniority comes up. That worker comes back. I know you have a concern to get him back, the worker wants to go back, and the employer definitely wants him back. Whether it's for a humane or an economic reason doesn't enter into it. He want that worker back in a productive area. The area of seniority comes in. That is your area. How does the union view seniority? Do you make a compromise? Or do you hold fast to the seniority situation within the union, that you will hold this injured worker from returning to productive work?

MR. BOOTH: Mr. Moore, we represent some 50,000 employees, broken down into something like 40 different individual agreements. I am not aware of any article clause in any one of those agreements that addresses itself to workers' compensation, people returning to work, and seniority applying. I am not aware of any.

Are you aware of any?

MR. D'ORSAY: Most of our agreements don't have seniority clauses that would restrict you in any fashion. I guess the other part, particularly with our long-term disability plan in the government service, is that we have considerable experience with rehabilitative employment situations.

MR. BOOTH: In fact, if anything, the long-term disability plan, which applies to most but not all of our members, has to be a significant saving to the Workers' Compensation Board.

MR. D'ORSAY: With regard to your individual thing, how to get that worker back in, there is always the possibility of negotiating with the union.

MR. R. MOORE: Do you waive seniority of the workers that are presently there in trying to fit this man in if he's a junior?

MR. D'ORSAY: Yes.

MR. R. MOORE: That is part of your role. Very good.

The other area that comes in, getting this same worker back, on lots of job sites there are two and three unions involved — one worker and one employer but two or three unions. What is the cross-pollination there? If he comes back and is able to go back to work, are unions, which are basically concerned with the worker's welfare, doing anything to say: he belongs here; he is working for the same employer on the same job; we have an opening over here, so we will fit him into the other union? How does that work

between the unions?

MR. BOOTH: I am sure that AUPE would not place any barriers in trying to relocate an injured or partially disabled worker. Anything that we could do to accommodate him, I am sure we would do. In our case I am not aware of any barriers being placed in front of a worker on transfers within unions. You have to recognize that the employers are also involved in that.

MR. R. MOORE: Oh, yes.

MR. MARTIN: I would just like to go, John, to your independent appeal board. If you could enlarge on that somewhat, so I understand a little more about it. You mentioned Nova Scotia, and I expect we will be taking a look at that. Who sits on the board? I suppose the board would attempt to be as impartial as possible. How would you see this being made up?

MR. D'ORSAY: I guess the important aspects of the board are, first of all, that it be made up of knowledgeable persons, independently arrived at — independent not only from the employers involved, and naturally the employees, but also from the Workers' Compensation Board and what they do fundamentally and structurally, so they can make decisions. To my mind, the most important aspect in the Nova Scotia situation is the fact that the decisions of that appeal board are based on new evidence.

MR. CHAIRMAN: On what evidence?

MR. D'ORSAY: On new evidence, evidence that the compensation board, as one of the parties, presents to the board as to why its decision should be upheld. The employee is represented by counsel, if he chooses to be. They present evidence as well as to why to the claim should be upheld. In my understanding it is a fresh consideration of the claim and the areas of dispute in the claim, as to the cause of the disability. It has a lot of application in the area of what are alleged to be industrial illnesses and that type of thing. So based again on the balance of probabilities, you can decide whether that person should be entitled. In that sense, I referred to it as an adjudicative tribunal, in that basically what we're looking at is the same sort of thing as I suppose you could say the adjudication tribunals that we have under our grievance procedures and that type of thing.

MR. MARTIN: If I can just follow up.

MR. CHAIRMAN: Ray, on that subject. You indicated "represented by counsel".

MR. D'ORSAY: Yes.

MR. CHAIRMAN: Who pays counsel in Nova Scotia?

MR. D'ORSAY: In Nova Scotia it is paid by the compensation appeal system. In their particular case, I believe they now have nine or a dozen regionally located counsel who specialize in that area, who are indeed paid by the appeal system. It is paid out of general revenue. You have the right to be represented and get your case put forward.

MR. CHAIRMAN: You would support the entrance of the legal profession in the workers' compensation system?

MR. D'ORSAY: I'm suggesting that what you are usually dealing with in these cases are questions involving matters of evidence, matters of law, and things that are going to be decided on the balance of probability. Of course, I am not suggesting and not supporting that in the routine administration of the Worker's Compensation Board, we should be seeking to introduce lawyers to make the decision, submit the applications, and that type of thing. This is — and quite properly so — an appeal system. Certainly at some level the employee should have more than his own wits about him in proceeding in these matters. I am not saying that it has to be legal counsel. We don't have that in the adjudication system that we presently employ. You have the choice.

MR. BOOTH: We mentioned in the brief that it takes away any civil action being taken by the injured workers. In effect, that is insurance for the employers. Therefore this independent board would be set up in place of a court system. That's basically what it is, the final avenue of appeal.

MR. MARTIN: Can I just follow up in this area, then? Part of my next question was answered. You said that in Nova Scotia — you are using this basically as a model, as I understand it — there are nine or 12 regional representatives. What do you mean?

MR. D'ORSAY: The counsel are regionally available. There are some persons designated by the compensation appeal board itself as counsel that you seek out, who will be handling these types of cases and will actually represent the worker. Of course, you have some counsel who are experienced in that area, the specialized area of the decisions of that particular appeal board. That is what I was referring to there. I am sure the actual membership on the board is much smaller. I think it's five.

MR. MARTIN: As I am led to understand it, they are all lawyers on the board.

MR. D'ORSAY: On the board? I don't believe so, in that situation. My recollection is that the chairman is a lawyer and that you have some lay people and some medical people represented, so they are able, I guess in caucus, to discuss all aspects of the issue that's in front of them.

MR. MARTIN: Just one final supplementary, Mr. Chairman. What I was driving at is that the whole point of this is to be independent.

MR. D'ORSAY: Yes.

MR. MARTIN: That's the key word you used, and that's always the difficult one. First of all, who decides? Obviously it is somebody separate from the compensation board itself, somebody separate from employers, and somebody separate from employees. I am just curious as to who sets up this independent board.

MR. D'ORSAY: I suppose the most independent person they could find in Nova Scotia was the government, but perhaps we could find somebody more independent in this province.

MR. CHAIRMAN: I was just looking at the same area, and that's why I interjected, gentlemen. My further question — not to be cheeky about it — would be, what has been the difficulty with the appeal to the board as it is presently structured here in Alberta?

MR. D'ORSAY: As we suggested, it is the whole area of new evidence. With the limited — or non-existent, as we maintain — access that the employee has to information that the decision is being made upon, that is why we're proposing the whole situation of starting from the new evidence, the clean slate, and letting each side present what evidence it has for or against whatever the disability or the illness is and decide on the evidence presented rather than whatever received information, prejudice, bias, or whatever else may be incorporated in the existing information that may have previously impeded the decision.

MR. CHAIRMAN: John, can you elaborate a little bit on this?

MR. WISOCKY: It's a complex area, but generally what is being said is also in existence in B.C., where you have a sort of independent board. There are attendant problems, as you may well know. Compensation has always been based on — one of the principles is natural justice. I don't have to elaborate on that. I would simply say that it generally means the right to know, and that applies to both sides. In the Alberta system, in spite of the fact that confidentiality of information is there and people generally can't get access to information, the appeal system is fairly open. People know the evidence. It is reviewed with them. Even board decisions are open to further appeal if there is new evidence. But at some stage of the game, there has to be some finality to decisions. Speaking on behalf of all boards, I feel that Alberta is probably one of the more open boards, ready to look at decisions again in the future.

MR. CHAIRMAN: Any other questions?

I have only one more question to you, Mr. Booth, and that is: expenses shouldn't be shifted to other programs — medicare and rehabilitation. What I am interested in are some specifics, because as of January 1, 1982, the Act provides for the Board to enter into funding rehabilitation and retraining. If that is still taking place, I am sure the Board would welcome knowing, and so would I, that rehabilitation is taking place at a cost to the general public. Yet at the same time, you and I must respect the wishes of the individual. If he wants to go elsewhere and do his own thing and get back to work, the present legislation provides for it.

The one on medicare, we appreciated some of your submissions when Bill 38 was introduced. We have now had some further support that the total administration of medical costs be reverted to the Board. Have you any position on those two areas, or can you elaborate on them? The first one is rehabilitation. If you don't have an example, maybe you could keep it in mind and let us know about specific examples.

MR. D'ORSAY: I guess what we're responding to is the prospect. A position that we know was argued was that there should be some shifting away from the use of private facilities. We want to ensure that the cost is always here, with Workers' Compensation.

MR. CHAIRMAN: Being that you support the concept of the transfer of the cost back to the employer . . .

MR. D'ORSAY: Yes.

MR. CHAIRMAN: . . . what about the administration of it? Several professional groups have made submissions recommending that the invoicing and administration go back to the board.

MR. D'ORSAY: Yes.

MR. CHAIRMAN: Have you given it any consideration?

MR. D'ORSAY: No. We did look at that, and it strikes us as perhaps the most efficient way to do it, that the administration of it can more simply be handled through health care insurance. In the case of the individual practitioner, he is faced with one form and checking the square on the form as to what kind of case it is. Health care insurance can then just pass it on to you. Administratively, that seems to us to be the most efficient. We are not interested in building inefficiency into anything.

MR. CHAIRMAN: In the area of access to information, have you any data or input from the medical profession about making that information available?

MR. BOOTH: We have some concerns with respect to that. Maybe, Dennis, if you want to give those.

MR. MALAYKO: Yes. I'm not just a pretty face, Mr. Chairman. It's about time I talked.

MR. CHAIRMAN: I don't know how you're going to go out of here, but I'm not going with you.

MR. MALAYKO: I do have a concern. Confidentiality was mentioned here. With regard to No. 18 on page 4 of the industry brief, where the employers want

> abstracts for employees or applicants in which the time, length and reason for any prior compensation claims would be summarized . . .

I hate to say this, but employers already have access to that type of information in this province.

MR. CHAIRMAN: We'd like to know where.

MR. MALAYKO: It's called Equifax. In fact, they have an office in Edmonton. For a cost of $20 to an employer, they will provide service to an employer regarding past compensation claims, traffic violations, et cetera, of an employee. In fact, we have been in contact with Equifax association. They are on [123] Street. It is in the phone book if you wish to contact them. I have a printout here on them.

Providing such information would openly condone employer attempts to discriminate and create some kinds of problems that we've seen with medical monitoring, pre-employment physicals, and genetic screening. This would basically provide employers with an excuse not to hire or rehire injured or partially disabled workers. We feel that this is discrimination, and it affects your confidentiality. I would be pleased to leave this article with the committee.

MR. CHAIRMAN: That's why I raised it, because a good portion of your submission is access to information. Dennis, what you just said would give me a lot of concern about amending the legislation.

MR. MALAYKO: That's for the employer. We are commenting on employers' access to information.

MR. D'ORSAY: We are oftentimes confronted with this not only in Workers' Compensation Board situations but also in the administration of our own long-term

disability plan: employees really don't know what reports have been made on them, they don't know what can be expected of them, and they don't know what their own potential is, perhaps for rehabilitation. It hampers us a lot in deciding. In some cases, in fact, we are faced with the dismissal of the employee by the employer and the employee not knowing the cause, because the employer has information on his medical prospects, diagnosis, and that type of thing, but the employee doesn't. They got it through these insurance plans.

What we want and what we are looking at is the employee having enough information to be able to rebut the actions that are being taken out there by Workers' Compensation or by employers.

MR. CHAIRMAN: Thank you very much.

MR. BOOTH: Thank you for the opportunity , Mr. Chairman, and ladies and gentlemen.

MR. CHAIRMAN: Thank you for coming forward. I just want to indicate to you that some of the discussion that took place on Nova Scotia — we will be visiting and taking a look at it and may even get back to you to share what we've learned about it with you. Thank you for coming forward and making your submission.

The next people are the Alberta Construction Association.

If I may just make a brief announcement. If there is anyone present with an individual complaint or an employer who is not scheduled, I would only suggest that you come forward in the break and let my staff or the staff of the Board know with regard to your particular concern. There will not be time to schedule additional or hope to work you in as we did in other hearings in other cities. The three days are filled, including until 10 o'clock tonight.

Alberta Construction Association

MR. CHAIRMAN: Mr. Forest, you have approximately 45 minutes. You may want to introduce your colleagues to the committee. We have your submission. Feel free to make some general comments.

MR. FOREST: Thank you. Mr. Chairman and members of the select committee, I wish to convey the thanks of the Alberta Construction Association for the opportunity to express our thoughts and concerns to the select committee. I would like to introduce Mr. Al Webster, vice-president of Cana Construction, and Mr. Brian Hatfield, safety director of the Alberta Construction Association. My name is Ric Forest. I'm vice-chairman of the Alberta Construction Association and president of Forest Construction. Mr. Chairman, I'd like to take roughly 10 minutes to provide some introductory remarks. We can then entertain some questions after that point.

The Alberta Construction Association directly represents 32.5 per cent of the assessment base for funds. As our brief concerns itself almost exclusively with the Workers' Compensation Act, I would like to point out that our only major concern with the occupational health and safety division is addressed under our recommendations 14 and 15; that is, safety education through industry associations.

As you are aware, Mr. Chairman, the Alberta Construction Association was a very active member of the Industry Task Force and, as most of our recommendations are carried in their report, our brief will reaffirm the thoughtful progress of ideas which they so professionally expressed.

It is essential that the principles of workers' compensation be reflected in each of

our recommendations. We have stated these in the strong belief that it is only by rigid adherence to these principles that the Workers' Compensation Board can continue to provide its services to the injured worker and to the employer, especially in times such as these. We are here not just to express concerns but most, importantly, to offer you any assistance we can in the important tasks you have before you.

In our brief we have offered to help fund a vital study, which we believe should be in the hands of the select committee before making its recommendations to the Legislature. The results of the study by independent professional actuaries will provide a foundation of fact that will allow the current situation to be analysed properly, with everyone having a common, credible set of data. We believe that with everyone working from the same information, the solutions should come more easily and consensus will be achieved.

The first concern of the Alberta Construction Association is to see proper business representation restored to the Board membership and its Chair. It is obvious to us that the unwritten socialistic policies of the Board were formulated without the eye to the bottom line so necessary in a multimillion dollar business. This can only be accomplished by a seasoned business executive with a proven record at the helm of a large enterprise. As shareholders, this is a situation that must be corrected, so the Workers' Compensation Board can be restored to an economically viable operation.

Policies of the Board must be compiled and made available to both claimants and employers. Industry has been waiting for this promised document for three years. With all due respect, Mr. Minister, this is far too long a period, even for a complex document such as this. I would ask you to imagine how much simpler the select committee's task would be if we could use our time to address definitive written policy, then review basic business premises in a philosophical and abstract manner. Please place sufficient emphasis on this matter, to ensure publication and distribution of this document by December 31 of this year. The policies must then be examined for conformity with the principles of compensation, and those that do not make sense should be rewritten. A good example of an exceedingly poor policy is that relating to construction camps.

One of the items which has caused not only our but all industry to suffer a tremendous financial burden was raising the ceiling to $40,000. We can appreciate the Board's desire to increase the benefit levels to those in the appropriate earning bracket; however, any plan or benefit package in the business world only makes changes of this magnitude after assessing the impact on both sides. We have seen with alarm the increases in assessment dollars to our members rise 35 to 40 per cent, and in some cases much higher. The Alberta Construction Association voiced its concern to the minister before this change was enacted, and our worst fears have indeed been realized.

Mr. Minister, this single change to the Act threatens the very foundation of workers' compensation, and that is the hand that feeds it, the employers' funds. When employers are simply surviving and the number of survivors are steadily decreasing, they can hardly be expected to remain apathetic while supporting a fund which allows an injured worker to earn 23 per cent more, tax-free, on compensation than if he were fit, working, and receiving the average industrial wage in Alberta. Not only that, but the administration of this plan continues to digress from its principles and, in doing so, is plunging itself deeper in debt.

Unfortunately we can only see raising the ceiling to $40,000 as a means of raising additional operating funds while publicly proclaiming no increase in assessment rates. Let me remind the select committee of principle No. 2 in our brief. If sound financial practice is to be used in administering this plan and if the Workers' Compensation Board is to regain the credibility so necessary for its survival, then this ceiling must be lowered to $30,000, as we, the Task Force, and others have recommended, and the percentage of net income from 90 per cent to 75 per cent.

We agree that one of the best ways to reduce costs is to reduce accidents. It is for this reason that we have recommended safety education by industry associations funded through class assessments. Our main concern with OH&S has been their inability to reach the smaller contractor with safety educational activities. This has come about for a variety of reasons too numerous to mention; however, I would offer the services of our association to the select committee to discuss at their convenience this important issue and these many reasons. Essentially we believe industry can reach its own. Industry can relate to its own in a manner which will foster continued improvement.

We are presently engaged in an exciting program of developing self-administered safety training modules for our industry, thanks to a grant from OH&S. We've also taken a major step in education, with the hiring of our full-time safety director, to our knowledge the only association that has taken this step. We've examined the mandate of OH&S and strongly believe that safety education by associations will complement the work of OH&S, and the two would form a much more effective means of reducing accidents through education, engineering, and enforcement.

It is our belief that we have put forward the same proposal with respect to the merit assessment and excess cost assessment plan as did the Task Force. In addition, we put forward our views on strengthening the present system. Although this may appear at first to be contradictory, let me point out that we are demonstrating that alternative systems will meet the principles of compensation. We acknowledge that a couple of our members support retention of a modified system, but in any event industry wants to play an active role in developing a new system.

Mr. Chairman, we believe our brief contains responsible solutions to the major problems with the Workers' Compensation Act and the administration of the Act. We further believe that these recommendations will restore the Board to economic viability and accountability. They are therefore not only for the benefit of industry but are also in the public interest. We wholly endorse the balance of the recommendations put forth by the Task Force.

Mr. Chairman, that concludes our introductory remarks. We would be pleased to entertain or address any questions you or your committee would like to put forth.

MR. CHAIRMAN: Very well. Comments or clarifications? Ray.

MR. MARTIN: I'd like to go back, and I know the answers we'll get, because we've had this brief — and Mr. Hatfield will agree — many, many times already. But let's look at the ceiling. Different groups, depending where you are on the spectrum, I suppose, question what is fair in terms of insurance, which it is. You point out that it is insurance, but I'll throw it back out to you again. I ask you: is it fair that a person making, to pick a figure, $37,500, who is employed and is injured, should be taken down to 75 per cent of $30,000? Is that a fair compensation scheme? Of course, you're going to answer yes, but there are many people that would not agree with you on that matter. I'd like you to explain on why you think that would be fair.

MR. HATFIELD: Mr. Martin, I think you must tie back, as we have in our brief, to those principles again. When you read the principles, you find that it was never intended, in our opinion, that we would provide full compensation for the injured worker. It was part of the original trade-off. The employer assumed the responsibility in all cases. Is that fair, when perhaps there was another side to the story? Yet as part of the agreement, the employer agreed to take on all responsibility. So we believe it works both ways. I can't answer your question directly, as to whether it's fair. But we do not agree in principle that compensation should provide full return, because that takes away all incentive to return to work.

MR. MARTIN: We've heard other briefs today that would argue with you on that. I guess the counter argument would be — and it's hard to judge, but we have some evidence that in the United States, where they don't have compensation, private and all the rest of it, some of the suits are becoming pretty good. Some people would say that the workers gave up the right of suit, and as a result, for giving that up, they should be compensated for injuries on the job at the income they were making. That's the other part of it that we're wrestling with. I'd ask you how you'd respond to that.

MR. CHAIRMAN: Also, I'd like to just add here to what Ray has pointed out, and we shared that this morning with a gentleman. The average of compensable earnings has only gone up $2,000. I would ask you, is that out of line? The select committee in '79 recommended no ceiling. Before the legislation was introduced, we decided to bring in a ceiling of $40,000, which at that time would cover about 95 per cent or 92 per cent of all the workers' at full income. I say to you, Mr. Hatfield, that I guess like anything in print, including scripture, we can disagree. But the worker didn't give up his right of legal action for 40 per cent of the wages either. One of the examples — and I hate to use examples. But in the collapse of the Roy Plaza Building in Lethbridge, the widow found out, much to her dismay and regret, that she was only going to get a third of what her husband was earning.

MR. HATFIELD: Mr. Chairman, with all due respect, we appreciate — and I agree with you — that there are two sides to every story. I guess one of the mandates to the select committee is to review the evidence on both sides, and I would not be naive enough to say that I have the answer for you.

I would like to point out one thing, though. The select committee continually refers to the huge cost of litigation. I think it's time the select committee realized that the cost to the employer has risen to such an extent that perhaps there should be a return to that sort of system whereby the bad guy, if he is not going to do the things he has to do — and this is what we're advocating. As you know, we have frustration with the present system, where there is no superassessment. I agree the costs are high. I heard Mrs. Fyfe refer it in the first hearing. Maybe that's a good thing — that the individual who is not going to be responsible should pay the additional heavy costs. I don't know; it's something to think about.

MR. FOREST: Mr. Chairman, one other point. The figure of $2,000 really represents the least significant figure. It's the bottom end, and in our industry, which unfortunately is saddled with high wage rates, we're at the other end of the spectrum. From our point of view, the $40,000 ceiling winds up magnifying the problem. We have to ask: is there any reason for justification beyond the average industrial wage? The compounding that takes place in our industry, with the $40,000 ceiling, puts too much of an onus on the employer.

In construction, which is a very seasonal business, the determination of income should not be on the basis of 12 months but on three months, four months. What we and the other associations strove for was to generate some figures that would bring compensation back to the average industrial wage, which I don't think in this province is any hardship.

MR. CHAIRMAN: Ric, did you say that you strove for the income in the construction industry to be based on a three-month basis, not 12 months?

MR. FOREST: We would like to see the income of a particular worker determined on the basis of his past three-month's earnings. If we look at an employee who has worked

significant overtime, and then by his own will takes time off — and a lot of our workers happen to do that for certain periods of the year — they may have an inflated salary for a certain period, far more than they ever could have earned in a normal year.

MR. CHAIRMAN: If you notice the surprised look on my face . . .

MR. FOREST: I see it.

MR. CHAIRMAN: . . . it's because I don't believe you are telling me that. We've had employer groups wanting it averaged over 12 months because, in a particular season, that worker may earn a higher income than over the 12 months. However, think about it, and maybe you'll want to come back to me. Ray, I interjected.

MR. MARTIN: Yes, just to follow up. You're talking about the average wage for every worker in Alberta and finding out that in your industry it is higher. I gather, then, that your industry figures those workers are worth that or you wouldn't be paying it.

MR. FOREST: I'll reserve comment on that.

MR. MARTIN: Then you'd better get a new negotiator, I guess. The point I make is that that is part of doing business, and the point people would argue is that injured workers would be part of doing business at that level, if that's what you're paying.

Just one further question, on a different matter. It's a standard one from the Industry Task Force, about business balance on the Board. Could you just enlarge a little more on what you mean in that area?

MR. WEBSTER: Mr. Chairman, ladies and gentlemen, I think what we are trying to get at is that in terms of the workload on the Workers' Compensation Board at the present time, we feel that the numbers at the Board level are insufficient and do not represent a fair balance between business and labor. From a volume standpoint, we observe and feel that the workload on the Board itself at the present time, both in operating and setting policy, and with no written policy available, is an unfair workload and that the Board should be expanded somewhat to provide a more efficient board.

MR. MARTIN: Can I ask what you have in mind in terms of number? Could you be a little more specific in what you're saying about the Board?

MR. WEBSTER: We believe an expansion of 2 to 4 members to the present Board should be looked upon as a fair addition to the present Board.

MR. MARTIN: How many from business, and how many from labor?

MR. WEBSTER: We believe the majority of the Board's members should represent business, as the program is funded entirely by business.

MR. CHAIRMAN: You don't want to get into that, do you?

MR. WISOCKY: No, just policies.

MR. CHAIRMAN: Myrna.

MRS. FYFE: On page 9 you make a comment regarding the administrative costs of the

Board. When you're talking about administrative costs, you're not including payments. You're only talking about the costs of operating the staff of the Workers' Compensation Board and the costs of operating their facilities. Is that correct?

MR. WEBSTER: That's correct.

MRS. FYFE: Are you comparing? You say these costs are high. What are you comparing these costs to?

MR. WEBSTER: I believe the answer in that regard is contained within our recommendation that a proper and independent actuarial study of the costs of the entire WCB be undertaken. In the limited time available to industry in making their presentations to this board, we have done some preliminary studies on our own, independently, to assess where costs and revenue are. However, until such time as a complete audit and accounting and examination of the ongoing operations of the Board is undertaken, we do not believe we can give you any magic numbers.

In our report we have presented several options to look at with respect to assessing costs and funding through employers. We mentioned the fact that the fixed costs that are identified are in the order of 24 per cent, I believe, of the overall operating costs of the Board. We cannot tell you today whether or not we consider those proper, but we do have a feeling that they are too high. At the present time business is having to undertake self-examination of their own costs in terms of operating, and in our industry in fact have had to take fairly drastic measures, with a view to reducing administrative costs within our own organizations. We believe it is essential that the Board review, with an indepedent study available, whether or not reductions in administrative costs could be accomplished.

MRS. FYFE: So you're including more than administrative costs. You are also talking about the operations of the Board. You're talking about actuarial studies, so you're talking about payments, which is in addition to the actual operations of the Board.

MR. WEBSTER: No, we are trying to identify the administrative costs.

MR. FOREST: Mr. Chairman, I believe we're looking at both. Mrs. Fyfe, I think the initial phase of your question was, where did we obtain the numbers on administration increase.

MRS. FYFE: Yes, what are you comparing it to?

MR. FOREST: We're comparing it to itself. It comes from the WCB annual report, which indicates that, '82 increases over '81, administration was up 26 per cent. In looking over the past several years, that figure — 26 to 30 per cent — has been the case. We're looking at an annual compounding of some 25 to 30 per cent.

MRS. FYFE: Right. At least I understand what you're saying. In comparing the Alberta Workers' Compensation Board to other boards, the information we have is that we are in line or lower than other boards. I just wanted to get a handle. I understand that the main thrust is that you want to get the costs back down in total, but I wanted to find out specifically what you were referring to in that area. Thank you.

MR. HATFIELD: I'd just like to make one comment, Mrs. Fyfe. I also attempted to make that comparison between the other boards, and I spent many futile minutes

discussing with board members how they break down their administrative costs. I don't know how you made that comparison. We'd love to know, because we couldn't do it in a realistic fashion. The way each annual report comes out and the way costs are assembled, we couldn't make an apples-to-apples comparison.

MRS. FYFE: There's no doubt it's very difficult to make that comparison.

MR. CHAIRMAN: Ron.

MR. R. MOORE: Thank you, Mr. Chairman. Just for clarification, back to Mr. Forest. Did I understand you to say that you would like the income based on the last three months of employment?

MR. FOREST: Mr. Moore, Mr. Diachuk was absolutely correct. I was wrong. I was reversed, and I'm sorry.

MR. R. MOORE: In your report, on page 22 you're saying based over a 12-month period rather than a three-month period. You were going in reverse, obviously. It really surprised me.

MR. CHAIRMAN: You realize, Mr. Forest, the press is present and you'd be misquoted.

MR. FOREST: I appreciate that, sir. It was the lunch; I must confess.

MR. R. MOORE: You want it over a 12-month period.

MR. FOREST: That's correct.

MR. R. MOORE: That sounds more reasonable.

MR. FOREST: I'm sorry for the confusion.

MR. THOMPSON: Mr. Forest, I thought I heard you say that it was possible, with the 90 per cent of net that you could get — was it $2,300 more by not working?

MR. CHAIRMAN: Twenty-three per cent.

MR. THOMPSON: Maybe you could explain to me how that could happen.

MR. FOREST: Mr. Thompson, I believe the detailed calculation is in our brief, but the figure of 23 per cent is not the worst of it. It's 23 per cent after tax. When you take tax into account, it's something like 40 per cent more. Mr. Hatfield, do you want to go through that calculation?

MR. HATFIELD: Mr. Thompson, these were taken from the . . .

MR. THOMPSON: What page is that on?

MR. HATFIELD: It's not directly stated in our brief. It was directly stated in the Industry Task Force brief. It's taken from the Association of Workers' Compensation Boards of Canada, a percentage relationship between the maximum weekly compensation available in that province and the average weekly wage.

MR. CHAIRMAN: Oh, you're comparing with average weekly wage.

MR. HATFIELD: That's correct.

MR. CHAIRMAN: I'm glad Mr. Thompson asked that.

MR. HATFIELD: The percentage relationship is 123.62 per cent.

MR. CHAIRMAN: The way it came to us here is that in Alberta, under the present program, a worker may get as much as 23 per cent more tax free. But that's with the average wage.

MR. HATFIELD: That's correct.

MR. THOMPSON: I understand if we work off that average that it could make a difference all right. I still think 90 per cent of net is less than 100 per cent. I don't care what anybody says.

MR. CHAIRMAN: I don't think they'll argue.

MR. MARTIN: Cardston mathematics.

MR. CHAIRMAN: I have only one question to you yet. We have some more time. Stan, did you have a question?

MR. NELSON: No.

MR. CHAIRMAN: In your submission on negligence, section 89(2) — I'm asking for some specifics if possible — you indicated:

> To eliminate the possibility of unfair hardships being placed on any employer applying for cost relief under Section 89.2 the Alberta Construction Association recommends that in any case where negligence on the part of another employer is implied that the Board assume responsibility for investigation of the circumstances and final determination of whose account will bear the costs.

I'm advised that that's taking place.

MR. HATFIELD: Mr. Minister, if I may, in essence the provision is there. What has happened is that in a contractual agreement between two contractors, when the subcontractor made a statement to the Board, through his report of injury to the Board, that he believed the injury to have occurred because of negligence of employees of the other firm, the general contractor involved, he was told directly by the Board that he was to go out and prove the negligence. He attempted to do so and, in the process, his future employment was threatened by the other contractor involved. All we're saying is that anytime the Board asks the claimant — in this case the subcontract claimant — to go out and prove negligence, they are creating a conflict situation between the two who have a contractual agreement and, in effect, are jeopardizing the relationship that may exist between those two. All we're saying is that if such a situation exists, please have the Board make the investigation. Don't ask the employer making the claim for relief under section 89(2) to prove negligence. It puts him in an untenable situation.

MR. CHAIRMAN: Al, could you help us out here?

MR. RUNCK: Mr. Chairman, there is obviously a misunderstanding. We do ask for details of what the individual considers to have been negligence. We don't ask him to go out and investigate. He says that employer X was negligent, and that caused the accident injuring my worker. So we simply say, would you please explain to us what action he took that you consider to be negligent? From that point on, we will pick it up. We will send investigators out. We go through an investigation process, and our legal department gets involved. Eventually, in most cases there is a hearing.

MR. CHAIRMAN: I suspect, and I'm sure because you're smiling, that somebody doesn't want to get involved. How can the Board get the investigation completed if they don't get that information?

MR. HATFIELD: Mr. Minister, with all due respect to Mr. Runck's statement, what he says is quite true except in this instance, where I have documented proof. I would be happy to discuss it with him following the hearings, give names of individuals involved and the lot. I'm talking about names of the Board members. I personally phoned the individual on the Board, to confirm that this had actually taken place. After he listened to my statement, he confirmed the fact that that conversation did indeed take place. I would be happy to discuss it with Mr. Runck afterwards.

MR. CHAIRMAN: The only way we can fix anything is if we know about it. Stan.

MR. NELSON: I have a couple of small questions, Mr. Chairman. Mr. Forest, the first recommendation in your summary regards restoring the business balance to the Workers' Compensation Board. I believe that Mr. Diachuk has been or is or will be advertising for Board members and so on. I'm just wondering if the industry has put forward a name at this point in time.

MR. HATFIELD: Yes we have.

MR. NELSON: Have you put forward more than one?

MR. HATFIELD: Yes.

MR. NELSON: The other question, related to this similar thing, is on the same page: "2) Establishment of a voluntary industry advisory Board". Why don't you do it anyway on your own kick, rather than wait for somebody to ask you to do it. Then through discussions with the minister — and I'm sure Mr. Diachuk is quite accessible — visit with him, make recommendations, and discuss your concerns, without having to have some official advisory board established by the minister.

MR. FOREST: I'll let Al address that, but I believe the entire industry, as opposed to just the ACA, would like representation. Certainly the Task Force was promoting that, and I think their answers would certainly serve our purpose in this case.

MR. CHAIRMAN: Just a supplement before Al gets into it. Would you see the role of the Occupational Health and Safety Council, if it was legislatively provided that it could also review workers' compensation legislation, as the avenue?

MR. FOREST: No, I don't think so. We would rather have a separate independent council.

MR. CHAIRMAN: This is going to cost you employers more money, that's all.

MR. FOREST: We think it may be more effective.

MR. HATFIELD: And by being more effective it will cost us less, Mr. Minister. We believe there's a certain area of expertise which is duly in place for occupational health and safety. We also believe this . . .

MR. CHAIRMAN: No, I'm talking of the council, where there is a representative.

MR. HATFIELD: I agree with you on the council; that's correct.

MR. CHAIRMAN: Those people are not good expertise. They come from industry, labor, and the public.

MR. HATFIELD: And they bring with them the expertise that they profess to have for that purpose, on occupational health and safety.

MR. CHAIRMAN: Okay. Al?

MR. WEBSTER: Yes, Mr. Minister. I think the point we were trying to make is that you can volunteer your services for anything you want, but without recognition of that vehicle, unless there is a recognition of a responsible role, I don't believe it would be effective. So I believe the industry is ready to form the advisory council, in a similar fashion to what has been done under occupational health and safety but with a specific view to the operations of Workers' Compensation itself. The industry was very quick in forming its own joint Industry Task Force in this case and has expended funds with a view to examining the operations of the WCB. I think they see — and we have recommended — setting up an advisory board to the Board as an added feature, but I believe it must have its role recognized in a responsible manner.

MR. CHAIRMAN: Anything else, Stan?

MR. NELSON: Yes, I'd like to ask a question related to a proposed new facility, be it a new rehabilitation facility or a joint administrative offices and rehabilitation facility. I just wonder how your industry feels about the establishment of that at this time.

MR. FOREST: Mr. Nelson, I was privileged to be able to go through the existing rehab facilities with some of the people from WCB and could certainly see evidence that the thing is in terrible shape. However, one of our major concerns is that the dual complex or even the single complex, the rehab stand-alone centre, was conceived in a period of time in which everything was skyrocketing: employment in the province, industrial activity, and accidents in terms of numbers. We think the new facility should be re-examined in light of current and foreseeable conditions. We believe an independent cost/benefit analysis should be done to determine the size required and the benefits to be derived from a new facility. I think our own belief is that the second phase, the office side of the project, should be subjected to a cost/benefit analysis. On first blush we cannot see any reason to justify additional office space in this city when the government can support private industry at very low cost and come up with possibly a slight

disadvantage in terms of communication but a significant cost advantage.

MR. CHAIRMAN: I notice on page 29 your concern about hearing of the approval to proceed for the purpose — because you've addressed it. The approval has only been given to proceed with the planning and the rezoning, not to proceed with the building yet.

MR. FOREST: Yet. Our fear is that those procedures tend to snowball and that there is also a tremendous difference from the point of time that that project was conceived, even though just the rehab centre, and the present circumstances. And we see from the numbers — I was personally given a design for a capacity for 500 — that it probably is unwarranted in terms of the potential activity over the next four or five years. If that's too short a time frame, maybe one should consider building it in phases.

MR. CHAIRMAN: Any other questions? Any comments that you may have?

MR. FOREST: Mr. Chairman, we would like to make a couple comments on safety education, if I could have Mr. Hatfield address that.

MR. HATFIELD: Mr. Minister, just as a final comment, again I'd like to tie back with our belief that the only real way to reduce costs is to reduce accidents. We feel very strongly that this is one of the important parts of our brief. We believe that through industry assessing its own need, through industry using as consultants its own people, experienced very definitely in construction, we can not only reach the small contractor but reach him in a meaningful way. Any association activity in education is totally dependent on volunteers. One of the most important things in dealing with any volunteer organization is the continual problem of motivation. In order to motivate volunteers, they must have a distinct say in the direction they're taking, in order to feel a commitment to their work. We feel that it's most important to clarify this distinction. When we ask for funding of education activities by industry associations, we mean they not only undertake those activities but decide on the activities they are about to undertake. This has been the reason for the success of the Construction Safety Association in the province of Ontario. We feel very strongly that we can do this in a much more meaningful way.

Also, it will complement the program development aspect of the present OH&S. I feel that with the numbers of people they have, I don't see any way in which they can possibly fulfil their present mandate. If associations are allowed to direct and carry out education activities, it would allow the present department in OH&S to concentrate on those industries not covered by association educational activities. In closing, we feel that this is the most important aspect, and we respectfully ask that you give this strong consideration.

MR. CHAIRMAN: Just in conclusion, that would mean that the association would have X number of points or percentage of the assessments transferred to the association from the Board.

MR. HATFIELD: That's correct.

MR. CHAIRMAN: Any questions on this program?

MR. MARTIN: You're basically talking about the Ontario model as . . .

MR. HATFIELD: Not as it presently exists. We'd like to improve on it considerably.

You see, in Ontario it's a quasi-governmental agency, with direct responsibilities to the Board. We're not advocating that here.

MR. CHAIRMAN: You are advocating it would be responsible to whom here?

MR. HATFIELD: To the ACA board of directors, who are respectfully requesting a portion of their money that they don't feel is being utilized to its fullest extent.

MR. CHAIRMAN: Are you sure you wouldn't need an independent group, then, to assess the ACA board of directors?

MR. HATFIELD: I beg your pardon, Mr. Minister?

MR. CHAIRMAN: You're sure you wouldn't need an independent group to assess the ACA board of directors?

MR. HATFIELD: No, sir.

MR. CHAIRMAN: Tongue in cheek. Okay. Ric, any closing comments?

MR. FOREST: Mr. Minister, thanks very much for your time. We certainly appreciate it. We do support fully the recommendations of the Task Force, and we appreciate the opportunity that you've given us here today.

MR. CHAIRMAN: Thank you very much. I do want to mention that I was a little taken aback by noticing that you didn't have enough time to prepare this. I respectfully caution you and urge you that traditionally in Alberta, after every general election there is a select committee hearing. So if you haven't enough time for the next time, you have notice now.

MR. FOREST: Thank you very much.

MR. CHAIRMAN: Canadian Federation of Independent Business. Mr. Gray and Mr. Foster, you may come forward. We'll have a coffee break right after Mr. Foster and Mr. Gray make their submission.

Canadian Federation of Independent Business

MR. CHAIRMAN: I do want to make the members of the committee aware that I believe there's no conflict, even though one of the select committee is a member of your association. I see no real conflict for Stan Nelson to remain here. Stan, I'm sure the other members of the committee don't see any conflict in the presentation by these people, so feel free to remain seated here and listen to their presentation. I'm sure you'll talk to them after the hearings.

Go ahead, Jack. We have about a half-hour's time if you have some general comments. We have your submission here.

MR. FOSTER: Thank you. Mr. Chairman and members of the committee, I'd just introduce myself as Jack Foster, regional officer of the Canadian Federation of Independent Business. To my left is our vice-president of legislative affairs, Brian Gray. I'll turn things over to Brian.

MR. GRAY: Mr. Chairman, members of the committee, the CFIB is very pleased to appear before you today to discuss the operation of the Workers' Compensation Act. We view the establishment of the select committee and its mandate to review the conduct in hearings into the operation of the two Acts as extremely important. We hope this is an initiative that will be repeated on a more regular basis in the future.

The CFIB is a non-partisan political action organization which represents the views and concerns of 64,000 members across the country, 6,400 in Alberta. We are small and medium sized enterprises, and we're independently Canadian owned. I must emphasize that our membership is very small; 85 per cent of our members would be in the 20 employees and under range. We broadly reflect the economy both of the province and of the country generally.

As you can appreciate, workers' compensation is one of the major concerns of our membership at any given time. Member concerns range from issues of cost, to classification, to complexity, to reporting requirements, to abuses of the system, to generosity of compensation, to bureaucratic indifference. Contrary to the impression of many, our members and the Alberta business community in general is not massively profitable, nor are they able to pass along added costs of operations as though through a conduit, nor can they afford to provide a full range of comprehensive non-wage benefits in general.

The difficulty we face is that as a sector in the economy, the SMEs face a policy maker's view of the world, which often, with regard to WCB, seems to be limited to the 3 to 5 per cent of firms in the economy which are providing the most generous benefits, not the average small or medium size enterprise, which is regionally dispersed all over the province. For these reasons, we are particularly concerned and pleased to witness the work toward recognizing the differential impact that various measures or changes in legislation can effect on small versus large firms.

Because of our members' concerns in this area and because all too often the debate on issues of the complexity inherent in WCB is conducted by the so-called experts, we feel that it is critically important that those who have to pay for the WCB and who often approach measures with a common-sense basis be heard before any fundamental reshaping of the principles underlying workers' compensation or the Act itself are undertaken. We sincerely hope the select committee will seek out the major problems or concerns related to safety and health in the work place, the Acts, and the bureaucracy, and work toward recommending practical, workable solutions to those difficulties. We believe it is vital that the workers' compensation system involve the business community in the direction and functioning of the system.

A great concern of our members, not only in Alberta but throughout Canada, is that workers' compensation boards are out of control, remote, indifferent, and lacking in accountability to the public employers or the elected officials themselves. As long as this concern remains, the WCB, the Acts it administers, and the goals it seeks to attain will not be realized optimally.

Workers' compensation has been well accepted as a system for developing assistance to persons, and their families, injured or diseased in relation to their employment. Employers generally favor the principle of the employer-funded insurance plan as opposed to the forbidding alternative of litigation in the court systems over the most difficult questions of negligence or fault leading to particular injuries. Constantly renewed vigilance on the part of both employers and employees to avoid accidents is always necessary. Even if this were not neglected, accidents or situations causing injuries do occur. A public system of compensation to accident victims and for rehabilitation and retraining of injured workers is based on sound principle. Thus it is of the utmost importance to maintain the system in sound actual condition and integrity.

In fact workers' compensation operates in an unsatisfactory manner in most if not all provinces. This is the view of both many injured workers and numerous employers. All too often keen dissatisfaction develops due to the manner of WCB employees and procedures. Rapidly increasing premiums on employers, whether or not an excellent individual safety record has been maintained, are very costly and of great concern. Apparently uncontrolled costs generate doubts about the administrative and financial discipline and management of the Board. Both the rapid cost increases and the aspirations for some progressively increased levels of benefits worry employers. It seems that perhaps the principles on which WCB was founded are being fundamentally altered. Clearly the system needs a thorough review in recent and future directions, and its operations must be carefully, imaginatively, and courageously rethought.

With regard to some of our members' views on the workers' compensation system in Alberta, our members seem to be deeply concerned by the present WCB system, which they believe is generally not adequately meeting the needs of employers or employees. They are also concerned by many of the recent changes in WCB. In 1981-82 the federation conducted a provincial survey of our Alberta members, in which we asked: have you ever experienced a problem in dealing with the Workers' Compensation Board in the province? 16.7 per cent responded yes, 62.8 per cent responded no, and 24.9 per cent were unaffected. On the surface this seems like a minor problem. However, as one moves up in the size range of the firm, more firms are affected. The WCB is a problem for 28 per cent of those firms that are in the 50 to 99 employee range, which is more than one in four firms. Certain industries certainly have more problems than others. One that comes to mind is transportation.

Members were also asked to identify the nature of their problem with WCB; 35.2 per cent of those affected cited the bureaucratic indifference was a problem. Members and workers alike are particularly concerned about the treatment they receive from the WCB. Employers pay for the operation of the Board and its employees' salaries, yet are treated indifferently or rudely. Fees were cited by 21.7 per cent; 18.6 per cent cited reporting procedures; 15 per cent cited classification difficulties. It should be noted that the incidence and difficulty with these various aspects of WCB got worse as the size of the firm grew.

Responding to a CFIB national survey in '76-77, members generally attributed causes of WCB cost increases to the growth in the size and cost of administrative staff at the Board and a perceived abuse of the system. The Alberta Industry Task Force report, which I believe the committee has received, also cites these and other sources of cost increases.

The WCB system is built on the principle that employers fund a compulsory insurance which is to reimburse employees for those losses they suffer due to occupational injuries. Employees gave up the right to sue their employers in court and to collect full damages for all the losses they had received, including pain and suffering, if they could establish legal fault on the part of the employer. In return, employees were granted guaranteed protection against income losses due to industrial injuries, irrespective of fault. The level of disability benefit is limited to a portion of the employee's income and an annual ceiling, approximately the average industrial wage, is applied to the wage level to be covered.

This founding principle of WCB is clear, but certain features of existing benefits and some proposals for enrichment of benefit levels, including those of Professor Paul Weiler in Ontario, are inconsistent with these principles and historic agreements. For example, partial permanent disability benefits, which constitute a substantial portion of costs to the fund, are in fact unrelated to the loss of income. Their continuance regardless of ensuing employment and earning is, by implication, compensation for pain and suffering, or at least for something other than loss of income. Proposals for much higher earning

ceilings, such as Mr. Weiler in Ontario and other provinces are entertaining, with the proportion of earnings in the formula — 75 per cent here in Alberta — to remain the same would considerably increase the benefits above the average earners, and thus total payouts from the fund. WCB is in principle an insurance against loss of income up to a modest, basic level, a guarantee against serious hardship in the case of employment accident or disease. It is not an insurance against loss of income up to the higher levels of today's affluence. Employers have agreed to fund a basic level of insurance. If employees want to undertake the much more expensive task of insuring up to or near actual earnings for each employee, there should be a look at having a shared-cost situation.

The CFIB vehemently opposes revisions to the above-stated principle of WCB and the direction proposed by Mr. Weiler and others, that the high compensation or damages awarded by courts of law under judgments of tort liability should serve to raise WCB benefit limits. As employees have foregone damages for tort liability on the part of employers under WCB, they have gained the advantage of the universal insurance for work-related accidents and specified work-related diseases. While the courts have awarded dramatically high settlements in a relatively few well-publicized cases, it is very difficult to prove employer liability, as Mr. Weiler admits. On the other hand, the benefit levels available to all covered workers have grown over the decades approximately in proportion to the growing real wages. It is a distortion to consider the increases in only one side of the equation.

All too often policy makers de-emphasize the burden of financing proposed enrichments to the WCB. They inadequately consider the burden the proposals will place on employers, those who must shoulder the actual costs which must be met. They often dismiss the encumbrances of financing generous improvements with the suggestion that if the community does not bear the loss financially, then the individual and his or her family will have to. Frequently when policy makers are looking at issues such as benefits, they are arguing not for limited income replacement but for bountiful liability settlements averaged through a universal no-fault plan. Seldom are questions put as to what is prudent, fair, and realistic to ask employers to provide.

The reason is that firms are able to pass on workers' compensation premium costs, theoretically. The evidence of a dramatic erosion of both margins and profits during 1982 and 1983 is surely proof that this is a ludicrous proposition. Policy makers appear to perceive employers as only the very large corporations and seem to be unaware of the 97 per cent of businesses which have annual sales of under $2 million. For most of these employers, meeting payroll costs is one of the primary challenges of undertaking one's own business. Small firms are not directed by shareholders evaluating returns on investment. They are operated by men and women who have taken substantial risks in most cases to earn their own usually modest income by running a business rather than taking a job. Only to one uninformed in business management might it seem from general data that running a business is a matter of passing costs through a conduit.

However, the risk shouldered by independent business owners is not gauged by overall statistics of average price increases or business bankruptcies. The uncertainty for any individual business, intensified in periods of high inflation, is that sales and earnings may not grow to cover accelerating costs. While relatively few small businesses are very profitable, the majority provide moderate incomes compared to many of today's wages. A relatively small increase in costs or a decline in sales becomes a large decrease in earnings. Business risks have increased with high and volatile interest rates, high inflation, uncertain government policy, more international and domestic competition, the decline of population and income growth, the rate and fickleness of technological change: all factors largely beyond the control of individual businesses.

When the risk is intensified by direct government imposition of added costs, as is the

case of higher payroll taxes, the burden is especially odious. The ability of employers to absorb escalating levies on payroll has been eroded during the recessionary periods. Payroll charges have rapidly mounted to where they pose a formidable regular expense. They are bills which must be paid, regardless of the financial position of the firm. They are costs which occur previous to any profits, costs that cannot be shared or postponed. The rapid increase in all forms of payroll taxes severely hampers any business which has a tight cash flow and/or inadequate equity base. These conditions apply especially to young firms. They usually apply to a large portion of small firms. In recent years, with high interest rates and resulting recurring recession, they apply to almost all businesses.

Policy makers such as Professor Weiler expect that these types of costs will be passed to consumers. His position is that employers serve as a conduit through which most of the bill for workers' compensation is passed forward to the consumers or backward to the employees of the enterprise. He speaks of three groups potentially sharing the cost of workers' compensation: the shareholders, the customers, and the employees of the enterprise. As we have already seen, he concludes that shareholders do not in fact pay a substantial share. At other places, he writes that compensation benefits are paid for not by capital but primarily by labor, both as consumers of high-priced goods and as wage earners faced with the increasing labor costs of a competitive world. He goes on to add that this analysis intended to temper the ideological tone in the debate.

The fact that the employers know the costs are not shifted and fight escalating costs because they are not easily shifted negates Professor Weiler's proposition. It is true, of course, that WCB assessments are costs of doing business, which creates pressure for businesses to raise prices or reduce other costs such as labor costs. If costs cannot be passed on, the brunt of increased costs is felt by labor. The easiest way to reduce costs is through reducing the number of employees.

It is also true that the rapidly rising costs of workers' compensation are ultimately shared broadly in society. Precisely for that reason, it is also important to have a clear analysis of the cost of any new benefit levels. Given that employers are inhibited from shifting costs, the correct question is: what WCB assessments can employers accept, at what price? Too often proposed enrichments of WCB neglect the cost to employers, the effect of inflation, and the changes which have occurred in employee benefits since the collective liability was introduced in the arrangement of the early 1900s.

Since that time, per capita real income has changed greatly. When the national account statistics began to be collected in 1926, net personal disposable income averaged $1,156 per capita, in 1971 dollars. In 1981 the average had risen to $4,601, also in 1971 dollars. From '39 to '82, the average industrial wage, discounted for inflation, had grown to 2.37 times the original. It is true that over such long periods, this comparison is distorted upwards. This does not change the point that the level of insurance provided and paid for by employers has increased by several times since its inception, as it is tied to per capita earnings.

Study after study has confirmed that net employment gains in the past dozen years in Canada and the U.S. have occurred disproportionately in small and medium-sized enterprises. Various estimates in the U.S. and Canada for the '70s consistently conclude that small businesses have provided 60 per cent of net new employment. With present high rates of unemployment, it is of vital importance for our economic future to avoid direct deterrents to employment creation.

Payroll taxes on business have increased at an alarming rate over the past decade. CFIB categorically opposes the rise in payroll taxes to support programs to raise revenue. When asked, in a recent mandate vote, whether they are for or against any form of provincial payroll tax on employers and the self-employed, 93 per cent of our members voted against it. When you're looking at payroll taxes, the important aspect is

that you have to look at the questions of cumulative account. It's not sufficient simply to look at the effect of WCB assessment. You have to look at the assessment in terms of how it responds when stacked upon a 50 per cent January 1983 increase, and you add to that other forms of payroll tax that are constantly escalating. I think when you look at it in those terms, you cannot simply look at payroll taxes in isolation one from the other. You have to look at the cumulative effect.

U.S. author Nicholas Ashford, well known among health and safety experts, discusses problems with small firms in chapter seven of his book, A Crisis in the Workplace. "The social benefits of improved health and safety in the American workplace can hardly be questioned. However, unless policies for achieving a safer workplace are carefully chosen, many workers and employers could be hurt in the process of attaining this desirable objective. Smaller firms may find it particularly difficult to pay for the information, new technology, health and safety manpower, and other production changes that will be required. Compliance with strict health and safety regulations will generally be relatively more expensive for the smaller firms. Even though the small firm may eventually be able to maintain a good health and safety program, the initial cost of implementing such programs may be prohibitively high. Moreover, these costs seem to be coming at a time when many smaller firms find themselves in a precarious competitive position. If left unassisted, a number of these firms may be forced to close their doors, while still more will curtail production and lay off workers. When we recall that nearly two-thirds of the U.S. labor force is employed in firms of under 500 employees and 30 per cent in firms of under 25 employees, the importance of designing policy to deal with the special problems of small business becomes clear. No health and safety policy is fully adequate unless it addresses the problem of mitigating the harm to such individuals and firms. Thus a major concern must be that of equity; i.e., the extent to which we can avoid placing the costs of social policies unfairly on the shoulders of a select few employers and their employees."

It cannot be stressed enough that the WCB and other payroll levies constitute a growing problem in their cumulative effect on small firms. The problem of costs of social policies for small businesses deserves consideration by this committee. To ignore the realities of small business in the development of WCB policies, an income replacement system which can be made financially manageable through improved occupational health and safety, would be to cause immense harm to employers and employees. The feeling of many businesses today is that governments are unaware of the great significance of small changes in tax rates and regulations. It is their justified belief that public officials should be aware of the effects of their proposals before they become recommendations. Too often a given recommendation for a tax or cost increase placed upon business is viewed and justified in isolation. Seldom is the effect of that tax or cost analysed in combination with or with reference to other taxes and business activities. One need only witness the disasters of the 1981 federal budget to bear witness to that.

When the prevalent view becomes that government listens only to professors who are ill informed and not humbled by careful research, then business persons are more likely to feel the fight is not worth it, government does not care, and the rules are not fair. Many businesses have refused opportunities for expansion because of the growing costs and regulations surrounding the hiring of workers. A number of owner/managers elect to withdraw their managerial skills and their employment creation, either through their early retirement or by taking paid employment themselves. Other potential entrepreneurs are dissuaded from beginning. It is a continuing process, accelerated over the decade of the '70s. It is a loss that we cannot ever afford, and one that we cannot ever recover. Its costs are even more stark in the '80s. An unemployment rate of over 12 per cent speaks for itself.

Workers' compensation assessments have increased very rapidly. They've become a substantial part of the disincentive to hire. They've effectively become an anti-employment tax. We urge this committee to be mindful of these dynamics.

With regard to recommendations, I would emphasize that we of the small business community do not claim to be experts in the field of WCB. There are very few Canadians who can. We are, however, being forced into the debate and are being forced to become somewhat expert in the field. Workers' compensation Acts and operations need complete reviews, and we are very happy that this committee is looking toward this kind of endeavor. New measures, whenever adopted, need to be considered independently, taking into account costs and other factors for small and medium-sized enterprises. Each recommendation should be reviewed critically on its own merits and include close consultation with business, which is most affected and which pays the bills. No legislative action should be proposed until these reviews are completed and the cost impact on society is assessed. Our members believe that society should be responsible for ensuring adequate but modest standards of income replacement. We generally support the directions of the Alberta Industry Task Force that have been submitted to you, and for a further, detailed analysis of how we responded to Professor Weiler's recommendations in Ontario, I would refer you to our submission to that committee in the Ontario Legislature.

The federation is gravely concerned by the growing belief that any individual increase in payroll tax can be absorbed by small firms. It should be emphasized that the cumulative effect of increases in UIC, CPP and, where applicable, medicare and WCB, would drive more enterprises to economic ruin. It will certainly stem the level of company formation rates, although it may not impede the growth of a parallel underground economy.

We all share a common goal to rework the WCB in Alberta in order to meet the future needs of employees, employers, and a society for the 1980s and beyond. Small business is prepared to help. In this regard we have submitted our views on the Weiler recommendations. We are appearing here today, and we are also in the process of undertaking a study to study very carefully, with particular reference to the economy of Quebec, the implications of workers' compensation board policies as they affect small versus large firms. We recognize the great difficulty of achieving equitable and workable solutions. We believe serious departures from present policies should be given careful consideration in order to correct grave ills. However, some of the approaches mapped out in the name of reform are entirely too facile and unrealistic, both in principle and in administration and cost burdens imposed. Both courage and prudence will be required to better our seriously flawed WCB systems.

I thank you for your attention. We wish you well in your deliberations, and we look forward to your recommendations. Thank you very much.

MR. FOSTER: Thank you. If there are any questions from any members of the committee, we'll endeavor to answer them.

MRS. FYFE: I'd just like to go back to the comments you made regarding the manners or lack of courtesy your members found from employees of the Board. You said this came about as the result of the survey. That survey was taken in the province of Alberta — how long ago?

MR. GRAY: The survey was conducted in the 1981-82 period, the fall of '81-82. We conducted the survey. It might have been mailed out around December, and the returns would have come in in the early part of '82.

MRS. FYFE: That is not a concern that has been brought to my attention as an elected person. If an incident such as you expressed takes place, I'm wondering if it is reported either to members of the Board or to elected persons within the province.

MR. FOSTER: I would suggest that the concerns probably deal more with the officials they attempt to communicate with; not necessarily Board members but officials within the WCB operation as such. The complaints I've been getting in my office have dealt more with, as I said, officials and clerical people — that type of thing. This seems to be where the complaints lie, that they are treated somewhat with indifference, if you will. But specifically as it relates to a Board member or elected officials, no, I don't believe I've had any complaints directly to that extent. Very few of our members have gone to that level, in terms of dealing with a particular problem.

MRS. FYFE: I would hope that if there were a problem, that would be brought to the attention of the Board, to the minister's office, or to the elected MLA of the respective constituency.

MR. FOSTER: I do exactly that.

MRS. FYFE: Because it's not something that we would condone. I'm sure it's not widespread, but the accusation is there. It's difficult to deal in generalities if there are no specific instances. So I hope you'll communicate to your members that if they do run across such a circumstance, it should be reported directly.

MR. FOSTER: Yes, I have taken specific examples to the appropriate people when I have an actual case that I have verified, and will continue to do so.

MRS. FYFE: Who would you say would be the appropriate — who do you take them to, then?

MR. FOSTER: As a matter of fact, I have taken some directly to the minister's office. I have gone to that level with some instances, and to Board member level with others.

MR. CHAIRMAN: Ron Moore.

MR. R. MOORE: Thank you, Mr. Chairman. Mr. Foster, from a political standpoint I'm very glad that you're named Jack and not Jim. Anyway, what I wanted to find out is: your group isn't in favor of the present system of merit award and superassessments in rewarding or penalizing good operators and bad operators. What do you see as a replacement for that?

MR. FOSTER: That's a question we discussed this morning. I think I'll feed that one to Brian.

MR. GRAY: I think the whole question of the merit system in the Workers' Compensation Act is extremely difficult. It's just as difficult as trying to get certain punishments and rewards through a system of financial viability in a firm. However, I would submit that if we're working towards a betterment of the work place, a reduction in the numbers of accidents, and less need for the Workers' Compensation Board, we've got to emphasize the merit side rather than the punishment side of WCB. Too often we hear cases where a member may have had an accident as long ago as 10 years, and yet on his rates is still being penalized for that accident, although he has had a very clear, safe

record since that time. I think we've got to try to adopt maybe more traditional insurance policies. If I had had an accident in a car five years ago, for instance, for the purposes of my insurance rates, that would have been erased by now. But that doesn't appear to happen automatically under workers' compensation systems, and I think that's the kind of thing — you've got to reward good behavior. I think the superassessment thing punishes bad behavior, but I'm not so certain whether the merit side sufficiently encourages or rewards good behavior.

MR. CHAIRMAN: Mr. Gray, I must ask you — you said as long ago as 10 years. That got a few eyebrows up, including mine. I just don't believe what you're saying . . .

MR. GRAY: I think that I can only go . . .

MR. CHAIRMAN: . . . unless you're reflecting on the overall rates.

MR. GRAY: I'm talking about individual firm rates.

MR. CHAIRMAN: John.

MR. WISOCKY: Just for information and clarification, is it fair to say that your submission is part of the major proposal that you presented in Ontario? Because the stuff there is really geared more to the Ontario system than to the Alberta system. But the similar principles also apply here.

MR. GRAY: Certainly the principles we're adopting in terms of what we're saying are the same whether you're talking about the Alberta system or the Ontario system. The principles of compensation are much the same under both provinces.

MR. CHAIRMAN: Al, on the other part that I asked about.

MR. RUNCK: Mr. Chairman, in relation to the assessment rate, no single employer's experience is directly affected by any accident history more than three years old. Aside from that, it's all to the classification.

MR. WISOCKY: You see, that's one of the major changes between Ontario and Alberta. That's why I asked that question.

MR. GRAY: I stand corrected, but we go on the basis of what we get from our membership.

MR. FOSTER: Their perception is quite the opposite.

MR. CHAIRMAN: Yes. Let's talk to the membership in Alberta, okay?

MR. FOSTER: Yes.

MR. CHAIRMAN: Any other, Ron?

MR. R. MOORE: No, just a clarification, because you deal with a lot of figures from Ontario. The Weiler report in particular keeps surfacing, and I'm not familiar with that.

MR. GRAY: With respect, sir, I would say the Weiler report is an extremely important

document. In terms of compensation, whether you're talking about compensation or any number of other areas of labor legislation, progressive legislation in one jurisdiction generally creates a domino effect in other jurisdictions. I think that's one of the reasons why, when we're talking about compensation — and generous compensation — we have to talk about it in every jurisdiction.

MR. R. MOORE: Were the recommendations of the Weiler report accepted by Ontario, or does it now form part of the Ontario program?

MR. GRAY: The white paper recommendations have not yet been accepted. They're still under review.

MR. CHAIRMAN: Ray, you had a . . .

MR. MARTIN: Yes. I think you've laid out the problems of small business very well, and problems of taxation, but I think you bring it to a head in No. 2. This is what we're trying to sort through. It's very difficult; it's very complicated, as you point out, from big business to small business, and the facts. You point out in No. 2 that "Workers' Compensation operates in an unsatisfactory manner in most if not in all provinces. This is the view both of many injured workers and of numerous employers", but for different reasons.

MR. GRAY: That's right.

MR. MARTIN: So that's what we're trying to wrestle with. Even the statement you make, adequate but modest — the two don't really go together in terms of the payment, and that's the difficulty I have.

MR. CHAIRMAN: Try that out at home with your wife.

MR. GRAY: We can get into an argument over nuances here, but I think that too often we perhaps talk about "adequate" meaning "generous". I think that what we're talking about here is, what can the system afford before it breaks? I'm here representing a constituency that's very concerned about the cost implications of this system, and you will certainly have before you representatives from a different constituency that will be emphasizing other considerations. I am here representing the views of our members.

MR. CHAIRMAN: Okay. Thank you very much, Jack and Mr. Gray, for coming forward.

We'll have a 10-minute coffee opportunity, and the United Transportation Union gentlemen and ladies can come forward to set up: Mr. Joe Samide and others.

[The meeting recessed at 3:01 p.m. and resumed at 3:17 p.m.]

United Transportation Union

MR. CHAIRMAN: If we may come to order, we have the United Transportation Union workers' representatives here. We have about a half-hour, Mr. Samide, and we welcome you and your colleagues. You may want to introduce them. We have your submission. First of all — I know my secretary has apologized — somehow in the communication . . . Nothing is perfect nowadays, not even the United Transportation Union. You were advised to come here on Monday and Tuesday; however, you are here today and we

welcome you. We apologize for the incorrect dates that were mailed to you.

MR. SAMIDE: It's no problem. It's one of those things that happen when you're handing these things out. I accept your apology.

MR. CHAIRMAN: You can see the secretary in person now.

MR. SAMIDE: I'd like to introduce my fellows here. On my right are George Carlson and Dave Johnson, and on my left is Jim Allison.

MR. CHAIRMAN: You'll be the lead-off pitcher, as they say in baseball now?

MR. SAMIDE: Yes, that's about it. We'll start with me. I won't read it. Ill just try to bring out some of the points.

MR. CHAIRMAN: Permit us to have some time to question. Go ahead.

MR. SAMIDE: To start with, we talked about wage ceilings and it's been — what we've heard today, at least, seems to be that everybody wants that $40,000 lowered, and 75 per cent. We are on the other end of it. We feel we should have no ceiling at all; 90 per cent of whatever you are making, be it $50,000 or $60,000. That would be our feeling. I feel that by having a percentage, or lowering it to $40,000, you're penalizing the worker who got hurt through no fault of his own. That is our feeling on that part.

There may not be a lot of workers who are making $40,000, but we have a few who are doing that. If they do get hurt. they would be penalized by that percentage clause. I wonder how these people who are saying we should have 75 per cent of $30,000 would feel if they were hurt and their salary was going to be cut by 25 or 30 per cent.

MR. CHAIRMAN: I'll leave that up to you to ask them.

MR. SAMIDE: I think maybe when you meet privately, you could take that into consideration. Consider yourself, if you were to have a 25 per cent cut in wages due to an injury. It is not feasible to say: hey, you should have that cut.

Going on to occupational disease. In our area we have noise levels that are a major concern, and we are being told that we are slowly going deaf. They say no, 80 decibels is an allowable amount of noise, and if you're there for eight hours, it isn't going to do any damage. Consequently, although none of our fellows may be at the higher rate of noise level for an eight-hour period, it does seem to be having an effect on us when we go for our medicals and they tell us: you're losing your hearing. It's very difficult to approach the Compensation Board and say we're losing our hearing, and to prove that it's from our job. So how do you approach and be able to say, I've lost 20 or 30 per cent of my hearing due to the noise levels, and come out with it, when they say: well, can you prove it was just from your work place? It's a very difficult thing to prove.

We have dangerous commodities. As workers in the railway industry, we handle every mentionable commodity. What is dangerous, and what are the effects of working with it? Maybe we don't handle it with our hands, but we're handling the cars it's being loaded with. In cases where it's being blown back in our faces, or when we're working and it's blown into our clothes, what is the . . . We had a situation at one point where there was a placard on the side of the car that there were cancer-causing agents in the car. People were quite concerned. How do we handle it? If I get cancer, how do I come back and prove I got cancer from working with this? I might get cancer anyhow, but how do you pinpoint that this may have been a contributing factor? It's a very difficult

situation, and I would like more studies done on the effects of handling dangerous commodities of this nature.

We go into the disability pensions end of it, and where we are concerned is workers over 50 per cent. Their rates of pension were brought up, I believe it was in 1980 . . .

MR. CHAIRMAN: '81.

MR. SAMIDE: I stand corrected on that.

So the rates of disability pension for people that were below 50 per cent still stand at the time they got hurt. With all due respect, they have got increases over the years — be it 5 or 10 per cent or whatever was going — but when you got hurt back in, say, 1952 or 1953, the pension rates were quite low. Today, in the 1980s, we have people who are drawing a very small pension. In some cases they have been able to get work; in other cases they have not. These are the people who are really suffering, living on a minimum pension of $200 and $300 a month. They have families, and it's very difficult.

Then we go to the widow's pension. We'd like to see it maintained, where the worker has been killed, that the widows still be given the full pension or whatever, the maximum or minimum. I would hate to see that part of the compensation Act changed. I understand there is a move possibly to do away with it. I hope that it's maintained. When talking to our fellow workers, they all support that we keep this part of it available.

Light duty. There's a very compensable thing that has us as workers very concerned. We get injured. Workers are told by the Compensation Board, the compensation doctor, that they're okayed for light duty. The companies say, we have light duty, but at this particular time we have nothing for you. So where do we go? We're okayed for work, but there's no work available. If you go into the seniority basis of it, we have the seniority to work but, due to the fact that they're not prepared to create any work or give us that part, there's no place for us to go. So we're saying that if the employer can't give the employee the work he is okayed for, then he should remain on compensation until such time as he is fit to go back to his normal position.

I have handled numerous cases of this, where we are dealing with light duty in particular. A person has been okayed by his doctor or the Compensation Board, and then they said: well, if you haven't work where you're employed, you may have to look for other work. Who is going to hire you if you're okayed for light duty? You go to another employer and they're going to say: no, we can't hire you until you're one hundred per cent.

So I would like you to look into this matter, as being a part put in; that when a person is okayed for light duty, essentially the employer must give some work in that place. I think possibly unions also have to back off on some of the standards they want to maintain, and that goes into seniority and that. I think that is an area we are working on, but I would like to see it addressed by your committee.

The rehabilitation centre. I have never had the opportunity to have to go through it, but people I have seen go through it find that it's not the most pleasant place to go. A lot of times they refer to it as the salt mines. I'd like to think they're exaggerating, but it's more or less an unpleasant place to go through when you're trying to be rehabilitated. Also, where people may be coming in from out of town, possibly a psychologist or psychiatrist should be at the rehab centre to help them over a rough period of time, or maybe they could be referred. I understand these are not now available. I could be corrected on that. That is what I have been told. I would like to see that they would be available.

Also, we now have had a large number of female employees come into our work force. In our case, where we have an injured female, 20 years old, who's never been away

from home and is told to go to the rehab centre, she comes in from out of town and finds it very stressful to be thrown into a situation where I would say 90 per cent of the people are men, and no friends. I think something should be done to accommodate this kind of employee. I don't know if it can be done. I know it's a cost factor, and we hear "costs" all the time. But put yourself in that young employee's position, particularly a female, who comes into the big city and all of sudden, it's here. What does she do?

Medical. Here again, I've run into situations where the employee has been hurt and a back brace or something has been prescribed. The cost is there. I know that compensation picks it up if she presents the bill, but she can't afford to pay the druggist for this type of thing. We would like to see the Compensation Board get in touch with that druggist and say, we will pay that girl, rather than have her delayed for one, two, or three months while she tries to find or borrow the money on that basis. It probably doesn't happen too often, but once is too many, really.

Clothing allowances. I think there's a $200 limit on that, and in today's market, if you get your clothes torn due to an injury, trying to go out and buy things to replace them is a terrible expense. I'm not going to dwell too much on that. It's there, and I would like you to take a look at it.

The appeal procedures. I find they are very good, but we are too long in getting our cases up to be heard. When a person is cut off compensation and he is appealing this decision, he can't go back to work. He is sitting there with no money coming in. In these cases, when you take two or three months to get heard before the appeal board, I think that's a little bit too long. There are also cases where we want a witness to come in, possibly from Jasper, to substantiate this claim; he has to come in on his own time. We would like some compensation on that matter.

I missed a part on page 2, and I would like to come back to that if I may. It is under the psychological effects of the work place, under stress, particularly where we have places where there are high stress areas. How do we document it? We have had cases where the person has had a heart attack, and his doctor tells him that it is due to the stress factor of his job. He comes in, and they say: no, we don't pay compensation due to stress. I think this should be looked at a little more by the Board, on the basis that heart attacks due to stress are more common today than they were. I will leave that and go back to our closing.

I would ask your committee to consider what is best for the injured worker. When it comes down to the moneys that are being — like I said here, the employee wants more money, the unions are asking for more, and the employers are saying "cut". Take the injured worker into that effect. Don't worry about the unions or the employer. I think the injured employee is the main concern. I thank you.

MR. NELSON: I guess politicians should fit into that area of compensation for stress.

I just have a couple of questions. During your presentation, Mr. Samide, the examination I make here is that you are requesting items that of course cost money. At the present time the employers or the industry is saying, it's costing us too much money. I guess the question to start off with is, where does this money come from to provide all these benefits and increases to those benefits that you're asking for? Do we continue to bleed industry, or would you have any thoughts of the employees cost-sharing some of these benefits?

MR. SAMIDE: I can't really see how we would go about this. But I think one of the concerns to save money is to start by trying to prevent some of the accidents that we're having — safety meetings. There should be more safety officers installed. When the slowdown came, I found that one of the areas they cut right away was the safety officer. His job — I thought a very essential job — was deleted. I was informed then that

other people were going to do his work, but there was nobody designated as such. I think it is a very important area that you have to look at. If you prevent the accidents from happening, you're going to save money by not having to contend with the injured worker.

MR. NELSON: On the other hand, is safety not an area of responsibility of both the worker as well as the employer, and a lot of it relates to common sense rather than having somebody there holding the worker's hand all the time?

MR. SAMIDE: I agree with you. One of my positions in the union has been as a safety officer. I have been fighting or struggling with companies to provide these areas. When you say, we should correct this situation — well, it costs money; we can't do it. How do you compare dollars and cents to somebody's leg, arm, eyes, or even his hearing? I would say that noise levels could be corrected, but the cost of cutting down on that noise level is the prime factor.

MR. NELSON: The noise thing really bothers me a lot, too, especially where young people are concerned. They could come and say, look, my hearing is going because of the noise of the engines or other things, and yet they will go out to a disco and listen to that music for hours and hours on end. The damn music is blinding, let alone killing you.

MR. CHAIRMAN: You're just giving your age away.

MR. NELSON: How can you justify a situation like that?

MR. SAMIDE: If I may. I am a little bit older than you, and I don't like disco music. When I hired on, I think my hearing was 100 per cent. Every time I go in they keep telling me my hearing is deteriorating, so I have to place it right at the work place.

MR. THOMPSON: Mr. Chairman, I would like to get into this area of light duty. I commend you for bringing it up, because most of the hearings we've been to more or less ducked around that area to some degree. I am an old farmer; I don't know too much about unions. But I have heard that there is a problem of jurisdiction when it gets into the light duty area — seniority and this type of thing. I am not doing any finger pointing. What I am trying to do is find out, by a recommendation from people like yourself who are involved in this, how we should handle these types of things. Is there something that we can put in the Act or something that can go into the union contract when they negotiate? How do we handle this area? I just don't know, and this is what I'd like to find out, because I think it's an important area.

MR. SAMIDE: If it were in the Act that the employer had to supply work when they were okayed for light duty, I am sure the work would be there. I am positive it would be there. The employer would say, yes, or else stay on compensation. They would have work. I think that would solve a major problem. It would solve one of my problems, anyhow, right away. I am saying that unions would have to back off, too, on some of the seniority and be agreeable to it. I am sure it can be worked out. If there were a penalty there, that companies say: hey, we can get you off that . . . When times were good, companies were prepared to take us in and say: rather than go on compensation, you can do some meaningless work. But the minute the turnaround came, we had nothing. Even for the employee who was available for light duty, they had nothing. It was a major concern of ours.

MR. THOMPSON: Thank you, Mr. Chairman.

MR. MARTIN: I would like to come back to the area of noise level that you talked about. I think you've laid out the problem well. What are you suggesting, though? You are saying we should look at it, but you must have some suggestions.

MR. SAMIDE: I guess what I'm saying is that the Compensation Board or the provincial government — we work federally, and it has been kind of passed over on the basis that this isn't our area of concern. I am living here in Alberta; I'm an Albertan. Although I work for a federal company, I think if we had legislation or if it said in our Act that our noise levels are too high and they have to do something with it, then possibly they would. As employees, we are a voice in the wilderness. They say: no, we meet the standards. That's all they have to do.

MR. MARTIN: So you're talking about noise laws rather than compensation as such.

MR. SAMIDE: Yes. With total loss of hearing — and I am not positive on this — our compensation is not very high. I understand it's less than $100 for total loss of hearing. I would think that's very minimal on that basis. If I go deaf in my old age, I would have a hell of a time proving it first of all, and then the compensation isn't going to be that great anyhow.

MR. R. MOORE: You stated that full widow's pension should be reinstated. Just to clarify that area, we now have it over a five-year basis. Do you mean that it should be for the life of the widow or maintained at the present five rather than being eliminated altogether?

MR. SAMIDE: Say in my case, if I were to be killed tomorrow on the job, I think my wife should be entitled to compensation for more than five years. She hasn't worked. All of a sudden she's going to have to get off her butt and do it. At her particular age, I think she'd find it extremely difficult. This is what I'm saying, that this type of person or a person who has children is going to find it a hardship. If you are going to limit it to five years, all kinds of things come into the situation.

MR. CHAIRMAN: I must interject here, Joe. That's not the case in the legislation of Alberta. As long as the children are under 18, the widow would get compensation, and the discretion is left to the Board if the widow is unemployable. I welcome this. What has your union done about the 1980 legislation in Saskatchewan, where you have a finale in five years?

MR. SAMIDE: I don't know what's even done in Saskatchewan.

MR. CHAIRMAN: Ask your colleagues. We would welcome it. It was interesting that they got that legislation through there.

MR. SAMIDE: Is that right?

MR. CHAIRMAN: There will be some 1980 widows discontinued in 1985.

MR. SAMIDE: I disagree with it totally. If it has been put in by the NDP — I kind of feel that this remark is coming.

MR. MARTIN: Not likely.

MR. CHAIRMAN: Not likely. I didn't do it.

MR. SAMIDE: I would say they've made a regressive step.

MR. CHAIRMAN: I think the politicians were sharp. I think somebody else wasn't there.

MRS. FYFE: My question was on the same point, regarding the widow's pension. I wonder if you really disagree with what we have in place. I am going back to the 1980 select committee, where we looked at a lot of extreme circumstances in trying to come up with a policy that we believed was fair. We looked at the extremes of an 18-year-old girl who was widowed and was on full compensation, without any incentive to get herself into the work place, which we considered would be a positive thing from her point of view, to get some training and contribute to society, to the opposite end of the scale where you compare someone to your own spouse, who maybe doesn't have the confidence to go back into the work place if she is trained or, if she is not trained, to go back and be retrained. So there is such a variation. The policy we came up with we thought was a fair one. Do you disagree with what is in place?

MR. SAMIDE: I guess when you say the 18-year-old in comparison to a person who is 50 years old and hasn't worked in the last 30 years, maybe . . .

MR. CHAIRMAN: You may want to look at it, Joe.

MR. SAMIDE: Yes. Like I said, it's complicated.

MRS. FYFE: The other aspect was the widower who was working and also receiving full benefits. We were trying to look at a policy that was fair for all.

MR. SAMIDE: Yes, I can see that.

MR. CHAIRMAN: Myrna would always be interested in the widower, too.

MR. NELSON: I don't agree that women who haven't worked have been on their butt, because I think they do a tremendous function in the home.

MR. SAMIDE: They do. I agree with you there.

MR. NELSON: I saw some eyebrows raised by a couple of ladies in the place.

However, just getting back to this hearing. Back to this noise, are you talking about engine noise in particular? Is there not also a safety factor involved there, with the noise of the engines, to alert people? If you were to wear hearing devices or something on your ears and you couldn't hear, would that not be an accident creator?

MR. SAMIDE: Until this year we weren't allowed to wear hearing devices to protect our ears. The CTC has just agreed that we can wear earplugs at this stage. It's not going to help my hearing, I'm afraid, on that basis.

MR. CHAIRMAN: There may be a risk of a locomotive showing up with all the cars left in Regina.

MR. SAMIDE: That's right. But this is one of the situations. It is now in place. With

today's technology, I think they could build locomotive engines with cabs that are soundproof. That would solve all of our problems right off the bat. As of today, I don't think they're doing that.

MR. NELSON: The track worker would have a similar problem, though, wouldn't he?

MR. SAMIDE: Pardon?

MR. NELSON: There is a safety problem with the track worker.

MR. SAMIDE: That's right.

MR. CHAIRMAN: I must say that we have exhausted our time. Thank you, Joe, and your colleagues, for coming forward and presenting your submission.

We will now ask the Alberta Building Materials Safety Council to come forward.

MR. SAMIDE: I would like to thank you. I would just like to make one comment, and that is on people with under 50 per cent disability. I would like your committee to please take a look at that.

MR. CHAIRMAN: Yes, we've read it. We wrestled with it when we legislated it in 1981 for over 50 per cent. We still have some difficulties.

MR. SAMIDE: Thank you very much.

MR. CHAIRMAN: It would help us if you have some specific examples. Our advice was that most of the workers under 50 per cent were working; those over 50 per cent were not. But if you have something specific, it would help us.

MR. SAMIDE: I think Mr. Allison here, who is classified as 40 per cent . . .

MR. ALLISON: Forty-five per cent. I believe I submitted a brief to you a couple of weeks ago on this, Mr. Diachuk.

MR. CHAIRMAN: If that's a particular one, we'll look at it.

MR. ALLISON: What it was: I was injured in 1955. For years and years I received a pension of $84 a month. I raised a family on that. Today I believe I get $300. Since the PCs came in, they upgraded it. I get $300 a month now.

MR. CHAIRMAN: You heard that, Ray.

MR. MARTIN: Whenever I hear "PCs", I go deaf.

MR. ALLISON: Prior to this there were no raises. I am up to $300 a month. But by the same token, I believe the maximum today is about some $900 a month for a 45 per cent disability.

MR. CHAIRMAN: It's always based on the income of the worker.

MR. ALLISON: Yes, right.

MR. CHAIRMAN: Unless you're going to take the $40,000 a year earning ceiling. Thank you very much.

MR. ALLISON: Okay, thank you.

MR. SAMIDE: Thank you.

Alberta Building Materials Safety Council

MR. CHAIRMAN: Mr. Dyck and Mr. Ewaskiw.

MR. EWASKIW: Hon. chairman, members of the committee, may I introduce Harvey Dyck, my colleague.

MR. CHAIRMAN: I wonder if I could just have a moment until the secretary gets back; otherwise we won't be able to record.

MR. EWASKIW: Oh, I'm sorry.

MR. CHAIRMAN: I will say to you that we have about a half-hour and regret that part of it is already exhausted.

MR. EWASKIW: On behalf of the Alberta Building Materials Safety Council, I appreciate the opportunity to present to you private and [inaudible] recommendations for changes to the Workers' Compensation Act and the Occupational Health and Safety Act. When initially faced with this opportunity, our first question was, what should be the focus of our submission? That question led to three main concerns.

Representation. Our safety council feels that we must have greater representation from "the guy who pays the bills". Several of our recommendations emphasize this balanced representation.

Cost reduction. We are not interested in presenting statistical information to support our claims that the WCB costs are too high. The size of the budget deficit, as well as a substantial increase in assessments, clearly present this message. We are proposing changes which would reduce the deficit and reduce the assessments.

Accident prevention incentives. I think to date we have often focussed on what happens if an accident occurs. Of greater importance is the question, how can we prevent injuries from happening? We are making proposals which focus on accident prevention.

With these main areas of concern in mind, I would like to review the key changes we recommend and the key reasons for the changes. I would refer you to our submission which details the 11 recommended changes. I would like to briefly highlight these recommendations.

Recommendation 1. Recommended change: the Board shall consist of three members — one from each of industry, labor, and the public. Reason: industry is financing the WCB and therefore should be encouraged for input.

Recommendation 2. Recommended change: a member of the board holds office for the period designated by his appointment, but not exceeding three years. Reason: improved efficiency in administration of the Workers' Compensation Board.

Recommendation 3. The workers compensation advisory council will consist of five members: one from industry, one from labor, one from the public, one Board member, and one secretary from the Workers' Compensation Board. Reason: the minister would

be better advised on matters concerning the Workers' Compensation Act, regulations, and matters concerning the Workers' Compensation Board.

Recommendation 4. Where an accident does not disable a worker for more than three consecutive working days, including the day of the accident, the employer shall continue to pay the normal wage. At his discretion, the employer may require certification of degree of disablement. Reason: this process would reduce claims costs by approximately 25 per cent, responsibility would be incurred by the employer, and the onus would be on the worker to report accidents to his employer and fill out claim forms.

Recommendation 5. An independent tripartite review or appeals committee should be established, consisting of one member from each of industry, labor, and the medical profession, with the assistance of a secretary from the Board, and one Board member.

Six. Recommended change: in the case of a permanent partial disability resulting in not greater than 20 per cent impairment of the worker's earning capacity immediately before the accident, the Board shall have the option to commute a lump sum payment, with the agreement of the worker. Reason: if a worker is not handicapped as a result of his disability and experiences no change in life style, he should have the option of taking a lump sum payment. This process would reduce the WCB costs.

Recommendation 7. Due to the complexity of part (3), section 64, a thorough review should be done by the select committee. Reason: the cost of capitalization of long-term pension payouts.

Recommendation 8. For the purpose of assessment, two classes should be established in industry, a class and a subclass, according to potential work hazards. Reason: at present there are industries in classes which have a higher potential safety hazard than other industries in the same class.

Recommendation 9. We recommend that this select committee research the general assessments. Reason: assessments should be levied on the risk bases, taking into concern hazards involved and past experiences, so as to encourage individual firms to pursue safety in their operations.

Recommendation 10. To ensure effectiveness of the merit and superassessment program, we recommend that to receive full equity of 100 per cent merit credit of 33.33 per cent, an employer of a company must comply with the set guidelines. Example: accident loss experience of 75 per cent would receive 75 per cent of 33.33 per cent; compliance with the occupational health and safety inspection branch, an additional 5 per cent; occupational health and safety or a recognized company safety training course, an additional 5 per cent; active safety professionals or safety programs within the company, an additional 5 per cent; safety council affiliation, an additional 5 per cent; AAISC affiliation, an additional 5 per cent.

Recommendation 11. Financial assistance should be recognized to safety councils or associations whose objectives are in promoting safety programs within industry. In Ontario safety councils are funded by WCB through assessments.

That is our presentation, ladies and gentlemen.

MR. CHAIRMAN: Questions? Possibly I could just go through them in the order that Mr. Ewaskiw presented them. Any questions on recommendation 1? The Act now provides for up to five members, but there are presently four on the Board.

MR. NELSON: I would just like to ask Mr. Ewaskiw one question. In his comment relating to a Board appointment not exceeding three years from an effective date, I am just wondering what type of person you're looking for that would give up his career, his company, or whatever, to participate for three years and possibly damage his future working life without some guarantee of a longer term appointment to a Board or committee, seeing it is a full-time situation. Would you do it, as an example?

MR. EWASKIW: Our belief is that if an individual accepts that responsibility and his commitment is fulfilled, it would be up to the minister to review his future capabilities and so forth.

MR. NELSON: Would you take an opportunity or a chance to limit your full-time employment to three years, without any future?

MR. EWASKIW: Possibly, realizing and taking account of what's involved in that position.

MR. NELSON: I would suggest that not too many people would.

MR. CHAIRMAN: Recommendation 2. That is part of the discussion we've had now. In recommendation 3 on the advisory committee, you are reflecting on the present advisory committee structure in the Act. We have had some discussions, Archie, with regard to a similar council to the Occupational Health and Safety Council. Have you given any thought to that?

MR. EWASKIW: That's what I'm referring to.

MR. CHAIRMAN: Any other questions on that?

MR. NELSON: Only one comment. I wouldn't like to see the minister as chairman; he's got too many other things to do.

MR. CHAIRMAN: It wouldn't be too neutral then.

MR. NELSON: Besides, he's too biassed.

MR. CHAIRMAN: It wouldn't be an advisory council then, would it?

MR. EWASKIW: The reason this is being recommended is that the industry feeling is that, with due respect to workloads and so forth, maybe a better handle could be put on the Worker's Compensation Board.

MR. NELSON: But as Mr. Diachuk said, how would it then become an advisory board?

MR. EWASKIW: That's his decision to make.

MR. CHAIRMAN: Recommendation 4, payment of compensation. This would indicate that you agree with the recommendation that was made in the 1980 report.

MR. EWASKIW: That is correct. The reason being what was mentioned earlier. This reflects on light duties. We realize that about 20 per cent to 25 per cent of your claims are within the three-day limit. If this were instituted, our membership feels that it's willing to take the three days and pay the employee but bring him back on light duty, at the recommendation of the physician, instead of being on compensation on the following day, which automatically incurs the cost to the Board and, in turn, is directed back to the employer through his assessments.

MR. THOMPSON: Along that point, I want to get straight in my head what you are

suggesting. Say I am working for you, and I get a cut on my hand.

MR. EWASKIW: That's right.

MR. THOMPSON: I go to the doctor, and I get the band-aid on it. Do I come back to work immediately, or do I go home for three days and then come back?

MR. EWASKIW: It depends on the severity of your injury. What we're saying here is that if you are capable of working, then you would be encouraged to come back to work on light duty, not to go on compensation.

MR. THOMPSON: On the doctor's recommendation.

MR. EWASKIW: On the doctor's recommendation.

MR. CHAIRMAN: Recommendation 5. Ray.

MR. MARTIN: I don't know, Archie, if you were here when AUPE gave its brief about the Nova Scotia model.

MR. EWASKIW: I'm not familiar with the Nova Scotia model.

MR. MARTIN: But you would agree generally with the thrust of what they were talking about, in terms of an independent board.

MR. EWASKIW: Basically, yes. An independent triparty.

MR. CHAIRMAN: Recommendation 6. How did you arrive at 20 per cent?

MR. EWASKIW: There are some questions. My understanding is that at over 10 per cent disablement, there could be full payout or a pension. What we're saying here is, let's increase the per cent to 20 per cent providing he is not handicapped and give him a full payout and probably not maintain a long-term pension payout to reduce the cost of capitalization on long-term pension payouts.

MR. CHAIRMAN: But why did you stop at 20 per cent? If that's your reasoning, wouldn't you welcome that it goes to all compensation, a lump sum payout?

MR. EWASKIW: I'm not in a position right now to, you know . . .

MR. CHAIRMAN: Okay; you may want to think it over. Recommendation 7. Any questions on compensation for death? No. Recommendation 8, general assessment. Yes, Ray.

MR. MARTIN: I just want a little explanation here about what they are asking.

> For the purpose of assessments two classes be established, a class and a sub-class in industry according to potential work hazards.

I'm not sure what you mean.

MR. EWASKIW: At present an industry belongs to a certain class. Some of these industries, particularly ones that belong to safety councils, try to maintain a good

frequency and keep their assessments down. But we cannot maintain that, because other industries in the same class don't belong to safety councils and their frequency is higher, which indirectly affects us. What we're saying is, let's possibly try to segregate these two categories and encourage these people — because they'll question why we're in a different subclass or class — to be more safety conscious within their own industry.

MR. CHAIRMAN: It's part of your Recommendation No. 10 too. Any other, Ray?

MR. MARTIN: No. So basically you are saying that within the same industry, if we go back to the terms that have often been used, of good actors and bad actors, you'd have the subcategory of good performers and bad performers.

MR. EWASKIW: That's right. From our experience, I think we find out that if industry is interested in its assessment — and most industry is interested now — they'll question why they are in a different class; then OH&S or the safety council is going to say that the reason you're in this class is because of your safety performances. In order to come out of that class, they say, you would have to improve your safety performances and you will be out; the reason in turn that we try to hold our assessments down in small industry.

MR. MARTIN: Can I just follow up? In terms of classifications, the Industry Task Force was arguing for fewer classes.

MR. EWASKIW: It's possible. That's why we're saying that reclassification should be looked at in the whole industry. Another reason is that you have the mining industry, which is a really high assessment rate by definition — mining, underground tunneling. You get municipalities or cities that do underground mining, which is basically the same type of potential hazard, yet their rates are lower than the mining industry. That's why I say it should be . . . It's the same with your utilities — hazardous. You take rural utilities versus city utilities. It's the same work, but they are different classifications.

MR. CHAIRMAN: Okay. Recommendation 9, general assessments.

MR. NELSON: Basically 8 and 9 are much the same, but I made a note here. I want to understand whether you're suggesting more rate classes or a new structure altogether?

MR. EWASKIW: That is correct.

MR. NELSON: A new structure altogether?

MR. EWASKIW: We leave it up to you people.

MR. NELSON: We'd like to have your input.

MR. EWASKIW: I'd like to see a coalition of different classes. In some industry we have people in 8-03, for example, who are in the steel industry, which is one classification. They are in one safety council and one classification unit, and we're in another classification. Yet we're basically involved with the same product. The potential hazard is probably there. What I'm saying is that wood products and steel are two different safety hazards, yet sometimes the two different industries are in the same classification.

MR. NELSON: So what you want is a new structure.

MR. DYCK: Yes, that structure really primarily consists of two components. Number one would have to do with the risk hazard evaluation itself, and some criteria could be established to determine that. The other component really has to do with performance on the part of individual companies. We think that if we ask for new classes to be structured, we would be looking at those two primary components.

MR. CHAIRMAN: And your final one, Recommendation 11, financial assistance to safety councils.

MR. EWASKIW: Right.

MR. CHAIRMAN: It's fairly well the same as the Alberta Construction Association.

MR. EWASKIW: Basically yes, and I think you are probably familiar with the Ontario system. We're looking at financial assistance in order for the existence of these small safety councils.

MR. MARTIN: Except they made it clear that they just wanted the money, they didn't want . . .

MR. EWASKIW: No. I think our recommendation spells what steps . . .

MR. MARTIN: Yours is more along the Ontario line.

MR. EWASKIW: That is correct. We're looking at not being an advisory system. I think our recommendation states that it goes to the occupational health and safety division.

MR. CHAIRMAN: Just that little difference. Any other general questions? Very well. Thank you, gentlemen, for coming forward and making your presentation.

MR. EWASKIW: Thank you very much.

MR. CHAIRMAN: Edmonton Graphic Arts Association, Mr. Millar and Mr. Hutton. Would you please come forward?

Edmonton Graphic Arts Association

MR. CHAIRMAN: Who is the spokesman? Mr. Millar, we have approximately a half-hour's time. In fairness, you'll have to go through your submission, because we only received it today. We'll welcome any clarification after you and your colleagues make your presentation. You may want to introduce them first.

MR. MILLAR: Yes I will. My name is Gary Millar, to my immediate right is Mr. Gordon Hutton, and next to Gordon is Marjorie Zingle. We are all members of the Edmonton Graphic Arts Association. Essentially what that means, in a little bit more simplistic terms, is that we are in the printing industry here in Edmonton. We will be concise and brief in our presentation this afternoon, but I want to thank you for making this possible, for allowing us to be here.

The Edmonton Graphic Arts Association is an association of printers and allied supporting industries. We are part of a large national association referred to as GAIA.

In our presentation brief, if you have time now or later to peruse it, you will see that much of the background information is there. Our association is one which has tended to assist managers and owners of printing industries and businesses all across the country to become more profitable by applying management tools and upgrading people. As well, GAIA offers printers one voice, and it's a show of strength in our numbers.

Our industry is often referred to as a bit of a quiet giant. We are the fourth largest manufacturing industry in Canada. In 1980 we employed over 50,000 people right across Canada, and the printer tended to play somewhat of a part in virtually every community across Canada. In fact, the printing industry is an industry made up of a large number of small businesses.

We're very excited to be a part of the Industry Task Force on workers' compensation and, with that little bit of an introduction about what our industry and association is all about, I'd like to ask Gordon Hutton to review the points in our presentation.

MR. HUTTON: Good afternoon, Mr. Chairman. Our submission is on behalf of the Calgary Graphic Arts [Association] as well as the Edmonton Graphic Arts Association, and the views in the brief reflect both associations. We have many concerns. Page 3 of our brief is our industry classification system. At present we are classified with hardware and furniture stores, department stores, and auctioneers. In this class there were five deaths in 1981. I've done some research, and there hasn't been a death due to an accident in the printing industry in the last 20 years. So we would like to see a better form of classification that reflects more the claims we have from the printing industry.

MR. CHAIRMAN: Did you want to possibly welcome questions as you're going through the different . . .

MR. HUTTON: Yes.

MR. CHAIRMAN: Any clarifications on this? Myrna.

MRS. FYFE: I'm just wondering how much the rates have increased. Five deaths in 1981; this would be the third year. I'd just ask the resource people for the Board if they could clarify the increase of rates based on those deaths for the classification. Will that be reduced next year?

MR. RUNCK: In determining their rate, we use five years of experience; that is, the four actual years and up to whenever we do the calculation in the present year. So in its most recent five years, those deaths will still be included in that calculation.

MRS. FYFE: So it may include the two years previous to 1981, which could be free of serious accident.

MR. RUNCK: Yes, that's correct.

MR. CHAIRMAN: Stan.

MR. NELSON: Mr. Hutton, your brief indicates at the beginning that there's a 50 per cent increase in your rates. I'm just wondering whether that's a net increase or on gross amount payable.

MR. HUTTON: That's on the gross amount payable. The actual rate was 50 cents per hundred in 1980 to 75 cents per hundred in 1983. The ceiling being raised in '81-82 took

in quite an increase too. I have the actual figures of three companies in town. In 1981 we employed 138 people and paid a gross total of $13,294. In 1982 we paid $19,252. And in 1983 we've been assessed and paid $18,047, but in 1983 we only have 110 people as compared to 138 two years ago.

MRS. FYFE: That doesn't include the merit rebate you could qualify for.

MR. HUTTON: We've never had a rebate yet.

MR. RUNCK: This is one of the classes that doesn't get a merit rebate.

MR. CHAIRMAN: It doesn't participate in it. Okay, problem one, very well. The next one, drain on working capital.

MR. HUTTON: Problem two, drain on working capital. As you can read, we would like to see where we could pay on a monthly basis such as we pay our unemployment insurance, CPP, and Alberta health care, rather than having to pay large sums of money every quarter or every half. Usually the first payment is quite a bit larger than the remaining three quarters to be paid over the balance of the year.

MR. CHAIRMAN: Stan.

MR. NELSON: Mr. Chairman, I'd like to get some advice from our gentlemen here regarding this. I understood that it was payable after the fact, not before. Can you help us out, Al?

MR. RUNCK: The way it works is that the employer gives an estimate, and then he makes an advance payment on the basis of the estimate. But at the end of the year he has a retrospective payment, when he has given us the correct payroll information confirmation. I think Barney Ashmore could probably help us on that more than I could.

MR. NELSON: So they're paying in advance to start with.

MR. RUNCK: Yes.

MR. CHAIRMAN: Well, I think you're missing Mr. Nelson's question, Al. When in the calendar year is the first payment by an employer?

MR. RUNCK: I believe it's in March, isn't it Barney?

MR. ASHMORE: It is generally 30 days after billing. A form goes out around Christmas time, and hopefully it comes in about January 20. So say if he gets billed February 1, he has 30 days to pay. That will be one-quarter of what the estimate is, plus the unpaid balance from the prior year.

MR. CHAIRMAN: The adjustment.

MR. NELSON: One further question, then. What would the additional administrative costs be to bill this on a monthly basis?

MR. RUNCK: I'm not sure. There have been studies done on this. One of the problems that is involved, but could probably be overcome with electronic banking, is the

frequency of payment, the amount of cash flowing in every month, the staffing requirements. I think the additional overhead was a major factor in going four instead of 12.

MR. NELSON: We could look at that.

MR. CHAIRMAN: Mr. Hutton, you don't have an example of any other workers' compensation program on a monthly payment plan, do you?

MR. HUTTON: In British Columbia the assessment for January to March payroll is payable by April 25, and then so on for the balance of the year.

MR. CHAIRMAN: Yes, but that's not on a monthly payment.

MR. HUTTON: No.

MR. CHAIRMAN: No, it's pretty well quarterly. Yes, Ray.

MR. MARTIN: Can I just check one thing that we're talking about now? Obviously some of the policies were brought in a while ago. Does the Board now have the computer capability so that it wouldn't be extra overhead?

MR. RUNCK: The computer capability is being developed. We have the equipment. It would mean writing a program and putting everything in place. There is still the handling of the cash flow, but I think it would be part of the electronic banking system that we're getting involved in now. I think perhaps, again, Mr. Ashmore could help us more on that one.

MR. ASHMORE: I'm not really up on the detail, but our normal statement that would go out off the year-end printout is on a four-instalment basis. If it were extended to 10 or 12, I would think it would have to be programmed in and just make a longer list of payments. I think that's about all.

MR. MARTIN: So it's something that might be feasible without a great deal of cost? That's what I'm getting at.

MR. ASHMORE: That's the potential, other than the return. Instead of handling, say, four payments, you have a dozen for each account.

MR. CHAIRMAN: Okay, your problem 3, medical delay for worker's return to work. Mr. Hutton.

MR. HUTTON: This is one that really doesn't affect the printing business too much, because we don't have many claims where people are off a long time. But it has arisen that an injured worker is referred to a specialist and cannot get to see that specialist for three or four weeks. We just have this in, hoping that there could be some form of priority to get injured workers to see specialists.

MR. CHAIRMAN: We'd welcome some example. We've deliberated and asked the medical profession about elective surgery. We have some support from them and in our discussions with them will be looking at possibly removing the title "elective surgery", which keeps a worker at home until the bed is available for him in the hospital. That's

why I'm just wondering where the costs of awaiting a specialist's examination would be.

MR. HUTTON: This particular one is from the Calgary Graphic Arts.

MS ZINGLE: We'd be happy to send you an example of the situation. The problem arises in the small company, where there are very few employees. Perhaps something fell on a person's toe. They could come into work and do a job sitting down. But because they have to wait to get to see a specialist, they are not working. So in a small company it creates a certain havoc.

MR. CHAIRMAN: I think we read it differently. Your submission is similar to the other two gentlemen just before you, asking that a worker be able to return back to light work.

MS ZINGLE: That's right, and we'd be happy to send you an example.

MR. CHAIRMAN: Okay, the ceiling.

MR. HUTTON: Problem No. 4, the ceiling. We moved from $22,000 to $40,000 in one year. While we're not objecting to the ceiling, we think it should be more in line with the average wage in the industry. The average wage in the industry today is $26,000 for a journeyman, yet we've had a $40,000 ceiling since 1982.

MR. CHAIRMAN: Mr. Hutton, we're advised that 90 per cent net take-home pay for a worker at $40,000 is around what you've just quoted in compensation — what the worker would receive.

MR. HUTTON: Ninety per cent of $40,000, sir?

MRS. FYFE: Of net.

MR. CHAIRMAN: Al.

MR. RUNCK: That's correct, Mr. Chairman. We did the calculation, and it does work out to somewhere over $26,000.

MR. CHAIRMAN: Our maximum monthly pension would be what, under the $40,000 ceiling? You had it someplace.

MR. WISOCKY: $510.34 a week.

MR. RUNCK: So it's a little over $2,000 a month.

MR. CHAIRMAN: I just raise that for your concern. I would like to suggest that we would be interested in more dialogue on this. In one of the hearings in Calgary, there was representation that the people making their presentation to us really believed that all their assessments were based on $40,000, and — I gather you're nodding your head — that's not the case here.

MR. HUTTON: Yes, I agree. I think we should do a little more clarification on this item ourselves.

MR. CHAIRMAN: I would also like to know what the range of salary in your industry is,

if you would take a look at it. With this information that the maximum is $510.34 a week — other than that, some people's submissions that maybe you've heard here today wanted the ceiling at $30,000 and still 75 per cent of gross.

MR. MARTIN: I think it's important — we've found there's some confusion. People thought they were being assessed at $40,000. I don't know if this is the case, but you said your average salary is $26,000, did you?

MR. HUTTON: Twenty-six thousand.

MR. MARTIN: Twenty-six. Then if that person is making $26,000, then they get 90 per cent of that in compensation.

MR. CHAIRMAN: It's only the boss, if he's making $60,000, who would only get it based on $40,000.

MR. MARTIN: It's only the person making $40,000 that gets the 90 per cent.

MR. NELSON: The boss gets the last little bit if there's any left.

MR. CHAIRMAN: Problem 5, unacceptable WCB consultation with industry.

MR. HUTTON: Here we're stating that we do not get financial statements for our respective classes. In fact, sometimes it's quite difficult even to find which group you're included with in your class, unless there has been some research done.

MR. CHAIRMAN: Have you as a group ever had a meeting on your rates, say last fall? Have you ever requested a meeting with the assessment and finance people?

MR. MILLAR: Yes, on an individual member basis, not an association basis.

MR. CHAIRMAN: Because that's presently in place, even on an association basis.

MR. MILLAR: Right. The response from those individuals who did consult with Workers' Compensation is that there was not a lot of real benefit derived from that meeting. Now what real benefit there is — we realize that wholesale changes cannot take place just like that. We just felt there was not good communication for the industry as a whole for us to go.

MR. CHAIRMAN: Al.

MR. RUNCK: Mr. Chairman, there are a couple of problems here. One is that, as has already been mentioned, you have an incongruity in the industries that are in this particular class. They are classed more on the basis of long-term accident experience costs than on a fit in what they do. So it's difficult to find an association, or even two or three associations, which can speak for the entire class. This makes a meeting difficult.

But the other point raised was about the financial information. If these gentlemen wish, they simply have to contact Mr. Coull or Jim Thomson, and they will receive whatever information they require in relation to the financial history of their particular industry.

MR. CHAIRMAN: The '82 report was released about two weeks ago. Anything else in

general, Mr. Hutton?

MR. HUTTON: I think generally we were a little concerned about the increased costs over the last couple of years. That has probably been the biggest factor everyone has discussed. From the figures I quoted earlier, it is a rather large increase in relation to other functions of running a printing business. Most of our members are concerned about the increasing costs and about not being advised in advance that we're assessed a lot higher figure from one year to the next.

MR. CHAIRMAN: I believe you received word that the '84 rates will stay the same.

MR. HUTTON: Yes.

MR. CHAIRMAN: We hope that sometime in the middle of '84, you will be receiving either some opportunity in consultation or advice on the '85 rates.

I thought I would just ask you one more. In looking at your class 11-02, I think Mr. Runck pointed out why the groups were grouped together. Have you had any information of who in that class were your bad actors? What industry? Marjorie.

MS ZINGLE: Yes, it was furniture movers that had three of the accidents.

MR. CHAIRMAN: Sorry, I can't spot it.

MS ZINGLE: The third one down. Household furniture and furnishings.

MR. CHAIRMAN: I see. Ron?

MR. R. MOORE: Just on classifications. How big does an industry have to be to have their own classification? They said 50,000 employees. Is there a number of people involved or what?

MR. RUNCK: Usually we look to find that the grouping of the industry classification, when formed, will be viable and self-sustaining. It might be helpful — I see Mr. Coull is in the background here, and he's the fellow who does all this kind of work at the moment. Would you care to make a comment on this, Ken?

MR. CHAIRMAN: You were just on your way home, weren't you, Ken?

MR. COULL: I thought you were going to settle in for the whole evening.

We do look to see if the size of class is financially viable from an insurance point of view itself and can be self-sustaining — we've got enough assessments to pay the costs that arise in that class on an ongoing basis. We'd also look, I guess, at having to increase the rates from individual fluctuations from a costly accident.

Today we would probably not set up a class that had less than about $70 million in assessment payroll. That's about the minimum. We do have some classes today which are smaller than that, and we will be trying to merge them with other ones to get a larger group. But that's a difficult problem in itself. So at least $70 million and in fact that grows with inflation.

MR. CHAIRMAN: Ron.

MR. R. MOORE: Just another question while you're still here with us. I know the $70

million is a rule of thumb now that you've identified that. But do you try to take an industry such as this that hasn't had a fatality in 20 years, or whatever they said, and classify it with others that haven't had fatalities in 20 years? It seems it would be unfair to hook them in with somebody that has a heck of a track record. How do you gauge that?

MR. COULL: It's not fatalities we're looking at per se in determining where an industry should be. It's really the overall cost of their claims. Fatalities may be part of that. It may well be that they have a lot of compensation claims and a lot of permanent disability claims. But part of the function I have in the Board is to review all the industry segments each year within their classification and try to decide whether they are still properly grouped with other like industries. And I do make recommendations from time to time to move employers to different groupings where there is a higher rate if their experience warrants it, or to another grouping where there is a lower rate. There are sometimes problems in terms of — for example, you wouldn't want to move the farming industry into the coal mining industry. They won't accept it. Even though their experience may be the same, their affinity of like processes within their businesses gives rise to objections for those types of moves. But one of the things I do is review all the industries each year and make appropriate recommendations.

MR. R. MOORE: Just one final question. You go through your process. Does it evolve that eventually you'll get all the bad actors in one classification, as their rates are way up here and the good actor is down here where there is a fair rating to them? Will that evolve, or is that the ultimate of it? Do you think that ever will evolve?

MR. COULL: I would say that it probably would not evolve. I think times change and things change, and the bad actors today are not the bad actors of tomorrow. Whether that's next year or three years from today, they do change from time to time.

MR. CHAIRMAN: Any other questions of the gentlemen and Marjorie? Any other comments?

MS ZINGLE: In addition to what was just being said about classifications, it's interesting that one of our suppliers, photography equipment and supplies, is in 11-01, yet comparable classifications are in 11-02. So there is a discrepancy, and one wonders how the department went about making a decision like that.

MR. CHAIRMAN: I did ask that question — I think Mrs. Fyfe will remember — in our '79-80 hearings. We wanted to know what would happen if we had only one rate for all the employers in the province. I see Mr. Hutton smiling. In 1981 we were advised that the rates would be about $2.50. So that's also the difficulty the Board has when, I guess, from time they try to — do you really support fewer classes, as we've had quite a few recommendations to us? Or are you so busy trying to resolve your own class that you don't want to get into that?

MR. HUTTON: I think we're so busy trying to resolve our own class.

MR. CHAIRMAN: Give it some consideration, because administration costs are there by maintaining all these classes. I'm advised that we have possibly as large a number of classes under this program in Alberta as any province. We're leaders in number of classes.

MR. WISOCKY: I guess in some respects I suppose it's a whole kettle of fish. How do you classify? By industry, by product, by occupation? You get into experience rating and so forth. That's what is being addressed even within the Board.

MR. CHAIRMAN: Okay. No other comments. Thank you very much for coming forward.

MR. HUTTON: Thank you.

MR. CHAIRMAN: We will adjourn now until seven tonight, the Alberta Optometric Association.

[The meeting recessed at 4:34 p.m. and resumed at 7 p.m.]

Alberta Optometric Association

MR. CHAIRMAN: Good evening, gentlemen. In order that we don't have any confusion, we will always respect that there's one Ron Moore sitting there and one here. So it's just by coincidence that way. It's going to be one of those nights tonight, I think. Later on we have another Ray Martin, or is it tomorrow?

MRS. EMPSON: Tomorrow.

MR. CHAIRMAN: Tomorrow we'll have another Ray Martin; one here and one there.

MR. NELSON: Heaven forbid.

MR. CHAIRMAN: Very well. The Alberta Optometric Association. Who's the spokesman?

DR. BERRY: Well, I suppose . . .

MR. CHAIRMAN: Adrian, you may remain seated.

DR. BERRY: I may remain seated, may I?

MR. CHAIRMAN: That's right. We have a good half-hour's time. We've had your submission, but you may want to give us some overview, remarks, or remarks in general, and introduce your colleagues, or your employers.

DR. BERRY: My bosses, Mr. Minister.

MR. CHAIRMAN: That's good. Okay.

DR. BERRY: First of all, we want to thank you for the opportunity to discuss our brief at an evening session, because that's certainly more convenient for our people. What we would propose, if it meets with your approval, is that we present a summary of the position taken in our brief first of all; secondly, that we highlight and clarify those points that we feel are of special importance; thirdly, that we respond to questions from members of the select committee. Fourthly, at your invitation, Mr. Minister, we would like to submit a other mini-brief related to occupational health and safety, and you will recall our conversation in your office, when you said that would be appropriate. And

finally, I might want to comment on one philosophical concern that was not raised in our brief, but which we think has some implications not just for this bit of legislation but for other legislation in total.

To begin, I'd like to call on our president, Dr. Craig McQueen, to proceed from hereon. I have copies of the summary. Do you want me to distribute them now? May I do that now?

MR. CHAIRMAN: Please. Go ahead, Dr. McQueen, while Adrian is distributing them.

DR. McQUEEN: First let me share Adrian's thank you for hearing us this evening. Secondly, I'd like to just briefly review the summary of the submission. It deals with a lot of the major points. I'd then like to clarify some of those points a little bit, and we'll use some examples to assist us in doing that for you.

It's our contention that the procedures for the provision of optometric vision care since the inception of the new Act are unworkable, and we would like to see them changed at the earliest opportunity. When a worker presents himself in an optometrist's office, under the new procedures the optometrist is forced to either accept the full financial risk for the provision of the services and materials that may be required or he must treat the worker as a private patient and collect directly from him for the professional services and spectacles that may have been required. The second option is in violation of the Act. It's our contention that from our point of view, this situation is simply unmanageable.

Secondly, the association is concerned about the apparent arbitrary and unilateral determination by the government of the professional fee to be paid to the optometrist for the services he has rendered, without negotiation with this association. The Board has set a fee that may be paid for the provision of services, rather than a benefit as is the case in any other area of the provision of health care.

Finally, the costs of health care required by a worker as a direct result of the worker's employment should be borne by the employers and should not be a charge against the general public through the Alberta health care insurance plan. To that end we make the following recommendation: that the Workers' Compensation Act be amended to allow optometrists to treat workers as they would any other private patients, and when the Workers' Compensation Board is able to ensure that that is a valid claim, that the worker be reimbursed accordingly. Secondly, we would like some form of interim action to be taken immediately to allow optometrists to provide services, as in the first recommendation; and that the Workers' Compensation Board be directed to cease the present communications with workers implying wrongdoing on the part of optometrist when the optometrist has treated the patient as a private patient.

I'd like to fill in some of that to let you better understand how we came to these conclusions and recommendations. Under the old system prior to January 1, 1982, when a worker presented himself to an optometrist for the provision of services, the optometrist would provide whatever services were required and whatever materials might be required by that worker and bill the worker in the normal way. The worker would pay for those services, as would any other patient, and should workers' compensation be involved, he would submit a claim to the Workers' Compensation Board and be reimbursed for the full cost of those services and materials.

We were unaware of any problems with that system. Certainly we were unaware of any complaints from our patients. We received no complaints about the system from our members and, to our knowledge, it worked quite well for the Compensation Board administration.

In January 1982 all of that changed. Suddenly the optometrist was required to bear the full financial risk for the provision not only of his services but of any materials the

worker might require to replace any that had been broken in his work. The optometrist was forbidden from billing the patient anything and was required to bill the Board for the total cost of the services and materials. This being the case, regardless of the fact that the optometrist is unaware of whether the patient had a valid claim until after the Workers' Compensation Board had made its judgment, the patient therefore need only present to the optometrist's office the statement that he felt that this was to be covered by Workers' Compensation in order to be charged nothing for the provision of the services and materials.

Where the Workers' Compensation Board decided that the claim was not a valid claim, the optometrist then had to try to track down the worker who had received the services and materials and charge that patient for the services and materials provided. As you can readily see, it is often very difficult to locate these workers, many of whom are itinerant workers whose address changes regularly. A second problem occurred when the worker disagreed with the decision of the Board. Where that occurred, the individual who was not getting paid for his services was the optometrist. So the responsibility for the financial risk was transferred from the employer, who is responsible for any injury occurring to a worker in the course of his employment, from the patient who had requested the provision of the services, and placed squarely on the shoulders of the optometrist.

Secondly, where a patient had presented [himself] to the optometrist requesting services and had not identified himself as a WCB patient, the optometrist would of course provide services in the normal manner, provide whatever materials were required in the normal manner, and bill the patient in his normal and customary manner. A month or two later, the optometrist then found that he would get a letter from the Workers' Compensation Board — with a copy sent to the patient — accusing him of having inappropriately charged the patient, with the implication that the optometrist was guilty of some wrongdoing, demanding that the optometrist refund to the patient anything that had been paid by the patient and that the optometrist then bill the Workers' Compensation Board. You can see the very significant effect that had on the doctor/patient relationship. All of a sudden our patients are being informed by a government board that their optometrist is guilty of some wrongdoing.

The determination of the fee code for the basic examination came about because we were informed prior to January 1982 that in future our examination fee would be at the level paid by Alberta health care. Optometry has always been different from medicine in that regard, and our benefit — or the benefit to optometry patients for the provision of optometric services — was not a negotiated amount but was a benefit set by Alberta health care. That benefit represented about 45 per cent of the usual and customary fees of optometrists for that service throughout the province. So they informed us that rather than getting our full fee, which we had on December 30 or January 1, we would get 45 per cent of it. We were somewhat concerned with that and held a couple of emergency meetings with members of the administration of the WCB, who I think were equally concerned that that was not the intent of the Act, and we tried to determine a way in which that situation could be alleviated.

One of the questions asked was what the association could accept as an appropriate fee. We talked about a number of things. Then some time later we received a letter from Alberta health care, stating that they had set up a new fee code and that that new fee code was set at a higher level than the benefit paid for private patients. Although we were concerned with the lack of true negotiation in developing that fee, since it was equivalent to our average customary fee throughout the province, we felt we could certainly live with that for the balance of the year. The following year, partly because we were unable to meet with members of the Board in advance, the fee was then set at an arbitrary percentage increase. And again we are not at all happy with the lack of

negotiation in developing that fee.

Finally, the philosophical point was made in the summary that we really feel that the Alberta health care insurance commission, representing the entire Alberta public, is not the body to pay for compensation claims when the billings from that body are not fully covered by assessments to the employers who are in fact responsible for the injuries that have occurred to their workers.

I'd like to call upon Dr. Morley Johnson to give you some examples of what's been happening in the transfer of the financial responsibility to the optometrist.

DR. JOHNSON: Thank you, Craig. Attached to the brief we presented to you — I don't know if you have all the copies of the letters with your summaries, but they clearly show just what we're saying. These aren't all the letters; these are the ones that were sent in to me when I requested the membership to mail in any copies of correspondence. There are numerous examples, and they're basically the same.

Here's one to Dr. Starko.

> We have received a receipt from the above named worker in the amount of $15.00 which apparently relates to an examination fee. Our office would like to inform you that Alberta Health Care Insurance Plan will pay up to a maximum of $35.40 for an eye examination for a worker who is injured on the job. If the examination exceeds this amount, optometrists are not permitted to extra bill the worker.

Let me point out here that the optometrist had no way of knowing that this person was going to claim compensation at the time.

> We assume that this was an oversight on the part of your staff, or possibly . . . We ask that you please arrange to reimburse the worker.
>
> cc Sawarn S. Manhas

They're all basically the same.

It's just saying that we're not allowed to charge our usual and customary fee for service, even though there isn't any way — and in discussions with members of the Board, they have always admitted this — they can verify for sure at the time that they are present in our office just after having broken their glasses. They cannot have had the claim verified, and they can't know for sure that it's going to be paid or whether they're even going to make it. In a lot of cases they don't even know that they can claim.

Then in addition to this problem of the arbitrary fee, there's another problem, and that's the uncertainty of our knowing whether we're actually going to be paid for our services and materials.

One of the examples here is from Dr. Lampard. She saw a fellow who in fact had a WCB file number and had had his eyes examined by an ophthalmologist and the glasses made up. This optometrist, Dr. Lampard, phoned the Compensation Board and someone on the phone there said: it's fine; go ahead, we're going to cover it. This is from Dr. Lampard:

> On March 22nd, we received the enclosed letter from WCB — refusing payment. I have been unable to contact Mr. Noble. A registered letter has been sent to Mr. Noble on March 24, 1983.

And the letter says:

> We are in receipt of Dr. Pidde's report and it has been reviewed. It is the opinion of this office that your need to wear glasses is not the result of your compensable injury on January 28, 1983, but due to you being nearsighted.
>
> In view of the above, we regret we are unable to assume

responsibility for your glasses.
Which is all well and good, and everything has gone along according to the mandate of the Board, except that Dr. Lampard is out of pocket $100 or so for the materials and services that she provided. I don't think I need to belabor this any further. Since you have them all and have read them all, I think I've made my point.

MR. CHAIRMAN: Anything more, Dr. McQueen?

DR. McQUEEN: Perhaps Dr. Moore could say a few more words about the fee code for a basic examination and how that seems to be inappropriate.

DR. MOORE: You can tell we're well rehearsed. You stole most of my thunder here. But I have historically been around a little longer than you, so I can reflect on how I did it back in the '60s, when I first arrived in this province.

MR. CHAIRMAN: For the benefit of the committee, why don't you just indicate what it was like in '80-81, prior to the amendments?

DR. MOORE: Prior to '80-81?

MR. CHAIRMAN: No, the year '80-81, prior to January 1, 1982.

DR. MOORE: Okay. You don't want me to go back to '60?

MR. CHAIRMAN: I don't think we need to.

DR. BUCK: They don't like to hear about the good government.

DR. MOORE: My point would have been that we had a similar sort of problem, but they're basically [inaudible] to serve the governments.

There has always been a problem identifying a worker who is a workers' compensation claimant, and there has always been the problem of not necessarily getting paid if you provide the service, assuming that you will indeed get paid. This occurred then and it occurred more recently in the '78-80 era, if you like.

The fees that were usual and customary vary across the province, with obvious things like staff costs and overhead rent. So you are going to get a discrepancy in fees. If there was any strong objection to the proposal with regard to fees that you implemented in the new Act, it would have to be with singling out code 100, as we call it, the eye examination fee, and saying that we're going to set this fee without really giving consideration to my overhead in Calgary, which may be substantially higher than in my home town of Hanna, where the rent is much, much less. I have a sort of disorganized presentation because you stole all my thunder.

DR. McQUEEN: Perhaps we could ask for questions.

DR. BUCK: Just on that last point, Dr. Moore, I don't think you're so naive as to think that when you are going to deal with a government agency, you are going to have one fee in Hanna, one fee in High River, and one fee in Calgary. I don't think you're that naive. When you're dealing with government, there is a fee set which usually is negotiated with someone, and you come up with a compromise. It's never high enough and somebody thinks it's too high, but there has to be a uniform code. I think that is just taken for granted.

DR. MOORE: Under the government that you were a part of back then . . .

MR. CHAIRMAN: Oh, oh. Here it comes.

DR. MOORE: . . . and under the government that succeeded you, until two years ago that was the case. They accepted carte blanche.

DR. BUCK: Yes, but that's not common practice in any negotiations with any kind of agency.

DR. MOORE: Okay, but there were never any negotiations or any offer to negotiate with our association by Workers' Compensation.

DR. McQUEEN: If I may make another comment on that. In fact, as was mentioned by Adrian and in the brief, there is tremendous variation in optometric fees for that service. It has been our experience that where an agency agrees to pay the usual and customary fee of the practitioner, their total cost over the year is equivalent to what it would be had they negotiated something close to the average, usual, and customary fee. In fact, prior to January 1982, in the case of optometry the Workers' Compensation Board did pay the usual and customary fees of the optometrist, with the variance. For instance, they paid me a different amount than they would have paid Dr. Moore. I'm not sure if Workers' Compensation had concerns about that, but we certainly did.

MR. CHAIRMAN: Well, if they didn't — I'm sure, as Dr. Buck says, I too have some concerns. That's why I asked Dr. Moore what took place in '81. As I was listening to this, I realized there were things happening that I don't think we were aware of. I think Dr. Buck is really onto something. If the employer's representatives here heard this presentation tonight, their submissions to us in the next two days should be very interesting. We have had a very loosey-goosey arrangement here for the last 25 years. Am I right?

DR. BERRY: Mr. Minister, may I comment? No, I don't think you are right, if I may say so.

MR. CHAIRMAN: I accept it from you, Adrian.

DR. BERRY: If you're implying that this is a loose and therefore improper process for public representatives to govern a program for the public and that it may in fact allow misuse, I suggest that that is not the case. You have two choices. The first choice is to negotiate a fee for a given service, which is paid exactly the same whether the professional providing the service is in Hanna or in Calgary. But that means you may be paying the person in Hanna a lot more than you need to pay. You may be paying the person in Calgary a little less than you should pay. There are inequities in that.

What you did in 1981 was accept the average, usual, and customary fee across the province. Now if you accept that that is a real average and pay that to everybody, you end up paying exactly the same costs if you have an average distribution of your patients as if you paid each optometrist the usual and customary fee. It too would average. In some places you'd be paying $29, some places $35 or $44, for that same service. In a sense, you would get the same return for the same total dollars expended. I think that's a very important consideration. It's far more equitable to the professionals providing the service, because some of them have a lot more expenses than others. So I think that's a

very important consideration and position.

There's a safety valve in it. If at any time your Board should find that somebody seemed to be charging something that was unreasonable, we have a peer review system to deal with that. So the government would be protected from that.

MR. NELSON: We're probably saving money, too, Adrian, because it saves the bureaucrats sending all these bullets.

DR. BERRY: We wouldn't have all these letters required.

DR. JOHNSON: These letters are costing about $10 to $15 each every time somebody sends one out.

DR. BERRY: I'd suggest $35 is closer.

DR. JOHNSON: Then they send another one.

MR. NELSON: That's what I'm saying, that it would save the WCB and the employers money.

MR. CHAIRMAN: I hope that what Adrian Berry has now just finished saying is what really happened, because you doctors sure gave me some concern here. I think that's why Dr. Buck asked the question.

MR. RUNCK: Mr. Chairman, I'd like to make just a brief comment. Way back as far as the late '60s and in the early and mid-70s, we had discussions and negotiations with the Optometric Association in relation to fees. When the total bill was paid by the WCB, because of differentials in the costs of the different types of services and the variations in the things that had to be done for different eye conditions, we agreed upon a more or less blanket which said that the fee will not exceed — I'm not sure, it started off at around $100 and went up to $150 or whatever. We weren't so sensitive to item-by-item analysis. We would look at the bill, and if the bill seemed unusually high, we would refer it to a representative of their association, who would say to us: yes, this is reasonable, or you're right, this is too high. But when the changeover came to Alberta health care insurance plan, it became essential that their bills be submitted on an itemized fee schedule. So that took off the top umbrella blanket. The itemized fee schedule is where we run into trouble. Am I correct in that, Dr. Berry?

DR. BERRY: Yes, I think you are, Mr. Runck. The difference being, of course, that since 1981 your board has also approved our schedule of suggested usual and customary fees. That's the one that is your guideline for your administration. Right?

MR. RUNCK: That's correct.

DR. BERRY: We're talking now about the single eye examination fee now, then of course there are all the other fees involved for dispensing the glasses, the design and prescription of them, and all those sorts of things. You've accepted that throughout according to our schedule of fees, so we're really only talking about one issue, the examination fee. In all the things you are doing exactly as . . .

MR. CHAIRMAN: Can I then accept that you could have one examination fee across the province?

DR. BERRY: We could, because we have done so already. But we would strongly desire and suggest to you that that is neither practical nor appropriate.

MR. CHAIRMAN: I think you and I will have to talk about it.

MR. R. MOORE: Mr. Chairman, I just wonder what we're talking about in all fairness. We're talking about a fee. Dr. McQueen said it started out at 45 per cent of the full fee; then they put it at an average rate. You accepted it for the balance of that year. You may not have been happy, but it was an acceptable average. The next year there was an increase, and it was unacceptable. And I imagine that each year there has been an increase. What percentage increase are we looking at since '81?

DR. McQUEEN: What was the percentage increase?

DR. BERRY: The percentage which the Board brought in was a 5 per cent figure. It so happened, though, that the average, usual, and customary fee across the province that year was more than a 5 per cent increase. So while the first year the Board had accepted the usual, customary, and average fee across the province, the second year they didn't accept that. They only accepted a 5 per cent increase of what the previous year's average and customary fee was.

DR. McQUEEN: If I may point out, the amount involved was not our concern. The manner in which it was derived was very definitely our concern.

MR. CHAIRMAN: That was in '82?

DR. McQUEEN: That was in '83.

MR. CHAIRMAN: Or '83, since this went to health care.

MR. R. MOORE: It isn't the amount, then; it's the process. You want to be involved in a negotiation process to set that level.

DR. McQUEEN: If we must have a fixed fee for code 100, eye examination, then very definitely we feel that it should be arrived at in negotiation with our association and not set by the Board.

MR. CHAIRMAN: But is that taking place with health care now for your association?

DR. McQUEEN: No, that is not. We have never discussed a workers' compensation situation with health care.

MR. CHAIRMAN: I'm talking about an examination fee.

DR. McQUEEN: No.

DR. BERRY: They don't pay a fee. They pay a benefit, and the optometrist charges the usual and customary fee. The patient pays the difference.

MR. WISOCKY: Mr. Chairman, I'll try to simplify a very difficult topic. Basically what the Optometric Association has asked for is for a visual examination totalling $44. They

want to charge $44 for the year '83 — I believe that's the figure — whereas we can only pay $37.20. What we had to do in '83 was follow the Alberta health care guideline of 5 per cent, because they increased their fees by 5 per cent for the year '83. The only fee for the optometrist under Alberta health care is the visual examination. The rest is not covered under health care, and the Board still assumes that responsibility.

DR. BERRY: If I may, there is one slight correction. We didn't request the $44 fee. We just said that was the maximum fee. There was no negotiation of what that was. That $44 is sort of a maximum suggested fee. If in fact we went through the process we recommended, Mr. Minister, which is that everyone charges the usual and customary fee, that problem would never arise.

MR. CHAIRMAN: There's no doubt in my mind that we'll have to get back to your association possibly once more, gentlemen. I think we've received a fairly good explanation. If we have some confusion, we will try to collectively sort it out, and get back to Dr. Berry to further assist us.

I want to say thank you to you, Dr. McQueen, and your colleagues for coming forward. I know you have one more area you wanted to talk about, occupational health and safety. I wonder if we could try to get it done in the next 10 minutes, because it will delay everything.

DR. BERRY: If I can ask somebody else to pass these out, perhaps.

MR. CHAIRMAN: Who is going to present that?

DR. BERRY: Let me deal with that right now, if I may, Mr. Minister. I think that perhaps I can not only read this which you will have in front of you but then emphasize it in that 10 minutes which you've allowed.

The purpose of this brief is to point out how a provision in the Alberta health care insurance plan is inadvertently having a counterproductive effect on industrial vision care and eye safety programs and to urge that you, sir, make the necessary representations to deal with that.

The effective reduction of vision-related industrial accidents requires a full examination and analysis of worker's vision as well as the provision of safety eyewear. Such programs are most effective when participation of all visually at risk employees is mandatory, not optional. The vision examination is necessary in order to ensure that the worker's visual abilities are equal to the requirements of his occupation. This minimizes accidents caused by insufficient visual abilities and by fatigue that can be caused by excessive visual demands.

Mandatory participation ensures the provision of correct safety eyewear to all at-risk employees. Such eyewear should be verified as to the accuracy of the prescription and that the materials are in compliance with accepted safety standards. It should be adjusted to the individual worker to reduce complaints associated with incorrect or ill-fitting safety glasses, thereby improving worker compliance with company safety practices. The key thing of your whole department, sir, is to reduce accidents and claims, is it not? That's what this is really all related to.

The problem is that Alberta health care does not cover any part of the cost of health care services required for the use of a third party. As a result, if a worker attends an optometrist or an ophthalmologist for a vision examination at the request of his employer, then no AHCIP benefit is payable. Therefore the employer who introduces a mandatory vision care and eye safety program must then bear the full cost of the examination of every employee in the program. On the other hand, employers who have

a less structured eye safety program, a program in which is not mandatory for the worker to have his eyes examined, for example, effectively gets around this AHCIP ruling by suggesting, instead of requiring, that employees get their eyes examined. When the employee goes to the optometrist or ophthalmologist he doesn't say, so he just gets his eyes examined.

Clearly these circumstances encourage abuse of the health care program. Of greater concern is the counterproductive effect upon the introduction of full scale, mandatory occupational vision care and eye protection programs by employers, because to do so employers are faced with having to pay the full cost of each worker's examination. Consequently it also encourages the adoption of less effective vision care and eye protection programs.

It's really just a very minor little point, and yet it's a great obstruction because of the cost factor involved. Our recommendation, therefore, is that because the AHCIP ruling referred to first of all inhibits the adoption of better occupational vision care and eye protection programs in which participation of all at risk employees is mandatory, and (b) is potentially ineffective, unenforceable, and encourages abuse of AHCIP — and I'd be happy to go into the details of that — the Alberta Optometric Association strongly urges that industrial eye safety programs be exempted from the third-party provision under AHCIP.

This exemption could be accomplished by ministerial direction — that is the Minister responsible for Workers' Health, Safety and Compensation — under part 2, section 21, of the Alberta health care regulations, which read in part, and there is something missing in the part I quote here. First of all, I should have said that the following services are not basic health services or extended health services. That's the first line of section 21 in the regulations. Then it goes on: exemptions that are required for use of third parties except as directed by the minister. So the minister could make a decision there that examination for occupational vision care and eye safety programs could be exempted from this provision, and we would recommend that, sir.

MR. CHAIRMAN: Questions? I'm familiar with this, as you know.

DR. BERRY: Yes, of course.

MR. CHAIRMAN: My only question is, where is the concern coming from? We have employers paying for the medical surveillance taking place on — Keith, what?— 3,000 or 4,000 workers in this province. Chest and pulmonary X rays?

MR. K. SMITH: Yes, that would be a reasonable figure.

MR. CHAIRMAN: That's not covered by the Alberta health care commission. I place it because this is what the committee has to deal with now. There are other areas where employers pay. So is this a complaint from employers, or is it just to . . .

DR. BERRY: No, it's just that, because the existing program is unenforceable, some employers are sort of getting around that provision, if you like, maybe not even intentionally. They don't even know about it sometimes until somebody comes to them with a full program that shows that every employee should have his eyes examined. If we present it we say to them that if that becomes a requirement, then health care doesn't make any contribution toward it. You have to pay the full cost. They say: well, not all my employees are going anyway, and I'm not paying the cost. So by that situation, they're discouraged from making an intelligent decision for the betterment of the safety provisions of their company.

MR. CHAIRMAN: Very well. I regret that we don't have more time.

DR. BERRY: Did you say that I had 10 minutes, Mr. Minister?

MR. CHAIRMAN: I thought we'd give you 10, and we're now about eight.

DR. BERRY: I have two more minutes, have I? One other thing then.

MR. CHAIRMAN: Is there not an election he could run in, in Calgary? No thanks, Adrian. I think we must . . .

MR. NELSON: He missed the date of nomination.

MR. CHAIRMAN: Yes, Keith.

MR. K. SMITH: If I could just point out, the only mandatory vision care program we have requiring an eye examination is under the laser regulations for operators of laser equipment. That's paid for entirely by the employer.

DR. BERRY: I'm sorry. Perhaps the use of "mandatory" is confusing. When we say mandatory, we mean when the employer says: you must get your eyes examined. We recommend that they make it mandatory for their employees.

MR. K. SMITH: I would certainly applaud the employer's initiative, but it's not a requirement in terms of any particular . . .

DR. BERRY: It's not a requirement of the Act.

MR. K. SMITH: No, that's correct.

DR. BERRY: No, but it's a requirement of a good vision care program for certain kinds of industries. Otherwise you have employees working who don't know what they don't see.

MR. CHAIRMAN: I must say that we've exhausted as much time as we could, and say thank you to you, Dr. McQueen, and your colleagues. As I indicated earlier, no doubt we'll get back to you, because there was some doubt in our mind. But maybe my colleagues on the committee will sort it out for me. Thank you very much. If need be, we'll get back in touch with Adrian on it.

DR. McQUEEN: Thank you very much. I hope this has brought some things to your attention that may not have been recognized. Certainly we hope to see some changes.

MR. CHAIRMAN: Okay. Thank you.
City of Edmonton Taxi Commission, Mr. Panther and Mr. Askin.

City of Edmonton — Taxi Cab Commission

MR. CHAIRMAN: Very well, Mr. Panther and Mr. Askin. We have about a half-hour. We'll be running a little late tonight. We have your submission. It's not a very extensive

one; it's brief. But possibly you may wish to make some comments. Go ahead, kick it off. Then we'll have some clarification and questions if need be.

MR. PANTHER: Mr. Chairman, I'd like to fill in a few of the gaps of our presentation. We feel there is quite a story here. I'm going to be very brief with my comments. Mr. Askin will follow me with a much more lengthy presentation. We feel we may take 12 minutes of your time here with this. We feel we may prompt some questions.

MR. CHAIRMAN: Please speak up, and which is the microphone there?

UNIDENTIFIED SPEAKER: The small one.

MR. CHAIRMAN: The small one in front of Mr. Askin. Yes, that's good. Okay.

MR. PANTHER: We would like to prompt some questions, and we feel that we just may do this.

Perhaps a brief background. We are here representing the Edmonton Taxi Cab Commission. We are both citizen appointees to this commission. When asked the question of why are we here on behalf of the taxicab drivers — cabbies, as perhaps we all know them — we are here because the cabbies appear to be unable to represent themselves. They have no organization. They have resorted to inviting us to secret meetings — and we say "secret" when they hide a cab a couple of blocks away from the meeting place — to talk to us on this and other subjects. They are a very disjointed, unrepresented group of people. We have really been promoting this idea of workers' compensation for a period of time. We felt that we must come forward and speak to you people.

Over the last two and half years, as perhaps you are aware from the news media, cabbies have been front and centre on the front page. They have been injured. They have been murdered. Quite aggressively for two years, 1980 and '81 particularly, there were a lot of attacks on cabbies in their work place. We find that few of these cabbies are covered under workers' compensation. When they are injured, they have little or no option but to resort to welfare, or the industry generously passes the hat. We have a lot of people out there who are unable to work, and they are fairly destitute.

Perhaps a little look at what constitutes the taxicab industry in this city. We have the brokers. We call them brokers because our by-law calls them brokers. They run the cab industry. They are the ones who have the name, and cabs go out under their brokerage. Under these we have owner/drivers who rent a franchise — for want of a better term I call it a franchise — from the broker. Underneath these come commission drivers, drivers who operate cabs on a commission. And last but not least, we have salaried drivers. I have never met a salaried driver yet, or a man who works by the hour. They are nearly all in the owner/driver or commission driver bracket.

It's not an industry that is attractive. If you pick up the Edmonton Journal tonight, you'll find at least four ads for cab drivers. Even at the height of our economic downturn, when unemployment was still fairly rampant here, they were still advertising for cab drivers. One of our companies — I believe you have a letter, Mr. Chairman — has noted that there's a 50 per cent turnover in cab drivers, not just in this city but in Calgary to the south. Not a particularly desirable job.

We have been informed repeatedly that the highest court in this land has ruled that drivers who lease or own cabs are self-employed and therefore operate a business. We would have to deduce that if there is a 50 per cent turnover in these drivers, there must be an awful lot of bankrupt cabby businesses out there if these are self-employed people. Because they're termed self-employed, they do not qualify for workers'

compensation unless they voluntarily contribute. We at the commission invited members of your Board to give presentations to these drivers. We went on a promotion campaign to promote the program to these drivers — little or no response. They say that they can't afford it, or the costs are too high. Worker's compensation is the last one on the list.

We have had this item of safety for these drivers in their work place on our agenda repeatedly. We have worked very, very hard. We've worked with the city police to come up with prevention methods. We still can't fully protect them. They're out there, and it's pretty tough. We had one in the newspaper the other day, when someone tried to hijack a cab to Wetaskiwin or some place. He very, very fortunately was able to stop a police car and get assistance. It's a one-on-one situation in a cab, with a cabby with his hands full driving the cab and the man may even be sitting in the back behind him.

I would like to say that we are not going to make any recommendations to this committee on how it is possible to administer a program with these people, or even how it's possible to get a program organized for them or get them included under your Act. We have a problem; we see a problem. We talk of a minimum of 6,000 people in the work place in this province who do not have coverage.

I'd like to turn this over to Mr. Askin now, who I'm sure has some material to feed to you here.

MR. ASKIN: Mr. Chairman, members of the select legislative committee, the main purpose of this presentation is that we in the Edmonton Taxi Cab Commission have some real concerns for the welfare and safety of taxi cab chauffeurs. The commission took various steps, in co-operation with the WCB, to stimulate interest and create awareness. However, our examination of the situation last May suggests that approximately 12 drivers — I repeat, 12 drivers — in the province had active accounts. That means that about 99.9 per cent are not covered. While the industry has been under the Act since January 1, 1978, only those who come within a specific definition of income are considered workers. If they are paid on a salary or commission basis, they qualify. If they come under some other financial arrangement, they are exempt. Some drivers, unfortunately, assume they are taken care of, but they do not bother checking it out before the fact.

The chauffeurs provide service to the public on a 24 hours a day basis, 365 days per year. They are exposed to a multitude of risks, and they are a prime target for attack, because they operate as single individuals. In the past three years at least three drivers lost their lives in Edmonton alone, one of whom was a lady. Others sustained various injuries in the performance of their duties. A classic example is Mr. Abernathy, a young driver who was permanently disabled. The first order of business was to apply for welfare. He received some financial help from his doctors.

Ladies and gentlemen, there's no free lunch in this world; somebody has to pay for what we get. Either this is processed through the industry in an organized manner prescribed by the Board or the public pays for it through welfare. It seems that compensation benefits are more acceptable, with a greater degree of dignity.

It is incredible to think that the largest group in the industry, the drivers, who are about 6,000 in Alberta — I think I'm a little conservative there; perhaps 8,000 or 9,000 would be a better figure. They generate the funds for maintaining the industry and indirectly have been paying WCB assessments since January 1, 1978, to cover the small group of employees who are designated as workers under the Act; e.g., dispatchers, office personnel, and mechanics, but not drivers, who can only enroll on a voluntary basis, then go through all the hoops of opening an account with the Board and maintaining it.

To extend the coverage that others in the industry enjoy would cost each driver less than the price of one package of cigarettes per day. This would provide minimum,

income tax free plus full rehabilitation benefits available to all claimants. The latter, of course, would be very important to those who might sustain serious injuries.

May I refer to an article that appeared in the Edmonton Journal on September 14. Judy Brackman, Journal staff writer, reported some of the discussion at our meeting on September 12. A period of time was allotted during the session for the audience to participate. Several people took advantage of this opportunity. They were all supportive of our proposal, except the manager of Skyline Cabs, who said: cab drivers come and go from one company to another; the burden of payment would eventually go to the employer. No one is denying the fact that cost is a factor. There was an expenditure to maintain compulsory compensation for their salaried people since January 1, 1978. Mr. Adams, a driver with more than 15 years' experience, indicated that he was very tired of passing the hat around when anyone who would otherwise have been covered by workers' compensation was killed or injured.

In order to provide uniformity in the application of the Act, perhaps we could borrow some ideas from B.C. and Saskatchewan, where the assessments are paid by the brokers and owners. The cost is blended into their entire operation, as it is here, for those who are considered workers. I have never heard anyone complain because they were recipients of workers' compensation, but there are many sob stories around when not covered. Our plea, ladies and gentlemen, is in support of human beings like you and I who should not be cast aside when injured in public service. Would you be good enough to employ all honorable means at your command to assist us in resolving this problem.

Thank you in advance for your co-operation.

MR. NELSON: I'm interested in your comments, Mr. Panther, regarding these secret meetings you had with the drivers. I wonder out loud why they don't want to come as a group, meeting in a public forum amongst their peers, to determine that they wish to have this coverage they would probably ultimately have to pay for in any event?

MR. PANTHER: Most of these people are described as being self-employed businessmen. They are vulnerable to losing their business at an hour's notice. It happened when the city of Edmonton was conducting public sessions looking into the creation of the by-law which established the Edmonton Taxi Cab Commission. One of the people making representation to that commission went out to his cab two or three days later. The plates were off; he was finished in the cab business. This is not an isolated incident.

They have no security at all. They have attempted to form associations. It's been squashed. We are disappointed that they don't have an association. We would like them to be making this plea to you.

MR. NELSON: So would I.

MR. PANTHER: Yes.

MR. R. MOORE: I think all of us agree with your assessment of the situation. The solution isn't as easy as the assessment. But what bothers me is that you said you've talked to the drivers and had personnel from Workers' Compensation talk to them, and they don't want to take this coverage, because it costs too much or whatever, even though they know they need it. The only time they really realize it is after they've been shot or are injured. I don't know how you can force people to take something if they don't want it. You can't protect everybody against themselves.

MR. PANTHER: We have brought this problem hoping that with the great minds you

have in this government, and through your Board, you may have a resolution for this problem.

MR. CHAIRMAN: You haven't sat in the Legislature and heard what we think of each other.

MR. PANTHER: I read the newspaper.

I should tell you a little story here. Walt Buck was my dentist for many years, many, many years ago.

MR. CHAIRMAN: That was when he had hair.

MR. PANTHER: This is how I knew him. I believe he developed his style in the House on me, while I was in the chair. I couldn't argue back; he had his hands in my mouth. Sorry Walt, I had to tell it.

DR. BUCK: Can I ask a question?

MR. CHAIRMAN: You're going to ask it now? Ron are you finished?

MR. R. MOORE: I just want to thank him for saying we were great minds. It's the best credit we've had for a long time.

MR. CHAIRMAN: Go ahead, Walt.

DR. BUCK: When we're talking about safety in the work place, Mr. Chairman, I'd like to ask this question. I know it's been bandied about many times that there be separations from the paying customer and the driver. What discussions have the drivers had with their employers to look at this, which would at least try to protect the driver? But we're talking about safety in the work place, and this is a feature. I've seen some people that think it might be a good idea; some people think it's a bad idea. What is the feeling out there with the fellows who are driving? Would that help the safety aspect of it? The compensation one is a different question.

MR. PANTHER: I think I could answer that best by saying that in the early summer of this year we had a very determined delegation, supported by a number of drivers, for us to give approval for installation of a type of partition that could be automatically closed very, very quickly in cabs. It was going to be manufactured in the city here. We were asked if we would approve advertising on those partitions, so these drivers could get them for free. We agreed to the partitions. We have not heard anything from them since. It seems to have gone completely underground. We have heard nothing from these people since.

DR. BUCK: Would this be the responsibility of the brokers, then?

MR. PANTHER: No, unless they own the cab. They will say the owner/drivers will have to pay their own way. The broker doesn't really assume a lot of responsibility here.

DR. BUCK: Just dispatching and all that, I understand.

MR. PANTHER: They are concerned. I could add to this, if I may, that we feel there would be a distinct advantage if the representatives from the Workers' Compensation

Board were to become involved and inspect this work place, which is the cab, and make recommendations. We would certainly listen to these recommendations. We would appreciate these recommendations.

MR. MARTIN: Let me just follow up to understand the problem. We get into what is a proprietor and what is a businessman. This is a classic example in this business. I've also talked to taxicab drivers and had representation. I know you're not giving us the solutions because of the great minds that are here, as you put it — you may be making a mistake there. I'd like to come at it in two ways. One is that there is a type of coverage with the WCB that is a proprietorship, sort of as a subcontractor, for which the onus is then on the driver. For the other, you could say to the brokers that these people are in fact workers, because what they classify as businessmen is very loose, as you are well aware. I guess I'm asking in which direction you think it should go.

MR. ASKIN: Mr. Chairman, Mr. Martin, I have a letter here from the Workers' Compensation Board with respect to a definition of a worker. I'm talking about the Alberta Workers' Compensation Board. Drivers paid on a commission from the daily receipts or an hourly rate or on a salary basis would be considered to be workers of the taxi companies. We examined the arrangements made by each employer in this industry to determine whether or not his drivers would be considered workers for our purpose. Under this arrangement, which apparently has been in effect since January 1, 1978, because the industry came under compulsory compensation since that time, it only applies to that definition of workers. Consequently the drivers are exempt.

I think it's unfair to say that these drivers don't want compensation. This is something that didn't just come up yesterday. For the last three years we have discussed the matter of workers' compensation in substantial detail, in co-operation with the Workers' Compensation Board, and we are satisfied that they want that protection. In talking to the Workers' Compensation Board themselves, I discovered that many of them do apply. Oh, yes; they go through all the hoops. It's not an easy matter. They go through all the hoops of applying for workers' compensation. They pay three months of premiums. But then hard times come along or maybe they need bread on the table, so they become delinquent after three months. So it's an administrative hassle as far as the Board is concerned too. They might receive only three months of premiums; then there's nothing coming forward after that, so they are not covered. There's no universal application of this at all.

If I may, Mr. Martin, just read you one paragraph of a letter from Workers' Compensation in Saskatchewan. The operation of a taxi business in the province of Saskatchewan falls under the mandatory provisions of the Saskatchewan workers' compensation Act, and as such every owner or operator of a taxi business is required mandatorily to report to the Board, providing total labor expenditure and pay assessments on such labor. In the calendar year 1983, the rate of assessment is $2 on every $100 labor. All costs for such assessments are borne by the employer. Now their rates are about the same as ours. Ours are $2.10. B.C., where they have a great deal of universality, is $1.44 per $100 at the present time. There are hundreds, if not thousands, covered in Saskatchewan as well as in British Columbia. Perhaps we could borrow some ideas from these people to develop something along the same line. But I feel very, very uncomfortable to think of an industry where the drivers, who support the whole operation by generating all the funds for running that industry, are the only ones who are not covered.

MR. MARTIN: Just to follow up. I think you answered my question. You're saying that we look almost at the definition of a worker in this thing. That's the way to go at it.

MR. ASKIN: That's right; the definition of worker. That's the area.

MR. R. MOORE: I'd just like to get some clarification from Al. These drivers pay three months and go delinquent. Wouldn't the broker then be liable for that, like any other subcontractor?

MR. RUNCK: The taxi industry and the problems they have with coverage of drivers is a very complex and difficult one. It's been discussed for a considerable period of time. I would really like to pass your question over to Mr. Ashmore.

MR. CHAIRMAN: But Al, isn't the answer there that the application that Mr. Askin is talking about is the driver applying for his own coverage?

MR. RUNCK: The driver applying for his own coverage, yes.

MR. R. MOORE: It's just like when you have a subcontractor go to the major contractor, and he is delinquent. The main contractor is liable for that.

MR. RUNCK: Technically I think you could make a case, but I'm not sure what our assessment department does on that.

MR. R. MOORE: I'm just saying that in that case, the broker would be the one that's liable for that and should pay out that delinquent part.

MR. RUNCK: I think the brokers gave us a representation in Calgary, indicating that they don't want any part of it.

MR. CHAIRMAN: That's what the gentlemen indicate.

MR. R. MOORE: Haven't you got the power within the Act to assess? You do in other industries. During our deliberations, I've heard that in the construction industry you have the power to tack on so many thousand dollars or whatever it is.

MR. RUNCK: Mr. Moore, that would only be usually in the case of a person who is covered under the Act one way or the other. If I'm required to cover my workers and I'm delinquent in my account, then they are deemed to be covered by the principal, who must then pay the bill or make me pay it. But if I'm a volunteer, it may be a different situation.

MR. CHAIRMAN: Any other questions?

I do want to say to you gentlemen, thank you for coming forward. You've met with me once, and you've left the committee a challenge here. You've admitted that it's not easy. You said that there's no free lunch, Mr. Askin. Our dilemma is going to possibly be to look at how they did it in British Columbia and Saskatchewan. I want to indicate to you that I'm sure none of the members of the committee want to see a worker without coverage. That's the purpose of the hearings. We'll do our best.

MR. PANTHER: Thank you very much.

MR. CHAIRMAN: Cactus Drilling, Frank Dusseault and Tom Murray. Are they present? Please come forward.

Cactus Drilling

MR. MURRAY: Louise, do you have submissions? We have extra copies.

MR. CHAIRMAN: Mine is here. In the time that it was presented, Mr. Murray, we did get this late. We have about a half-hour. I wonder if you'd go through your submission. We didn't have the benefit of being able to read it.

MR. MURRAY: Certainly.

MR. CHAIRMAN: That's the problem. Buchanan Lumber didn't come. That's the second time for Buchanan Lumber. One more strike and . . .

MR. MURRAY: Mr. Chairman, we have more of these, our analysis, which is clear and concise. Would it be of benefit if we passed one out?

MR. CHAIRMAN: We have one here.

MR. MURRAY: You all have one?

MR. CHAIRMAN: Yes. Please proceed.

MR. MURRAY: Mr. Chairman and members of the select committee, ladies and gentlemen, we represent Cactus Drilling, which is a contractor operating 23 drilling rigs of various sizes. Cactus is a division of Ocelot Industries and a member of the Canadian Association of Oilwell Drilling Contractors. We are assessed within WCB class 4-03.

In 1980 major changes were made to the WCB Act which substantially increased our costs for WCB coverage. Our presentation today clearly shows how these changes have affected Cactus Drilling. Our analysis, which is included in today's submission, includes all associated costs from January 1, 1979, through August 31, 1983, and covers all employees, both field and administrative. We have attempted to show how these changes to the Act have increased Cactus Drilling's final per-hour costs for WCB coverage from 52 cents during 1979 to 95 cents during 1983, which is an increase of 83 per cent. We also show that our initial cost per hour for WCB coverage has increased from 59 cents during 1979 to $1.42 during 1983, which is an increase of 240 per cent. We believe this to be very expensive insurance.

We quote from the CAODC submission presented to the select committee at an earlier time:

> oil and gas activity levels attained in 1980 will likely not be realized for the remainder of this decade. This is a critical factor. If industry was unable to fund the W.C.B during the premium economic time of 1979 and 1980 industry will not be in a position to reduce the W.C.B's deficit over the remainder of the 1980's.

Therefore it would seem that future costs to Cactus Drilling for WCB coverage will increase or decrease proportionately with the trend of your deficit position.

We have shown the extensive costs to Cactus Drilling for doing business with WCB coverage. We are a reputable contractor with a favorable accident experience. We have been awarded the class A trophy for safety from the CAODC three times out of the last five years, yet our insurance costs have increased 83 per cent during this period.

We support previous submissions developed and presented to you by the Industry Task Force and the CAODC. Even though it's our feeling that our analysis is self-explanatory and clear and concise, we are prepared to answer all inquiries or questions by anyone concerned.

MR. CHAIRMAN: Questions?

Mr. Murray, in your own companies — and I ask you for assistance; let's take the most recent year, 1982 — your total assessment bill was . . .

MR. MURRAY: $876,903.

MR. CHAIRMAN: And you got a merit rebate of $292,000.

MR. MURRAY: That's correct. Just to go through it . . .

MR. CHAIRMAN: At the cost of $176,000, these are the figures you got from . . .

MR. MURRAY: Yes, these are documented figures.

MR. CHAIRMAN: Good. Stan, go ahead.

MR. NELSON: I just want to question the 240 per cent increase. Considering the final cost per hour to the final column in the right, with your rebates and what have you, it would appear — correct me if I'm wrong — that you've really gone from 52 cents to 95 cents, not 59 to $1.42, if you use your net figures.

MR. DUSSEAULT: That's our initial cost, which is pointed out.

MR. NELSON: I guess what we would be most interested in is your net cost at the present time, unless your experience is such that it creates a situation where your benefits that you must have paid to your injured workers are extensive and you're not getting the rebate. So assuming you are going to are going to obtain this rebate from year to year, your cost has really increased from 52 cents to 95 cents. Would that be a reasonable assumption?

MR. MURRAY: That's a reasonable assumption, Mr. Nelson, and that is still 83 per cent . . .

MR. NELSON: Okay, I accept that.

MR. MURRAY: . . . which is a tremendous amount of money.

MR. NELSON: I agree.

MR. CHAIRMAN: When your increase on the payroll — and I can't determine it — was increased to $40,000, what effect did it have? How many of your people were salaried in the high $30,000 and above $40,000? It doesn't show that significant an increase from '81 to '82, does it?

MR. MURRAY: Are you referring to when the ceiling was increased, Mr. Chairman?

MR. CHAIRMAN: Yes.

MR. MURRAY: How many of our employees would fall into that category?

MR. CHAIRMAN: You're showing assessed base per $100 of payroll, and the ceiling for '82 wasn't $22,000, it was $40,000. There is something wrong in the figures there.

Have you got that, Al?

MR. RUNCK: Yes. On the fifth column over, it should be $40,000, not $22,000.

MR. MURRAY: During 1982?

MR. CHAIRMAN: Yes.

MR. MURRAY: That's an oversight that I will accept.

MR. DUSSEAULT: That is also why it jumped from $1.02 to $1.26, your initial cost per hour.

MR. CHAIRMAN: But on the other costs, Mr. Dusseault, you say are correct, even though the ceiling was $40,000?

MR. DUSSEAULT: Yes, the cost figures are proper.

MR. MARTIN: Just a general question. You say that you support the Industry Task Force and the CAODC submissions. The Industry Task Force is a broad document. Are you saying that you support it in every respect, all the way across the line?

MR. DUSSEAULT: I read the CAODC report or submission, and I certainly support what they submitted, some points more strongly than others. But I generally support the document that was submitted. That is why we put down that are very supportive of their submission. The only reason we presented this was to show what it did to our company. These are our costs; this is the way it affected our operation.

MR. MARTIN: So this is a supportive role for the other task force, to show what it did to you?

MR. DUSSEAULT: That is correct.

MR. MURRAY: As well as an individual voice, Mr. Martin. As Mr. Dusseault mentioned, this is what it has done to us. We think we are a fairly good contractor, and this is what it has done to us. We are just making our views known.

MR. DUSSEAULT: I just wonder how people in our industry can operate profitably without the merit rebates that we have been getting. I'm just asking a question.

MR. MARTIN: Let's come back. The Industry Task Force would take you up there. They would say: too bad; the bad performers have to pay and the good performers should get a better break. If you look at the Industry Task Force, that is basically their line, that the poor performers should be paying a lot more.

MR. DUSSEAULT: There is a proposition in there that says the good operators should pay less, and so on, on a graduated scale. I will certainly go along with that. There are

good points submitted in that submission.

MR. MARTIN: But just to be clear, the bottom line is . . . We've had a number of industry representatives. They have done a fairly effective lobbying job, following us around the province. But if you look at what they're saying, they're saying very clearly that the people — let me put it this way — who don't have a good record should pay a lot more on their superassessments. That's why I took up your comment. You have a good company, and you're worried about people. That would be a little different from what industry is saying. That Industry Task Force would basically say, too bad.

MR. DUSSEAULT: One way or the other — you either get the bad operators to pay more or the good operators to pay a little less.

MR. CHAIRMAN: As I look at your chart, Mr. Dusseault, I have some further concerns. Your total hours worked from '81 to '82 dropped by 30 per cent.

MR. DUSSEAULT: That is true.

MR. CHAIRMAN: Yet your costs were higher, and you had 10 more lost-time claims.

MR. DUSSEAULT: That is correct, we did. You have to agree that . . .

MR. CHAIRMAN: And your merit rebate held about the same. We have received a lot of submissions that there has been just too much merit rebate paid when there are losses.

MR. DUSSEAULT: That's the $40,000 ceiling too. That $40,000 ceiling, instead of $22,000, came into effect there.

MR. CHAIRMAN: I am looking at the total hours worked in the entire company.

MR. DUSSEAULT: That is correct.

MR. CHAIRMAN: I trust that's not affected by the ceiling.

MR. DUSSEAULT: No, it's not.

MR. CHAIRMAN: And you had about a 30 per cent drop, but you still had 10 lost-time injuries more than in '81. When you look at all the figures, Mr. Murray and Mr. Dusseault, I have some concerns. Cactus got a good rebate. But we have had a lot of representation that there has been too much rebate paid, and you are possibly one that shouldn't have got as big a rebate. I am asking for an explanation of why this has happened.

MR. MURRAY: Mr. Chairman, if we again look toward the bottom, the totals line is averaged over 4.6 years, which is not one year to the other. Everybody has good and bad years, if we can use such a generalization. Over the 4.6 years that this analysis was garnered, 30 per cent of what we paid WCB was paid out to our injured employees. We received 24.6 per cent back. And 45.4 per cent was lost to administration, overhead, special funds, pensions, et cetera.

MR. CHAIRMAN: Share the mutuality of the class.

MR. MURRAY: Yes. But I would say that over that 4.6 years, that is a good, rough average of where our dollars went. Yes, one-third went to our injured employees, but less than one-third came back to us. Our industry average shows as a frequency . . . You say the mutuality of our class. That rates some merit, Mr. Chairman. Again, we are speaking as an individual contractor. We feel that we have a favorable accident experience over the last 4.6 years on your chart, and we feel that there is fairly extensive insurance on our behalf.

MR. CHAIRMAN: Any other questions?

MR. NELSON: Mr. Chairman, I think what you're suggesting, as is Mr. Martin — the information that you have given him is to get the bad actors and look after the good guys, putting it bluntly. Penalize them. If you penalize them too deeply, of course, you're going to put them out of business. I am sure that also has to be a concern.

MR. MURRAY: Mr. Nelson, I might add that we don't think we're infallible. We may also have a bad year. Over almost the last five years, it has been shown that we have had a favorable accident experience. The trophy that I mentioned we won, we have won eight times over the last 19 years. So we have really had a favorable accident experience for the last 19 years. That is not to say that we are infallible, but I think we could stand pat on your assumption.

MR. NELSON: One other question, Mr. Chairman. We have a written submission before us of some activity in the field that, to some degree, would just blow your mind — incidents that may not come to the attention of either the occupational health and safety people, or even to company directors or people of responsibility. I am just wondering what you are doing out there to assist in the safety of the industry, in particular your own drilling rigs, when possibly you have people who are flagrantly doing things they shouldn't do and, by luck or anything else, are not having major accidents?

MR. DUSSEAULT: I'll go along with that. Every industry has the same thing insofar as that goes.

MR. NELSON: Would your industry not be in more of a risky situation in that particular type of activity, considering your rigs are so far from the area where management is able to review what's going on?

MR. DUSSEAULT: It's a contributing factor, yes; no question about that.

MR. CHAIRMAN: Nothing more?

MR. R. MOORE: Just a clarification, Mr. Murray. The Industry Task Force addressed your problem of assessment. Are you satisfied with their recommendation, or have you anything to add to that recommendation?

MR. MURRAY: Again, Mr. Moore, we are supportive of them because we are a contractor under the Canadian Association of Oilwell Drilling Contractors, which was a participant in the Industry Task Force. We are therefore supportive. We are here tonight as an individual contractor.

MR. R. MOORE: I realize that. I mean, it's your basic recommendation to go along the lines of the Industry Task Force in correcting this situation. That's the way I understand

it. You're supportive of it.

MR. CHAIRMAN: In general, the CAODC.

MR. MURRAY: In general.

MR. CHAIRMAN: I want to thank you, gentlemen. I wish you would take some of the comments I made about whoever did your chart. I have some concerns. It's not as good as you possibly thought it was. I just share that you got a good merit rebate. We have been told that the problem is that the formula doesn't seem to work. Yet you still had a significant amount of claims. Bob Buchanan from CAODC would possibly give me a different explanation. Maybe you would like to send this to him or, the next time you meet with the CAODC executive, go through this chart. With an increase in injuries and the cost still there, you still got a good merit rebate.

MR. DUSSEAULT: Your frequency or the number of accidents certainly is important.

MR. CHAIRMAN: That's right.

MR. DUSSEAULT: But it certainly does not dictate what your costs are going to be, what your compensation is going to be to your employees. I'd rather have a 100 frequency and not hurt anyone seriously than have a 10 frequency and have a bunch of people in the hospital.

MR. CHAIRMAN: No, but I am weighing it with a reduction of total man-hours worked by 30 per cent in the previous year. I know there's more to be looked at. It would require looking at the type of accidents you had . . .

MR. DUSSEAULT: That is correct. That's what I mean.

MR. CHAIRMAN: The severity — are there any permanent partial pensions established there?

MR. DUSSEAULT: You can see that in 1981 we had 15 lost-time accidents, and on our behalf the Compensation Board paid $172,233. The very next year, 1982, we had 25 lost-time injuries, and yet it paid out $176,870, which is $4,000 more. So this is what I am pointing out, that the costs . . .

MR. CHAIRMAN: With a higher ceiling.

MR. DUSSEAULT: Yes, that's true enough. The costs are down.

MR. CHAIRMAN: So I am saying that there is more to a chart . . .

MR. DUSSEAULT: Oh, very, very much so.

MR. CHAIRMAN: Okay.

MR. DUSSEAULT: These charts can tell you whatever you really want them to say.

MR. MURRAY: Mr. Chairman, one other point. You mentioned that the man-hours we worked from 1981 to 1982 were quite a bit less, by one-third.

MR. CHAIRMAN: Approximately, yes.

MR. MURRAY: But because the ceiling had gone up, sir, our assessment to the Board was almost the same.

MR. CHAIRMAN: Yes, I appreciate that. The assessment to the Board went up, but the cost didn't go up. It only went up $4,000 in paid-out claims.

MR. DUSSEAULT: That the Compensation Board paid out.

MR. CHAIRMAN: Yes.

MR. MURRAY: On our behalf.

MR. CHAIRMAN: Yes. It's difficult to just take one. I am pointing out to you that your chart has many question marks for us. It's not as easy.

MR. DUSSEAULT: This is very, very true. That is darned near double the lost-time injuries, yet the cost went up very, very insignificantly.

MR. CHAIRMAN: Okay. Thank you very much for coming forward. We will add it to the other industry representations, particularly from the oil drilling industry.

MR. DUSSEAULT: Thank you for giving us the opportunity to make our submission.

MR. CHAIRMAN: Thank you.

MR. MURRAY: And get you back on time.

Energy and Chemical Workers Union

MR. CHAIRMAN: The Energy and Chemical Workers Union, Mr. Ralph Neilson and Mr. Baskins. Mr. Baskins is not here?

MR. NEILSON: No, I'm sorry, Mr. Chairman.

MR. CHAIRMAN: He stood you up.

MR. NEILSON: He's in Vancouver.

MR. CHAIRMAN: Mr. Neilson, before we go into your submission, I would just like to announce that if there is any claimant or small employer who hasn't been scheduled, we would like you to identify yourself to the staff. Regretfully we won't be able to work you in as we did in other hearings in other cities. My staff or the staff of the Board will assist you with your own problems and concerns.

This is a submission that was presented to us just today, in the batch that was on the desk.

MR. THOMPSON: I don't see them on the agenda, Mr. Chairman.

MR. CHAIRMAN: Yes, they are here. You're looking at the old agenda too, Mr. Thompson.

MR. NELSON: It's on the new agenda that was given to you today.

MR. CHAIRMAN: It is getting late, and we'll try to get it on here.
Okay, Ralph.

MR. NEILSON: Thank you, Mr. Chairman. The system of compensation for injured workers has been the subject of intense debate and scrutiny throughout North America in recent years. Criticism and complaints about the system have come from both industry and worker organizations. The degree and intensity of these criticisms have forced governments in many jurisdictions to focus attention on reform of the system. The fact that both employers and workers are unhappy about the workings of the system is indicative of an erosion of the foundation of the existing workers' compensation model both in Alberta and elsewhere.

The present model of workers' compensation arose out of an historic trade-off between employer and employees. Injured employees gave up the right to sue their employers for full compensation in event of injury. In return, they received a guaranteed level of income protection. On the other hand, employers received protection from incidents of periodic, unforeseeable damage awards by means of a relatively cheap insurance scheme. Now, some 65 years later, it would appear that both parties are questioning the wisdom of the trade-off. Workers, seeing developments within the law of tort liability and the size of damage awards, are becoming increasingly impatient with the requirements under the present system that they accept less than full compensation when they are injured. Employers, for their part, are becoming increasingly disillusioned about the cost of the system.

Because both employers and workers feel that the system is not delivering what they expected from it, the proposals put forward by each group go in opposite directions. In the result, the system is in grave danger of being pulled apart. The task before this select committee is to maintain the delicate balance between the two objectives of the system: full compensation at the lowest possible cost. The submissions and recommendations which the select committee will receive and any recommendations which the committee itself may choose to make must all be carefully weighed and considered with this in mind.

Proposals for reform of the Workers' Compensation Act. The Alberta Federation of Labour has made a thorough and comprehensive submission which details the recommendations of the labor movement aimed at bringing the present compensation scheme closer to the goal of full compensation for losses suffered by a worker in the event of occupational injury or disease. Although these proposals fall short of full and complete redress, they nevertheless represent a substantial improvement, and the Energy and Chemical Workers Union supports those recommendations.

Because of the nature of the industry in which the majority of our members are employed, the Energy and Chemical Workers Union has very serious concerns about the manner in which the WCB handles the matter of industrial disease. It is almost universally accepted that the incidence of disablement from industrial disease is at least several times that which would be indicated by compensation data. In his second report on the workers' compensation system in Ontario, entitled Protecting Workers from Disability: Challenges for the Eighties, Paul Weiler, using very conservative assumptions, estimated that only one out of 17 occupational cancer fatalities is recognized by the Ontario board. This injustice is simply intolerable.

The literature on occupational health issues is literally crammed full of reports of

links between occupational exposure and diseases of various kinds. Granted, these reports do not constitute scientific proof of causal connection; however, they do suggest that very serious consideration must be given to the impact of the work place on the health of workers when diseases strike.

As Weiler points out in his report, it is unacceptable, from a compensation perspective, for the WCB to insist upon scientific proof of causality. Even though scientists cannot provide definitive answers to the questions of causality, the absence of those answers is no basis for automatic rejection. As Weiler states on page 39 of his report:

> However, the fact that the scientific evidence is unclear or debatable no more supports the negative than it does the positive conclusion on this issue. In this setting the WCB must frankly recognize that the scientific material leaves the issue unsettled, and that an informed but pragmatic judgment must be made about which way the available evidence seems to point.

In order for the WCB to be in a position to make those judgments, it is the duty of the Board to systematically review the scientific and medical literature and to commission and fund further research, where appropriate, in order to develop presumptive guidelines or, at the very least, a proper information base upon which a fair adjudication of claims can be made.

Once the information is assembled, it must also be disseminated widely so that workers and their physicians will be aware of the Board's policies on industrial disease. The Board has a positive obligation to ensure that the victims of industrial disease receive the compensation to which they are rightfully entitled. Without an aggressive outreach campaign, the wide gap between the incidence of industrial disease and the number of workers who receive compensation will therefore never be bridged. In our submission, the failure of the WCB to recognize this obligation would eventually bring the system into complete disrepute and destroy it. Workers will not continue to support a system which operates in a manner which is deliberately designed to deny them the modest benefits to which they are entitled under the Workers' Compensation Act.

Industry's proposals for reform of Workers' Compensation Act. Because our time is limited, we thought that rather than repeat the recommendations already put forward by the Alberta Federation of Labour submission, we would devote the balance of our time to the submission made by the Industry Task Force on Alberta workers' compensation. As we observed earlier, it is our view that the survival of the workers' compensation scheme is in jeopardy, and this submission is a vivid illustration of why that is so.

The recommendations of the Industry Task Force are virtually all directed at reducing the cost within the system no matter what the consequences to the integrity and credibility of the program. Because of the seriousness with which we view the matter of preservation of the compensation system, we wish to elaborate on some of the implications of the Industry Task Force submission.

Industry's principles of workers' compensation. Industry accuses the workers' compensation system of digressing from its initial mandate; however, no attempt is made to set out what that mandate was or where this digression has occurred. That is unfortunate, because industry's statement of the principle of workers' compensation casts very serious doubt on whether industry truly understands that mandate.

To begin with, although industry's submission purports to recognize in its first principle that workers' compensation is not a social welfare program, the statement in its fourth principle that the program should be designed to prevent undue financial hardship or impoverishment contradicts this. The objective of a social welfare program is the elimination of poverty. That is not the primary objective of an income maintenance plan

such as workers' compensation. An injured worker is not to be viewed as an object of government charity or employer generosity. An injured worker has a right to compensation for losses suffered as a result of occupational injury or disease. That right has been recognized in Alberta since 1918.

It is clear that the intent of industry's recommendations is to convert workers' compensation from an income maintenance plan to a social welfare program. That was unacceptable in 1918 and is even less palatable now, in light of other social welfare programs that are in place. Thus, if employers wish to reduce workers' compensation to the level of a social welfare program and assign workers to the status of welfare recipients, then workers would be better off to take their chances with the tort liability system. This would mean dismantling the present workers' compensation structure, of course.

Secondly, the submission of industry states that the WCB is accountable to employers, because the WCB's funds are provided directly by employers. Industry claims a proprietary interest in the moneys it pays into the system, which presumably gives it the right to determine how and where the funds are distributed. What industry fails to acknowledge, however, is that we all contribute to the accident fund through our purchase of manufactured goods. If it was not for consumers, industry would not have the revenue to put into the system. Thus, industry has no more right to a say in the administration of the funds than any other citizen of this province. If employers wish to have a greater voice in how funds are distributed, then that same right will have to be given to the workers of Alberta who use the system and pay for it with their hard-earned consumer dollars.

Furthermore, the moneys which are paid into workers' compensation are directed to be used for the benefit of injured workers in this province. If the WCB is accountable to anyone, it is to the workers of Alberta who are the beneficiaries of these funds. As long as the funds are being distributed for the purpose for which they are collected, employers have no right to assert control over the administration of the funds. No doubt employers have the right to be concerned about the way the funds are spent. We all have that right, and we may well share those concerns. However, employers do not have any special status or privilege that makes the WCB accountable to them.

It may well be more accurate to argue that industry ought to be held more accountable to the WCB and workers of Alberta for the occupational accident and illness rate which is generating the increased cost within the system. Very little is said in the Industry Task Force submission about what employers are doing to reduce the incidence of accidents and disease in the work place. Surely prevention is the most effective means to cut down workers' compensation expenditures. In fact, it may well be more productive to form a council to scrutinize industrial health and safety programs rather than WCB operations.

It is ironic that industry is so quick to point the finger of blame at the WCB for the $101 million deficit, yet so reluctant to acknowledge its own culpability. To accuse the WCB of mismanagement simply because the system is running a deficit is both unfair and unwarranted. It could be argued with equal vigor that the system is simply underfunded and not generating sufficient revenue to meet the cost of compensating the victims of industrial accidents and disease. Statistics released by the WCB indicate that the total number of compensation days paid increased from $1,255,375 in 1981 to $1,436,341 in 1982. In the first quarter of 1983, total compensation days paid increased to $393,070, compared to $362,128 in the fourth quarter of 1982. In the light of these figures, is it any wonder that costs within the system continue to escalate?

The cost of workers compensation is directly related to the accident and disease rate. If anything is out of control, it is the rate at which workers are being injured and diseased. We would suggest that industry focus its attention and energy on eliminating

the causes of accident and illness rather than putting forward proposals to cut benefits to injured workers and accusing the WCB of financial mismanagement. The only long-term solution to the financial woes of the workers' compensation system is to reduce the number of claims by making the work place safer.

The lone industry recommendation which addresses this issue of prevention, by the way, is a proposal to have the WCB fund industry safety programs. It is more than a little amusing that this proposal comes after the Industry Task Force has just consumed 40 pages complaining about the high level of WCB expenditures. Surely this is a classic case of trying to suck and blow at the same time. The fact that industry safety associations are underfunded merely confirms what was said above, concerning industry's lack of attention and interest in prevention. Considering the importance of prevention and the impact this would have on the cost of workers' compensation, we think industry ought to direct its energy and resources toward convincing employers that more money should be spent on safety rather than seeking handouts from the financially strapped WCB. It goes without saying, however, that if such moneys were to be made available by the WCB, they should be divided equally between industry and worker groups.

Assessment system. Although the Industry Task Force acknowledges the deficiencies of the existing merit rate/superassessment plan, it conveniently fails to make the connection between these deficiencies and the WCB deficit that it is so concerned about. The WCB returned $83 million to Alberta employers under the plan in 1982. This represented an increase of 47 per cent over the previous year and was the second largest expenditure item for 1982. This would certainly suggest that the root cause of the financial problems of the WCB has more to do with the assessment system than the cost of benefits.

As a result of the 1982 experience, there can be little doubt about the desirability of re-examination of the assessment system. If the structure of the present system cannot generate sufficient funds to finance the cost of providing compensation, then changes will have to be made so that it meets the needs of the injured workers. This would have to be the objective if changes are to be recommended.

While we are not opposed to a system of experience rating for individual employers as suggested by the Industry Task Force, this is a highly complex and controversial issue. It is yet to be proven that the merit rating does indeed produce safer work places. It certainly does not seem to have worked with respect to the existing merit rebate/special assessment plan. Because of the administrative costs associated with introducing an individual merit rating scheme, we would recommend that a thorough study be done on the experience of other jurisdictions where it has been tried.

Industry recommendations on compensation benefits and entitlement. As we observed in our comments on the Industry Task Force statement of compensation principles, the intent of industry is to eventually convert the present compensation program into a social welfare program.

The confirmation of this observation can be seen upon examination of the specific recommendations in the Task Force submission dealing with compensation benefits and entitlement. One, reduce the $40,000 ceiling on earnings to an amount equal to the average weekly wage. The use of any ceiling on income is contrary to the principle of full compensation for loss of income. Every worker is entitled to income protection in the event of occupational injury. There is no justification for discrimination against higher paid workers.

Two, revise the regulations to define net earnings based on regular earnings only, and delete the reference to each source of income in section 51(4). Once again, the intent is to deprive the worker of full compensation, because it alleges that the Act goes beyond what is considered reasonable in calculating income. The issue is not what is or is not reasonable; the issue is what is an accurate measure of loss.

Three, reduce the ratio of compensation to net earnings from 90 to "?". The rationale for this proposal is that this 90 per cent figure erodes all incentive to return to work if disabled employees enjoy post-injury benefits which are greater than pre-injury. It is hard to believe that industry is truly serious about this rationale. We find it offensive and insulting to working people to even suggest that an injured worker would deliberately malinger for the sake of a few dollars in taxes. If industry is truly upset about the prospect of workers saving taxes, then we suggest that they take their complaints to the federal government and lobby for changes in the tax laws.

Four, pension indexing should be paid out of the General Revenue Fund. It is now readily apparent to us why the burden of inflationary increases should not be borne by the employers. Indexing is a part of the present scheme and, as long as that is so, it should be paid out of the accident fund.

Five, increase the use of lump sum payments. The purpose of lump sum payments ought not to be finalization of claims. There may be cases where permanent disability is 10 per cent or less, in which a lump sum payment would be advantageous to a claimant. That is not always the case, however. The key to the use of lump sum payments must be in the best interest of the claimant, not the fund.

Six, disallow automatically claims that cannot be charged to specific employers. No explanation for this proposal is given. If the Board determines that a claim has merit, surely there can be no basis for automatic disallowance.

Seven, analyse further the potential cost saving to WCB of removing short-term injuries from coverage in favor of waiting periods and/or employer payments. The battle over imposition of waiting periods was fought long ago and ought not to be rekindled now. The idea of removing short-term injuries may have some merit in theory, but it does lend itself to potential abuse. Thus, although we are not opposed to further study of the issue, the parameters of such a study would have to be broadened to go beyond the cost savings. In this regard we would refer the select committee to the discussion of this issue on pages 105 to 107 of Paul Weiler's first report, entitled Reshaping Workers' Compensation in Ontario.

Access to information. The Industry Task Force submission makes several rather sweeping recommendations concerning access to WCB records and information. Employers have absolutely no right of access to information, much of which may be medical in nature, on individuals who have received compensation benefits. If employers are concerned about the physical fitness of potential employees, they can require a pre-employment medical examination, which is standard practice in many industries in any event. That is the proper way to determine the worker's fitness for employment. The fact that he may have received WCB benefits in the past has absolutely no bearing on his present ability.

Similarly, an employer has no right to confidential medical information which is found in the WCB files of his own employees. If the employer chooses to challenge a WCB decision, then both parties should be entitled to disclosure of the complete file, on the condition that the information cannot be used for any other purpose.

Conclusion. As we stated at the outset, the Energy and Chemical Workers Union feels that the future of workers' compensation is hanging in the balance as the debate over costs heats up. If governments react to the cries of industry to reduce costs by lowering benefits and eliminating eligibility, then the pressure from labor groups to simply abandon the system will mount. That would be an unfortunate but inevitable response to what would be viewed as a repudiation of the historical trade-off which gave birth to the present compensation model. If the recommendations of industry are implemented in the name of economy, workers would have no choice but to look to some other system to achieve justice for their claims.

That is not to say that the select committee can afford to be complacent about the

status quo. There is little doubt that the present system still falls far short of providing full compensation for losses suffered as a result of occupational injury or disease. Workers cannot be expected to support the system indefinitely, so long as the gap remains or becomes larger.

In the result, if the present system is to be maintained or improved, there must be an acknowledgment that the cost of workers' compensation benefits is not an issue of debate. There can never be any debate about the obligation to compensate injured workers. If the cost of fulfilling that obligation is high, that is merely a reflection of the fact that the work place is a dangerous place and that we should be doing everything possible to eliminate the hazards therein. That is the only long-term solution to the cost issue which is fair to all parties.

Thank you very much, Mr. Chairman. I would be happy to answer any questions of the committee with respect to our submission or any other areas of interest that you may have.

MR. CHAIRMAN: Questions or elaborations?

MR. R. MOORE: It's just an assessment of your presentation, Mr. Neilson. I take you are in support of the Alberta Federation of Labour, as you said, and I got an inkling that you rejected the Industry Task Force recommendations.

MR. NEILSON: I'm glad you got that.

MR. R. MOORE: That inkling came through. The one thing that bothered me was one little thing you said at the end. I just forget where it is, but it's in there. You basically said that if any of these benefits were cut, in all likelihood labor would move toward the elimination of the Workers' Compensation Board. You really don't mean that, do you?

MR. NEILSON: I am saying to you . . .

MR. R. MOORE: Or is that just an idle threat?

MR. NEILSON: No, that's not an idle threat.

MR. R. MOORE: Is that something in reality, or is it based on . . .

MR. NEILSON: I think you have to recognize the pressures that we as leaders in the trade union movement are under. Although we can try to lead our membership in the best way possible, there are pressures whenever a system is not working to the benefit of the worker. When we see the settlements that are coming out, for instance in the United States, under tort liability for employers — some we have gone through ourselves in the United States with the Oil, Chemical, and Atomic Workers Union — there is a move among the membership, saying: wouldn't I stand to get a better deal under the court system?

I think the current system has served well, but cutting benefits is digressing from the original deal that was struck between industry and labor. Obviously there is a danger with respect to going to the court systems. The trade union movement could react to that in many different ways. If the benefits are cut, we could negotiate into collective agreements the same kind of benefits as WCB applies. In many cases we already have topping-up features in collective agreements. Certainly the members of the union would not have the same financial support in pursuing court cases. But from the trade union point of view, and certainly from our union's point of view, that's not a fear that we

have, going to the courts. We've been there across North America, and we are not afraid of it.

MR. NELSON: I know time is short, Mr. Chairman, so I just have one quick question. It relates to the first paragraph on page 8 of your submission, Mr. Neilson. You indicate the incidence of accidents, and you push that back to the employer. The unions tend to do this, the employers tend to push it on the workers, and what have you. I would just like to know what your union and your employees are doing to assist management in reducing the same type of accidents.

MR. NEILSON: Through the bargaining process — and it's a sad state of affairs that the unions have to bargain health and safety. It should be a right. That should not be something that we should have to go to the negotiating table with. But through the bargaining process, we as an organization were perhaps ahead of anybody else in terms of full disclosure of chemical hazards in the work place. We had the system in place, through negotiations, before the regulations were changed. Through joint health and safety committees that we have negotiated, we have tried to develop efficient and well-thought-out training programs along with industry. I have to say that a lot of the companies that we deal with are more than happy to co-operate in those efforts; however, there are companies that will fight you every step of the way with respect to implementing even a modicum of health and safety language into a collective agreement.

One of the difficulties with committees is that they have no real authority in terms of the plant but they can make recommendations. When that happens and you make a recommendation to a management committee with respect to a health and safety problem, it becomes a financial decision: it's going to cost us X dollars to correct that situation. So one of the things we are looking at is that health and safety committees in a plant should be given X dollars or a free budget — but certainly an adequate budget — so they can make the determination of where the priorities lie, so we can move towards a safer work place.

I recognize, living in the 20th century, that it isn't going to happen overnight, but the pace that we're at now is certainly too slow. In our bargaining program, every single year when we meet the industry we push for safer and better conditions. We have even suggested that health and safety should be taken over by the union in the particular company that they deal with. Shift the responsibility. We are not afraid of taking the responsibility for health and safety in the plant, but give us the dollars to go along with it, and we will take on the battle.

MR. CHAIRMAN: Mr. Neilson, on that subject, does your union participate — and I am aware that there are some 12 or 13 safety associations in Ontario. Because your union has membership in Ontario, do you participate in one of the safety associations in Ontario? They're not, Keith?

MR. K. SMITH: No, it's an employee organization.

MR. CHAIRMAN: I know, but I am interested in the work force. Is it covered by one of those associations in Ontario?

MR. NEILSON: Not that I am aware of, Mr. Chairman.

MR. K. SMITH: In all likelihood they would be member companies within the Industrial Accident Prevention Association.

MR. CHAIRMAN: The reason I asked that, Mr. Neilson, is that it's an area that you addressed here and referred to on page 9. I wonder if you would give it further attention, because it's a program that Paul Weiler reflects on and makes some strong recommendations on. I am told that there is now, or should be, some participation of union membership in these safety programs.

MR. NEILSON: That may be the case, Mr. Chairman. In terms of the policy of our organization, we have no fear of or objection to participating in — if I can use a quote — "management dominated safety programs". I think it is only through dialogue that you can get change.

MR. CHAIRMAN: If you would just excuse me, I want to finish off. In your submission, on page 9 you are quite critical of the Task Force asking for some program of steady funding. They use Ontario's model. That's why I'm asking whether you are aware of it. If not, we would welcome you to take a look at it, because it has some merit in the fact that in Ontario there is steady funding transferred to these safety associations to provide the educational programs. Then all employers contribute to it because of the method of assessments they have in Ontario. We don't have that mechanism in Alberta. In your comments you were a bit critical of the Task Force. I hope you and Reg will take a look at it again. I am sure that you can come back to me with a further opinion on it. I am not asking you for one now.

MR. NEILSON: All right.

MR. CHAIRMAN: Any others? Thank you very much.

MR. NEILSON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Pass our regards to Mr. Baskins. Tell him that you did well here and that he missed a good evening.

MR. NEILSON: I am sure he's having a good time in the rain.

MR. CHAIRMAN: Thank you.

MR. NEILSON: Thank you.

Canada Farm Labour Pool

MR. CHAIRMAN: Okay, we now have the Canada Farm Labour Pool, John Sawiuk and Gordon Bystrom. You mean Gordon has gone with Mr. Baskins to Vancouver?

MR. SAWIUK: Gordon Bystrom is combining right now.

MR. CHAIRMAN: That's good.

MR. SAWIUK: He's trying to take his crop off.

MR. CHAIRMAN: John, if you would excuse me, just give us a moment here. We have your submission. It's not a lengthy one.

MR. SAWIUK: That's right.

MR. CHAIRMAN: I know that you welcomed the opportunity of doing it this late in the evening, to give you a chance to drive back to Vegreville. You may want to go through it once more and elaborate on it, and then we will have any clarifications or comments that may be required.

MR. SAWIUK: Thank you very much, Mr. Minister, and members of your committee. We are indeed thrilled to have the opportunity to come and speak before you. Something like two years ago, our committee had a mass meeting in Vegreville, asking for some recommendations on how we could give workmen's compensation to farmers in Alberta. From that meeting in Vegreville, it came out very loud and clear that each pool or each group has to be self-supporting. With only some 300 farmers with WCB in the province of Alberta, it came out loud and clear that there is no way that we can get all the farmers involved in the program. At that meeting it was suggested that a special pool be set up for farmers only. This pool is to be subsidized by the provincial government. As much as we hate to see subsidy and things of this nature, that was the feeling of the meeting that was held in our town.

MR. CHAIRMAN: I can see why you held the meeting in Vegreville. You didn't have any city fellows there.

MR. SAWIUK: No, we certainly did have people from Edmonton as well, and we had representation from the WCB.

Anyway, that was the feeling of the group in our town, and we felt that this pool should only be extended to farmers and other groups that would probably fall under the farming occupation. We feel that 7 per cent is very high for farmers to pay, due to the economic conditions and the cost/price squeeze, and that the farmer's share should be left at about 2.5 per cent. This was the major concern that we had at that meeting, and I would like to share it with you. If there are any questions, I would be only too glad to . . .

MR. CHAIRMAN: I must kick it off, John. You and I have talked about it. But have you made any representations to a government department that provides subsidies? Workers' Compensation doesn't provide a subsidy.

MR. SAWIUK: I know. No, we have not asked a government committee or government body to do it.

MR. CHAIRMAN: Like Alberta Agriculture. You haven't asked?

MR. SAWIUK: Right, we never have. We have only shared it with you, and we feel that it's in your hands. If you feel it is in the best interest for us to pursue it with the Agriculture Department, I think we would be only too happy to do so.

MR. CHAIRMAN: No, I'm not going to tell you what to do, John.

MR. SAWIUK: That is the feeling, Mr. Minister.

MR. NELSON: I would love to get in on this one. Mr. Sawiuk, I understand that the farming community is of course one of the last real so-called free-enterprise activities we have that is considerably subsidized. I have a real problem with what you're asking

here. You're suggesting that the general fund of the government pay approximately 4.5 per cent or 5 per cent . . .

MR. CHAIRMAN: Anything over and above 2.5.

MR. NELSON: . . . of the cost of operating a compensation scheme with the farmers. Should we do that with every other employer in the province, to be fair to them too?

MR. SAWIUK: Okay. We felt that possibly we could have a time frame of three or five years, or a time frame whereby — let's get these farmers involved. Maybe this is the incentive. Maybe this is the way we can get them involved. With something like 60,000 farmers in the province of Alberta and only 300 with coverage, what better way than to try to get them involved, try to get them that protection? This is the feeling of the group: let's see if we can get something whereby we can get them interested.

MR. NELSON: So you are asking the taxpayers and other companies or organizations that are paying the full shot to dig into their dollars and subsidize farmers to give them the opportunity for workers to be compensated for injury on the job?

MR. SAWIUK: If you wish their exact short answer, yes.

MR. NELSON: Okay, where is the fairness in that to other organizations that are paying the full shot? If they are paying $5 a hundred now, virtually what you are doing is taxing them and saying: you're going to pay $7, or whatever the case may be, so I can subsidize the farmer's activity down to $2.50. Is that fair?

MR. SAWIUK: Let's put it this way, it is not fair in your tax [inaudible].

MR. NELSON: Is it fair, period?

MR. SAWIUK: The short answer is no.

MR. NELSON: Thank you.

MR. CHAIRMAN: One question that I have to you, John, is: because you are a federal organization, have you any views on the fact that farm coverage is mandatory in other provinces?

MR. SAWIUK: Yes.

MR. CHAIRMAN: Do you see that as the avenue to provide for better coverage, and possibly a lower rate because you will have more participation?

MR. SAWIUK: More people participating, yes. I can see that as an answer, yes.

MR. CHAIRMAN: Johnny Thompson just fell of the chair there.

MR. THOMPSON: I am hanging on to the table with both hands.

MR. NELSON: He's a free-enterprise farmer.

MR. SAWIUK: I wouldn't have anything about compulsion. But the fact of the matter is

that if and when the farm commodities, the products that the farm produces, are fair and equitable or you get a bigger share of the pie, you might say, and when he could foresee getting out of the cost/price squeeze or the economic financial position — I just don't see how they can do it if you come along and say: okay, let's play with the compulsion end of it.

MR. NELSON: I have one further question, if I might. Considering what your last statement was, John, and considering that the prices are really controlled — especially grain prices — by the federal authorities, the grain people, why would you not be going after the federal government to subsidize you rather than the province, which has really no control on the cost of the produce that is obtained by the farmer?

MR. SAWIUK: That may very well be the alternative. I am just sharing with you some of the comments that people share with me and where we stand. Basically, this is where we are.

MR. NELSON: Maybe one other thought here, too. If all the farmers were to jump onto the program, possibly the $7.15 rate, as quoted here, would not be a rate that would be charged. There may be some reason to drop that level. I am sure that Al or John here could ascertain that. If that is not the case, then obviously there may be some lack of safety programs on the farm for workers, and you are asking the public or other people involved with WCB to subsidize that lack of safety programs.

MR. SAWIUK: It may very well be, but the fact is that we have been tossing the various angles on how we get the farmers involved. What incentive — what is it that we can do?

MR. CHAIRMAN: You didn't try a pitchfork on them, did you?

MR. SAWIUK: No. We are sharing with you some of the comments so maybe we can get them interested.

MR. NELSON: Bale them up and bring them in.

DR. BUCK: I would just like to address this question to some of our support staff. We had a go-around on this four years ago. What would happen if we had 60,000 people involved, if this government had to guts to say, tomorrow all farmers will have to join?

MR. NELSON: Like yours didn't?

MR. RUNCK: There have been comments and assumptions . . .

DR. BUCK: At least we didn't keep blaming Ottawa for everything.

MR. RUNCK: Excuse me, Dr. Buck. There have been assumptions made to the effect that if you brought 60,000 people under, the rate would automatically decrease. When I was working with rates and so on, I have long taken the position that this may not in fact be the case, because the rate which exists today may reflect the true experience level of farming in general. If that's the case, if you bring them all under it won't make any difference. You would simply have to find some way to reduce their accident situation. I know there has been a great deal of study done on farm safety and farm accidents. For example, Solomon Kyeremanteng here worked on it for I don't know how long, but the solution has really never come up. I don't think there would be much benefit.

DR. BUCK: Can you just give me a figure in dollars and cents? If a farmer has, say, two full-time employees, how many dollars would it cost him?

MR. RUNCK: Barney, could you give us a quick answer?

MR. ASHMORE: The rate is $7.15. So let's just say that these people were capable of making $10,000 each per year — I don't know, let's just use that figure.

DR. BUCK: Okay, right.

MR. RUNCK: That would be $20,000 times $7.15, which is $1,430.

DR. BUCK: $1,400 a year, $700 an employee.

MR. R. MOORE: John, when you look at $7.15 — you have a problem with safety out there. Your accidents are high to have that rate.

MR. SAWIUK: Basically the accidents are probably where the farmers are utilizing the system. Those fellows who are prone to accidents, who have a lot of employees, are the fellows who are utilizing the system. The other fellows are probably self-employed, maybe one employee, and are not under the system.

MR. R. MOORE: What are you doing on the safety end of it? Do you do any safety education with them?

MR. SAWIUK: The Department of Agriculture brings out a safety program.

MR. R. MOORE: What is the reaction of the farmers? Are they participating, or is it just another government program?

MR. SAWIUK: No, even in our town, Solomon and a few others were out there, through the Farm Labour Pool. Farmers with new employees coming on the farm participate, especially in the green certificate program. They participate in the program. There is a certain amount of participation in the safety programs in the country.

MR. R. MOORE: They realize they have a problem, yet they aren't doing much about it to protect their workers.

MR. SAWIUK: You are really right on that. The fact of the matter is they feel that a penny earned is a penny — whatever you want to call it. But they just can't afford it.

MR. R. MOORE: I just thought they generally didn't feel that they had a problem and, by the rate, it's very evident that they have.

DR. BUCK: Can I just finish up on that rate thing?

MR. CHAIRMAN: Walt, go ahead.

DR. BUCK: Just on the rate question, we covered the one where the farmer has two full-time employees. How about casual labor, if he just has somebody come in? If a person wanted to, how would he cover that?

MR. ASHMORE: In exactly the same manner. Farming is a voluntary account. In other words, they must make an application to come under. Once they come under, this covers any worker they would have, whether full-time, casual, or otherwise. The rating would be $7.15 times $50, $200, or whatever the case may be.

MR. CHAIRMAN: Whatever they apply for.

MR. MARTIN: It seems to me you are indicating — you are certainly one of the few farmers I know who is a believer in workers' compensation. That's part of the problem. It's political. Is there not a fear, maybe somebody can tell me . . . I am sure you have heard that the whole reason we have workers' compensation is that once you're in, you can't be sued. That was the purpose of it. Are farmers not worried if they have a casual person at some point, or are they just saying: them's the breaks; we'll deal with it then. Doesn't it cross their mind that even the $1,400 — if we can use that — might save their farm in the future?

MR. SAWIUK: I wouldn't even hesitate to say the fact is that that is a saving to them. As small as it is, it is a saving. No doubt about it, they're hoping that no casualties occur. They're hoping they are not sued by their employees. They go from there on. It's just that simple.

MR. MARTIN: Do you think they're realistic in this, or are they just hoping against hope? Have they really sat down and thought about what could happen to them?

MR. SAWIUK: Realistic or not, they are hoping that they will not fall into the trap of an accident, or that one of the employees fall into an accident, because they just . . . You probably are aware of the exact amount of farm closures and things of this nature, and they are the last group that cannot pass their price of the product on. You know, other industries can push the product or cost on to someone else. The farmer just doesn't have any. If he doesn't make it, if he doesn't grow it, he doesn't have it. They have no way of passing the costs on to somebody else. Simple as it may sound, the fact is that they don't take coverage, because it's an additional expense. Hereby we feel that okay, maybe some way let's have an incentive — let's give them that protection, let's see if maybe they will get accustomed to the idea that they will have protection that they will never be sued, as one of the items.

MR. CHAIRMAN: John Thompson, you had a statement to make?

MR. THOMPSON: Well, the last 15 years I've farmed, I've carried workers' compensation. I think it's a good program. You want to know what incentive you need to get people interested. You need about half a dozen $400,000 lawsuits, and you'd get a lot of people interested in workers' compensation. I think that is basically how it's going to happen. As long as any industry — and don't just look at the farmers — can get away without getting taken to court . . . I think that's coming just like the sun's coming up in the morning. You can see that our society is getting to the point that we are getting like the Americans: we sue at a moment's notice. When that starts happening with farm help, you'll find people clamoring to get under the protection of workers' compensation. But until that happens, I think you're whistling in the dark with this type of thing. That's my honest opinion.

MR. SAWIUK: I am very aware of it, and I agree with the fact that people that are using

it are realistic. They realize the benefits, and they're the ones that are participating in the program right now, basically because they have been exposed to the benefits. Some of the fellows that haven't had the exposure can't afford it, and they're hoping that they will never have a lawsuit against them.

MR. THOMPSON: The real benefit for a farmer is not for the fellow on the dairy that has a person hired on a year-round basis; he can always get his other little accident and sickness. It's for the person with the casual help that's moving in there for two or three weeks in the spring or the fall. I know they do make an awful lot of effort to try to get this through to people. It's the fellow you hire to drive your truck during harvest time that you'd better be worried about getting his hand in an auger.

MR. SAWIUK: Or his feet.

MR. THOMPSON: Or his feet, or whatever.

MR. CHAIRMAN: Thanks, John. Thanks for coming out and doing your thing tonight. I hope your colleague gets his combining done.

MR. SAWIUK: I'll be going at it tomorrow.

MR. CHAIRMAN: You're going to go at it tomorrow. Okay, thank you very much.

MR. SAWIUK: Thank you very much. It was a pleasure to come down.

MR. CHAIRMAN: Very well, we'll adjourn till tomorrow at 9 a.m., Genstar Corporation. We can leave the stuff here?

UNIDENTIFIED SPEAKER: Mr. Chairman, could I talk for a second? I've tried every other channel in Alberta, and I can't get any response.

MR. CHAIRMAN: You've given us your copy. I haven't had a chance to look at it. I really must say I've asked all evening. It's just not fair to these people who have been sitting here all day.

UNIDENTIFIED SPEAKER: A year and a half ago you had my other copy, and you gave it to CAODC. I'm here today, and I've never heard any recommendation made.

MR. CHAIRMAN: No recommendation on what?

UNIDENTIFIED SPEAKER: On the safety procedures.

MR. CHAIRMAN: Well, no. But we've distributed that to the members of the committee, and it will be looked at. But in fairness at this time, we couldn't adjust it to have you make the presentation. Okay? I apologize, but I must use my prerogative and say not at this time.

UNIDENTIFIED SPEAKER: Not tomorrow either?

MR. CHAIRMAN: Oh, possibly at the end of the day. Let's take a look at it.

UNIDENTIFIED SPEAKER: The end of tomorrow.

MR. CHAIRMAN: If you check with my secretary tomorrow morning, we'll let you know.

UNIDENTIFIED SPEAKER: Thank you.

MR. CHAIRMAN: Okay.

[The meeting adjourned at 9:25 p.m.]