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

MR. CHAIRMAN: Good morning, ladies and gentlemen. Some of our colleagues are delayed, but we will press on with the hearings.

If there are any claimants, workers, or employers who have not been scheduled to appear before the committee, we would ask them to introduce themselves to the staff here on my right during the break and in between presentations, and we will do our utmost to resolve their concerns. As I mentioned, in our previous hearings we had enough spare time to permit individuals to make presentations, but the day is fairly heavily scheduled and would not give us that flexibility. So if there are any individuals or employers who have not been scheduled, please come forward.

The first group is the United Steelworkers of America.

United Steelworkers of America

MR. CHAIRMAN: Mr. Oakes, you are going to be the lead-off pitcher, as in the world series now. Or what do you do in cricket? I don't know.

MR. OAKES: Opening bowler.

Good morning, Mr. Chairman and members of the select committee. You have received our brief on the Workers' Compensation Act and heard our submission in Grande Prairie. We would like to take this time to reconfirm our position with regard to workers' compensation and generalize some of our other concerns. We would also like at this time to state that we fully support the submission made by the Alberta Federation of Labour to the select committee.

With regard to workers' accidents, our union believes that the ideal situation would be to have an accident-free environment. Our union has spent many hours negotiating health and safety clauses and has achieved what we consider to be one of the better health and safety protection clauses in existence today in Alberta. We would be pleased to answer any questions on this.

Our brief was presented to the select committee with the intention of trying to describe specific problems we have encountered with the Workers' Compensation Act. Some of these include the availability of light duty work when a worker is not totally disabled and does not receive compensation. This means that if a workman is injured, receives compensation, and then returns to light duty work but is told there is none, the worker is suspended from compensation payments.

Two, we believe the workmen should receive 100 per cent of their wages if injured on the job. We agree with Mr. Thompson that 90 per cent of 100 is less than 100.

Three, lump sum payments. Our position is that if a worker receives a pension above 10 per cent, this indicates that the worker's injury is of such a nature that it could cause required ongoing treatment and evaluation. Our concern is that in the future, this could be the Board's divorce from the worker.

Four, as Mr. Diachuk is well aware, our local union has been actively involved in health and safety legislation changes, changes to the Coal Mines Safety Act, and the Stephenson inquiry. We made submissions on coal dust in the environment, and, on behalf of the workers, we have also participated on a number of government committees, panels, and boards. During these hearings, we have heard some industries indicate that they want want a lopsided number of Board members. Our belief is that the Board must

have an equal number of members from each area, industry and labor.

This concludes our remarks, and we are now open to questions and/or clarification for the select committee.

MR. CHAIRMAN: Thank you, Phil. I guess you got John Thompson's attention. John.

MR. THOMPSON: Mr. Chairman, I guess I got theirs too. I'd like to go over to the part on page 3 of your brief, regarding light duties that says:

> Our main concern is that it would not be abused and turned into a walking wounded programme or a way of covering up unsafe situations. It would have to encompass 5 parties (Doctor, employer, employee, union and the Board) . . .

Mr. Oakes, possibly you could explain to me why the union would be involved.

MR. OAKES: Yes, I think there are two things. I am sure you are familiar with the light duty system. We work in an industry that is probably one of the most dangerous industries: coal mining. I have seen people who have to work in the mine with broken legs, legs in plaster, supposedly doing light duties. I think the union has to be involved.

The other problem is that when the doctor gives the workman a light duty slip, the doctor is then finished with him. He goes to work, and he could subsequently be placed in a job that is not suitable to the injury. Those are the areas of concern. They might try to give him a light duty job but with no proper supervision, and he could be doing work that would further injure the worker.

MR. THOMPSON: I understand that part, and I can see why you have to have a certain amount of agreement between the worker, your doctor, and the employer, basically if the worker feels that he can't do it. But where the union and the Board come in, I have kind of a problem there, because . . .

MR. OAKES: What — sorry.

MR. THOMPSON: Go ahead.

MR. OAKES: What we believe is that the Board should initiate the policy. I don't think there is anything wrong with the Board meeting with the doctors and industry and devising a policy. I think that's what we're trying to get at — let's have a policy on this.

MR. CHAIRMAN: That's the Board, and the policy is that the union would be there at any time . . .

MR. OAKES: To represent the workers.

MR. CHAIRMAN: . . . because the union represents the worker whether or not he is disabled.

MR. OAKES: Right.

MR. CHAIRMAN: That would still be there. But the first three — the employer, the worker, and the doctor — you would like to see in place and involved in the return to light duty.

MR. OAKES: At one time, Mr. Diachuk, we were approached by the Board, and it didn't

ever come to light. But they were talking about having meetings with the union and the medical people on the very issue of light duties, because there were some concerns that people were doing light duties — and they were lighter than their normal duties, but they weren't doing them any good.

MRS. FYFE: Just along this same line of questioning, yesterday we had some submissions from the occupational health nursing people. They suggested that in a situation such as this, particularly in an area where there is a larger industry and an obvious danger or hazard could exist in the work place, an occupational heath nurse could assist a worker, working with the worker and management, in determining light duty that would be suitable. Have you had any experience with the occupational health nurses?

MR. OAKES: No, I haven't had any experience with them.

MRS. FYFE: Do you think it would be helpful in this area of assisting the worker to find work that would not be further injurious to his condition?

MR. OAKES: I think if you had an industrial nurse on-site, it might help.

MRS. FYFE: That's on-site.

MR. CHAIRMAN: That's on-site. The occupational health nurse — as you call it, the industrial nurse.

MR. OAKES: Yes.

MR. CHAIRMAN: Ray Martin, and I mean this Ray Martin.

MR. MARTIN (United Steelworkers of America): Thank you.

MR. MARTIN (Committee member): I am tempted to ask a question of Ray Martin, but knowing Phil, I will ask the question of him.

It comes back to the lump sum payouts. This is one that I am having some difficulty with. I know that you were here, Phil, when the Federation of Labour gave its presentation. You said 10 per cent or less in your brief. We have had other unions and workers that have suggested that they would like to have that choice. I am grappling with this, why we should not give the worker a choice. I know the argument is that the worker may go out and spend it on booze or something, and then have nothing. But surely we have to give the workmen some credit. There are examples where I have been told by workers that they get $70 or $100 a month — what's that? If they had a lump sum payout, they could have gone back to school, they could have started a small business, they could have done some things that would have been much more worth while, getting a little bit of money on the payout. Why 10 per cent? I guess that's what I'm asking.

MR. OAKES: Firstly, I think 10 per cent would probably be the $1,700 a month thing. We have no real problem with that, because we feel that the nature of that injury would be of such that it would be minimal. When we get over 10 per cent, we are concerned mainly with the ongoing problem. Once the worker has the lump sum payment, if his injury deteriorates during that time and he has already had the payment, what happens to him? We know at present that he can go back and ask for a reassessment. We are wondering whether at some time in the future that could be gone. Our main concern is really the protection of the guy after he has received that payment. What happens to

him in the future? That's the concern.

I did one from the Northwest Territories, I think in the region of a $60,000 settlement or something. At that time the Board was very reluctant to let the worker have the $60,000. The argument we used then — although I disagreed with the worker at the time, I argued for him — was that he was wanting to buy a house and the mortgage payments were that high at the time that it was going to be of benefit to the worker. But our real concern is if there is a deterioration in his condition.

MR. MARTIN: I understand the concern. I guess at some point I have some faith that the worker will be able to make the best decision for himself. I know it is a difficult one. But when they get a lump sum payment, it is not my understanding that if something deteriorated — I don't think even in the Industry Task Force. Let's take a figure, if it was 30 per cent and it went to 50, they wouldn't be eligible for 20 per cent more assessment. I understand the concern, but I have had workers who were injured tell me that it would have been much better if they could have gone back to school and retrained or something, if they had had a lump sum. One worker that I am dealing with gets $70 a month. He said: that's useless, really.

MR. OAKES: That's why we say 10 per cent or over.

We had one particular case, he was injured by a mining cable and damaged his leg. He received a lump sum payment. We weren't really involved with that. He did this settlement on his own. I have been back to the Board with him since, and he is now on some sort of disability pension again. But his disability pension is from the first time that he was injured. The money that he got . . . I agree that a guy should be able to make his own decision; I have no arguments with that. But the money is gone, and he is on a sort of megadisability now. There is probably no way around it. I don't know. His leg is continually getting worse. The last time we were in to see the Board doctors, there was another deterioration.

MR. CHAIRMAN: Any other questions?

MR. R. MOORE: Mr. Oakes, on the light duties again, this is an area of concern to all of us, getting the worker back in the productive area. The worker is just as concerned as anyone else to get back in a productive role. I find that there are problems. You can go to light duties, and I appreciate what you say about the risk of his going into an area where he's not trained and so on. But the other thing is the difficulty we find in a man coming back — he can't go back into his role — and going into some other area. When you say you believe five groups are involved — the doctor, employer, employee, union, and so on — I think there are. Those five people have a concern for that worker. If they have a genuine concern to get him back and productive, from time to time they run into roadblocks in getting him back in there.

One of them that has come to my attention, in a lot of areas, not only . . . There are other roadblocks too. But this concerns the union, and you are here before us this morning, and I would like to have your opinion on it. What is the feeling of your union? How do you work in this area? A man comes back, and he's ready to go on light duty. You have the seniority question that comes up very, very big and that stops the man from getting in. The only thing is that on every site — I shouldn't say every site, but on a lot of sights there are three and four unions. There is one employer, but there are three unions involved. What is the co-operation between those three unions to get that man back in, if we are all concerned about the welfare of the worker?

MR. OAKES: I can't speak about a site with three unions, because we don't have that

problem. But we have negotiated a clause in our agreement that specifically allows the person who is injured to return to light duties without job posting or anything. He is promoted to that job. We have dealt with it that way. So the other guys can't come and say that that job should have been posted. If the person is injured or suffering ill health through the industry, he is changed through the collective agreement. We've made provisions for that. I agree with you. We are not against the concept of light duties, because you have to rehabilitate workers. We're not against that concept, and we have made provisions in the agreement for that.

MR. CHAIRMAN: On the area of automatic assumption — and I appreciate the fact that we have a rather no-fault concept of workers' compensation. Do you really feel that the employer should be compensating a worker for his life style? A good example which always crops up is pneumoconiosis. Scientists and physicians indicate, gentlemen, that smoking is not only an additive but has a compounding effect on the health of the worker. I know that automatic assumption with a minimum of 15 years is easy to propose. The difficulty is that if the life style of the worker is very evident, should the employer be compensating a worker for full disability?

MR. OAKES: I understand what you're talking about, smoking and whatever.

MR. CHAIRMAN: Smoking and good Scotch.

MR. OAKES: Thanks very much.

I appreciate what you are saying, Mr. Diachuk. There are two things. First, the guy spends most of his working life in a dusty environment, whether he smokes or not. I think the Kaegi report — and I am sure you are aware of the Kaegi report — indicated that quite a large number of people working in the coal mine or in a dusty environment didn't smoke, didn't drink, were God-fearing people, but they still got pneumoconiosis.

MR. CHAIRMAN: You believe that there is still enough in there. What would happen if we moved in that direction, and employers then said that only non-smokers and non-drinkers are eligible to work?

MR. OAKES: You're getting discriminatory. I don't know.

MR. CHAIRMAN: Think about it, because I think we have to approach it a bit on the health education. I know your union is involved in continuously educating your membership about the health effects.

MR. OAKES: Sir, you were up at the mine, and you know the dusty environment. The argument against getting rid of the dust is cost, and the worker pays for it both ways. If we can't afford to put a fan in or whatever, then we can't afford to pay them compensation.

MR. CHAIRMAN: Under your workers' advocate, how well are the claims advisers serving Grande Cache? I have often thought that it should be non-union workers who need a workers' advocate. That would take your job away, Phil.

MR. OAKES: Yes, I'm the claims adviser at Grande Cache. I think they come in every three or four months. The trouble with the claims adviser — I think he answers specific questions. The guy asks him the question, and he gives him an answer. But I don't think they elaborate too much. I think the union steward or the union representative goes into

it in more detail. That's probably one of the areas we should be looking at it, that the claims adviser expands on the Act or whatever.

MR. CHAIRMAN: Anything else from the committee?

I want to thank you for the presentation, gentlemen, and for coming forward. I appreciated your comment about your involvement in the legislation and the regulations that are before us. Thank you for the co-operation.

MR. OAKES: Could I just say one thing, Mr. Diachuk?

MR. CHAIRMAN: Yes.

MR. OAKES: The point I was trying to raise there, sir, was that we are involved in all these committees anyway, and we feel that there should be equal representation on the Board. That was the point I was trying to make.

MR. CHAIRMAN: On the Board, yes. Very well, thank you very much.

MR. OAKES: Okay. Thanks very much for your time.

MR. CHAIRMAN: Would the International Association of Heat and Frost Insulators and Asbestos Workers come forward?

**International Association of
Heat and Frost Insulators and Asbestos Workers**

MR. CHAIRMAN: Okay, gentlemen, we have your brief before us. Possibly you would indicate who is the lead-off pitcher here and make some additional presentation. Approximately a half-hour is allotted for this, with the hope that we will have some opportunity to clarify any points or questions that the members have. Who is going to kick off?

MR. SPRING: I would like to kick it off.

MR. CHAIRMAN: Mr. Spring.

MR. SPRING: Yes. I am the health and safety representative for the insulators union. I would like to say good morning to the committee, and then I will make my introductions. On either side of me here are the representatives from the southern area of the province, health and safety representative, Pat Tilley, and the business manager of the local down there, Tom Chappel; from the international, we have Norm Pon, at the end of the table; next to him, Gordon Butler, the business agent from the northern area; and the business manager of the Edmonton northern area, Lee Vollrath. I will just read through the entire presentation; then hopefully we can address any questions that would come from the committee.

Again, thank you for the opportunity, through your request for submissions, to address principles and problems that we feel are related to the Workers' Compensation Act and the Occupational Health and Safety Act. Further to my letter of August 16, 1983, please find attached three submissions which I would like to present at the October 5 and 7 hearings. Our organization is quite satisfied with the regulations as a whole, but there are of course a number of them which relate to issues of a touchy nature, and we

realize that they cannot always provide every party complete satisfaction.

Having looked at WCB/OH&S legislation in other provinces, we feel that our current government has made at least a comparable effort towards insuring a safe and health work place environment. It is our understanding that many of the submissions which will be and have been received by now by the select committee could be aimed at reducing the quality and effectiveness of regulations which have been and will be of key importance toward continuing to try to ensure a safe and healthy work place. It is our feeling that, in part, the current economic situation will have had something to do with why these submissions might be made.

Within the construction industry, there exists a struggle by union contractors as they attempt to maintain a safe, healthy work place and, at the same time, compete with non-union contractors. These non-union contractors do not have to contend with organized labor, and it is our opinion that all too often they have had work done in an unsafe and unhealthy fashion, whereby they gain an unfair cost advantage over the union contractor. So that the Occupational Health and Safety Act and the Workers' Compensation Act may remain effective, and to eliminate this unfair cost advantage, it is our belief that more emphasis should be directed toward enforcing regulations in the non-union work places.

Our first submission is with regard to criteria used in evaluating and setting disability pensions for occupationally related respiratory diseases. To date, there have been a number of claims put in for respiratory disease allegedly caused by work place exposures to toxic dusts and/or chemicals.

Having considered a work history — possible outside non-work related influences which could have caused a health problem — and after examination by an independent board of chest examiners, one of the following decisions is generally made with regard to the claim: (a) the worker has no respiratory disability and will receive no pension award; (b) the worker has a partial respiratory disability, but it is not considered as a result of his employment, and no pension will be awarded; (c) the worker has a partial respiratory disability, and it is considered as a result of his employment, but the disability is not considered enough to limit them from continuing at work or enough to warrant a partial disability award; (d) the worker has a partial respiratory disability, and it is considered as a result of his employment, but it is not enough to warrant a partial disability pension award; (e) the worker has a total respiratory disability but not considered as a result of his employment, and no pension is awarded; (f) the worker has a total respiratory disability, considered as a result of his employment, and a total disability pension is awarded.

A respiratory disease caused by employment can progress through a number of stages, starting with such symptoms as bronchial difficulty, increased susceptibility to colds or other lung infections, sensitivity to dusts or other specific materials, new allergies, et cetera. Over a number of years the respiratory disease may develop to where a worker begins to experience difficulty when doing some activities which are otherwise normal. Eventually it may develop to where they are completely bedridden or next to it. Terminal cancers are very possible and common within these groups. I would like to point out that asbestos victims are especially susceptible to those cancers.

With some occupational respiratory diseases, it appears that to date there are limited means of controlling the advancing stages. It is generally advised that the affected worker should refrain from smoking because of its additive effect to a respiratory disease. It is also generally advised that the affected worker not expose himself further to the toxic dust and/or chemical which caused his initial symptoms or to other known respiratory affecting agents.

It is noted by the heat and frost insulators and asbestos workers' union that few of its senior member workers are receiving partial or total disability, yet the toxic asbestos

dust many of them were exposed to over a period of many years is one of the most documented proven causes of respiratory disease known to industry.

The insulators who have made claims generally have that claim put in category (c) mentioned prior.

> The worker has a partial respiratory disability and it is considered as a result of their employment. However, the disability is not enough to limit them from continuing at work, or enough to warrant a partial disability [pension].

The insulators union feels that certain factors have been overlooked when determining whether, or to what extent, an insulator is disabled.

Either current work procedures and conditions in their work place should be changed, if possible, to facilitate their respiratory condition, or compensation should be made available, for the following reasons. Those workers who are experiencing notable asbestosis effects are advised that they shouldn't smoke. Yet on most jobsites where they are designated to eat lunch and have coffee breaks, there is little to no ventilation which would remove smoke generated by other workers. They have to accept this or quit their job. Those workers who are experiencing notable asbestosis effects are advised that they shouldn't further expose themselves to asbestos dust. Until recently it has been pretty much taken for granted that substitute materials in place of asbestos were of a non-toxic nature. Now some of those substitute materials are known to have potential for causing health effects similar to asbestos.

Workers with no respiratory disease have the option of wearing a dust mask. Those workers whose lung functions are already affected find it difficult and nearly impossible to wear one. In effect, workers who have asbestosis and have been awarded no benefits have no choice but to further expose themselves to the very two things which they have been told they shouldn't be exposed to. Because of the latency period before asbestosis affects a worker, they are usually at an age where the WCB finds it is not feasible to retrain them. It is therefore difficult to find them acceptable alternative employment, even when a moderate supplement wage is offered. The WCB rehabilitation department seems unable to come up with a viable solution to this problem.

Over the past year the insulation union has had 72 senior members take an extensive pulmonary function test. Preliminary results indicate that of that group, only four have a normal lung. The results of the rest range from slight, moderate, to what could be considered severe symptoms. None of these workers are drawing WCB benefits. I'd like to make a definition of what we consider a senior member; that is, those members with 15 years' or more trade experience. Use of asbestos was discontinued in the early 1970s, so those workers with more than 15 years' trade experience would have had at least a few years of asbestos exposure and a latency period whereby they were affected.

The union assumes that the majority of that high percentage of workers with abnormal lung functions was caused as a result of asbestos exposure. It is certainly agreed that such habits as cigarette smoking would have had a contributing effect, but it is noted that in other occupations where there were no exposures to toxic dusts and/or chemicals, there would be few groups with as high a rate and range of respiratory disease as within the insulators union, given the same smoking history.

These symptoms which insulators are experiencing should be compensated to their various degrees in accordance with the range of symptoms. To date the majority of the claims put in by insulators are only awarded benefits if there is total disability. The union suspects that since this is the procedure used when dealing with asbestos-related claims, then it is even more probable that workers who are affected by less proven and documented toxic dusts and/or chemicals would find it even more difficult to gain WCB partial disability benefits. If it is determined and acknowledged that a worker has a progressive respiratory disease caused by his employment, then there should be a system

by which he is given a partial disability in accordance with the degree of that disability. Then if there is potential that the condition might worsen by continuing at work, WCB rehabilitation could try to find him other employment through supplementing wages, et cetera. It is our contention that inadequate means of compensation are available to insulators, and probably workers from other occupations, for work-related respiratory disease. Diseases such as asbestosis do not seem to be given the same attention and consideration as they are in other parts of Canada or the United States.

Total disability caused by respiratory disease. Of the number of claims for respiratory disease forwarded by insulators which have been processed and awarded total or partial disability benefits, in the majority of instances it has taken an exceptionally long period of time before the affected worker has received those benefits. This period of waiting has in many instances been the cause of additional hardship on an affected worker and, in turn, on his family. Once the worker has forwarded an employee report, it seems there is very little communication between the WCB and themselves.

Investigating and establishing a work history can probably be a very time-consuming procedure. The insulator union feels that many gray areas insofar as processing a work history could be dealt with and resolved much more quickly if the affected worker were involved directly. In most cases, if they are totally disabled they would only be too glad to assist in any way they could during an investigation and are usually very accessible. In any event, it would probably be less disconcerting to the affected workers if they were at least kept posted on the status of their claims. In the past and currently, claimants have pretty much been kept in the dark until given a final decision by the Board as to whether their claim is compensable. There may have been a problem obtaining medical information, employment verification, or other information pertinent to their claim, which they're oblivious of and maybe could have been capable of assisting with.

With regard to total or partial disability caused by a heart condition which is related to a respiratory condition, the insulator union has been given the impression that the WCB is reluctant to relate a heart condition to a worker's respiratory disease which was caused by exposure to dust. Consider a situation where there is a diagnosed respiratory disease caused by a worker's employment. If that worker suffers a heart attack which renders him totally disabled, the insulators' union feels that the worker should be entitled to WCB benefits, for the following reasons. The respiratory condition he was experiencing would have at least contributed to the cause of his heart condition. Physically, the heart pumps blood through the lung in order to pick up oxygen. The blood then returns to the heart and is pumped through the rest of the body, where oxygen is released. When the lungs are scarred, the heart has to pump that much harder, sometimes so hard that it fails. When the lungs are scarred, not enough oxygen enters the blood, so the blood that goes to the heart itself doesn't have enough oxygen. Instead of being maybe 95 per cent saturated with oxygen, it might only be 70 per cent saturated. It has to do more work at the time it is receiving less oxygen. If a worker has ordinary coronary disease, he has even greater trouble. There is a name for this disease, corpulmonale, heart disease caused by the lung. Mentally and psychologically, they are affected through the stress associated when a worker knows he has a respiratory disease which can progressively worsen.

Our second submission is with regard to medical surveillance of workers exposed to toxic dusts and/or chemicals, to determine if control measures currently in effect are adequate. Methods of control are required in various work places to lessen both the number of accidents and latent types of health effects. These work places where latent types of health effects might appear should be identified through epidemiological studies, using medical surveillance of workers. Occupations already known and recognized as at risk in the past should be given further priority.

Where there are known toxic dusts and/or chemicals in a work place and where there

is the possibility that these toxic substances may pose a health hazard to workers over a period of time, there should be a regulatory system by which medical monitoring and surveillance can be a means of evaluating existing safety preventive control measures. Where there are suspect toxic dusts and/or chemicals in a work place and where there is a possibility that these suspect toxic substances may pose a health hazard to workers over a period of time, there should be a regulatory system by which medical monitoring and surveillance can be a means of deciding whether existing safety preventive control measures are necessary.

Further, where workers of a specific occupation have in the past been put at risk because of using toxic material and where that occupation has used substitute materials as a control measure, medical monitoring should be continued for a reasonable period of time to ensure the effectiveness of that control measure, unless it is certain these substitute materials are safe. In this way, hopefully an epidemiological study could detect the need for additional control measures early, so new workers in that occupation would be spared the same risk and past workers wouldn't be put at further risk.

A prime example of the need for medical monitoring after substitution are workers in the insulation industry. It took many years of asbestos exposure before the health effects associated with using asbestos were acknowledged to the point where new control measures in the early 1970s made it so that it wasn't feasible to use that material any longer. Instead, contractors began using substitute materials, including many different types of man-made fibres and free silica.

Some of these substitute materials have since become suspect themselves, and the insulators' union feels that additional control measures are necessary. To date, efforts to ensure additional control measures have stalled because employers seem less than convinced that there is a need for additional control measures. The worker's last means of being sure that these materials are safe to work with using current work procedures was to ask for continued medical monitoring. Unfortunately that medical monitoring has been discontinued before any conclusions could be drawn. To compound the problem, contractors have also refused to accept the responsibility of paying for the cost of medical monitoring for those workers who have had many years of asbestos exposure.

When I made this brief, the contractors as of November 1982 refused to pay for medical monitoring of insulators who used asbestos as early as the 1950s. We've had a series of meetings until recently, and on Wednesday the contractors finally agreed to pay for the cost of the insulators that used asbestos as far back as that date and up to 1976. This is a recent thing we've been able to gain some success on. With no regulatory means of ensuring that employers be responsible to see that these tests are given, the process of determining that a health risk is present is that much longer and finally comes when it is too late. A typical example is asbestos workers.

Our third submission is with regard to joint worksite health and safety committees. Should there be legislation making them mandatory or should they continue to be set up on a voluntary basis? Joint worksite health and safety committees are needed to bridge the communication gaps at many work places. In the past much of industry recognized the accident preventive potential of such committees but to date have been reluctant to agree with the concept of mandatory legislation. For the longest time joint worksite health and safety committees were left to be set up on a voluntary basis, and employers were encouraged to do so. Local 110, insulators' union, feel that a sufficient amount of time has passed during which there have been few additional committees established. They further feel that such committees should now be made mandatory.

Given the limited amount of time we have at this presentation, those are the areas of greatest concern to our membership. Basically we are requesting that partial degrees of respiratory disease be compensated when recognized. We're asking that avenues be explored by which victims with total respiratory disease have their claims processed

more quickly, we're asking that the relationship between heart conditions and respiratory disease be recognized and compensated, and we're asking that medical examinations be made to workers exposed to toxic or suspect toxic materials. We also suggest that voluntary joint worksite health and safety committees in the construction industry are not working, and it is time that they be made mandatory.

MR. CHAIRMAN: Questions?

MRS. FYFE: Just on this last point, mandatory worksite committees. How would you define a worksite? Obviously there are a lot of members of your association or union that are working outside of a large construction project; they're working for a much smaller project. Can you help me with that definition?

MR. SPRING: I'll try my best. We have members working on both small and larger projects. In our collective agreement we've negotiated joint worksite health and safety committees. Unfortunately many of the other trades don't have that same type of clause in their collective agreements. What we've been trying to do in the last couple of years is get all parties involved in these joint worksite health and safety committees, to the point where there is communication between all the trades; then we can eliminate some of the hazards presented by working alongside these trades. We're continuously trying to train and educate our members to some of the health hazards involved with insulating, but we can't do too much when it comes to somebody dropping some iron on our heads or another trade sandblasting or something along that line. I'm not sure if I'm addressing your question.

MRS. FYFE: At least partially. You mentioned that you've been involved in training your members. What kind of training is your union involved in, and how extensive is that training?

MR. SPRING: Health and safety has only formally taken effect in our union for about the last two years, to the point where we decided that training was absolutely necessary and couldn't be gained from outside influences, that being the government or contractors — what we thought was adequate training, that is. We haven't actually implemented a training program yet. We've been informally educating our members individually on a continuous basis, and we've designed a course which we hope to be implementing in the near future and which would address many of the more pertinent problems facing our industry.

MRS. FYFE: One more question.

MR. CHAIRMAN: Are there any other questions on this subject? Mr. Spring, I've said this publicly. I have had only one request for mandatory joint worksite committee establishment. That was from a union, and they already had it in their collective agreement. I share with you that there isn't the request that you believe there is. You are addressing it to the non-union shops. Through occupational health and safety officers, through the visits and the courses, we have been continuously providing the benefit of a joint worksite committee. That is maybe not satisfactory to you, but I just thought I'd share with you that we just don't see it through the same glass as you see it. I'm advised that the voluntary joint worksite committees we have are working very effectively.

In view of your comments with regard to construction sites, there is now a preproject meeting in place. I'm sharing it with you because it is as a result of the Wynn task force

that the regional offices watch and now are getting requests from principal contractors to assist them with the preproject meeting. Maybe that has not filtered down to all the workers in the province. Maybe we have to do more publicity on the preproject meeting. Then you wouldn't have this problem of one work force endangering another work force's health. I'll just leave that with you.

MR. SPRING: It is still on a voluntary basis, though.

MR. CHAIRMAN: Yes.

MR. SPRING: I appreciate the comment. I sat on the Wynn task force committee for quite a few meetings. Are you referring to our union as the union that had it in their collective agreement, and that we were the ones that voiced it?

MR. CHAIRMAN: No. There are others. Your union didn't make a request for it as mandatory.

MR. SPRING: At that time I did make a request — a very strong verbal request — and I believe there are a couple of people in this room, in fact at this table in front of me, who were aware of that.

MR. CHAIRMAN: I've only had one written request to my office. I think Dr. Buchwald is sitting in, and he will verify that that's the only one we had. But with regard to your own verbal request, I'll look into it.
John Thompson.

MR. THOMPSON: Didn't Myrna have another question she wanted to ask?

MRS. FYFE: It was on another subject.

MR. THOMPSON: Well, I'm on another subject.

MR. CHAIRMAN: On the same subject, Ray?

MR. MARTIN: I'll comment on it after.

MR. CHAIRMAN: No, go ahead.

MR. MARTIN: That's okay. I'll save my question. It's in another area, but I'll comment on it.

MR. CHAIRMAN: Okay. Go ahead, Myrna.

MRS. FYFE: I was just going to ask about a worker who has been exposed to asbestos for a number of years and there is a medical judgment that there has been a deterioration in his pulmonary condition. How involved is the union in seeking agreement with the employer to take him out of the hazard and look for work elsewhere, even for a temporary period of time? Do you get involved in that area?

MR. SPRING: We do get very much involved in that area, but we find it's very difficult to place a worker in an environment that's different than the one he is accustomed to. Perhaps, if I could, I'd refer that question to one of the business managers from the

northern and southern areas respectively, because they're continuously haunted by that same problem. Perhaps either Tom or Lee could comment.

MR. VOLLRATH: I'd like to take it first. One thing that I find when trying to place these people elsewhere is that most of the employers will not place them elsewhere, because all their work is related to toxic dust. Taking him out of an asbestos area and putting him into some area is not helping his health at all, and employers will not take that responsibility upon themselves to do so. Their verbal statement mostly is: if they don't like it, they can quit.

MR. CHAIRMAN: John Wisocky, do you want to clarify something?

MR. WISOCKY: Just a few comments on the business of assessing for pensions for asbestosis, methods of assessment, what is a disability and what is not, and when a pension is granted and when it is not. By the way, our medical director just came in. He is also very interested in this area. Through his work and the work of the Board, much has been accomplished in the last year or so. There is no universally accepted technique or method of assessing the degree of disability, but we have gathered all the information we know of in the States and Canada and from noted experts in Alberta. We now have a system where we think we have criteria where we can better assess permanent disability in most areas.

The thing I just want to say in very simple terms — but it's a very complex area — is that there is a difference between disability, impairment, handicapped: those words. In other words, using an example of hearing, a person may have some hearing loss, but it's insufficient in terms of degree and in terms of being assessable for permanent disability purposes. The same thing applies to chest conditions. In the cases you have mentioned where the Board has not granted a permanent disability, there is nothing to say that if the disease does progress in the future, that person cannot go back to his doctor and the Board to get reassessment. I think you're aware of this. The whole field of asbestos and the removal of the worker from that substance and so forth has been tried in many jurisdictions, and we're aware of it.

One of the things I'd like to do is sit down with people like you to pursue it at another time. But as far as Alberta is concerned, in terms of the legislation and the Board's policies, they are some of the most progressive as far as chest conditions in general are concerned.

MR. THOMPSON: Mr. Spring, I thought you said in your opening statement — and I underline "thought" because I'm not sure of this — that non-union worksites were less safe than union worksites. If what I thought I heard is right, could you go into that just a little bit and explain what you mean by the fact that non-union sites are less safe than union sites?

MR. SPRING: You understood me properly. Non-union sites, in my opinion, are less safe than union sites. I believe there's a reason for that, and I pointed it out. Organized labor tends to have representation out in the field that would monitor the conditions on those projects, and they would bring it to the attention of the WCB if it hadn't already been brought to the attention by some other worker on that project. Unfortunately I feel that on non-union projects the only method or way that a non-union worker can draw attention to his plight is by contacting the WCB himself. In my opinion, the only protection a worker has when he does something like that is the right to refuse legislation which has been implemented by the government here. We've found, both with union workers and speaking with non-union workers, that many of these workers aren't too sure of

themselves when it comes to that type of legislation. I guess what I'm saying is that union workers have representation that is able to bring some of the problems out there to your attention and rectify them, whereas we feel that non-union workers often — either because they don't know how to go about it or they're afraid to do it — will not bring these types of situations to your attention.

We're suggesting that the WCB inspection branch possibly spend more time investigating and attending some of these non-union projects. I'm not saying that the union projects don't need inspecting as well, but I am saying that the representation in the union segment of the industry are able to police themselves a little better than non-union with no representation are able to do. Don't mistake me; I'm not slurring non-union labor or contractors. I'd like equal protection for workers of non-union and union status.

MR. THOMPSON: Mr. Spring, either you're confused or I'm confused, one or the other. We have the occupational health and safety branch that go out and regularly inspect all worksites. We have legislation for any worker, union or non-union, who, if he feels a worksite is unsafe, has an opportunity to refuse to work there. I don't understand why you feel the WCB should be out inspecting worksites. I don't think that's their function.

MR. SPRING: I think I addressed one part of your question. I don't think I'm confused at all in that area, and I'd like to ask Mr. Diachuk at this point. Maybe he knows the percentage of inspections that are called upon by workers and those prompted by what we'd just call, I suppose, automatic checks.

MR. CHAIRMAN: I'll attempt to ask Dr. Buchwald, the managing director, on that. When you use statistics, Mr. Spring, you're walking into a dangerous thing, because only 30 per cent of the workers are unionized in this province. So I could easily say that we do more inspection on non-union places than union, but that's irrelevant. Dr. Buchwald, could you . . .

DR. BUCHWALD: I'd be pleased to answer that particular question. Our planned inspections are not upon the basis of whether a worksite is unionized or not. The inspections are planned on the basis of the risk as associated with the worksite which is based upon the records of the accidents which have taken place over the past few years. It has absolutely nothing to do with whether it is unionized or otherwise.

MR. CHAIRMAN: The only reason Mr. Thompson asked that question is because yesterday a worksite in Cardston was closed for hygiene reasons. It wasn't because it was a non-union shop; it was because they have a stubborn foreman there.

MR. SPRING: I don't want there to be a misunderstanding about this, Bill. I'm not pointing to non-union or union projects and saying you do or don't inspect one more than the other one. As a matter of fact, I want to discuss this particular issue very little in comparison to what I'd like to especially address: the problem of compensating asbestos workers and the problem of monitoring workers, not just asbestos workers, when they're exposed to toxic or suspect toxic materials.

MR. THOMPSON: I have one other question, if I could. It's on your second submission, page 1.1. I don't understand what the words "epidemiological studies" mean. What does that mean?

MR. SPRING: In our case, you are going to monitor a number of workers and draw on the information you gain through those studies, through mortality rates or whatever, and use

that as a means of . . .

MR. CHAIRMAN: . . . back-up to compare it.

MR. SPRING: It's hard for me to describe. I believe I know what it is, but I guess what I'm saying is that it shows you whether or not there's a need for further control measures. It shows areas of problems or concern to the workers involved.

MR. CHAIRMAN: Just in plain words, John, if they were studying your smoking effect over many years, they would be able to class that as an epidemiological study.

MR. THOMPSON: Mr. Chairman, I chew; I don't smoke.

MR. MARTIN: First of all a point — seeing as the minister made a couple of political shots at me yesterday, I think I can make one back. He has two written submissions, because if he recalls the Official Opposition put in a private member's Bill on mandatory worksites. I would consider that a written submission.

MR. CHAIRMAN: I said a request, not a submission.

MR. MARTIN: That's a request, a private member's Bill.

MR. CHAIRMAN: From any group of workers.

MR. MARTIN: Well, I'm a worker. Anyhow . . .

MR. CHAIRMAN: We have a joint worksite in the Legislature.

MR. MARTIN: Just to come back to what you and John Wisocky were talking about, where you put down that they generally have that claim put in category (c) at the bottom of page 2:

> the worker has a partial respiratory disability and it is considered as a result of their employment. However, the disability is not enough to limit them from continuing at work, or enough to warrant a partial disability pension.

I think you made your case well. But from following that, I'm not exactly sure what you see should be done if the majority of people are falling into (c).

MR. SPRING: I think that to date there have been very few partial disability claims awarded. I know that's a problem that is faced not only here in Alberta. Really we're not here to compare the different provincial policies or criteria used in evaluating a claim for compensation.

Regardless of whether or not they are addressing the partial disability problem in other provinces or the United States, I feel here — and our organization is strongly behind me on this — that of all the older members we have who are suffering from problems related to working with asbestos, and believe me there are very many, when of 72 referred there were four normal lungs . . . When I refer to those people being affected, I don't mean to the point where they have a slight cough or where they maybe huff a little bit when they do a lot of physical exercise. I'm talking about where they're actually limited in many social activities as well as work activities and have yet to receive any partial disability whatsoever.

MR. MARTIN: Okay. Let me just follow it up. I fully agree with you; I know that's happening. I'm wondering what a partial disability will do. It makes them feel better that they're getting a little money. But surely if you're still going back into that same environment, partial disability isn't solving the problem.

MR. SPRING: One of the things a partial disability can solve — in Alberta we have a supplement program which we have attempted to utilize to the extent that we might get some of our workers out of the trade and into some other type of work. Unfortunately that supplement can be very limited. You can only set a certain amount of supplement. If there's no other means of income, and in this case because of the latency effect, few of our workers . . .

MR. CHAIRMAN: I'm sorry, Mr. Spring, but we'd better get a clarification on that, because that's new legislation that was produced as of January 1, 1982, to provide a supplement for a worker to move him out of an environment. Is there a limit on that supplement?

MR. WISOCKY: There are provisions for supplements and the limitation is age 65.

MR. CHAIRMAN: No, I'm talking of removing a worker from a position when he's below 65, still of working age.

MR. WISOCKY: Yes, we have that in several areas. In preventive rehabilitation we do remove workers, not necessarily with asbestosis.

MR. CHAIRMAN: Not against his wish, though.

MR. WISOCKY: That's right. . . . from particular jobs to make sure they don't reinjure themselves. Asbestos would fall into the same category, in my mind. There's a need to communicate, as far as I'm concerned. We understand that asbestos is a very difficult and complex area. But we welcome a chance to find out what's going on, because we've had very few claims.

MR. CHAIRMAN: One of the best things, Mr. Spring, if you have a worker in your union anywhere that is identified and has had difficulty, is to raise that request with the Board's people. That's usually done on medical information, and the medical people with the Board will evaluate it too.

MR. SPRING: Okay. Just so there's no misunderstanding, though, there have been a number of claims now that we've attempted, and I know the rehabilitation department has attempted . . .

MR. CHAIRMAN: Prior to January 1, '82, there was no provision for it.

MR. SPRING: Okay, but what I'm saying is that we have attempted, since that legislation has been enacted, to try to utilize that supplement type of removal from that type of work. However, we haven't met with much success. I don't blame that on the Compensation Board. I think it's a very difficult type of legislation to make work, especially with our group.

MR. MARTIN: Can I follow up, just to clarify? If we're saying, John, between the two of you here in the discussion, that insulators that have made the claim have generally

been put into category (c) — you know what I'm talking about here — would the Board then, if that's in fact the case . . . We've accepted their brief; if it's not, I guess you'll tell us. If that's in fact the case, that they have a partial respiratory disability, could they then come and try to get a job that's, I suppose, lower paying? Would the Board look at a partial subsidy if they could go to another job to make the same income? I think that's what you're asking. Is that in fact Board policy now?

MR. WISOCKY: If it is because of his disability, yes, it is Board policy.

MR. MARTIN: Okay. I guess it's a matter of following the discussion with the two of them.

MR. CHAIRMAN: I think we've exhausted our time. I just wanted to make one comment to you, Mr. Spring, and your colleague. I really welcome your presentation. On the area of the greater involvement of the claimant, the worker, with his claim, I must say that is because at all times the Board has been attempting to bring about a claim more expeditiously. They now have a track record average of less than a week for getting a claim out and processed. I've had the same concern that you have, that the claimant has not been involved. But you can appreciate that that may delay claims. If the worker is required to be involved in all stages of his claim, that may delay claims. You and I can review that further. But I welcome that.

I saw some of the Board members sitting here and I smiled to one of them, because their attempt over the years has been to get the claims processed as quickly as possible. They receive criticism over being too expeditious in processing the claim. But yours is a bit of a unique one; it's waiting for this medical information. It's not the claim with a broken arm or a broken leg. But we're addressing even those now with the Board. Thank you for your time.

I think there's some need for communication between occupational health and safety and your people. You're familiar with the occupational health and safety organization. I would urge and request that your union enter into dialogue on the inspection, on the safety, and on some of the rehabilitation programs with Mr. Wisocky or any of his people. Very well?

MR. SPRING: Thank you. I have only one last thing to say as well. It's our intention to focus this committee's attention, and thereby the public's, I guess, on what we term an Alberta asbestos tragedy, which so far only seems to be known by ourselves, our contractors, and the WCB. So we're hoping — and thank you again for this opportunity — to bring to your attention some of the problems we're having with compensation. And we're hoping that, through continued effort, we're going to bring the public's attention to this problem, address the situation properly, and hopefully compensate our members properly as well.

MR. CHAIRMAN: Thank you very much.

MR. SPRING: Thank you.

MR. CHAIRMAN: The Alberta Association of Safety Personnel. Messrs. Mead, Karl, Kalf, and Melvin.

Alberta Association of Safety Personnel

MR. CHAIRMAN: Gentlemen, we have approximately a half-hour's time scheduled. We'd like to have you introduce yourselves. You're going to be the spokesman, Mr. Kalf, sitting in the middle?

MR. KALF: That's correct.

MR. CHAIRMAN: And permit us some time for clarification and questions after your presentation. Please proceed.

MR. KALF: Mr. Chairman, members of the committee, ladies and gentlemen, my name is John Kalf, and from the association standpoint, I represent the Canadian Society of Safety Engineering. I have with me, sitting to my right, Mr. Joe Karl, who represents the southern councils of the Alberta Association of Safety Personnel and individually represents the city of Lethbridge. On my left I have Mr. Jim Melvin, who is chairman of the Edmonton chapter of the Alberta Association of Safety Personnel and individually represents Waterous GM Diesel.

We appreciate the opportunity to present some of our concerns as safety personnel. There are basically six points which are fairly closely related. The Alberta Association of Safety Personnel is associated nationally with the Canadian Society of Safety Engineering. Mr. Dalton has made several presentations, I believe in Lethbridge and Calgary, and asked me to make his presentation on his part.

Our first issue we'd like to raise with the committee is that particular portion that relates to independent operators. It gives us some difficulty that under certain circumstances they are not able to get the coverage under compensation, which puts quite an onus on the principal in order to pick up the responsibility for that part. Probably a case in point is that if I bring in some contract writers who are working for themselves or self-employed, in some cases the coverage under compensation is denied to them. Then the principal becomes responsible in that particular event. We also feel that in addition to it, in the event of an incident, that basically makes the principal liable for errors in the assessment that is owed to the Board on behalf of certain subcontractors. As a result, the principal then becomes a collecting agency, which we feel is the responsibility of the Board rather than the principal. We would like to see a change in that.

We would like certain sections deleted. We would like to add to section 10, paragraph 2, that it is an independent operator whose application to have this Act applied to him has been received and approved by the Board. We would also like to make a change in the definition, that this particular individual is an independent operator who carries on or engages in any industry but does not employ any workers in connection therewith. In other words, this person is totally on his own. We feel that he is entitled also to take part in the benefits that are provided under the compensation Act.

We would like to make some presentation on the issue of compensation payments for a worker arising out of an accident that was not necessarily directly related with his work. That is, for non-work related accidents, I think the basic reasons for our concerns are that there is a growing feeling — and I am sure that in the past few days and indeed other sessions, you've had a number of cases. Where I've sat in, I've heard similar comments that there is a growing feeling, not only in Alberta but across Canada, that compensation Acts tend to become social legislation, and that boards try to react to this as the social conscience of industry. We feel that it's a luxury that we cannot afford,

particularly not in days when profit pictures are stressed to the degree that they are. We feel that there are two many claims that are paid for auto accidents on access roads which wouldn't have been paid on public highways and in construction camps which would not have been paid in any other accommodation. That creates a hardship on the employer, but it also challenges the worker's right of suit under common law, which he would have enjoyed under other circumstances.

We would like to comment on the portion of pension awards. Where a worker is presently disabled because of an accident, a pension based on the degree of disability as assessed by a physician and a claims adjudicator is paid on a monthly basis to the worker. We feel that the amount of money that has to be invested to pay this money, when one considers the amount of interest return against the present inflationary economy, is a main contributing factor to the enormous deficit facing the Workers' Compensation Board.

We would propose a change in that. For every worker that is totally disabled as described in section 38, paragraph 2, of the Act, a full disability pension based on present compensation rates and indexed to the cost of living shall be paid till the pensioner reaches age 65. The pension would then be reduced by the amount of the Canada pension and any other schemes of government that might at the time be in force. If a worker is partially disabled and in no way does this disability affect his wages, opportunities for advancements, increases, and so forth, then no pension payments will be paid.

If a worker is maimed or disfigured as a result of the accident, the lump sum settlement will be paid based on present actuarial practices. We feel that present provisions for dependent children and surviving spouses should not be changed. We would like to see sections 42 and 43 of the Act deleted and a new section 42 outlining the above philosophy introduced.

We have some difficulties with payment for disability if a worker is disabled for a period greater than 30 days. His compensation payments are 90 per cent of all his wages or earnings at the time of the accident, regardless if other earnings would fall under the compensation Act. I think what we're primarily referring to is an individual essentially having two jobs, where perhaps he moonlights after work and has a degree of income. When he gets hurt, that degree of income is included in the amount of money the 90 per cent of his compensation is paid on. We feel that the incentive for the worker to return to work in the present unreliable work market is entirely eroded by this section, and the difficulties of rehabilitation become immense. We would like to see certain things changed in there, that the worker's actual net earnings are calculated on the payroll figure that the assessment was based on.

We would like to propose a minister's advisory committee. It's the opinion of the organizations that we represent that an advisory committee should be established to monitor the expenditures of general funds for dubious claims or extraordinary compensation payments not specified in the Act. This committee would consist of representatives from industry, labor, and the public, and they would be given authority to review the contentious claims and report to the minister on their status. This committee would meet on a regular basis and complete all reports in writing, for recording purposes.

Our final issue is the compensation ceiling. We consider it as being out of line because of the average wage earned in Alberta and other provinces which we must deal with. In our opinion the ceiling would be more realistically set at $30,000 a year and not $40,000 a year. According to statistics, the average wage for Alberta workers for 1981, 1982, and so far 1983 is approximately $26,000 per year. Considering the economic situation at present, we feel that this would be a very justifiable adjustment.

That, Mr. Chairman, is essentially our submission.

MR. CHAIRMAN: Mr. Kalf, starting with your last item, the ceiling, do your association

and your colleagues feel that the $26,000 per year is considered a reasonable compensation in our present day, that it is the average?

MR. KALF: If I'm speaking for the association, the general feeling seems to be that that is a justifiable figure. I'm not speaking for myself personally.

MR. CHAIRMAN: The reason I've asked this is that when the calculations on 90 per cent of net take-home pay are completed, the compensation to a worker earning $40,000 is around that figure. What is the weekly compensation maximum?

MR. RUNCK: Five hundred and ten dollars.

MR. CHAIRMAN: Five hundred and ten dollars times 52. I welcome your support for the compensation to be around $26,000. But it's unfortunate that so many people — we've had some businessmen come forward believing that all their assessments are based on $40,000. I think that's the confusion. Your association could possibly assist us in clarifying that assessments are based on the actual payroll, and the compensation is also based on 90 per cent of net take-home pay. The exception is the one provision we have where some workers — you called it moonlighting; I call it free enterprising — go out and work. It could be a union man that is working doing landscaping in three or four months of the summer. Presently the Act provides that that income could be considered as part of his compensable income. I thought I'd raise that.
Any other comments, members?

MR. KALF: Coming back to that point, though, no assessments are being paid on that portion of his free-enterprise income, of course.

MR. CHAIRMAN: I appreciate that, but I'm advised that less than 1 per cent of the claimants fall into that category.

MR. KALF: That could well be. I have no numbers on that.

MR. CHAIRMAN: Now if you have some information that's contrary to that, I will go after the ones that gave me that advice.
Questions?

MRS. FYFE: I'm just not exactly clear on the chain of command, so to speak, with the minister's advisory committee. The advisory committee would review specific claims, those that do not fall within the Board policy — which hopefully will be published in a reasonable length of time, reasonably soon — those claims in which there is some judgment. First, how do we know which claims are going to be referred to the advisory committee?

MR. KALF: I think presently it's those that we feel are questionable in terms of whether they are actually related directly to the work place.

MRS. FYFE: Would you say all claims that go to an appeal would go to the advisory committee?

MR. KALF: That may be one particular way. Now, having been here yesterday and understood that some revision is in progress, as far as the policies or clean-up of the policies that currently exist, perhaps that will make the necessary changes and make this

essentially something that is not required or not necessary or not recommended for that matter.

MRS. FYFE: I guess I have a lot of concern with this recommendation, because it puts the committee in a position of being an appeal and making recommendations to the minister, which makes the minister really directly responsible for the decisions, where now the only other appeal outside the Board is the Ombudsman.

MR. KALF: To the Ombudsman.

MRS. FYFE: So you're really changing a structure. That's a very dramatic change in the structure that exists now. I wonder if your association has really thought this through carefully. Are you really serious about this recommendation?

MR. CHAIRMAN: You may want to review that at your next meeting. The select committee is going to look at one or two examples of this in other provinces, but Mrs. Fyfe does raise a concern that it would create a delay; then who would initiate it? The Ombudsman's annual report indicates that of some 250 claims in the last report, only four or five were ones on which he had to recommend some action. So you know, even that — the big problem, Mr. Kalf, has been . . . You've indicated — you've touched on something there in responding to Mrs. Fyfe on when you "believe" the claim isn't. The Board and my office have had a difficult time when employers have not produced the information to the Board; then they blame the administration of the Board for making a wrong decision. Good co-operation from employers, expedient reporting, will remove even the requirement for further appeals.

Further questions? I want to say thank you to you gentlemen. You've given us some good recommendations and proposals for the changes. Maybe that's why there aren't the questions.

You did use good time on the independent operator. We are serious about it in government. I have tried to get some changes about it, but you can appreciate the difficulty. I would welcome, if you can, whether these people that are independent operators or proprietors would welcome a prepayment system as was recommended and discussed by some associations. That would mean that they wouldn't have the opportunity to put $25 down and get a coverage. They would have to prepay it like they buy their licence plates or something similar to it. Personally I've had some feedback and some meetings with independent truck operators that welcome it.

MR. KALF: I'd sure appreciate it. As opposed to some of the other groups that have appeared before you and that perhaps directly represented either industrial corporations or unions, we as safety individuals kind of get caught in the middle between that particular portion of the independent operator and our management, who says: look, is this acceptable; can we take this guy on? And we invariably have to say: if you want to accept the liability for this individual, certainly you can take him on. So we would certainly welcome some direction.

MR. CHAIRMAN: Some of the abuse that's taken place — we were advised by one of the staff in a regional office that a company hired a woman to be a secretary, gave her a typewriter, and said: go get your own coverage. That was going to the extreme ridiculousness.

MR. KALF: Right. We thank you very much for the opportunity to make this presentation.

MR. CHAIRMAN: Thank you very much. The next people are the city of Edmonton personnel department. We will have a 10 or 15 minute coffee break, and they can prepare.

[The meeting recessed at 10:22 a.m. and resumed at 10:38 a.m.]

City of Edmonton

MR. CHAIRMAN: Mr. Bossmin and Mr. Beaumont. Who's going to be the speaker?

MR. BEAUMONT: Mr. Bossmin is going to be the speaker, Mr. Chairman. We have another member, Dr. Irwin Fischer, who is going to join us. I guess he was not anticipating the slightly early . . . So he will be joining us momentarily.

MR. CHAIRMAN: Very well. We have approximately a half-hour's time scheduled for your presentation. We welcome any opening general remarks on your presentation or a review of the presentation, permitting us some clarifications and questions then.

MR. BOSSMIN: Okay, perhaps we'll just start, and Dr. Fischer can pick it up when he arrives.

MR. CHAIRMAN: Yes.

MR. BOSSMIN: The first item we'd like to speak to is basically one of administration, and that is the definition that's included in the Workers' Compensation Act. They include a definition for the word "accident" which, in our opinion, is more appropriately described as a claim. When one looks at what constitutes a claim under the Workers' Compensation Act, there are items such as industrial illness that manifest themselves now but were actually caused by conditions five, 10, 20, even 30 years ago. There are other incidents that are compensable where an employee injures himself in the simple act of picking up a pencil from the floor. In that the word "accidents" generally has a negative connotation, we'd like to see the definition include the word "claim" and that the definition presently included for accident be used to describe claim, as we think it's more proper.

Under section 31 of the Act, we're requesting that that clause be changed to require an injured worker to notify both the Compensation Board and his employer in the event that he is going to be participating in other activities for financial gain during the period he is on compensation or if he is leaving his principal residence for any extended period of time. There have been instances where workers have engaged in activities such as house building and farming while on compensation — rather strenuous activities — and this, I think, leads to a very poor impression of the compensation system. Other employees have been known to take hunting trips during the period of compensation. We feel that an employee who is on compensation should notify the Board and the employer so that any proposed activities they're going to be engaged in can be reviewed to ensure that they are in the best interest of the employee and won't delay his eventual rehabilitation and return to the work place.

In section 34(2) we are suggesting that the requirement for an employer to apply to the Board to have a worker suspended from compensation where he has obstructed or failed to report for an employer-arranged medical with the Board physician be removed. If the employer requests the Board in writing to have a physical examination of a worker,

it indicates some concern. We feel that it is rather redundant to have that employer again be required in writing to communicate to the Board their wish to have the worker suspended from compensation payments until such time as the reason for the failure to report or the obstruction is known. We feel that that is an automatic procedure in that situation.

In section 34(3) we would like to see the employer's physician have access to the results of a medical examination that has been requested by the employer. I think this would go a long way toward establishing the credibility and legitimacy of the claim in question. When there's a written request by an employer to have a medical examination, normally some doubt exists in the mind of someone in the organization. We feel that a medical practitioner who would have access to these results could reassure the employer that it is legitimate and, I think, establish the credibility of that particular claim.

We've not experienced a problem with section 51(4), but we believe there's a potential problem, in that the Board is considering earnings from all sources in determining the amount of compensation that should be payable. We know of instances where an employee may have other employment which is of a sedentary nature that he may well be able to continue even though he may be incapacitated from performing his regular job. In this event, all we're suggesting is that the legislation be changed to actually prove loss of earnings for the period before earnings from other sources are considered.

In section 51(7)(b) we feel the present application of pensions is contrary to the actual legislation. The legislation calls for the Board to base a determination for permanent partial disabilities and temporary partial disabilities on an estimate of the impairment of earning capacity. Over the years we have seen employees who are receiving disability pensions on the order of 10 per cent all the way up to 100 per cent still gainfully employed and often at the rate of pay they were receiving before the injury. If an injured worker must take a lower paying job because of his disability, then I think the pension should be geared to bring the earnings up to the earning level prior to the incident that caused his incapacity.

Another area of pensions we query is the fact that disability pensions are payable for life. The workers' compensation philosophy is one whereby it is intended to protect the earnings of the worker during his working career. If this is the case, the term of the pension should normally expire at age 65 or the normal retirement date. We also have a difficulty with pensions, in that they are stacked on top of other benefits the worker may receive. An employer contributes to Canada pension, which also offers a disability pension. There is the local authorities pension, which offers a disability pension. There are private plans which also offer pensions. These types of plans are all contributed to by the employer as well as the Workers' Compensation system, which is totally funded by employers. We feel that with stacking pensions, in some instances there can be a case where a worker is financially better off to be incapacitated than to be back at the work place.

If the government intends to recognize the trauma and suffering of an incident that causes this type of partial disability to a worker, we feel the proper way to go in that instance would be to pay a lump sum payment based on some chart. Other provincial governments have instituted this in their compensation schemes, and it seems to be working well. This would also serve to reduce the rather heavy capital costs that are charged to employers to fund this pension for the rest of the employee's expected life.

In section 82(1) there is a requirement for the employer to provide transportation to the injured worker either to a facility for medical treatment or to the worker's home. We would like to see the reference to the worker's home eliminated in this instance as we do not feel that the worker, particularly if he has suffered some kind of traumatic injury, is in a proper frame of mind to determine whether or not he needs medical treatment.

We feel that in any instance like this, a person should be transported to a medical facility and let a qualified medical practitioner decide whether or not that person requires treatment.

In terms of the capitalized pension awards I mentioned earlier, the Compensation Board has adopted the practice of charging the employer the total capital amount necessary to fund the award for the life of the injured employee. This has been done in order that funds are available to pay this pension. The concern was that an employer may go bankrupt and leave the province, and the Board would have difficulty collecting the moneys on an annual basis. I think this is a valid concern, but I think it also has to be looked at in light of a municipality. A municipality is not going to pack up and leave. We will be around for the duration. What we're suggesting here is that municipalities be given options or alternatives on how to fund this type of award. It may be a case of putting money in trust or reimbursing the Board on an annual basis. I think these alternatives would help reduce the initial heavy costs the first year the awards are assessed. In municipalities, I think the ability to pay is certainly a lot different from what exists with a private company in industry.

We have some general comments on the workers' compensation system. On abuse of the system, we don't feel that abuse is a large problem, in terms of percentages, though many people perceive it as such. I think the reason it is perceived that way is that the Board does not appear to use every legal means available to it to prevent abuse. We can certainly accept the principle that the worker will get the benefit of the doubt, but there are instances when workers are overpaid, either through oversights or errors in the process. In its attempt to collect the moneys, if the worker refuses to pay, the Board has not actively pursued that incident in the past. They have been content to wait until a future claim and, at that time, deduct the moneys owing. While immediate payment of an overpayment may cause some financial hardship, we feel that certainly some scheduling of the payment can be made.

We also feel that perhaps the Board should look at using the courts if there is a case of obvious fraud or an attempt to defraud the compensation system. This appears to have some effect when it's used by the Unemployment Insurance Commission and Revenue Canada. We feel that in certain instances, the Board should go beyond what they've been doing in the past to prevent abuse of the system.

Another area where we feel there is some possible friction between employers and the Board is the lack of specific guidelines. There are many gray areas where we're unsure if the Board will accept a claim or not. If some guidelines could be prepared for employers, we could look at them in a very impartial, objective manner if we didn't have dollars on the line at the time. Under the existing system, when a claim is submitted and the Board says they will accept it, I think employers feel they have a vested interest at that stage. They tend to react perhaps more than they would in a very objective manner if the guidelines were prepublished and available to everyone.

We have some concerns on medical assessments of workers. Often considerable time elapses before a worker can be assessed by the Workers' Compensation Board to determine whether or not he would benefit from admission to the rehabilitation centre. During the period the appointment is made for him and until that date arrives, the employee has no incentive to return to work or do anything to rehabilitate himself. We feel that six to eight weeks is a rather lengthy time and that the initial time after the injury is critical in starting the rehabilitation process. As a solution to it, I think the Board could look into several areas. One is that by and large, major corporations do have occupational health physicians. I think it would be in the interest of all to perhaps let these occupational health physicians do an assessment on behalf of the Board, particularly to determine whether or not that employee is eligible for admission to the rehabilitation centre.

The delay in scheduling people to attend the rehabilitation centre after the assessment is most often due to overcrowding at the facility. We are suggesting here that perhaps private physiotherapy units can be utilized to provide the rehabilitation service, under the direction of the Workers' Compensation Board. This could be a contracted-out service that the Board could use in periods when there is a peak demand for the rehabilitation centre. This would save the Board from the costly capital amounts involved in establishing new rehabilitation centres and also put the rehabilitation centres much closer to the injured worker. It would be much more convenient to attend. There would be savings in travelling time and things of this nature.

We find that another area that has contributed to the delay in some of the treatment of employees is a lack of knowledge of some of the Board's procedures, particularly in cases where physiotherapy and other rehabilitation is required. We feel that the Workers' Compensation Board and the Alberta Medical Association will have to work very closely together to promote and disseminate the procedures the Board requires from doctors, so we can ensure that our employees receive prompt, timely treatment for any occupational injuries they suffer.

Another area of concern is the merit rebate system. The maximum merit rebate that's presently available to an employer is 33.3 per cent of his initial assessment. Thus, two-thirds of the assessment is lost the day it's paid to the Board. There is no hope that the employer will ever receive it back. Taking it to an extreme, an employer can have a year when there are zero costs charged to his account, still lose two-thirds of his initial assessment and, depending on the experience of other employers in his class, could be faced with a rate increase the following year. We would like to see the assessments studied by some people with financial expertise, to determine a more equitable way of making the merit rebate scheme an incentive for employers to continue to improve working conditions for their employees. If an employer can potentially receive 65 to 70 per cent of his rebate back, I think there is more of an incentive to make the effort to do things that may cost dollars up front, that there is a return on the horizon. The merit rebate has been a very popular concept with many employers, but its overriding limitation is that the majority of employers are now capable of receiving the 33.3 per cent rebate. There is no further financial incentive, from that aspect, to improve health and safety conditions.

The last review of the claims processing procedure has resulted in expediting claims through the system. However, we find some delays are still encountered, particularly on active claims where employees are off longer than one, two, or three days. We have had occasions when a worker's file is unavailable because it is in the hands of a doctor of the Workers' Compensation Board, and this same file has been unavailable for a period of two or three weeks. We find this to be frustrating in that we are attempting to find out what the status and condition of our employee is, and we feel there are still potential areas where delays can be eliminated and claims expedited.

Overall we feel that the Compensation Board is doing a good job handling the claims. With our large size, we have found we can appreciate the problems that come with the volume and size of the Board. Our people have attempted to establish personal contact with adjudicators and others at the Compensation Board. We've found that to be very beneficial, and we're very appreciative of their efforts on behalf of our employees.

That is basically the extent of our submission, and we welcome any questions.

MR. CHAIRMAN: I wonder if your colleague Dr. Fischer has arrived. I see somebody sitting there. Maybe you could have him join you.

I thought I would kick off the first question to you. Your colleagues in Lethbridge made the same representation. I don't remember if Mr. Beaumont was there or not in the Lethbridge group. With regard to the municipalities doing their own investment of their

pension fund or whatever you may call it — their own investment of the capitalized amount — I think of the city of New York, which has gone broke. Then I ask you, how do we determine which municipality out of — how many are there? — a couple of hundred municipalities in the province can do it and cannot. Have you thought it out? It's a new approach. We didn't get that representation in '79, but we're getting it now.

MR. BOSSMIN: Quite frankly, we're looking at it based on our own experience. We feel that the city of Edmonton, particularly, is a large enough employer that we feel confident we could look at these alternatives. We're not suggesting that it be mandatory or anything of that nature, but it's an area that I certainly think is open to some scrutiny. We would like to be involved in exploring this possibility.

MR. THOMPSON: On that subject, would you explain the real advantage to the city that you feel is in that system, outside of the fact that you don't take dollars today and put into something?

MR. BOSSMIN: Okay. I think there are probably two main advantages that come to mind immediately, the first being control over the investment of the funds. We're talking here of 100 per cent disability awards that are probably all going to be in excess of $.5 million. We would like to have the potential control over where those funds are invested and the rate of return that comes back to it. Secondly, a situation arises where, in the event that an employee is awarded a total disability award in 1983, there are no moneys refunded to the employer if he were to die in 1984. The Board's argument in that was that the moneys they would gain in that situation would be used to pay for pensions for the life of the other people who are receiving disability awards. We feel we're getting large enough that we'd like to look at the possibilities of the city of Edmonton basically self-insuring for its employees. We have control over the worksites our employees are on, and we have a responsibility to the people who are employed by us.

MR. BEAUMONT: Mr. Chairman, I think the reason it wouldn't have come up in the previous set of hearings is that probably the municipalities and industry at large would not then have been experiencing the cash flow problems that they are now. This would be one way we see of perhaps spreading the cost over a long period of time and providing some benefit to cash flow.

MR. MARTIN: Just following up on that. You state that a municipality, unlike a private company, cannot leave the area. It has a continuing tax base. I'm sure if we threw that out to private industry, somebody like Imperial Oil could probably make the same case. Is this not a dangerous precedent, that we decide who is going to be around in the future and that they can go on and do their own thing with WCB?

MR. BOSSMIN: We're not suggesting a totally uncontrolled system; we are suggesting that this be explored. I think municipalities differ from private companies and private industry because of this lack of mobility and the fact that there is a continuing tax break. It makes the possibility of the bankruptcy situation very remote.

MR. MARTIN: But I'm saying, is there not a precedent? If we said the city of Edmonton and the city of Calgary, for example, could do this, and then go down the 200 we're talking about, do you not think there would be a cry that other people would want to do the same thing?

MR. BOSSMIN: There probably would be, yes.

The delay in scheduling people to attend the rehabilitation centre after the assessment is most often due to overcrowding at the facility. We are suggesting here that perhaps private physiotherapy units can be utilized to provide the rehabilitation service, under the direction of the Workers' Compensation Board. This could be a contracted-out service that the Board could use in periods when there is a peak demand for the rehabilitation centre. This would save the Board from the costly capital amounts involved in establishing new rehabilitation centres and also put the rehabilitation centres much closer to the injured worker. It would be much more convenient to attend. There would be savings in travelling time and things of this nature.

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MR. BOSSMIN: There probably would be, yes.

MR. BEAUMONT: I think what we're asking for at this time, though, is that the committee consider this concept — simply that. I think we too probably recognize that there are some difficulties in it. But from our own position, this would be of benefit to us, and we would like to see it considered.

MR. CHAIRMAN: The only one that I heard from you is the cash flow you would have. But then what would happen if you had to capitalize it and your investments were poor or your whole system suffered the same fate as the city of New York? Initially, there were only the governments and the railroads, if I'm right. Right, Al?

MR. RUNCK: That's correct.

MR. CHAIRMAN: Now even the railroads, with all their separate companies, are paying assessments.

MR. WISOCKY: Starting in '84.

MR. CHAIRMAN: So that only leaves the provincial and federal government that pay on a deposit form.

MR. WISOCKY: They're next.

MR. RUNCK: That's correct, Mr. Chairman. We've been trying to eliminate the deposit.

MR. BEAUMONT: We're not asking to be self-insured. That's a different issue, I think.

MR. CHAIRMAN: Myrna, you had . . .

MRS. FYFE: A different question.

MR. CHAIRMAN: Any more on this question?

MR. NELSON: Sure.

MR. CHAIRMAN: Go ahead, Stan.

MR. NELSON: Gentlemen, first of all . . .

MR. CHAIRMAN: Are you going to put your ex-alderman's hat on?

MR. NELSON: Certainly that brings a question. I'm sure, with something of this nature, the point is that your city council would have to deal with it to give support to putting something like this in place, considering that taxpayers are going to have to front a considerable amount of money, maybe even additional to that paid to the Workers' Compensation Board.

I guess the question I have, basically, is that municipalities — be it the city of Edmonton or Delia, which is a fairly small town which may have a reducing tax base — are all corporations. You are a business entity, a very large one, and Delia is a very small one. Why do you feel you should be treated any different from any other corporation, be it private or public? We have one system. The town of Delia may or may not be there in 25 years. The city of Edmonton probably will be. Why should we have

two systems to accommodate the city of Edmonton and the city of Calgary?

MR. BEAUMONT: I think principally because we feel it would be advantageous to us for the reasons that have already been stated. The Board is the custodian of all the moneys that are being paid into it, which are coming from corporations like ourselves and other employers. That being the case, there does seem to be an advantage for us, and we would simply like to have the matter considered.

MR. NELSON: I'm sure there would be an advantage for Imperial Oil too. Should they be given the same consideration?

MR. BEAUMONT: Maybe they should be, if they could come up with the same kind of guarantees we feel we could come up with.

MR. NELSON: Then what happens to the continuity of your Board as such? What happens to the overall . . .

MR. BEAUMONT: I think that is one of the implications one would have to look at in this particular proposal. It is a different system of providing for the payment of major capital sums. I don't know; maybe we should ask Imperial Oil and see what they think about the idea.

MR. NELSON: I'm sure they would love it.

MR. BEAUMONT: I'm sure they would.

MRS. FYFE: I want to change subjects. Regarding the delay in medical assessments, I would accept the comment that there may be a period of time in which it would certainly be advantageous to the worker to have an assessment or get into a program at the earliest possible time. But we're also advised that many of the public hospitals will treat workers' compensations as elective surgery, and the worker will go on a waiting list. It's no great priority on the hospital waiting list, yet it's certainly a cost to the employer. The city of Edmonton, being an owner of a hospital and appointing board members to particular hospital boards, I'm wondering if there has been any discussion regarding a change in policy, from the hospital point of view, to treating workers' compensation injuries as emergent or as a priority?

MR. BOSSMIN: Not to my knowledge to this stage. Our concern was not so much with the surgery aspect of it but getting the worker in for that initial assessment.

MRS. FYFE: I know that's not your concern, but I'm bringing one of our concerns to you. As I said, I accept the comment you make in your submission, and I think we had some submissions yesterday on this very subject. The point you raised will be something the committee addresses. But in addition to your submission, this is something that's been brought to us previously. You, being the city and the owner of a hospital, maybe can help in this particular area. If you hadn't thought about it, I'm wondering if you would consider bringing that to the attention of those who could make that change?

MR. BEAUMONT: Certainly, yes. I think we would consider bringing that to the attention of the powers that be. We're not the owner of the hospital, I might say; at least, the city administration is not.

MRS. FYFE: No, but the city of Edmonton, the corporation, is.

MR. BEAUMONT: Yes. To my knowledge we haven't entered into any such arrangement nor used the hospital at all in that regard.

MRS. FYFE: I think it's an area of concern, and it's also one we could look at from the point of view of total costs. Certainly those workers sent to the rehab centre are a very small percentage — under 5 per cent, 3 per cent, or somewhere in that area — so 95 per cent of the injuries are treated in public hospitals throughout the province. It's certainly a concern to us that these workers be treated as quickly as possible and not be left on an elective surgery waiting list for six or eight months, when they are still drawing their benefits and not being productive and all the negative things that go along with it.

MR. BEAUMONT: That's exactly our concern.

MRS. FYFE: If you can do that, we'll try to look at your recommendation.

MR. BEAUMONT: Sure.

MR. R. MOORE: Gentlemen, on the second item under your general comments, lack of specific guidelines, I think practically every submission that's come up has touched on this in some area, talking about a lack of knowledge of policies and so on. So it is a major concern right through industry and across Alberta. On every occasion we have been assured by the people from the Workers' Compensation Board that a policy manual is in the makings. Under those circumstances, I'm sure that with the amount of concern that has been expressed and the amount of assurances we have received that this is in the makings, this will hopefully be solved in very short order. If you don't, I guess the only alternative is that you all have MLAs and you'd better get back to them and we'll get back to wherever we have to. But I think it's being addressed, and the point has certainly been brought home across the province.

MR. BEAUMONT: Thank you very much. I must say, Mr. Chairman, that we have had good co-operation from the Board in sending people out to us to talk to our safety people and our departments and whatnot, clarifying the Act for us. So there is no wish to state that the Board has not been helpful, but we could give broad distribution to that additional booklet and set of guidelines and that would be even more helpful.

MR. CHAIRMAN: Other questions?

MR. MARTIN: I'm just curious. On page 2, 51(7)(b), you say that there are cases where employees are receiving up to 100 per cent total disability pension and are fully employed by the same employer on a job which is paying as much as the worker had earned prior to the accident. We've heard through the hearings that people would get a little more. But do you have examples of this?

MR. BOSSMIN: Yes.

MR. MARTIN: I'm curious. Maybe I'll get an explanation of how that would happen.

MR. BOSSMIN: There is a case where we had an accident occur to one of our firefighters during a training exercise. He fell from a ladder. He is not firefighting, but he is in the communications section of the department. He's earning the same as a firefighter; the

wage rates are identical. He is also in receipt of a 100 per cent disability award.

MR. CHAIRMAN: But in his case, isn't the pension being paid to the city, and he's continued on the full salary?

MR. BOSSMIN: I don't believe it's assigned.

MR. CHAIRMAN: No?

MR. BOSSMIN: On compensation we do have an arrangement for an assignment, but a pension is non-assignable.

MR. CHAIRMAN: I see. On temporary pensions you have the assignment program. I'm aware of that.

MR. MARTIN: Well, maybe we can just get an explanation.

MR. WISOCKY: If a worker is entitled to a permanent disability award, this is over and above any income that the person may be entitled to, including full salary. Let's take another example, maybe more traumatic. There's a gentleman that the city of Edmonton was good enough to place for us, who I believe is a paraplegic. He is drawing full salary as a computer programmer, yet he is getting a 100 per cent pension from our Board because of his disability. The Act currently says that you compensate the man for loss of earning capacity, which is really a clinical and other assessment. The monetary aspect is not tied into that; it only comes into a supplementary area.

MR. CHAIRMAN: I guess there is, Ray. Any other?

Very well, gentlemen. Thank you very much for coming forward. We've taken notice of some of the recommendations made. And anything further that you may have after you've left here, don't hesitate to send a further submission by letter to my office, and I'll share it with my colleagues here.

MR. WISOCKY: Mr. Chairman, could I just make one fast comment, because these gentlemen are concerned about delays in examinations and admissions to our rehabilitation centre. Since we have two of the directors involved who have been working very hard at this, we have the delay down to an average of about two weeks now. We recognize that it has been a problem in the recent past, but hopefully in the future it will not be a problem.

MR. BEAUMONT: We have been meeting with Dr. Dufresne and his staff, Mr. Chairman, to talk about our problems with him. Again, everyone is most helpful in trying to sort the thing out. So I think full attention is being given to the problem.

MR. CHAIRMAN: Good. Thank you very much. Syncrude representatives — if they would now come forward and prepare to make their submissions.

Syncrude Canada Ltd.

MR. CHAIRMAN: Very well, gentlemen. We have approximately a half-hour or so for your time on this submission. We welcome any review you wish to carry out and to introduce your colleagues. Mr. Howard, I gather you're the lead-off pitcher in this game?

MR. HOWARD: The group willing, I will lead off.

MR. CHAIRMAN: Okay. And permitting for some elaboration and questions after the presentation, please go ahead.

MR. HOWARD: Thank you, Mr. Chairman. Thanks first of all to you and the select committee for the opportunity to present our thoughts and ideas here today, because these are important issues that we're dealing with. In the brief that we've submitted and I believe you all have, we hope that there are some ideas and some thoughts that you might find to have some value. Our brief is really focussed on two specific points, as I think you're aware. With your leave, Mr. Chairman, I would not propose a word-by-word review of our submission. Instead, what I would propose to do is perhaps speak for a couple of minutes on the two issues at hand and then open, be responsive . . .

MR. CHAIRMAN: Why don't we do it this way. Why don't we deal with the one issue that you have, since you have the two areas, and then go to the next one, and permit questions and answers on it.

MR. HOWARD: After the conclusion, fine. Let's try it that way.

MR. CHAIRMAN: So let's deal with the first one. Go ahead with the merit rebate/superassessment.

MR. HOWARD: Very simply, that's our first concern. It reflects to the operation of the formula that's in place today. In our view, in effect what it does is place an unfair burden on employers or organizations that have had a continuing history of good claims experience. Good claims experience is usually a function of a high concern for safety and loss control related issues. We believe that companies that do put a high value on those kinds of activities very often don't find the costs of having done so reflected in reduced assessments. The quid pro quo, of course — and we must accept this — is that there are employers whose claims experience is above average, let's put it, who under the current basis are probably in a more beneficial position.

We believe, in truth, that if we had a merit rating system that was operated fully throughout a range of loss ratios — more fully than the current one is — in fact the result would be a lower claims cost, very likely within a few years. Now we have not come prepared to recommend a specific formula to replace the current formula. We simply believe one is possible. The characteristic we would like to see in it would be that the formula would be operative at both ends of the scale. In other words, employers or organizations whose records — let's use the expression of loss ratio records — are down below 40 per cent, which we believe is the current minimum at which the formula operates effectively, would continue to show some gains as a result of a yet better performance. And conversely, on the other end of the scale, we must expect that employers with high ratios would expect to pay more.

If I might for a minute just turn to Syncrude's experience — I don't want to dwell too much on this, but it really illustrates the basis for our concern. We have a quick handout here. If we could put it in your hands very quickly, I think it focusses immediately on what our concern is. There are three elements charted here. In effect, our incident rate, our accident experience, is the graph at the top of the page that peaks sharply and then drops off. It is injury frequency, and it relates to our reportable incidents per 200,000 man-hours. On the other vertical scale, we have thousands of dollars. We have charted there, for your observation, gross assessments and actual claims experienced for

the years 1976 through 1983. In our brief we focussed on the years 1980, '81, and '82. We have since done some forecasting for the year 1983 which we have confidence in, and we've plotted the 1983 values.

I think what they show is a continuation of a couple of trends. The first trend is that our claims experience, our compensation claims dollars, continues to be relatively flat. In fact we're forecasting an improvement in 1983 over the year 1982, although I must say that the figure 406 in 1982 has been subsequently adjusted, so that curve is flatter than it appears to you. So we're looking at compensation claims, then, over the last three years of the order of $250,000 to $300,000. At the same time we're looking at gross assessments, over the same period, of $1.16 million, $2.43 million, and $2.512 million respectively. We respect that these are gross assessments, that there will be rebates of approximately 33.33 per cent. But we would submit that even with a rebate of 33.33 per cent — which would drop, say, the 1982-83 figures to something like $1.6 million net assessment — against the claims experience we are having, in our view it really represents a tremendous imbalance.

We have put the frequency curve on to indicate to you the trend that we believe exists and that we certainly have been striving for within the organization. We have been working fairly heavily at improving our safety performance over the life of the plant. As you well recollect, Syncrude is a relatively young organization. In fact, we didn't get into full production until 1978. We had some initial experiences that reflect pretty high frequency, to be sure. We've systematically worked that down. The projected target that you see, I want to assure you, is not something we dreamed up for this appearance. The target of 3.6 was placed before the organization at least a year ago, I would guess, as our longer term objective in terms of continued improvement in our safety performance. We believe that we can meet that target. We certainly are going to strive for that target. We work in areas that are not reflected in compensation assessments or compensation claims. But in the whole area of safety and loss control, we have a number of programs that we've put in place. We have the strong commitment of the line organization to better the targets that, indeed, they've established for themselves.

I won't say anything more about that representation, Mr. Chairman, other than we believe it encapsulates our concern. We're concerned about today's imbalance. We're also concerned about the imbalances that will develop in the future. We would submit that a more sensitive formula for merit rebates and superassessments on balance would be a fairer solution for some employers and would put the compensation process on the basis of pay — more closely relating what an organization pays to the costs it incurs. We believe that's fundamentally fair.

MR. CHAIRMAN: Clarifications or questions? John Thompson.

MR. THOMPSON: Mr. Chairman, if we take the thing, this experience rating concept, to its ultimate, the concept of insurance is gone. You would finally get down to where the person that has the accident pays for it and the fellow that doesn't have the accident pays nothing. I know you're not talking about that, but where do you draw the line?

I'll take myself for instance. I haven't had a car accident for 10 years, but I'm still paying a considerable amount of money for car insurance. So when you have a no-fault policy, there is a certain factor built in there that — and I appreciate what you're saying. I think we should maybe look at it. But I'm not an actuary; I can't sit down and start . . . In fact, I have trouble even understanding this graph. Where the point goes up here, this one doesn't really follow it. Anyway, that's beside the point.

You'd get down to some place in insurance where you just can't use experience rating totally to set premiums for anybody, really. Have you people had an actuary sit down

and give you some kind of a feeling of — I think we should always get out there and encourage people to have a better safety record. I realize you are at a plateau now. You've gone as far as you can go, so it is very hard for your safety people to say: hey, let's spend another $40,000 on safety. They'll say: well, what's the point?

But where do we get on that? We're very concerned in this area.

MR. HOWARD: I can't reply specifically to that question, Mr. Thompson. Likewise I'm not an actuary, but I believe — and certainly some sound insurance principles have to be maintained in any system you have. In this kind of comparison, there's a certain amount of pooling that must go forward and a certain amount of protection that has to be afforded to smaller organizations that may not have the resources of the larger organization. All those things have to be considered. We don't have a specific response to that, but we submit that a better formula is possible than the one we're currently using.

In that connection, it might be a good further suggestion to suggest that some dialogue go on between the committee or the Board and industry to try to establish some of the guidelines or some of the parameters within which a better formula might operate.

MR. CHAIRMAN: John Wisocky, some clarification?

MR. WISOCKY: Just a few points. As some gentlemen here know, we had the opportunity of visiting Syncrude not too long ago and included one of our Board members, Mr. Morris Bahry. We're cognizant of the situation, and we appreciate the concerns. As the gentlemen have said, it's more in the overall problem of classes and the inequities, or the seeming inequities, within the merit rebate/superassessment system. But it does take a while to get an experience. You're developing a pattern here, but it's not too long ago that the frequency was much higher.

The point I want to make is that we're fully cognizant of the situation. We've had the opportunity of starting dialogue. We are doing some work, and the select committee is doing some work. It's not easy.

MR. HOWARD: Mr. Chairman, if I could respond to that very briefly. What John says is quite true. We have indeed worked with the Board and looked at figures on a couple of bases, the year by year payout basis and on a fully accrued basis. Our conclusion, no matter which basis you use, is the same: our compensation costs far exceed what they should in terms of our real experience. I appreciate that we are reviewing this with Board officials, and we've had a great deal of co-operation with them in this regard, in terms of review of specific figures and data. It's been very helpful.

MR. CHAIRMAN: I think you identified one area where I'm possibly the same way as John Thompson. You say companies with loss ratios consistently at the 105 per cent level pay no penalty, even though they are a constant drain on class revenues. That's easy to understand, and we are working and will be working. If your people have any further suggestions, I know there will be some communication going out to actuarial firms, so people that were trying to resolve this merit rebate/superassessment quandary . . . It seemed to work till about 1978 or so. You notice I used prior to my time of coming into the ministry.

Any other questions on this area? I just had one other, as an indication, with your increase in 1982: what was the effect on your company of the ceiling going to $40,000? What is your average payroll in your large organization?

MR. HOWARD: The effect at Syncrude was not great. I can't cite you an average. But

in our particular case, which may well be an unusual one, the effect was not all that great.

Would you confirm what I've just said?

UNIDENTIFIED SPEAKER: Yes.

MR. HOWARD: I was not as close to it as these gentlemen were.

MR. CHAIRMAN: Good. Let's move into your next subject, and that's the revision to classes, Mr. Howard.

MR. HOWARD: Mr. Chairman, just really very briefly on this issue, we believe that in the grouping of employers or organizations into classes, some more attention can be paid and some more logic applied to the grouping of employers with respect to the nature of their operations or their risk experiences. We stop short once again of posing a specific formula or specific suggestion to you. Our own experience, once again, is that in rate group 4-04 we are linked with many organizations that we have very little in common with. This is by no means any kind of commentary about their performances in the safety or compensation claims areas. We don't know, and that's not the question at hand.

We believe that if we had a more logical grouping, either on that basis or on a risk exposure basis, we'd be able to work more closely with certain employers, either via associations or directly with the employers, and reapply some of the learning that some companies have had or have developed more broadly throughout the private sector, and hopefully learn, reduce costs, and improve safety performance yet again. In sum, that's really what we believe.

The one further point that I would like to make is that I would hope that in moving in this direction, the committee or the Compensation Board would be agreeable to consulting with employers before arbitrarily changing their rate class. We're not proposing on anybody's behalf — certainly not our own either — an arbitrary change in the rate grouping we're in. The second feature of what we propose is that if regroupings did fall out of such an examination, we would hope that employers with continuing good compensation records would not be denied the opportunity to avail themselves of the rebate formula that was in place at the time for the three-year period that would otherwise normally be used to establish experience in the new class.

MR. CHAIRMAN: Al, to elaborate; then Stan Nelson.

MR. RUNCK: Mr. Chairman, in reply to the last comment that was just made, the gentleman may recall that Syncrude gave us a representation a number of years ago, suggesting that their sand mining operations were in a different classification and should be brought together. He probably recalls that they were consulted, and they were given information and advice. There were employer discussions, not only with them but with other employers in the classification, before this was all brought together. I'm simply saying that this is a policy that the Board follows. Before changing an industry from one classification to another, there is discussion, right?

MR. HOWARD: You're right on the count of the prior discussion that occurred between Syncrude and the Board. It certainly did.

MR. NELSON: Mr. Howard, through these hearings, we've had considerable discussion in relation to the area of classifications. Much of industry has suggested that we decrease these numbers of classes. I'm interested in your comment regarding risk exposure. I'd

like to know if you feel that using a risk exposure basis rather than the number of classes that are involved with this thing at the present time might be a more beneficial way to go, especially for those industries that have a reasonable record as against those that don't, insofar as reducing the number of classes yet offering a much simpler system in the administration of such.

MR. HOWARD: I have no hard information. My intuition would tell me that it probably would be helpful. I can only say that from sensing that organizations with similar levels of risk and similar levels of exposure, from our perspective anyway, would be able to dialogue pretty quickly and pretty significantly in terms of specific programs, specific activities, and specific experiences that each has had that they have found to be beneficial and might be reapplicable in a related situation. I can't really give you a sound answer to that question. I think it would, but I don't know.

MR. NELSON: The reason I bring this up is that your comment — I guess basically you suggested here that you don't really feel the class you're presently in has any relationship. Not that I know your operation, but there seem to be three or four classes identified in class 4 that are relevant to your industry.

MR. HOWARD: Some are, to be sure.

MR. NELSON: I just wonder, if you want to come out of that, whether we create another class explicitly for Syncrude and other related types of businesses, or we go to this other area of risk exposure.

MR. HOWARD: I would think we'd want to explore the possibility of risk exposure rather than industry exposure being the determinant.

MR. NELSON: Thank you very much.

MR. CHAIRMAN: Any others? Good. Any other comments, Mr. Howard?

MR. HOWARD: I don't think so, Mr. Chairman.

MR. CHAIRMAN: Thank you very much for coming forward. I want to recognize the fact that you've concurred in making a presentation here rather than — you'd offered to do it in Fort McMurray, but you would have been the only ones. This permitted us to schedule you here for the Edmonton hearings. Thank you and your colleagues for coming forward.

MR. HOWARD: Thank you for the opportunity to speak.

MR. CHAIRMAN: Very well, we'll adjourn till one o'clock. At one o'clock, we'll have PCL Construction Ltd. Thank you.

[The meeting recessed at 11:38 a.m. and resumed at 1 p.m.]

MR. CHAIRMAN: Very well, we can come to order. In the event that there is anybody present who has a concern about their claim or account or an employer who has not been scheduled on the hearing agenda, I would suggest that during the break they speak to the staff, and we will try to accommodate and assist them with whatever their concern is. In some hearings in other cities, we were able to fit in individual representations that were

not scheduled. But I regret that the time frame here will not permit us to schedule anybody else, because we are now booked for the full afternoon. The response has been good. Again, if there is anyone present, during the break between one group's representation and another, please step forward and speak to my staff or me about your concern.

PCL Construction Ltd.

MR. CHAIRMAN: We have PCL Construction. Mr. Jackson, are you going to be the lead-off pitcher in this world series game?

MR. JACKSON: Yes.

MR. CHAIRMAN: Make your presentation. We hope that we will have some time for questions and answers at the end.

MR. JACKSON: Certainly, that's the way we came prepared.

MR. CHAIRMAN: Good.

MR. JACKSON: Hon. Minister, members of the select committee, on behalf of PCL Construction I would like to thank you for giving us the opportunity to review our brief, which we submitted to you on August 12. Just by way of introduction: myself, vice-president of the company; to my right, Bob Sawatzky, director of safety, and Gerry Young, our Edmonton district safety officer.

Moving on to our brief, basically we as a company believe that the objective of the Act should be to provide compensation protection for the worker. The level of compensation payments should not encourage a worker to remain on compensation longer than necessary and thereby abuse the system.

We are going to move this around in terms of our individual presentations.

MR. CHAIRMAN: Very well.

MR. SAWATZKY: Mr. Chairman, item No. 1, lifetime pensions. Basically we have three comments regarding pensions. Firstly, we feel that pensions should not be stacked. When a person reaches retirement age, there must be some adjustment at that time. Secondly, we support the idea of lump sum payments being made for permanent partial disabilities and, in particular, for workers returning to the same job as prior to the injury. Thirdly, when an injured worker returns to work at the same wage, this should be taken into account when we consider a pension or lump sum payment for injuries.

MR. YOUNG: Item No. 2, the assessable maximum earnings. The present $40,000 ceiling should be changed to a maximum of $30,000. This would reflect ceilings more in line with other provinces.

Item No. 3, calculation of compensation. Compensation other than total disability pensions should be based on the actual income for the prior 12 months, including unemployment insurance benefits, rather than the current system of calculating benefits based on assumed earnings for 12 months.

MR. JACKSON: Item No. 4 of our brief, publication of policies. The select committee was established to receive recommendations and representations regarding the operations

of the Workers' Compensation Act. We believe the operations of the Act are governed by the Board's policies in the administration. We cannot address these policies as at the present time they are unknown and unavailable to us. In the past we have requested that these policies be made available and that additional time be granted to review them. This would have enabled us to evaluate and determine if certain policies should be legislated or strengthened as individual policies.

MR. YOUNG: Item No. 5, the proprietor section. We believe that all self-employed Albertans, such as truckers, be dealt with in the same manner as any other business operation. The Workers' Compensation Board should be responsible for the collection of premiums from self-employed operators rather than using general contractors as collection agencies.

MR. SAWATZKY: Item No. 6, merit rebate/superassessment. We believe that the present system of merit rebate/superassessment should stay as it is. Perhaps the system should be modified to correct the imbalance between merit rebate and superassessment. But we feel that we should not remove the incentive from safety- conscious employers. However, we feel that we could increase the penalties in the form of superassessments for employers who have a poor record. In essence, I suppose what we are really trying to say is that if every employer received a merit rebate, we wouldn't be having a monetary problem today.

MR. JACKSON: Item No. 7, advisory board. In order to create better liaison and communications between industry, labor, and the Workers' Compensation Board, we propose that an advisory board be established.

MR. SAWATZKY: Item No. 8, claimant eligibility. The Board should produce the following policy with regard to the processing of lost-time claims. They must be in receipt of the employer's report of injury, the worker's report of injury, and the doctor's report. The claim would then be processed and, if approved, benefits would only be paid for the duration of the disability, recommended by the doctor.

Item No. 9, percentage of earnings. At the present time compensation is based on 90 per cent of net pay as determined by the Board. Other provinces use a 75 per cent of earnings figure. We see no reasons why Alberta should be higher.

Item No. 10 deals with recommended, detailed changes to the Workers' Compensation Act. The first item is section 19 of the Workers' Compensation Act, and we are discussing a new paragraph for (1)(a). This section refers to eligibility for compensation. At the present time the section and subparagraph of the Act states that compensation is payable

> to a worker who suffers personal injury by an accident, unless the injury is attributable primarily to the serious and wilful misconduct of the worker . . .

We feel that the worker should be more accountable for his personal health and safety on the worksite, and we also believe that the Workers' Compensation Act should agree with the occupational health and safety regulations concerning this subject.

We therefore recommend that section 19(1)(a) of the Act read:

> Subject to this Act, compensation under this Act is payable
> (a) to a worker who suffers personal injury by an accident, providing the worker had taken reasonable care to protect the health and safety of himself while working.

The next is item No. 2, which deals with section 19 also, but it deals with paragraph (2), and it continues on discussing the Act with regard to eligibility for compensation. At

the present time, this section reads:

> The Board shall pay compensation under this Act to a worker who is seriously disabled as a result of an accident notwithstanding that the injury is attributable primarily to the serious and wilful misconduct of the worker.

If our previous recommendation is accepted, our recommendation is that paragraph (2) is redundant and should be deleted from the Act.

Section 39 of the Workers' Compensation Act refers to notice of decision with regard to determination in awarding a permanent disability pension. At the present time this section states that the interested parties

> shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, [only] on request, be provided with a summary of the reasons, including medical reasons, for the determination.

We feel that all interested parties should be advised in writing of the determination of the pension award and should be provided with a summary of the reasons, including medical reasons. This should be done prior to the awarding of moneys, to provide the employee and the employer the option to appeal to the Claims Services Review Committee.

Therefore we recommend that section 39 of the Act read as follows:

> On the making of a determination as to the entitlement of a worker or his dependant to compensation under this Act, and prior to the awarding of these moneys, the employer and the worker or, in the case of his death, his dependant, shall be advised in writing of the particulars of the determination and be provided with a summary of the reasons, including medical reasons, for that determination.

The last item we are dealing with is section 40 of the Workers' Compensation Act. At the present time this section refers to review of a decision with regard to claims and explains the structure and the operation of the Claims Services Review Committee. At the present time only the Claims Services Review Committee has access to pertinent information on the file in question. We believe that all concerned parties — the worker and the employer — should have access to this pertinent information, to enable a review to be conducted in a manner fair to all concerned.

We therefore recommend that the following paragraph be added to section 40 of the Act:

> (6) Any person who has a direct interest in a claim for compensation under the Act should, upon written request have access to pertinent files when requesting a claim service review.

MR. JACKSON: That concludes our presentation.

MR. CHAIRMAN: Thank you, gentlemen. If I may ask for a little initial clarification. One is on the ceiling, and the other is on the percentage. You indicate, sir, in your presentation that the average ceiling for the remainder of Canada is $26,000. Do you support that that is about what should be the maximum compensation paid in this province?

MR. YOUNG: No, I believe we recommended that we should be changed to a maximum of $30,000.

MR. CHAIRMAN: But are you saying that should be paid to an injured worker or based on that $30,000?

MR. YOUNG: Thirty thousand dollars should be the maximum ceiling.

MR. CHAIRMAN: Payment made to a worker.

MR. YOUNG: In lieu of the present $40,000. If I could elaborate on that for just a moment. The statistics that we receive within our own organization indicate that prior to the increase in the ceiling, in 1981 the average injury cost per man-hour was 9 cents.

MR. CHAIRMAN: You're losing me there. Let's work on an annual basis, because we are looking at an annual basis. What would have been your average compensated earnings for 1981?

MR. YOUNG: That's just what I am explaining to you now. It was 9 cents per man-hour in 1981. After the ceiling was increased, it doubled. In 1983 it is running at 21 cents.

MR. CHAIRMAN: It couldn't have doubled, Mr. Young, because the Board's statistics show that the average compensable earnings for 1981 was around $21,000; at the end of '82, it was $23,000. I am comparing yearly figures. So can you give me some indication of what your company's experience was?

MR. YOUNG: That is what our experience is, Mr. Minister.

MR. CHAIRMAN: But I am asking for a yearly figure.

MR. YOUNG: We could sit down and present that to you later.

MR. CHAIRMAN: So you don't have it.

MR. YOUNG: I have the man-hours at the present time, 9 cents per man-hour prior to the increase in ceiling. After the ceiling was increased, it doubled. In 1983 it's 21 cents.

MR. JACKSON: We can and will provide it.

MR. CHAIRMAN: Then what is your average salary for PCL?

MR. YOUNG: The average salary per man-hour?

MR. CHAIRMAN: No, average yearly salary. We are working with a $40,000 ceiling. You are criticizing the $40,000 ceiling. Let's work on an annual basis, because this man-hour thing is meaningless to me. I'm not an accountant; I'm a policy-maker, and I have to work on an annual basis.

MR. YOUNG: We could present that to you at another time, if you like.

MR. CHAIRMAN: You don't have your average?

MR. YOUNG: We could present that to you at a later time.

MRS. FYFE: Could I follow along on that same question?

MR. CHAIRMAN: Yes.

MRS. FYFE: Were the other factors relatively the same? You are working on a per-hour basis, which I understand may be more meaningful in some ways. On the other hand, as I said, it is difficult to compare the yearly with the hourly. Was there a change in the number of claims, for example, on the average? Did those factors change?

MR. YOUNG: Our accident frequency reduced drastically in that three-year period. At the same time, the costs increased.

MRS. FYFE: The accident claims were reduced.

MR. YOUNG: The number of accidents decreased.

MR. CHAIRMAN: What cost increased?

MRS. FYFE: Per worker . . .

MR. YOUNG: The compensation cost increased.

MRS. FYFE: . . . or are you talking about the total number of workers? Probably your total . . .

MR. YOUNG: Total number of workers.

MRS. FYFE: Total number of workers.

MR. YOUNG: Our total number of man-hours.

MR. CHAIRMAN: Increased?

MR. YOUNG: Our total cost per man-hour due to injury increased. However, the number of accidents for those man-hours decreased. So you have a decrease in accidents and an increase in costs.

MR. CHAIRMAN: In view of this specific discussion, Al or John, do you have anything on an annual basis? That makes it difficult for us gentlemen to understand, to compare the same thing. I don't want to use the cliche of apples with apples. One of my colleagues got in trouble with that.

MR. WISOCKY: If I may, I just want to ask: what does a construction worker make per hour right now?

MR. SAWATZKY: Twenty-two dollars an hour . . .

MR. WISOCKY: Twenty-two.

MR. SAWATZKY: . . . would be a rate for a carpenter, and $17 an hour would be a rate for a laborer. So naturally we are talking general contractor's statistics.

MR. CHAIRMAN: The reason I started on this is that on a ceiling of $40,000 — I trust

this isn't new — we have been advised that on 90 per cent of net take-home pay, the maximum any worker can get in the province, at some $510 a week, is around $27,000. You say the average ceiling for the remainder of Canada is $26,000. This is our maximum. That's why I'm asking you for some comparison on an annual basis, Mr. Young, because you appear to support an average payment, and our maximum that is paid to an injured worker in this province is around $27,000.

MR. WISOCKY: In class 6-01, which this company is involved in, the average salary in the claims reported in '83, to date, is a little over $30,000.

MR. CHAIRMAN: The other question that I have to you is part of the same thing, and that is your percentage. You indicated to reduce it to 75 per cent, and you compared it with other provinces. But I am advised that in most of the other provinces it is 75 per cent of gross. Are you suggesting that you believe it should be 75 per cent of net in this province?

MR. YOUNG: Of the net pay as determined by the Workers' Compensation Board. What we are also forgetting is that these compensation benefits that are received by the injured worker are all non-taxable.

MR. CHAIRMAN: Tax is deducted when we arrive at that.

MR. YOUNG: It's non-taxable as income at the end of the year. If I draw $5,000 benefits during 1983, that is non-taxable at the end of the year.

MR. CHAIRMAN: But in the calculation, Mr. Young . . .

MR. YOUNG: The net calculation, yes.

MR. CHAIRMAN: In the net calculation, tax, unemployment insurance contributions, and Canada pension are considered. What others?

MR. WISOCKY: CPP.

MR. CHAIRMAN: CPP.

MR. WISOCKY: Those are in the regulations.

MR. CHAIRMAN: I am sharing it with you because you said 75 per cent. I thought your brief indicated of net.

MR. YOUNG: Yes.

MR. CHAIRMAN: I have some real concern, because in other provinces it is 75 per cent of gross. That's what it used to be here.

MRS. FYFE: Which is a similar figure.

MR. CHAIRMAN: Seventy-five per cent of gross is almost 90 per cent of net.

MR. YOUNG: I understand.

MR. CHAIRMAN: But are you suggesting that we go to 75 per cent of net?

MR. YOUNG: Yes, that's what the recommendation is.

MRS. FYFE: But that's not the same as other provinces.

MR. YOUNG: No.

MR. CHAIRMAN: That would be less.

MR. YOUNG: It may be less and it may not. It depends on how you sit down to figure out the numbers.

MR. CHAIRMAN: You're the ones making the submission, gentlemen, and I am asking for clarification. I can now appreciate why, as members of the Alberta Construction Association, you wanted to make a separate submission. Yours deviates quite a bit from the Alberta Construction Association.

MR. JACKSON: Fine. Just to go back on the one point that we talked about earlier — that is, the incidence — we will provide you with detailed information within a week.

MR. CHAIRMAN: Yes, it would help us.

MR. JACKSON: Okay. Relating back to the years' income.

MR. CHAIRMAN: The only thing is that your philosophy appears to be that you want to still penalize higher wage earners in your employment, by reducing it from $40,000 to $30,000 and still paying 75 per cent of net. However, you may think it over.
Any other comments? John?

MR. THOMPSON: Not on this one but on a different one.

MR. CHAIRMAN: On a different one, go ahead. I think we have exhausted this. Myrna?

MRS. FYFE: My comments were both in those areas.

MR. CHAIRMAN: Yes, go ahead.

MR. THOMPSON: On your number 10 here, it is generally felt that workers' compensation is a form of no-fault insurance. If that's accepted — and I don't say people accept it — don't you feel that this recommended change erodes that concept to some degree?

MR. YOUNG: I don't believe we're going to change the concept any. All we are requesting is that the worker be more responsible for himself on the worksite, as well as the employer. All we are asking is that the Workers' Compensation Act agree with the present Occupational Health and Safety Act. The Occupational Health and Safety Act states that. All we are doing is asking for the worker to be more responsible for himself on the worksite. We are not saying that he should be denied compensation benefits if he is injured. We are just saying that he should be more responsible for himself while is on the worksite. That's all we are asking.

MR. CHAIRMAN: But you are asking that there be no compensation paid if there isn't reasonable due care.

MR. YOUNG: Providing the worker has taken reasonable care.

MR. CHAIRMAN: Yes. I read the opposite. That's why Mr. Thompson asked the question.

MR. YOUNG: We are saying the same thing in the Act at the present time.

MR. CHAIRMAN: You are indicating that you don't believe a worker should get compensation if he was careless on the job.

MR. YOUNG: That's what we've said here, that they should take reasonable care. All we are asking is for them to be more responsible on the worksite.

MR. CHAIRMAN: I think Mr. Thompson wants an answer. Should the worker get compensation or not?

MR. YOUNG: Sure.

MR. CHAIRMAN: Yes?

MR. YOUNG: Sure. He's getting compensation now. We are just asking him to be more responsible, that's all.

MR. THOMPSON: But, Mr. Chairman, the way this recommendation reads — as I read it at least — the carelessness or not of the worker is a factor in determining compensation. Is that what you're saying or not?

MR. YOUNG: Yes, and that's what the Act says now. The present Act says the same thing, unless "the injury is attributable primarily to the serious and wilful misconduct of the worker". All we are doing is saying, let's make him a little bit more responsible than he is.

MR. CHAIRMAN: John, can you help us out on this? I am just looking at the Act.

MR. WISOCKY: I guess serious and wilful misconduct goes beyond carelessness or even disobedience of orders. That only applies in a situation where, say, there is a company policy that I shouldn't walk over there, and I have been warned about it repeatedly. Despite that, I say, to heck with you, I am going to walk over there, and something happens. Then you might get serious and wilful misconduct in that area. But the Act says that if the injury is serious, maybe the man has been penalized enough by the injuries he sustained, and it is waived under the Act. Carelessness per se — accidents don't happen, or they are not manufactured. Generally speaking, they happen because of some uneventful event.

MR. CHAIRMAN: Section 19(2) of the Act, as you made the recommendation here, the way I read it and the way John Thompson read it, would mean that the worker would be refused compensation on your recommendation.

MR. YOUNG: Are we talking about paragraph (2)?

MR. CHAIRMAN: Paragraph (2).

MR. YOUNG: Oh, sorry. If the first recommendation we make for 19(1)(a) is accepted, then we believe that 19(2) is redundant. That's what our recommendation is.

MR. CHAIRMAN: But there is a word that says "primarily" to this serious and wilful misconduct. You left that word "primarily" out of your draft. However, you may want to look at it.

MRS. FYFE: In just trying to understand the thrust of the recommendations that you are making, the recommendations come close to doing away with the basic principles of workers' compensation, I guess: the principles that the employer or the owner cannot be sued; that the worker gives up the right of tort under workers' compensation and, in lieu of, can expect to receive reasonable compensation for injury, whether it was through his own carelessness, the carelessness of a co-worker, or the negligence of his employer. We have had a number of submissions during these hearings where cases were cited where an employer was negligent. We had submissions that there have not been severe enough prosecutions, that no one who has been challenged and has even gone to jail because of negligence, but all within the bounds of the principles of workers' compensation.

Another submission that we received from a major employer in the province explained the great success they had in reducing the number of accidents and the incentives they have been able to build into their worksites for the workers to take a greater responsibility. On that point, I wonder if any one of you three gentlemen could comment on the programs PCL has to provide a greater incentive, a greater knowledge base to the workers for their own safety at the work place.

MR. JACKSON: We have extensive programs, which Mr. Sawatzky will address.

MR. SAWATZKY: We have several programs where we get involved with the worker. These are actually handled through his immediate supervisor. That's probably the simplest way to put it, rather than confusing them by having lectures by everybody from outside. We spend our time teaching his immediate supervisor what he should be teaching his people to bring them along. Through these programs of bringing them along, we eventually get to the point where there is competition between crews, who are now a body that you can identify — as a team, they actually do compete. We get into things such as recognition awards for that particular group, and they do it in a team spirit type of thing. These are taught by his foreman. We spend our time teaching the foreman to get these off the ground and going. We use the foreman as the focal point. Does that answer your question?

MRS. FYFE: Yes. Do you have a kind of incentive program? There is competition. Is there an award that goes with that?

MR. SAWATZKY: Yes. That was the incentive program, and there are the various awards of recognition that are given to the team.

MRS. FYFE: What is your feeling on the safety committees that are in operation in Ontario, where there is certain funding given to various industries that . . .

MR. CHAIRMAN: Safety associations.

MRS. FYFE: I keep saying committees, don't I?

MR. CHAIRMAN: Yes.

MRS. FYFE: Safety associations, I'm sorry. Are you familiar with these at all?

MR. SAWATZKY: Yes.

MRS. FYFE: What is your feeling about them? Do you feel that they are effective?

MR. SAWATZKY: I have to add that they are effective. We use a lot of their information. I am sure that if we go to any safety professional in the province of Alberta, we have a lot of their information. One that comes to mind quite readily is the handling and use of both mobile and power cranes and rigging procedures. They have some good publications, and we all make use of them. Yes, there is a lot of information.

MR. JACKSON: However, I think what Mr. Sawatzky is saying is that in our particular organization, while we use this information, it becomes a management and field management commitment to the utilization of those procedures. We have an extensive incentive program for rewarding the implementation of those procedures.

MR. R. MOORE: Mr. Jackson, in your first recommendation, that last sentence is far-reaching and fairly strong, where you say:

> returns to work for any employer at or above a previous income at the time of the disability, all pension monies should cease.

It seems to me that if a man had his legs cut off, had a pension, and got employment for a year at higher than what he had previously, and you cancel the pension, the next week he could be fired or lose that job. Where is he then? This is sort of a new approach, that if he gets employment somewhere else — and we don't know how long any employment goes — you would take the pension away from him at that point in time.

MR. SAWATZKY: I would like to reply to that, Mr. Moore. In my verbal delivery, I used the word "adjustment" quite readily. Perhaps we should be mindful of the word "adjustment". When we say "cease", in the terms that we see it now, yes, we can go to the extreme and say, yes, he's in the railroad and he loses both legs . . . Now we're getting into a real serious situation. But in most situations that we are looking at in compensable cases, the vast majority of them are not of that description; they are somewhat less than that. We have a lot of folks . . . We are talking about ceasing lifetime pensions and looking towards the lump sum. This is what we are driving at. Yes, you go back to your old job, but let's consider the fact that you go to your old job. Yes, there was pain and suffering; let's deal with that. This is my answer to it.

MR. R. MOORE: I agree with the lump sum system, that part.

MR. SAWATZKY: The concept of lump sum.

MR. R. MOORE: But this isn't what you're saying here. It appears to me that you are getting fairly strong in the recommendation, coming out and saying we will just cut the guy off because he's fortunate enough to get a job at a rate higher than he had before. That could end the next week; he might get fired.

MR. JACKSON: We will give you the clarification on what Bob said today in relation to what was submitted earlier.

MR. CHAIRMAN: One more area that I thought I would just touch on is claimants' eligibility. Your emphasis is that the employer's report, the worker's report, and the doctor's report be there before processing lost-time claims. Not recently but some short time ago, there was a survey carried out. The greatest percentage of the reports that were the last to come in were from employers. The Act provides for a penalty, under section 28(2):

> An employer who, without reasonable cause, contravenes subsection (1) is liable to pay to the Board the sum of up to $100 for each day the contravention continues . . .

That is reporting an accident. That hasn't been applied. Do you support that it should be?

MR. JACKSON: I will ask Gerry Young to comment on that.

MR. YOUNG: If it is not being done, then I think something should be done to remind employers to get their reports in. I could elaborate on that just a bit more, Mr. Minister.

MR. CHAIRMAN: I would welcome it, because it is a concern to me. I have been made aware of it by both trade union people and workers who are frustrated with the lack of employers' reports.

MR. YOUNG: The present system that the Board is using is a card system. It's called an 041 — is that it? — that they send out to the employer if they have not received an employer's report. That's the ideal way. I don't see anything wrong with that. As soon as you receive that, if you haven't been notified by the worker that he was injured on one of your worksites, then you immediately contact the worker and say: were you injured on one of our worksites? Yes. Did you tell anyone? Yes, I believe so. Well, who did you tell? Then he doesn't know who he told, or maybe he hasn't reported it.

MR. CHAIRMAN: In your organization, Mr. Young, I am aware that you have a joint worksite compensation committee. Do they do the investigation of an accident?

MR. YOUNG: A form of it. Our supervisors do the investigation.

MR. CHAIRMAN: It's the supervisors who do it, not the joint worksite committee.

MR. YOUNG: Yes, our first-line supervisor does the investigation.

With the card system, we find it works excellently. If we are not told by our supervisor and we receive a card from the Workers' Compensation Board stating that Joe Blow has had an incident on such and such a date, we contact him. He says, yes. Did you report it? No, I didn't report it. Would you report it to him soonest, and we will fill out our report and send it in.

MR. CHAIRMAN: How do you communicate to your employees that there are two Acts under which they must report an accident: the Workers' Compensation Act and the Occupational Health and Safety Act. How do you brief new staff?

MR. YOUNG: When new employees are signed on, we have a briefing by the immediate supervisor, informing them of the safety rules in field construction and the reported

procedures at that time. They sign a statement that they understand that.

MR. CHAIRMAN: Anything else? Thank you very much. Mr. Jackson, from our discussion here, there is a little more information you will send in to us. We would welcome it, in particular the areas that I raised and that Mr. Moore raised.

MR. JACKSON: That's correct, Mr. Minister. We will respond within a week or whatever.

MR. CHAIRMAN: Whenever this can be done. You won't be penalized for that. Thank you.

Mechanical Contractors Association of Alberta is next.

Mechanical Contractors Association of Alberta

MR. CHAIRMAN: Mr. Wieczorek, you're going to be the leader?

MR. WIECZOREK: No, Mr. McCorquindale will.

MR. CHAIRMAN: Very well. We have approximately a half-hour's time. We have your submission here, but we'd welcome you to review it and make any preliminary comments you wish to, and then permit some elaboration and questions.

MR. McCORQUINDALE: Thank you very much, Mr. Chairman. Hon. minister and members of the select committee, first of all I would like to introduce our association representatives. I'm the executive director of the provincial association, and I'm also on the class committee for 6-02 and on our safety committee. On my immediate left is Mr. Stan Wieczorek, employed by Comstock International, one of the largest mechanical contractors in Canada. Mr. Wieczorek is also a director of our association and a member of our safety committee. On his immediate left is Mr. Robert Walker, the executive director of the northern district of our association.

Mr. Chairman, we're basically here to support the briefs submitted by the Alberta Construction Association and the Industry Task Force. Being mechanical contractors in the plumbing and heating industry, we have many of the same concerns that many of the other construction employers and their associations have in this province. What we would like to do, Mr. Chairman, is not go through the recommendations of the Alberta Construction Association item by item. Mr. Wieczorek will concentrate on three or four specific areas he would like to make a few comments on. Mr. Walker would then like to make a few comments on the liability of employers, and I would like to leave you with a few words, with some comparisons on cost aspects of workers' compensation insurance. At this time I would like Mr. Wieczorek to say a few words to you.

MR. WIECZOREK: Thank you, Derek. Lady, gentlemen, you already have received the ACA submission. One of the things we have not objected to but feel should be expanded upon are items 14 and 15, the safety education and industry associations and the funding of safety education through class assessments. We feel this could be dealt with at one time. The Mechanical Contractors Association feels that potentially the committee is already legislated and the power to review occupational health and safety could be expanded to cover the Workers' Compensation Board as well.

As well, MCA believes that not only would this reduce the cost by refraining from creating another legislative body to oversee the work of the Workers' Compensation

Board, but in dealing with funding safety programs offered by the associations which proceed through the benefit of the construction industry where it provides the expertise and manpower to continually train those people employed in the construction industry it would also allow for funding to be allocated by this new increased-scope legislative committee dealing with occupational health and safety as well as workers' compensation. It is the belief of the Mechanical Contractors Association of Alberta that this enlarged committee would be able to incorporate individuals from the associations that would allocate specific funding as identified through item 15 of the ACA submission to be used by various associations.

Mr. Minister and committee members, the MCA has worked closely with occupational health and safety — specifically Dr. Buchwald, its director — and found that not only can we work closely together to develop educational programs or materials, but in fact it is our perception that government wishes this particular approach to continue. We therefore suggest to you that the most logic route would be to allow individual associations and their programs to be judged by this group, which would adjudicate them on need alone. This would of course eliminate the need for an additional review board to review the review of the review board.

Item No. 8, claimant eligibility. Regarding the claims administration policies, there is a perception that not enough effort has been expended by the Board to determine whether the applicant continues to be eligible for compensation. It is the belief of this association that the Board should adopt a system of accountability similar to that used by the Unemployment Insurance [Commission] of Canada, the insurance industry where a claimant must declare in writing his or her continued right for compensation payments. We believe this could be done similar to the unemployment insurance procedure by issuing a brief questionnaire with each cheque and, as in the case of the insurance industry, having the reverse side of the cheque printed with a disclaimer stating that the recipient is still legal. The reason for that is that we find there are a lot of payments being made that we feel have been extended beyond the normal term of the person on unemployment insurance. We'd like to put the onus back on the workers themselves to show their actual need.

Those are just two small comments we'd like to make about the ACA submission. The particular point we would really like to deal with: recently in Ontario there was a court decision handed down by the high court. Unfortunately we can only state at this particular time that we have been in contact with the Ontario and the Alberta law societies to find out what actually became of this court case. Since nothing has been brought forward at this time, we feel it is probably still before the courts.

Two years ago the Mechanical Contractors Association of Alberta raised the issue that changes in the Constitution may create difficulties regarding workmen's compensation and the various Acts throughout the provinces. It was a contention that the no-fault process under which all compensation systems work would be jeopardized if the Constitution allowed individuals to sue in the courts for larger settlements, should they be injured or killed on the job. Recently the Ontario high court of justice decision allowed an injured worker to sue the executive officer of a company rather than being restricted to workers' compensation.

We suggest, Mr. Chairman, that it is essential that legislation prohibiting the use of the courts be initiated immediately, or reviewed by your department to advise the construction industry whether in fact a no-fault process will continue in the province of Alberta. The case in point is Berger vs. Willowdale, and our information is that the high court of Ontario actually upheld this decision and allowed the injured worker to sue an executive officer.

Bob, do you have something to add to that?

MR. WALKER: No, you did very well on that. You flew right through it.

The specific concern and the reason for raising this point is that in September 1981, prior to the new legislation coming into effect, the Mechanical Contractors raised what we felt would be a very serious problem for workers' compensation. Mr. Thompson, through the chairman, in your question to PCL you mentioned the no-fault process. In fact should the decision between Berger and Willowdale be upheld, it is questionable whether there is no-fault insurance in any of the provinces any longer. We would like to see Compensation and the government consider this and change legislation, as it would be empowered to do, to safeguard workers' compensation or — I refer this back to Derek now — consider that workers' compensation would no longer exist, and we would have to go under private industry.

MR. McCORQUINDALE: Mr. Chairman, I think the Constitution has obviously caused a few problems across Canada. You are not going to be unlike a lot of other bodies having to look into some of these different aspects. We just wondered if the select committee would at least give some consideration to comparing, for instance, the formation of workers' compensation, particularly with respect to the payment and the cost factors, to some of the similar legislation that exists in the States. I'm certainly not an expert on their system, but I understand that in certain parts of the United States, the Act does allow the insurance aspect to be covered by private industry as opposed to the provincial government or directly through the Act. [We are] certainly supporting the aspect that workers' compensation and the principles of workers' compensation are completely acceptable to us, and the fact that the worker should be entitled to receive reasonable compensation.

I would just like to spend a few minutes on the cost factor. Because of some of the comparisons we see before us — and our own association operates a group health and welfare insurance plan where, of course, we provide very, very similar group insurance coverage for the same employees you are covering, plus management, plus the complete staff. Of course, we are very concerned that this is 24-hour a day coverage. Just in our own classification, 6-02, in which I believe we are paying $3.25 per hundred, I think we could work that out that an employee who is earning $30,000 a year is costing us roughly $900 through workers' compensation for this coverage. Of course, this coverage is really only for the duration of working hours and, I believe, travel to and from work.

Similar coverage in our own plan, to ensure that that same worker could receive $2,500 a month, costs us round about 88 cents per hundred. There does seem a great difference in the cost factor the employer is paying for similar coverage. I will grant you that workers' compensation probably has some additional benefit areas that are not covered by us, but it is a matter of reviewing the cost factors of both the compensation requirements and our own insurance plan. I am just wondering if the select committee would in fact be making some comparisons as to the costs of the same coverage in the insurance industry. I can assure you I have no connection with the insurance industry, and never have had either. I'd better make that quite clear.

MR. CHAIRMAN: Mr. McCorquindale, I regret to interrupt you, but there is a North American study that covers many of the states — I don't have it here, but I can make it available to you — that shows that the increase of state funds in the United States is growing because more and more private insurers are walking out of the coverage. That is part of the proof. The other one is that I would hope that wherever you got that comparison, you would share it with us, because we'd like to see it. But you admit that probably there isn't a coverage. You and I know that in private insurance — and I've been in it — there is always a maximum of what they will cover under any dollar under workers' compensation. Then you also have to add in the no-tort system we have here.

Liability insurance is costly in the United States. You would have to add that, plus the rehabilitation program.

Under the private insurance plan — and I'm sharing this with you for your benefit because you raised it — Alberta health care covers all the costs. This is historic. I share my concern that why does Alberta health care cover private insurance claims but not workers' compensation, and the same with physiotherapy and everything else. You have to add all the coverage in if you're going to get a quotation, and I'd welcome it. The committee would like to get it from your association.

MR. McCORQUINDALE: Mr. Chairman, we would certainly be prepared to submit a short brief to you on some of the . . .

MR. CHAIRMAN: No, get the quotation from your broker — whoever is giving you that 88 cents a hundred.

MR. McCORQUINDALE: I have it right here. I know that is the case, but I will certainly be more than willing to submit some of these facts to you, realizing that I'm sure most of you are aware of some of these problems that have existed in the States — and I don't disagree with those. But just another example, for $75 a month, which again is what the $900 works out to for workers' compensation, in private industry it not only covers $2,500 a month coverage but dental, supplemental health care, includes our Alberta health care premium, accident and dismemberment, and life insurance.

As I said, I certainly will be prepared to submit some of these facts to you, but I think we would just ask that you are prepared to at least look at this aspect of the coverage that can be provided through private industry, because we looked for 24-hour a day coverage. I think the insurance statistics prove conclusively that there are more accidents and illnesses related to insurance claims outside of the occupation of an individual. This again must surely prove that it should be looked at. I'm not saying that it's conclusive evidence at all, Mr. Chairman.

MR. CHAIRMAN: Mr. McCorquindale, this committee has a mandate to review two Acts, and we would welcome any submission. I suggest that you get that quotation to us. Other than to share with you, we have the information from the United States, we have the cost of private insurance in the United States, we also have the data that indicates that private insurers are abandoning workers' compensation coverage in the States.

MR. McCORQUINDALE: I know that too.

MR. CHAIRMAN: You know that? Good. I'm glad we finally agreed on something, because this committee is not . . .

MR. McCORQUINDALE: Yes, but the cost of insurance and the cost of claims in the States is exceedingly high. We are very fortunate in this country of having a better system all around, so I wouldn't disagree with you on that. But I think as an association we are extremely pleased that you have given us the opportunity to speak to you on this, and I will certainly submit to you some facts that we have on the Canadian scene.

MR. CHAIRMAN: Okay. Any other questions or clarifications?

MR. R. MOORE: We went over the other brief and asked all the questions at that time — no additional ones.

MR. CHAIRMAN: I just wanted to ask you gentlemen, because I've asked some others — you heard me ask PCL. In this recommendation you are proposing that the ceiling be reduced and also that the percentage be reduced to 75 per cent of net from 90 per cent of net?

MR. McCORQUINDALE: I believe that is how it is in the ACA brief, the $30,000 ceiling and reduced to 75 per cent of net. I realize the point you were in discussion about on whether it's 75 per cent of gross or 90 per cent of net. I know this is not a great deal, but our position is that we support the . . .

MR. CHAIRMAN: Alberta Construction Association, reducing it to a $30,000 ceiling, and also the compensation at 75 per cent of net.

MRS. FYFE: No, theirs is 75 per cent of gross.

MR. CHAIRMAN: No, the Alberta Construction Association is 75 per cent of net instead of 90 per cent.

MR. WIECZOREK: Mr. Diachuk, could I go back to one of the statements we made. I think this is the key point we would like to find out, which I think tells us whether we are going to have workers' compensation again or not or just what is going to happen. You mentioned liability insurance. We're particularly interested in just what can be done. As we stated, we didn't have all the facts on this particular court case in Ontario. But what this does in fact mean is that any worker, injured or not — whether he's on a pension, whether he's dissatisfied with his pension; whatever the case may be — if this court case goes against this particular executive, then we no longer have no-fault insurance, which is what workmen's compensation is. I'm just wondering, have the Board or yourselves looked at this particular case? Were you aware of it? What is the implication of this?

MR. WISOCKY: It's still basically no-fault. The court case you refer to, maybe on your way out get our latest publication, Info, which gives you the results of that court case. The catch or loop there was that the president of that company did not have personal coverage under the Act; therefore, he didn't have the protection of the Act. In other words, owners, presidents, and executive officers have to apply for workers' compensation coverage. This president did not. That was the loophole in the case you refer to.

MR. WIECZOREK: So in fact it was not as reported in the CCA, then?

MR. WISOCKY: No. If I may, Mr. Chairman, under section 10 of our Act it's still optional for owners, presidents, and so forth to apply for compensation coverage. Are you in fact saying that it should be compulsory, which goes back to the way we used to have it here?

MR. WIECZOREK: No. I guess what I'm asking here is just how this decision is going to affect us. Was this decision in fact based on the Constitution or was it based on, as you stated here, workers' compensation?

MR. WISOCKY: No, it was simply because he didn't have workers' compensation coverage. In other words, if you're an owner of a company and you don't have coverage under workers' compensation . . .

MR. WIECZOREK: We're like that, yes.

MR. WISOCKY: . . . then you're open to suit.

MR. WIECZOREK: Okay. One of the reasons we brought it up was the submission you had the other day from the Energy and Chemicals Workers Union, wherein they stated, as reported in the press, that they would be going to suit of executives or owners of companies. I guess what we're actually asking for is a little more protection so that we cannot be sued.

MR. CHAIRMAN: I think this is the time to ask, and it shouldn't be ended here. I think the consultation should continue. John has a couple of copies of Info. As a legislator, I've often said that a law we pass and that is proclaimed is only as good as it goes through the test in the courts. I've shared some of the concerns the Ontario jurisdiction is facing with some of their law cases. You and I know that even the federal legislation in the United States that is going to limit the amount of liability on disasters such as the Ocean Ranger is a direction governments and legislators are looking at, because it's quite open-ended. It's happening because they have some experience. The example you've raised there, if that's what's happened in Ontario it's the same thing we talked about with Unifarm here last night, when their members making the presentation agreed that a lawsuit could wipe out a farmer, yet only 400 out of 13,000 farmers have coverage.

MR. WIECZOREK: It's a concern of the MCA members that this type of thing, if it could happen, could literally mean, as you said, the loss of a farm or the loss of a company. The cost of liability insurance would be prohibitive.

MR. RUNCK: Mr. Chairman, the technicality here is that in the eyes of the law, a limited corporation is an entity on its own, as you're well aware, and is an employer in this case and cannot be sued. But the executive director of that company is not an employer, because he is a separate entity. If he is not covered under the Act, he is vulnerable.

MR. CHAIRMAN: If he is proven negligent.
Okay, any other questions?

MR. SMITH: I just had one observation, Mr. Minister. I have a copy of the transcript of the Berger vs. Willowdale trial here.

MR. WIECZOREK: Excellent. We couldn't get one.

MR. SMITH: We'll make you a copy of it.

MR. CHAIRMAN: There is a copy there. It will assist your membership. Or maybe Keith Smith can get some print-outs that you can share. I don't imagine you want the whole transcript, the opening and everything.

MR. WIECZOREK: No. Just the good parts.

MR. CHAIRMAN: Okay. We'll look forward to any submission. Please understand, for some interest, that the insurance industry has not come forward to make representation to these committees. I'm on my third committee, and I have yet to see private insurance

coming here trying to sell coverage. Maybe the press will print it, and they'll be all over my doorstep on Tuesday.
Thank you very much.

MR. WIECZOREK: Thank you.

MR. CHAIRMAN: Textile Rental Institute of Alberta, Messrs. Izzard, Moisey, and MacKay.

Textile Rental Institute of Alberta

MR. CHAIRMAN: Okay, gentlemen, we have approximately a half-hour scheduled for your submission. We have your brief letter and now your additional submission. Possibly you could go through it quickly and allow us some time to clarify and ask questions. You're sitting in the middle, Mr. MacKay, and you're going to be the lead-off pitcher?

MR. MacKAY: Thank you, Mr. Minister. Unfortunately I found myself elected as spokesman even though I couldn't even recall being nominated.

MRS. FYFE: Unconstitutional.

MR. MacKAY: Yes.
Mr. Chairman, in the letter that came out at your instance, it was indicated that we could discuss operations of the Board as apart from legislative matters and things of that type. We will be dealing principally with matters along these lines. Mr. Chairman, Mrs. Fyfe, gentlemen: thank you very much for seeing us. We appreciate it indeed.
We are a newly organized trade association of those firms in the province engaged in the linen supply and garment rental business. The business has been around for a long time, but as an association we're barely a year old. Our small number of members supply 90 per cent of the requirements of a multimillion dollar market place, and we engage many hundreds of employees. In round figures the payroll of our members is $11 million, which, according to the 1981 annual report of the Board, is slightly more than 10 per cent of the estimated assessable payroll for our class for that year. For compensation purposes, we are described as power laundries and assessed in class 10-02.
In our letter of August 15 to your committee, we referred to the matter of Bill 38. Having since learned that that Bill was assented to in June and having learned also that we were way behind the times, we can only regret that the representation of other groups, in which we concurred, had not been favorably received.
Our other concern in our letter was that of classification and of our rate. For some time now our industry, including laundries and dry cleaners, has been extremely conscious of the cost burden of compensation, particularly when many individual operators report that compensation, medical aid, and pension awards are negligible in relation to assessments. Mr. Moisey, who had intended to be here and unfortunately is not, was telling me just this morning that compensation, medical aid payments on behalf of injured workers to his firm, for the period of the Board's report of August 1983, amounted to not quite $400, and he has an assessment of $58,000. This gentleman sitting next to me has an assessment of something in the order of $13,000, with no paybacks at all. So when our members see this kind of thing, you can appreciate why they start asking and inquiring and looking into this matter of compensation.
In 1961 our rate was $1, and this has increased over the intervening years to $2.60, which is an increase of 160 per cent. In looking through the rate books, it's interesting to

note that we're at the same rate as the electrical contracting industry, which is now considered to be one of the major subtrades in the construction industry in Alberta. In order to see how we compared with other classes, we made a random selection of 17 other classes and determined that only one class, namely meat packing, experienced a greater rate increase over the period from 1969 to 1982 — that is, if we correctly interpreted what we read. Of the remaining 16 classes, rate increases ranged from a low of 4 per cent to a high of 137 per cent, with a mean average of 51 per cent. Some of these classes may have had their increases mitigated even further in October 1982, when the Board announced retroactive rate reductions for that year of $3 million. Unfortunately we were were not one of the beneficiaries of that rate reduction. Among the self-insurers, the rate increase over the period we're speaking of varied from nil to 76 per cent. So we can only ask ourselves, how did we fare so badly?

But on further examination, we noted that certain changes which may have had some bearing have occurred within our class over these same years. We don't really know; we don't pretend to be proficient in understanding all the complexities of workers' compensation. In 1969 we noted that class 10-02 contained a listing of 31 separate types of business activity — or business industries, as the Board prefers to call them. In 1982 the number had increased from 31 to 56. In fact, class 10-02 is likely the largest single class. From the standpoint of included industries, there is one, 12-01, that has a larger listing. But I notice that nearly half of the people involved there are by application, and they also involve a number of functions that appear to be an office type of activity.

Class 10-02 is likely the largest single class from the standpoint of the number of industries, but it is also likely to include the most disparate grouping. Missing from the original 1969 list of the Board's classification of industry are such seemingly minimal hazard endeavors as the manufacture and repair of musical instruments; the manufacture and repair of artificial limbs, wooden toys and games, paper containers, pottery, and fibreglass products. All of these are now in some other class, at a lower rate. The 1982 class 10-02 listing, however, has some notable additions. Now we find the manufacture and/or repair of electrical panels and switchboards, electrical wire and cable, industrial heaters, blowers and power pack units, and tire chains; the assembly of aluminum truck toppers, metal culverts, stove pipes, metal fireplaces, and chimneys; the repair of electric motors; and the splicing of electric cable and wire rope.

At first glance, we are hardly encouraged to think that these more recent additions to the class, whenever they may have occurred, are likely to have reduced accident frequency and accident cost. We understand that when an industry is transferred to another class, a proportionate share of the class balance is also transferred. Those above-named industries which were transferred to other classes will therefore presumably have reduced our class balance accordingly at the time their removal occurred. It is therefore hoped that when new industries are added to a class without bringing a dowry of proportionate class balances, rate increases are not effected, in order to preserve the class balances. Whether this occurs or not, we do not know. But we feel that if it did, it would be most unfair and inequitable to the existing members of that particular class.

Over the past years, we have on more than one occasion met with representatives of the Board to discuss our rating experience. In response to such a meeting in January 1978, we were later advised by a Mr. A.W. Runck, the industry classification and rating officer — maybe the gentleman is present; I don't know — in a letter which I quote: I note you were informed that classification 10-02 is scheduled to review in 1980. Further in his letter: Secondly, on examining the experience records for the cleaning industry, it is noted that the experience level for these industries, costs versus payroll for the five-year period from 1972 to 1976, is 81.3 per cent of the level for classification 10-02. This confirms that these industries are included among the industries showing better

performance than the class average.

After meeting with Board representatives in April 1980, we were again informed by the industry classification and rating officer: As promised during the meeting between representatives of your association and members of the Board on April 9, I am attaching a five-year summary of costs and revenues for our two industrial classifications of power laundries — and then they have an apparently internal number — and cleaners and dyers. These figures show the improved position achieved by your industry in the past five years . . . And I end the quote.

The summary referred to is appended to this submission. From it you will note that the five-year average rate of assessment is 37.8 per cent higher than what the Board terms as the net break-even rate. And it is 12.3 per cent higher than the rate required after making further provisions for a contribution to the class balance and to provide for the 1974 Act changes. In each of their letters, the rating officer comments upon our industry's achievement with respect to merit rebate as being a cause for retaining this status quo. In the February 1978 letter, reference is made to the fact of our net merit refund being 25.8 per cent of assessments. And in the latter letter, the later one of the two, reference is made to our merit refund as being 26 per cent.

When we prepared to meet with the Board at their rating meetings in December 1982, however, we were presented with the operating results of the class for the four years 1978 to 1981, with an estimate for 1982. We note that the merit rebates for the class as a whole for those years respectively were 24 per cent, 23 per cent, 23 per cent, 22 per cent, and 23 per cent. Thus while the Board representatives appeared to assure us our experience is better than the class average, and while our merit rebates appear to be better than the class as a whole, we continue to remain at a high assessment rate and have already been warned to expect an increase in 1984. Rightly or wrongly, we have come to the sorry conclusion that our industries, power laundries and cleaners and dyers, are subsidizing other industries in our class.

Our puzzlement and perplexity are deepened when we learn of the rates being assessed this industry in other western provinces. The 1982 rate in highly industrialized British Columbia was $1.08 and estimated to be $1.14 in 1983. Saskatchewan's 1982 rate was 85 cents, estimated to remain unchanged. In Manitoba the rate has been 45 cents since 1974, with only one exception, in 1976, when the rate became 50 cents.

Mr. Chairman, ladies and gentlemen, we've been assured repeatedly that class 10-02 is going to be reviewed, but to our knowledge, little or nothing ever happens. In our view class 10-02 is sadly in need of revision and the financial management of it leaves something to be desired.

On one final note, it has been reported that Worker's Compensation is in financial straits. It has also been rumored that the Board is desirous of building a new building. Our industry, at least, does not support their desire for new quarters.

Mr. Chairman, ladies and gentlemen, we have attempted to make a submission to you with sincerity, with the hope of perhaps giving you a different viewpoint, and we make this submission with the greatest possible respect. Thank you very much.

MR. CHAIRMAN: Al, can you assist the committee with some of their concerns?

MR. RUNCK: Mr. Chairman, this particular industry has been a very difficult industry to attempt to slot into the proper classification over the years. Their experience is on the upper verge — you could almost say they're at the border of being too good an experience for 10-02 but too bad an experience for the next lower rated class. This is the way it was; I haven't been involved since 1980.

But at one time — and the gentlemen will recall — because of their concerns, which were mutually shared by the Board, we even attempted to put them in a separate

classification on their own, which was 10-03. That lasted for about a year or two, and it didn't work out. Unfortunately I believe there were one or two very major accidents, and they just were not large enough to sustain a classification on their own. I'm sure that 10-02, with this industry, is reviewed on an annual basis. It's a very difficult situation, and I'm certain that the classification people would be glad to have another look at it.

MRS. FYFE: What is the rate for 10-02?

MR. RUNCK: It's $2.60, but their effective rate with the 23 per cent merit refund would be $2.

MR. CHAIRMAN: Further questions?

MR. THOMPSON: I have a question.

MR. CHAIRMAN: Go ahead, John.

MR. THOMPSON: Well, we've had many submissions in the last two or three weeks advocating that we have fewer classes than we have now. Obviously, from your point of view at least, we don't have enough classes; we should segregate them more. Is that . . . Or do you just not like 10-02?

MR. MacKAY: Mr. Chairman, to Mr. Thompson. No, we agree with the principal of universality of spreading the risk. But the nature of the Board's structure is that it attempts to put the same kinds of hazards in classes. It must surely make it easier for them to examine who is out of line within the class, what industry or even what companies may be out of line within the class. We quite agree with this; we don't disagree with this. But it seems to us that 10-02 is just a hodgepodge of everything. It's probably the largest class the Board has. I think they can manage other classes much better than they can manage 10-02. They can examine other classes better.

MR. THOMPSON: One more thing . . .

MR. CHAIRMAN: Maybe Al can supplement that, and then you can ask your question, John.

MR. RUNCK: Mr. Chairman, something that this brings into focus is that we have heard representations indicating that the classification system itself should be reviewed. And there have been representations to the effect that perhaps we should have an experience rating involvement in our classification. So as I see it, this is just another representation that says our system of classification should be looked at.

MR. THOMPSON: My other point is just something that I haven't an answer for. Believe me, I'm not sitting here trying to preach to you. But we will say we use a lot more experience rating in putting people into different classes, moving them up and down. There's a suggestion that you go on a three-year average and you can move up a class or down a class. But what if you people were put in a class where you were the bad actors, more or less, and the rest of the people — and your merit rebate went not only to zero in your class but maybe to superassessment. You know, there are so many factors involved in this type of thing that it's not easy to come to — I'm not trying to tell you we have the best system in the world here. But when you drop a rock in a pool, an awful lot of ripples come there that you don't really always look at. I'm just talking now; I'm not asking for

an answer.

MR. MacKAY: Mr. Chairman, Mr. Thompson, I would say this. I think probably the Board officers over here would confirm that we probably have enjoyed a pretty maximal merit rebate for a number of years. We haven't achieved the perfect 33.33; I don't know who has. But it would seem to me that the mere transfer of us to another class wouldn't affect our merit rebate situation. If we were the bad actors in that class, somebody else would be sitting in this chair complaining about us.

MR. CHAIRMAN: I just thought I'd mention, gentlemen, that on page 5 you have been warned to expect an increase in '84. You must have missed the announcement that was made by the Board earlier this year.

MR. MacKAY: Which particular reference?

MR. CHAIRMAN: On page 5 — that you've already been warned to expect an increase in 1984.

MR. MacKAY: The earlier announcement by the Board that you were mentioning, Mr. Chairman. Which announcement?

MR. CHAIRMAN: The announcement that there will be no increase in 1984.

MR. MacKAY: Delightful.

MR. CHAIRMAN: I raise it because — gentlemen, I know everybody's busy — I wanted to ask you how effective communication has been between you and the Board.

MR. MacKAY: Mr. Chairman, in this report, which is the Workers' Compensation Board report of December 3, 1982, and I'm sure you're familiar with it . . .

MR. CHAIRMAN: That was the document that you had your rate meeting on.

MR. MacKAY: It's the operating results. It says right here: in view of the deficit results indicated for 1982 as well as for three of the four other years under review, it is recommended the rate of assessment for 1983 be increased to $2.60, with a warning of a similar increase for 1984 unless there is a significant improvement in experience. In the meeting notes of an industry rate meeting on December 9, 1982, at which the Board was represented by Mr. Thomson, Mr. Coull, and Carol Robertson, we were given the same indication. That's how we came to this conclusion, sir.

MR. CHAIRMAN: That's all accurate, I agree. But to refresh my memory, was that a letter that went out to everybody or just a press announcement, earlier this year?

MR. RUNCK: This which they have here is past history. You're correct in what you said, sir.

MR. CHAIRMAN: Was that a press announcement, or was that circulated to all the employers in the province?

MR. RUNCK: I'm not certain whether it was circulated.

MR. CHAIRMAN: Ken, do you remember when that was?

MR. COULL: Yes, it was late June or early July. A letter went out to every firm in the province, advising them that the 1984 rates were frozen at 1983 levels.

MR. CHAIRMAN: Yes. You might have some files that have not been looked at yet, gentlemen.

MR. MacKAY: I'd better look into my filing system, Mr. Chairman.

MR. CHAIRMAN: You might have some employer report requests that haven't been filled, so look into that too. No, I welcome that; I wasn't being cheeky, but . . .

MR. MacKAY: We're delighted to think that there will be no increase, and we would be much more delighted to think that there would be a reduction.

MR. CHAIRMAN: Well, as John Thompson pointed out, we've had a lot of representations to reduce the rate. Back a couple of years ago, we were advised on the last committee that if we had one rate for all the employers in this province, it might be just around what you're paying. But can you imagine the outcry of many others?

MR. MacKAY: On the surface, at first blush, I don't think I would necessarily agree with that.

MR. CHAIRMAN: You don't want that either.

MR. MacKAY: Not at first glance.

MR. CHAIRMAN: Any other questions or elaborations?

MR. IZZARD: Mr. Chairman, if I may say, one of the things that really puzzles our industry is that our counterparts in the rest of western Canada are so far below us in terms of the assessments that they pay. We find this very difficult to deal with, in that we're all in the same industry; we're a very largely people-oriented industry, with a high labor content. However, we use the same kind of machinery, the same kind of processes. We do essentially the same thing. Yet we look at Manitoba, which is being assessed at 50 cents, and we're at $2.60. We just find that very hard to relate to. It doesn't make any sense to us. We don't know why; we don't know what the difference is. But we are so far out of line compared to our counterparts in the rest of western Canada.

MR. CHAIRMAN: Be assured that the committee is just as concerned as you are. I can only say there is a different program in Saskatchewan; we're advised there's a far higher deficit in B.C. And really nobody talks about their programs. I have become aware that every compensation program in every province is quite different. The rates no doubt reflect the different programs. I don't want to be sort of one up on you, but there are other taxes being paid in those provinces that aren't paid in Alberta. I said that in the absence of Ray Martin here.

But that's the difficult part. We are concerned about the difference in the rates. We'll be looking at it and visiting with those other jurisdictions to see. We would ask, as you sometimes have an opportunity to meet with your colleagues that are in the same business, what are they getting for their 50 cents that you have to pay for at $2.60?

MR. IZZARD: True.

MR. CHAIRMAN: And then let us know. Ron, did you have a question?

MR. R. MOORE: You just touched on it. I was just going to underline and assure these gentlemen that we were looking at the other jurisdictions, at what they have and what they're offering. If it's a better program for less money, definitely we'll be having that included in our recommendations. Because we're just as concerned about this difference in rates as you are. And believe me, we'll look at it in due course before a recommendation comes down.

MR. CHAIRMAN: Thank you very much for coming forward. And thank you for coming late, Mr. Moisey.
Edmonton Chamber of Commerce, Messrs. Heston and Harrison.

Edmonton Chamber of Commerce

MR. CHAIRMAN: Very well, gentlemen. We have a half-hour's time allotted for the presentation. We have your submission. We welcome any general remarks or additional comments you have, with the hope that there will be time for clarification or questions. Who's going to be the lead-off pitcher?

MR. JOHANSON: Thank you, Mr. Diachuk. My name is Gary Johanson, and I am chairman of the chamber of commerce labor relations committee. We welcome this opportunity to meet with you this afternoon. I'd like to introduce the people who are with me today. On my immediate right is Maurice Heston, who is a health and safety consultant with a long background in the petrochemical industry and a member of our committee, and on his right is Hugh Williams, from Stelco Canada. On Hugh's right we have Bob Sexsmith, with CIL. On my immediate left is Gerry Lucas, with the law firm Lucas Edwards & Bishop, who do a good deal of labor relations law, and on Gerry's left is John Kalf, from Esso Chemicals Canada.

What we'd like to do, Mr. Chairman, is just briefly address some of the highlights of our brief, and then entertain any discussion you would like to have in that respect. The chamber, of course, represents a pretty diverse cross section of businesses in the community. We have about 4,000 businesses represented by the Edmonton chamber, from large petrochemical manufacturing companies to small service industries and everything between.

Just by way of highlighting the concerns put forward in our brief, perhaps, if I could in about five minutes. In 1.1 we talked about the composition of the Board and our desire to see a five-man Workers' Compensation Board established. That is based on wanting to have a Board that we think might be more representational of the interests of the constituents who make it up. We are proposing, as well, that the chairman would be appointed for a period of 10 years, while members would be appointed for maximum five-year terms. Again, we think the shorter term for members might make them more responsive and more representative of the constituents who perhaps have a voice in their appointment.

In the area of pensions provided by the WCB, the general thrust of our brief was to say that we're concerned that in a variety of situations, an injured worker can find himself better off — and in some cases considerably better off — after being granted a disability pension. We're saying better off from a financial point of view, of course, recognizing that there is an injury involved. We are requesting that this area be

readdressed in a manner that would ensure that there is some equitable compensation for the individual involved but that it also represents an equitable cost to the employer in those types of situations. We think there is a need, perhaps, for a total rethinking of that area. Some specific suggestions are put forward in our brief.

As to the question of compensation rates, I think there's a major and growing concern on the part of employers relative to the high cost of compensation and the rate those costs have increased in recent years. Despite these increases, we see that the Board is in a very strained financial position. That raises the prospect of yet more increases in the costs of compensation and, of course, becomes a very major cost of doing business to a lot of employers.

So we have recommended that compensation payments for an employee be based on his regular earnings and not include such premiums as overtime earnings. While we accept, if you will, the concept that a $40,000 ceiling has been established, it would be very difficult to retrench from that kind of position. We also feel that it would be inappropriate to increase the $40,00 level, having regard both to the cost and our comparison relative to other jurisdictions in Canada.

Since submitting the brief, we have reconsidered recommendation 2 of our brief, with respect to the earnings base under section 1.3, and we would like to delete it. It spoke to a shorter period of time for establishing earnings. Actually, on reconsideration we feel that the 12-month period presently used is more appropriate.

The next concern spoken to in our brief, under 1.4, is notification relative to compensation. In our view, employers are not receiving adequate and timely notifications of claims accepted by the Board, and this places employers in a very difficult position with respect to reviewing and providing input on these decisions. We've recommended that an employer be permitted 15 days to file a report and that he be advised of these matters in advance. Additionally, although it's not contained in our brief, we feel that in the case of lump sum payments or disability pensions, it may be appropriate that that period be 30 days in duration — a longer period of time.

We have put forward in our brief that merit rebates and superassessments be increased in both cases, to a maximum level of 50 per cent. The basic reason behind that, of course, is that we feel there should be a larger incentive there for performance on the part of employers who perform well in respect of compensation and a larger penalty for employers who do not.

Under 1.7, communications, we have put forward proposals for improvements in the area of communications from the Board to employers. We think this could take the form of bulletins and other information which succinctly summarizes important information on the operations of the Board. We appreciate that some work is being done in that area right now, but the feedback from our membership is partly that the information does not seem to be getting through to employers and, additionally, I think there are questions about whether the most useful information is presently being distributed to employers.

On the matter of efficiency, 1.8, we recommend that the operations of the Board be reviewed to ensure that administrative overheads are kept to a minimum and that this is done in a manner which is consistent with efficient operation of the Board. In general, I think the concern of employers there is that there is not a high enough level of accountability and stewardship to the people who provide the income for the operation. Those address, in a very quick, summary way, the comments which we made in our brief on workers' compensation.

In the area of occupational health and safety legislation, we have suggested in 2.1, under the advisory council, basically that the Board should operate in an advisory role and that appeals from orders of occupational health and safety officers be handled by a separately established panel. We view that as putting the Board in a position of being able to more adequately meet its advisory role.

In 2.2., occupational health and safety officers, we recommended that such officers not be members of the union, to prevent any difficulties with conflicts of interest. We feel they should operate in that manner.

In 2.3, addressing some specific definitions that are now contained in the Occupational Health and Safety Act, we feel that section 1(e)(iii) should be amended so that at no time would it be possible for a worker below supervisory levels to be designated as a representative of the employer for the purposes of that section in the Act.

There are a few additional comments respecting changes occasioned by Bill 51 that were not addressed in our brief on occupational health and safety, and we would like to address those very briefly now. Section 28 in the Occupational Health and Safety Act has recently been amended to provide an officer broad powers to remedy situations where he regards that discipline has been imposed by the employer, contrary to the Act. This does not recognize the normal situation in union settings, where there are provisions of collective agreements governing such differences. We are concerned about the overlap of the Act and the collective agreement in providing a dispute resolution mechanism with respect to occupational health and safety matters. We feel that that hasn't been adequately considered by recent legislation.

Section 27 of the Act contains a number of provisions relative to the refusal of a worker to carry out work "if on reasonable and probable grounds he believes" that imminent danger to health and safety exists. The section now becomes very subjective in nature, both in terms of assessing what is reasonable for an employee to believe and the specific procedures provided to remedy the situation. For example, nothing in the Act contemplates or deals with the situation if the original worker's complaint was founded. We're concerned about the many potential abuses of that section.

In that respect, there are a number of procedures that are established requiring reports to be prepared in all of these instances where a worker refuses to work because he believes there is danger to his health or safety. We think there need to be some better developed guidelines with respect to dealing with that in more substantial cases. For instance, if a worker refuses to work, or use a tool such as a hammer because it has a crack in the handle, do we have to file a report on that matter if all he is doing is returning the tool and we provide him with a new one? I think it is very unclear when or if in all cases reports are required under those procedures.

Additionally, the obligations of an employer under section 2 of the Act are to provide that "workers engaged in the work of the employer are aware of their responsibilities and duties under the Act and regulations". This raises the possibility of many small businesses, for example our case, potentially being responsible for the health and safety of a variety of contractors working on their sites. We don't think it's fair or reasonable that an employer in those kinds of situations would be expected to have the competence to really provide much in the way of useful health and safety information to a construction or contract type of employee working on his premises. He may have some specific knowledge of the operations. But I think with respect to the work that employee is doing there, it is much more likely that the contractor himself is the competent agent.

In a very quick and overview way, those are areas we wish to summarize that were addressed more completely in our brief and additional to our brief.

MR. CHAIRMAN: Thank you, Mr. Johanson, for the well presented and I want to say in many cases supportive and clarifying presentation. I know we will always dispute it, as scripture is, but in your item 1 you said that since '79 there have been no employer representatives. At least since March '82 there has been one. I just bring that to your attention. Mr. Bahry came from industry. I'm not going to raise that Dr. Hohol was a minister of the government and if there was any government that was a free-enterprise

government, I would hope that that's there. But Mr. Bahry was from industry.

MR. JOHANSON: Yes, and I don't think we're here to debate that today.

MR. CHAIRMAN: But you put it in print.

MR. JOHANSON: I think the concern there was relative to whether there really was an adequate process of consultation, I believe, with business in the province in respect of that appointment and that it be seen as truly representative of business interests.

MR. CHAIRMAN: I can share your concern about adequate process, but you put in print that since '79 in your opinion — and I believe Mr. Bahry is even a member of the Edmonton Chamber of Commerce since he has joined this.

MRS. FYFE: Can I ask a question on number 1?

MR. CHAIRMAN: Yes.

MRS. FYFE: Related to your recommendation of changing the term from 10 years to five years for members, excluding the chairman, do you feel that we would get worthwhile people wanting to put their name forward for a five-year period, taking a leave or some kind of secondment from their place of employment?

MR. JOHANSON: Maurice, maybe you'd like to respond to that?

MR. HESTON: I think he would.

MR. CHAIRMAN: Possibly we could just go through their submission in the order they have it. Any questions on pensions? Compensation rates?

I think you have a very good concern that some of the members of the committee have raised; that is, the inclusion of overtime and other allowances. What experience do you have from your submission? The reason I say this is that this was brought in, in the amendments in '81 for the year January 1, 1982, and again it was felt by the former committee that a worker loses income. If a worker is free enterprising enough that he has a second job but is now unable to earn, or if he is going to be doing overtime work, his whole way of life is affected. Why should he not be compensated for it? The chamber being a free-enterprise organization, I would welcome some more specific examples of where the abuse is.

I appreciate the fact that there is no assessment paid for that other income, but there is on the overtime. I would welcome some additional input on it. Representation on that area has been from both sides — the question of compensating a worker for all his income. As you know, the trade union movement has even asked that the ceiling be removed so it's the full income of the worker. If you have some more specific examples — is it quite broad or very limited? — the committee would welcome if it would be sent into us.

Notification of compensation. You used the figure 15 days. Earlier today I shared that in the Act there is a provision that if the employer doesn't comply, there is a penalty that can be assessed. We find — and it's not necessarily your membership — some municipal and some branches of government are very slow turning in reports, and the penalty section has not been used enough. Would you as a chamber representative believe that if we have a bad-actor employer who does not co-operate — and some of them just seem to do that — should we enforce the penalty section of $100 a day for not

turning in a report?

MR. LUCAS: Obviously you're going to have to, Mr. Diachuk, to be fair in the administration of your Act. For example, if government departments are also slow in doing their paperwork, it would be nice if they too were subject to the same sorts of penalties as private employers for the delays in attending to these things. We are not advocating any ameliorating provisions for employers who do not attend to the requirements of your statute.

MR. CHAIRMAN: You're really asking that the employer have notice of the claim. As you know, there are two Acts the worker must comply with. One is the Workers' Compensation Act, and the other is the Occupational Health and Safety Act. Under both those Acts, the worker should report his claim, his accident, his disability, to his employer. I would like to share that we're looking at how best to get some data on who the employers are, because I do not have a handle on who the bad actors are. The Board is co-operating in trying to bring about a process so that some time in the next three months we might get a list of some of the bad employers. Are they there? And I'm sure the chamber would welcome that too. If we get that, I'd be pleased to share it with you people. If they are chamber members, maybe you can assist us with it.

MR. LUCAS: We would certainly welcome it, because we sometimes believe you are legislating only in respect of bad apples and that they are the cause for all of us to suffer.

MR. CHAIRMAN: All laws are made for the minority; you know that, Mr. Lucas. Few of us speed, but we only bring a law in to catch those that could be caught.

MR. JOHANSON: I'd like to emphasize, though, that that point may in part be made in jest but it's also, frankly, a concern that is shared seriously by the members of the chamber. A lot of regulation and control are imposed that impose additional cost unnecessarily on the majority of employers, who take the responsibilities properly.

MR. CHAIRMAN: I'll get back to a lot of the regulations under occupational health and safety as Mr. Lucas and I exchange correspondence.

MR. R. MOORE: Mr. Johanson, I take it from your statement on merit rebates/superassessments that the chamber is in agreement with the system or way of doing it. It's just the percentage you are taking exception to. It should go up from one-third to 50 per cent.

MR. JOHANSON: That's our basic position, although I'm not sure what alternatives you might be considering there.

MR. R. MOORE: There have been a lot of alternatives offered to us during the hearings.

MR. JOHANSON: I'm not familiar with those, of course, Mr. Moore.

MR. R. MOORE: They have come forward with other ideas. But you are basically in agreement. That's the chamber's position there?

MR. JOHANSON: Yes. Any additional comments from anybody on that matter? I want to point out here that I'm not an expert on occupational health and safety. That's partly

why I surrounded myself with all these good people.

MR. CHAIRMAN: That's why they chose you to be the spokesman — got the neutral person to be the spokesman.

MR. R. MOORE: The Industry Task Force has taken a different stand, and a lot of your members are probably members of the Industry Task Force, I would take it.

MR. WILLIAMS: We've made some specific recommendations to you from another organization, the Iron and Steel Safety Council, with reference to merit rebates. You have that before you.

MR. JOHANSON: I believe some of the proposals have gone in the direction of removing the classification system and focussing more on individual employers and that sort of thing. We haven't studied that fully from a chamber point of view, but that may have implications to small business that may be less favorable than how it would appear to large business. If there were anything like that to be considered, we'd have to give it some further study. We just have not considered that fully.

MR. CHAIRMAN: But you support the concept of it.

MR. JOHANSON: Yes, that's right. Absolutely.

MR. CHAIRMAN: Under your concern about communications, I know that Mr. Wisocky has assured other groups that very close to some time in the near future — and I hope it is the near future — there will be a policy manual available to employers. We've looked at it and directed it in the last report and, tongue in cheek, I hope it's done as soon as Mr. Wisocky sort of hopes it will be out there.

I want to say, from even earlier this afternoon, that is communication going out to employers that is not looked at. The other day we had a group representing employers that were concerned because the communication wasn't going to the right people. We hope that if ever the chamber has an opportunity to communicate to its membership, the only way this can change — if it's going to the wrong people, they have to bring the change to the Board's attention, to the communication and information department. So often it's been a habit of putting it in file X. I would encourage an improvement. I can assure you that in my term of office, the staff of the information section of the Board and the Board itself have been most interested to improve communication.

MR. THOMPSON: Mr. Chairman, could I say a few words on this communication? At present, of course, there is the Act. Anybody can buy and read the Act. They do have pamphlets that come out here, if people are interested enough to go and pick them up. The Board has offices in Grande Prairie, Peace River, Medicine Hat, Lethbridge, Calgary, and Edmonton, where any interested person can go and get information.

There has to be a certain responsibility and an interest on the side of industry or employers to understand how the Act is working. From my point of view at least — I was on the committee in '76 — there was very, very little interest exhibited by industry in the Workers' Compensation Act. Believe me, it has changed since that time, but as part of your responsibility, the information is there.

All I'm saying is, are you asking for seminars on a monthly basis or what? Are you saying here that the Board does not put out information available to employers or the fact that they have to go and get it?

MR. HESTON: Mr. Thompson, perhaps I can speak to that. The health and safety department has an excellent bulletin which goes out. It contains very pertinent information. The small business man is not getting the same type of information from the Board. Fine. They can if they go and dig and go to the Board. Or if they're in Grande Prairie, they can go to the offices in Grande Prairie. They can find out all this information. It is available. You already have one vehicle which is an excellent vehicle. Why not expand that and give Workers' Compensation Board information with the occupational health and safety information? That is one suggestion.

MR. WISOCKY: Mr. Chairman, if I may. Some members of our editorial committee are present, and I'm sure they will take that into consideration. But I've been assured that the chamber and/or its members do get a copy of our Info publication, which from time to time does contain some of the articles on topics you referred to. But if there are suggestions you want to make in terms of change or particular topics, please let us know.

MR. HESTON: Some statistics — where we are going; what's happening.

MR. CHAIRMAN: Make those suggestions, Maurice.

MR. HESTON: We have.

MR. CHAIRMAN: I hope you don't mean here, but I hope you've done it to the Board's information people.

MR. HESTON: Yes. Very good, Mr. Chairman.

MR. WISOCKY: Mr. Minister, the latest copy of Info is just ready to be distributed. I wouldn't mind giving these people a copy, but I don't know if you've had a chance to read it yet.

MR. CHAIRMAN: Mr. Wisocky, you would immediately let everyone here believe that nothing is mailed out without my reading it. Come on — Friday afternoon.

MR. HESTON: This is the Minister of Workers' Health, Safety and Compensation, not Agriculture.

MR. CHAIRMAN: Any other questions on workers' compensation? We can then touch on occupational health and safety. I want to quickly get to your concern that the council has a quasi-judicial capacity, and particularly the amendments to Bill 51, the Occupational Health and Safety Act. I'm advised by some business agents of the trade union movement that they welcome that approach, particularly where you raised a concern that the right to refuse would be dealt with by the committee of the council rather than opening up another council and another committee.

I hope you will give me more information on what your concerns are about that, because the duties of the council are to advise the minister and hear appeals in accordance with this Act. In the last four years, I think they've had something like only four appeals. One was from an employer, I believe, and the other three were from workers. Because there wasn't a mechanism for a worker to be dealt with if he refused to work in an unsafe place, we now hope that rather than go to the courts and have Mr. Lucas and his colleagues debate it for a week, it's the council's responsibility to deal with it.

MR. LUCAS: I'll debate it in front of the council for a week, Mr. Diachuk.

MR. CHAIRMAN: Your concern is that you want another committee, another panel. What's so different between a panel or a subcommittee of the council? I'd like to get more information from you on that, because I just don't believe we're in the same ballpark, particularly with the world series coming up.

MR. HESTON: Mr. Chairman, I think one of our concerns is that we would like to have a neutral chairman and a representative from labor and business or management act as a panel for the appeals. With the expansion in duties and responsibilities of the officers, I think you will get many more appeals to the committee.

MR. CHAIRMAN: Are you interested in generating appeals or looking after hearings?

MR. HESTON: We're interested in looking after the hearings.

MR. CHAIRMAN: We have a tripartite — the council consists of . . .

MR. HESTON: We have had very little say in who is on the council. That's one of our concerns, Mr. Chairman.

MR. CHAIRMAN: Then why don't you say that? I publicly announced in Lethbridge and mentioned in Red Deer that Clive Chalkley is retiring and I need a representative from that area. Now what else should I do?

MR. HESTON: We feel that we would be better off with our own representative on the panel when these appeals go to the council.

MR. CHAIRMAN: Would you think the four business representatives on the council are not representative of business? There are four from business and four from the trade unions.

MR. HESTON: They may not understand the safety implications.

MRS. FYFE: When you say "our own representative", who is us?

MR. HESTON: A representative of the chamber or of management groups.

MR. CHAIRMAN: You've now moved to — it's not the council; it's the composition of the council.

MR. HESTON: Either way. You could have a council which was strictly advisory and panels similar to the unemployment insurance type, where appeals would be heard; in other words, a labor man, a management man, and a neutral chairman hear the appeal.

MR. CHAIRMAN: That's pretty well what happens. Very often the chairman of the council will look at that to make sure there is a labor and a business member of the council hearing the appeal now.

MR. HESTON: We understand, Mr. Chairman, that they try to balance it out. We would like more input. Perhaps we should have input into who is on the committee.

MR. CHAIRMAN: Who is on the council.

MR. HESTON: On the council.

MR. CHAIRMAN: I'm just sharing with you that there has been no real change in the composition of the business members. They've been almost the same ones since the council was struck in '77 or whenever it was. But Clive Chalkley is retiring, and we're looking for a representative from Calgary.

I raised that because your concern bothered me. It's been a very effective operating council. The business agents indicate that the route to appeal for a worker, or if there is a ruling by an occupational health and safety officer against the employer, would be to the council, which can meet within 24 hours and will do it that will deal with things expeditiously and resolve it rather than end up in the courts.

MR. LUCAS: Sometimes that's not the choice of you or the council. That's the choice of other ministers.

MR. CHAIRMAN: When we have four appeals, Mr. Lucas — three from workers and one from an employer — in the last four years. The Act must be reasonably good. That's why I'm raising it, because you're commenting on the council and now you moved to the area of the composition.

MR. LUCAS: But surely we're commenting on the council in light of the added powers given the officers, which we believe might generate some more business for the council.

MR. CHAIRMAN: When it happens, then we'll have to look at two councils. But the track record hasn't been that great, and the experience — I know, John Thompson wants a council hearing in Cardston on Monday morning.

Anything else on the occupational health and safety area? We hope — and I know Mr. Heston knows Dr. Buchwald personally. Mr. Lucas, you and I have exchanged correspondence. There is some concern from some of your membership about the Occupational Health and Safety Act. Part of it is because the regulations still aren't in place. That's because we're going through a very full review of those regulations that will apply to the Occupational Health and Safety Council. That's why the delays are there. If we would just move those regulations quickly, you would have had the answers.

I'm sure that the response I've given you is not satisfactory, Mr. Lucas, but I encourage you as a chamber to feel free to continue the dialogue with the division of occupational health and safety on the regulations on the Occupational Health and Safety Council that are now going to go before cabinet some time this fall. A lot of it applies to what you presented here.

MR. LUCAS: Inherent in this, Mr. Minister, is the employer's view, I suppose, that there is an insidious growth of legislative or regulatory control over employment relationships, which was something that this government had previously announced it was going to try to reduce. It is a concern.

MR. CHAIRMAN: Mr. Lucas, we have some 1,500 regulations applying to the work force in Alberta presently, under all the legislation. I'm advised that with the direction we're going, we'll be below 500, and some indicate it could be . . .

MR. LUCAS: If you are simply calling what was a regulation a guideline — if we're going to see guidelines pop up that we are going to adhere to . . .

MR. CHAIRMAN: You mean codes of practice?

MR. LUCAS: Codes of practices or whatever the Individual's Rights Protection Act is going to call its policy statements. All of these that bear upon the employment relationship, and particularly the safe employment practice, begin to become somewhat troublesome. The employer is filling out more and more forms for various departments in response to all of these legislative enactments.

MR. CHAIRMAN: You've seen Bill 51. You saw what it is going to rescind. If you need copies of the present regulations, Mr. Lucas, that now apply under the Coal Mines Safety Act, quarries Act and all those, I'd be pleased to provide them to you. They are numerous. As Keith Smith pointed out, the intent is — I'm hoping they will go down below 500. They still think I'm too high, that there are going to be below 300 regulations. And it will apply. The reduction in regulation will take place by the codes of practice in one case. Others will be by some policies.

MR. JOHANSON: I think our request would be that you get out of the business altogether.

MR. CHAIRMAN: Oh, we'd love that. The code of practice was first agreed upon, Mr. Johanson, between the crane operators and the crane owners. That was the first step. In no place else in Canada has it been implemented. We had very little difficulty when that collapse of the crane took place in Calgary, because nobody blamed each other for the collapse. The union and the employers followed the code of practice they agreed to. I'm just using that as one example.

I know other codes of practice are being encouraged and some of your membership know about that. We want to get out of regulating the work place. We haven't even mandated joint worksite committees, hoping that your membership will give leadership to have effective joint worksite committees voluntarily. That's another step. Okay? Thank you very much. Thank you for coming forward.

MR. JOHANSON: Thanks for the time.

MR. CHAIRMAN: We'll have about a five-minute coffee break here. Will the representative of Canadian National Railways come forward?

[The meeting recessed at 3:08 p.m. and resumed at 3:13 p.m.]

Canadian National Railways

MR. CHAIRMAN: Gentlemen, we have a half-hour allotted for your presentation. We hope that we will have some time for questions and clarification, if need be. We have had your submission. However, feel free to make some overview remarks, plus introduce yourselves to us.

MR. IRWIN: Mr. Chairman, my name is Clare Irwin. I am the regional counsel for Canadian National Railways, mountain region, in Edmonton. With me today are, on my far left, Mr. D.J.W. Marshall, the co-ordinator of financial planning and analysis, and Mr. Len Jones, the manager of general claims for the mountain region. If it pleases you, Mr. Jones will present the CN submission. We indeed would be prepared then to discuss with

you or any members of the panel the matters that we raise today.

MR. CHAIRMAN: Very good. Mr. Jones, do you want to move your recommendations, or what part?

MR. JONES: We didn't outline recommendations specifically.

MR. CHAIRMAN: Oh, go ahead.

MR. JONES: Our company has always taken a vital interest in workers' compensation, and we appreciate this opportunity to express our concerns about workers' compensation in Alberta. While workers' compensation in this province is handled in an efficient and fair manner, we see the need for some changes.

We are a corresponding member of the Industry Task Force on workers' compensation in Alberta. As such, we have had an opportunity to review its research material and to read its submission to your committee. With two reservations, we essentially agree with the recommendations of the Task Force. Firstly, as CN is involved from a business point of view in the expanded rehabilitation facilities, we cannot comment on the issue of rehabilitation. Secondly, CN believes that medical aid costs arising from employment injuries should properly be the responsibility of the employer. As a responsible employer, CN cannot agree that employers should be relieved of medical aid costs if those costs are going to be passed on to the Alberta health care plan for payment by general users.

In addition to this endorsation of the Task Force submission, CN specifically recommends the following. We believe that the definition of accident is too broad. The definition should eliminate the word "disablement", found in section 1(1)(a)(iii). The inclusion of this word allows every work-related injury to be covered, even, for example, a strain resulting from a totally inconsequential act. We believe the definition should be amended to eliminate coverage for injuries which arise from intended and deliberate acts of a worker which are neither unusual nor strenuous. For example, we do not believe a worker should receive compensation benefits for disability arising from the mere act of bending down to pick up a pencil or a piece of paper, or to lift some very light-weight object.

Furthermore, we suggest that workers' compensation should not provide benefits for disease processes that are not clearly related to a worker's employment. For example, we do not believe that disability related to a heart attack should be covered by workers' compensation. Virtually all heart attacks are the end product of a disease process. Such disability should be properly covered by sickness insurance. The definition of accident should clearly exclude such disabilities.

Two, under the topic of compensation qualifications in the Task Force submission, there are recommendations with respect to section 19. Relative to section 19, we suggest that both "serious misconduct" and "seriously disabled", rather than injured, should be defined in section 1 of the Act. Furthermore, if the section is to have any impact, the words "serious misconduct" must be defined to mean a clear and deliberate violation of a rule known to the worker, and "seriously disabled" must be defined to mean a severe injury resulting in a long-term absence from work.

Under the same topic, the Task Force recommends that Board decisions should be a matter of regulation rather than policy. We would further recommend that such decisions be binding on the Board. Section 12(4) of the Act declares that the Board is not bound by precedent. We believe the Board should be bound by precedent and should have a published decision-reporting system; otherwise, there is a danger of similar cases being decided differently from earlier cases. If the Board has the same powers as a court, it should be bound by precedent. If certain decisions should later be found to be

inappropriate for whatever reason, they can effectively be nullified by amending the Act or the regulations.

Four, section 12 of the Workers' Compensation Act gives the Board exclusive jurisdiction in all matters pertaining to compensation. The power is too broad and should be limited. It is possible that the establishment of a council, recommended under the topic of accountability to industry, would ensure that the Board's exclusive jurisdiction is subject to some sort of control.

Five, section 28 of the Act requires an employer to file a report with the board within 24 hours after learning of an injury. In many instances it is very difficult, if not impossible, to comply with this requirement. The Act should be amended to allow at least three days except in the case of fatal injury, which we agree should be reported at the earliest possible time.

We agree in principle with the model merit rebate system proposed by the Task Force. We recommend that the minimum merit assessment percentage should not be limited to the 60 per cent stated in item 9 under this topic. We suggest that the minimum percentage should be governed by an employer's actual performance.

Seven, without a proper analysis being done, we cannot comment on whether the model promotion relegation system is valid. We most certainly believe that a graduated rate structure should be studied.

Eight, we believe the essential purpose of workers' compensation should be to compensate or insure, if you will, workers whose incomes have been lost or reduced. In the case of a worker who is totally disabled on a temporary basis, we have no quarrel with this worker receiving full compensation. However, in the case of a worker with a permanent partial disability, we do not agree that such a worker should receive a monthly pension if that worker is able to resume work with no loss of earnings or promotional opportunity. In those cases where a worker suffers a loss of earnings by having to take a lower paying job, we suggest that a Board pension should be based on the actual loss of earnings; that is to say, the pension should be based on the difference between a worker's former earnings and what the worker is able to earn with his disability.

We understand that the provinces of Saskatchewan and New Brunswick have already legislated these changes with respect to such pensions. In New Brunswick the relevant provisions are essentially found in section 38, chapter W-13 of the Workers' Compensation Act. We attached a copy of that section for you. In Saskatchewan the pertinent sections are sections 67 to 77, chapter W-17.1 of the 1979 revised statutes, as amended by chapter 98 of the 1980-81 revised statutes. We enclosed copies of those as well. Having regard for the very high cost of capitalizing pensions, we strongly believe that the current method of formulating pensions solely on the basis of physical impairment must be changed. We urge the committee to study the legislation in Saskatchewan and New Brunswick and to recommend similar changes in this province at the earliest possible date.

The cost of workers' compensation has become exceedingly high in this province, and we strongly believe the time has come when restraint must be practised. There must be a stop to the ever-increasing level of benefits, both in monetary terms and in the nature of the coverage. Employers are being asked to carry a financial burden that is too onerous.

When workers' compensation legislation was first introduced, it was rightly heralded as a great step forward as it eliminated costly and difficult lawsuits between employers and employees which frequently resulted in defeat of workers' claims. In return for the certainty of receiving compensation, the workers were to be paid a lesser amount. Unfortunately, much of the benefit to employers has been eroded through the years by placing a heavy burden on employers to underwrite what has in fact become social

insurance. We suggest that the time has come for workers to realize that unlimited funds are not available. The benefits are most adequate now, particularly when one considers that those benefits are exempt from income tax.

Even though our company and the Board have had conflicting points of view on some decisions by the Board, we have no hesitation in stating to your committee that we have always found the Board to be courteous and helpful. Thank you.

MR. CHAIRMAN: I want to thank you particularly for the closing comments, because we have had other representations that have indicated that they have not been so courteous. Thank you very much.

Any questions or clarifications?

MR. R. MOORE: I just said that yesterday we heard that they weren't courteous, and it shows how they improved the service. They were listening.

MR. CHAIRMAN: In one day.

MR. R. MOORE: In one day, yes.

MR. JONES: No, we've never had any complaints.

MR. CHAIRMAN: I can only indicate to you, gentlemen, that we are going to be looking at Saskatchewan. As a matter of fact, we are scheduled to be in Regina on the 14th, and will look at their lump sum payout, because I particularly have been most intrigued. Later on in the new year, before it gets too late, we are going to look at the New Brunswick one too. We welcome your recommendations in support of those lump sum payouts.

There are difficulties, as you can appreciate. There is some concern about moving in that direction. It is interesting that a province like Saskatchewan managed to get that program in back in 1980.

MR. JONES: Yes.

MR. CHAIRMAN: I asked Mr. Samide how they managed to be asleep at the switch when that legislation was brought in, in Saskatchewan. No other comments?

Thank you very much. If there is anything else, feel free. Yes, Ron?

MR. R. MOORE: I just want to point out to these gentlemen that we appreciate your submission. The fact of the lack of questions has no bearing on your submission or your points. You must realize that we have been receiving submissions over the last month and a half, and a lot of these are along the same lines, so we have asked the questions. We understand your position very much.

MR. JONES: Yes, I am sure.

MR. IRWIN: I think, too, to sort of look at that from the other side, we are generally so supportive of the Industry Task Force, and we know that you have dealt with that at extreme length and that you understand that we support it.

MR. CHAIRMAN: Now that you mentioned that, what is CN's position with regard to the Industry Task Force position on reducing the maximum and changing it from 90 per cent to 75 per cent of net?

MR. IRWIN: Sir, I think it's fair to say that CN's philosophy is that the workers' compensation legislation was never intended to be social legislation. It was indeed based on the long-ago principle that workers and industry gave up something to get workers' compensation. The workers, of course, no longer have to prove that the work place was improper or that industry was negligent. They gained a great deal. It was a certainty that they would be taken care of with respect to compensation.

On the other hand, the worker gave up the chance to get the larger awards that the worker might get in a courtroom situation. It seems to us that through the years, by raising the percentage and the total limit for workers' compensation, what the worker gave up has become less and less. That has got to the point where the worker really might expect to get a great deal, when there is a 90 per cent limit and a $40,000 top. We indeed support the Industry Task Force that that has gone beyond the original concept of workers' compensation. We certainly support the figures that they have put forward.

I am not entirely sure that it is possible in this world, having moved to an extent like that, to very quickly and simply turn around and move backwards. Surely the $40,000 limit is reflective of the economy to some degree. Perhaps your committee might consider that the $40,000 be frozen for a very long time, until it gets back into some sort of proper relationship with the original concept of workers' compensation. I think we would have to say that the 90 per cent is wrong. It should indeed revert to 75 per cent.

MR. CHAIRMAN: Seventy-five per cent of net? It was 75 per cent of gross, and the industry says 75 per cent of net.

MR. JONES: Well, 75 per cent of net if you are going to use a figure like $40,000.

MR. CHAIRMAN: No, we're talking about a worker's income, if it's $40,000, $30,000, or $20,000. The formula is presently 90 per cent of net. We have tried to get clarification on it, because the Industry Task Force is saying 75 per cent of net, which would be lower to some workers than what they got in 1981.

MR. MARSHALL: That's 75 per cent of the take-home pay.

MR. CHAIRMAN: That's right.

MR. MARSHALL: I guess that's basically what you're saying.

MR. CHAIRMAN: You may want to think it over and not respond here. I appreciate your response, Mr. Irwin, up to now. You have given some me assurance that there is some support for the program that is presently in Alberta. We have asked industry and other employers about that formula, because that is one that was brought in on January 1, 1982.

MR. IRWIN: Yes, it's a very recent increase. Of course, the thing that bothers us as much as anything, I suppose, is the fact that it is a tax-free payment.

MR. CHAIRMAN: But the tax is deducted when the calculation is made, to arrive at a net salary.

MR. IRWIN: No, we're talking about two separate things. I mean the result . . .

MR. CHAIRMAN: Is still tax free.

MR. IRWIN: . . . is tax free.

MR. CHAIRMAN: Oh, yes.

MR. IRWIN: Yes. That's why 90 per cent of $40,000 looms so much larger than it would if we were not . . .

MR. CHAIRMAN: But it's not 90 per cent of $40,000; it's 90 per cent of the net, with a ceiling of $40,000. The calculation we had was about $510 a week, which comes to a maximum of around $27,000 a year that a worker can get in Alberta. Think about that. I would welcome a further response from you, gentlemen, because you may have not had this challenge put to you. Thank you for the further elaboration on it.

MR. IRWIN: I would like very much to respond, and we could do that in writing.

MR. CHAIRMAN: Please, to my office. Okay, thank you very much for the presentation. As Ron Moore indicated, it is because of a very good and thorough presentation. Also, thank you for the copies of the other legislation. We will definitely look at it.

MR. IRWIN: Thank you.

MR. CHAIRMAN: Okay, if I may now have the Canada Safeway Limited people.

Canada Safeway Limited

MR. CHAIRMAN: Gentlemen, we welcome you at the end of the day. Yours is the last but not the least, and we have more time if we need it. I welcome an organization such as Canada Safeway because of your involvement across Canada with all the different boards. We may benefit from an organization such as yours. Feel free to make the presentation, permitting us some clarification or questions later. You may want to introduce yourself and the rest of your colleagues.

MR. WATERS: Thank you, Mr. Chairman. I will begin by introducing, on my extreme left, Mr. Murray Roberts, employee relations manager for our Edmonton division. Brian Mason is our health and safety co-ordinator for Edmonton. On my right is Mark Dimnik, health and safety co-ordinator for Calgary division. Scott Boyd, on my extreme right, is our industrial relations manager for both our Calgary and Edmonton divisions.

MR. CHAIRMAN: And you are Jim Waters.

MR. WATERS: I am Jim Waters, vice-president of public affairs for Safeway.

On behalf of Canada Safeway, Mr. Chairman and hon. members, I want to extend our appreciation for having the opportunity to participate in this select committee review. We recognize that you have had a very full agenda during the past 16 days or so and that you have conducted public hearings over the course of the past five weeks. You have already heard from a variety of business groups, such as the Calgary Chamber of Commerce, whose brief we have also read and discussed with considerable interest. A number of labor organizations have also presented their views to you. So you probably don't need, and certainly won't get from us, one more voluminous, detailed submission.

That wasn't our intent in preparing our very brief brief, nor was it our intent in coming here today.

In a brief discussion I had with you, Mr. Chairman, a few months ago, it was suggested that we might want to present Canada Safeway's concerns to the select committee in this fashion. Among several reasons, we employ about 8,000 people, which makes us one of the largest private-sector employers in Alberta. Since our work force is in the stores, it is occasionally one that gets lost in the attention afforded energy workers, construction workers, and others in somewhat higher profile job categories, especially during the boom years which have just occurred in this province and also because there is not really a trade association that specifically represents our interests in this field. Thus we are here today. I would like to quickly put our views on the record and, with the help of the people at the table here with me, try to answer any questions which you might have.

If I could begin, I propose to quickly read our submission or highlight the recommendations, whichever you wish.

MR. CHAIRMAN: Please go ahead.

MR. WATERS: As one of the largest private-sector employers in the province, Canada Safeway Limited is vitally concerned about the present terms of the Workers' Compensation Act and the recent substantial increases in the cost of administering this legislation. Safeway wishes to bring forward recommendations which would produce a more equitable compensation system not only for its 9,000 employees in stores, warehouses, processing plants, and offices throughout Alberta but also for other workers in the food distribution industry. Therefore Safeway welcomes this opportunity to present its submission to members of this select committee of the Alberta Legislative Assembly.

The first item is weekly compensation benefits. A comparison of maximum weekly compensation benefits shows that amendments to the Alberta program enacted at the beginning of 1982 have placed it considerably ahead of other provinces in this regard. The current maximum weekly benefits in Alberta for a worker injured while earning $40,000 annually are $496.20, which is 30 per cent higher than neigboring B.C.'s payment to a worker with the same wages and a full 50 per cent more than Manitoba's.

The increase from $22,000 to $40,000 in the maximum earnings ceiling, as well as a shift to calculate benefits on a 90 per cent of net earnings basis instead of 75 per cent of gross earnings as previously, have left Alberta with a workers' compensation system which is exceedingly generous to employees and drastically expensive for employers. It would be our recommendation, then, that the select committee considers reducing the benefits ceiling to place less of a financial burden on employers and also to increase the incentive for injured workers to return to the job. Close attention should be given to bringing Alberta's ceiling in line with that of other provinces.

Regarding the merit rebate/superassessment system, a conclusion of the most recent select committee, which reviewed workers' compensation in 1979-80, was that there did appear to be inequity in Alberta's system of merit credits and superassessments. In our opinion, the problem has yet to be resolved. We agree totally with the principles of rewarding those employers who successfully reduce job accidents and penalizing those who are responsible for too many job-related injuries. However, we feel that the current regulations of the WCB fall short of achieving such objectives. Companies with a poor safety record presently face only a possible slap on the wrist, as superassessments cannot exceed one-third of an employer's regular assessment. Conversely, an employer with an outstanding safety performance may receive a merit rebate, but he still must pay a higher assessment rate when such increases are levelled, despite his exceptional record

among employers in the specific job class. Therefore we recommend that the current merit rebate/superassessment system be revised to reflect a greater financial incentive for employers. The committee should consider the feasibility of adopting a sliding assessment rate scale as a more equitable form of assessing industry for workers' compensation costs.

Permanent partial disability. In many cases workers who are partially disabled as a result of an accident return to work with the same income as they received prior to their injuries, yet some are awarded a permanent pension even though no long-term income losses may result. In addition, the present system uses an estimate of the degree of physical impairment to determine a percentage which is applied to the worker's previous income to generate the relevant pension benefit. Our recommendation would be that a dual award system which regards a worker's previous income level be considered. In our opinion a worker who returns to full employment with no wage loss should be paid only a lump sum according to the degree of impairment. A worker who suffers wage loss should receive both wage restoration according to the present WCB rates and a lump sum payment according to the degree of impairment.

On the subject of disability awards indexing, the current indexing of disability pensions to 100 per cent of the consumer price index is quite costly for employers. Generally, most employers do not provide such indexing in their own long-term disability plans nor in retirement plans. Limited indexing is common, as pensioners absorb some of the effects of future inflation. Indeed, in several categories of the CPI, including food costs, with which we are of course familiar, normal adjustments and consumers' buying habits diminish the actual impact of inflation. Our recommendation is that the committee consider revising the Act to fully eliminate indexed pensions and, instead, establish more reasonable provisions for future increases when necessary.

Regarding access to Board information, we and other employers are often plagued by an inability to gain concise explanations from the Workers' Compensation Board related to assessments, merit rebates, and benefit awards. In many cases, interpretations of the Act are only made available when specifically requested by an employer. The exchange of more information between the WCB and employers would help assure that a complete understanding exists of the Board's policies and the work force's concerns. We therefore suggest that copies of the Board's interpretative guidelines regarding applications and administration of the Act be made available to all employers. Also, the preparation of a procedural manual by the WCB for public distribution should be considered.

Disability evaluation. Because of the apparent shortage of Board physicians, there is often a lengthy wait before an injured worker who is ready to return to work can be examined and pronounced fit for the job again. In many cases a compensation claimant receives benefits although his disability no longer exists, because the WCB rehabilitation centre is unable to schedule an examination soon enough. The cost to employers and the Board regarding such incidences could be substantial. We recommend, therefore, that the Board seek to speed up the examination process by whatever means necessary to assure that minor injuries do not lead to an excessive off-the-job period.

Food industry classification. Despite the labor-intensive nature of the food retailing industry, there's not a distinct and separate WCB classification for those employed in it. Safeway store employees are grouped in class 11-04 along with manufacturers of sausages and specialty meats as well as the operators of cold storage locker facilities. Because other supermarkets in the province are tied to general merchandise operations, they are classed differently and at lower assessment rates. We therefore recommend that a distinct category, grouping all supermarket workers for assessment purposes, be created by the Board.

Finally, employee responsibility. Currently, sections of the Occupational Health and Safety Act provide that a certain amount of responsibility for any accident rests with the

worker. However, in actual enforcement of the regulations, the onus is placed exclusively on employers to meet safety requirements and comply with the Act. Our recommendation would be that the committee consider directing the WCB to hold claimants more responsible for their actions leading to work-related injuries, and possibly workers' compensation benefits could be reduced or withheld for non-compliance with occupational health and safety regulations.

MR. CHAIRMAN: Thank you. Questions or clarifications? John Thompson? I know you want to get away and catch a flight, so I'll let you have the first one.

MR. THOMPSON: I get back here to — of course, we've been through this many times before — the ceiling and the net and the gross and the whole bit. In actual fact I would like to find out what your average employee's wage is on an annual basis. I don't want to get into hourly stuff or anything like that, but I'd like to find out what you're paying your employees as far as this $40,000 ceiling is concerned. Would you have many in that area?

MR. WATERS: Are you asking would many of our employees who will become claimants be affected by the $40,000 ceiling?

MR. CHAIRMAN: Al, what have you got for information that might help Mr. Waters?

MR. RUNCK: Mr. Chairman, according to the records of earnings of people who have reported accidents working in that industry, the average earnings in the industry amount to $20,513 per year.

MR. MASON: Right now I'd say our average salary for a full-time retail grocery clerk is somewhere around $26,000. Safeway is known to pay their people quite well. Does that answer your question?

MR. THOMPSON: The point I'm trying to make is, how does whether we have the ceiling at $30,000 or $40,000 affect you? You're only paying on the actual salary base of your employees. Why is it a real concern to your organization?

MR. WATERS: I guess that's offered there as part of the structure, which of course relates to the earnings ceiling and also the method of calculation, whether it be the present 90 per cent of net or 75 per cent of gross. The actual number of people within our company affected by that ceiling would be quite small. Perhaps the suggestion that was offered earlier, I believe by the Industry Task Force, would be more in line with our general recommendation, that there be consideration of the sort of total package of calculations and procedures for calculating benefits.

MR. THOMPSON: And on this business of 90 per cent of net or 75 per cent of gross, let us just use a $40,000 ceiling for an example. Seventy-five per cent of gross, naturally, is $30,000. Under 90 per cent of net — what is it? — $26,000 is tops.

MR. RUNCK: $26,800.

MR. THOMPSON: You have $496.20 a week, but it's actually about $510. So on just that point — and we're talking 90 per cent of net or 75 per cent of gross — if we use the present ceiling now, 90 per cent of net is considerably lower than 75 per cent of gross. There isn't that much difference. That's all I want to say on that subject.

MR. WATERS: Perhaps on that point, my reference to the earlier suggestion was to make the point that perhaps 75 per cent of net, or something downwards from the 90 per cent of net basis, would be more appropriate and more in line with that, given workers elsewhere.

MR. CHAIRMAN: I think you sat in on some of the discussion. That's why Mr. Johnson asked that question, and I share Mr. Thompson's concern. Johnson, Thompson — it's a late day.

John Thompson's concern, too, is the fact that — but I put it one step further — in your case you would be penalizing your higher salary worker if he had an accident. I served on the '72 committee and the '79, and I just haven't been able to accept the philosophy of employers that want to penalize their higher salary workers in the event they have an accident. If your manager is drawing around $40,000 and by chance hurt himself, he'd be the one who'd be penalized if we reduce the ceiling or even the percentage, presently 90 per cent of net.

We have a formula, and we may have some review of the formula. The amount of taxes is deducted, the CPP is deducted, the unemployment insurance contribution is deducted. And I appreciate that on a long-term basis, if that worker draws $510 a month, he may be better off taxwise than a person working. But he also has a disability; there are other things that have been taken away from him. If he's 100 per cent disabled, there are many things that he's lost. In the American system he would be awarded in the millions. That's why we raised this concern with you, because of the fact — your comparison, when you say to bring it back in line with the other provinces. I've said: well, maybe the other provinces are behind.

MR. R. MOORE: On the permanent disability, your recommendation is that if a worker returns to his usual wage, he should get a lump sum settlement. Just for clarification, do you believe he should have the option of taking a lump sum or taking a pension? Or should it be legislated that he get a lump sum when he goes back to work? We have heard presentations that the option should rest with the worker, because there may be a time down the road that he cannot earn full wages because of his disability. He may want to take a pension protect his long-term, future earnings. Do you think it should be the option, or should it be legislated that if he can return to employment in your supermarket, he should get a lump sum?

MR. WATERS: I think it would be more appropriate. It might be an administrative problem for you if there were an option. I think we would suggest that the combination of a lump sum payment and a wage be considered.

MR. CHAIRMAN: Similar to Saskatchewan. We'll look at it. Any others?

MRS. FYFE: Related to the approach for medical information, you said that you've experienced many long delays. I know there have been some problems previously, and there's been a concerted move to improve this situation. I just wonder if you've noticed any improvement. Or is this a long-term concern that you've had?

MR. WATERS: I'd like to ask our health and safety people. It's my impression that the delays are not occurring regularly but that some of them are of as great a duration as they ever have been.

MR. MASON: The problem we experience — I deal with the Board almost on a daily basis; that's my primary job function. Where we have problems with this is in cases where we feel the disability that an injured worker is suffering is questionable. In the

case where we'd like to see the Board examine the person or put him into the rehab centre, in cases of a Board physician examining, it's three to six weeks right now. And if it's three weeks, you're batting good luck. To get into the rehab centre is about two months now. What we're concerned about — and most of our people have legitimate accidents — is that in cases where it's questionable, we would like to be able to see a physician not in three to six weeks but in one to five days. The reason for that is that if we're to the point where we suspect a person, to wait three or four weeks defeats the purpose of seeing the doctor altogether.

To give you an example of this, say an average worker collects $400 a week from the Board, and that's charged to our experience. If the worker is off — let's say it takes four weeks to see a physician; that's $1,600 charged to our experience. If the worker were seen that same week, I think we would be more than willing to pay a physician's fee of up to $200 to $300 for an independent medical report or have the Board take on a physician like this. I think the savings could be realized through the entire industry, through all the employers contributing to the class. I think there are advantages to this, in that if the employer feels that it's necessary to pay this money, he must have good grounds for it. And if in fact the worker is suffering from a legitimate disability, he also has the right to clear his employer's mind of that suspicion.

MRS. FYFE: Okay. As a follow-up to that, have you experienced delays in workers waiting to get into hospitals for elective surgery?

MR. MASON: For elective surgery?

MRS. FYFE: Yes. Then they do not necessarily become a priority on the hospital list. Has that been a problem?

MR. MASON: Yes, that has been a problem. From my understanding it's extremely rare — maybe just sidetracking a bit — for an employer to ask for an independent medical report. We have had incidents where we wrote. There was some question as to whether or not we would get it, and we waited two months for the worker to get the appointment. The appointment date came up, and he went into hospital for elective surgery on his nose. We had a legitimate complaint with this person, and there wasn't much follow-through. We were concerned with that. As I said, most of our people are very good. But when we have questions, we'd like to address them fairly quickly.

MR. CHAIRMAN: Mr. Mason, I think both Mr. Wisocky and I would welcome that example. We have had some discussions with the medical profession about this, including Dr. Dufresne, the director, who is attempting to speed up the examination.

But you raised elective surgery. That is one that has really troubled me because of the fact that it's costing the employer money. However, have you looked at having that worker come back to light work while he or she is awaiting surgery?

MR. ROBERTS: Just to answer that, it's rather difficult at times to give the assignment of light work when you're into specific positions such as a cashier. Cashiering can't be considered extremely heavy work, but that person is trained as a cashier. She can't work on the floor because of union contract stipulations. How can you get someone to set up light work as a cashier when there's only one job to be done? It's very difficult in these classifications to try to set up something like light work. In the case that Brian mentioned, this was an incident with a truck driver. A truck driver is a truck driver. That's his classification; those are his duties. You know, it doesn't change that much.

MR. CHAIRMAN: The reason I asked is that earlier we had some discussions with unions that said: oh no, we're very prepared to work on it. We feel free to share that with you, that there are unions that claim they do accommodate the acceptance to light work. The occupational health nurses indicated that there is a benefit for early return to work but that without some medical counselling or occupational health nurse counselling, there is a danger of injuring the worker more. But you haven't moved into that even though you have a work force — I appreciate the unique type of work force you have. The only light work there is, the manager's got, and he's not giving it up.

MR. ROBERTS: We will deny that, sir.

I think part of the problem — and I'm certainly not going to lay the blame for this on the unions. But to a certain extent, when you change duties around, you get as much static from the other employees that are working with them. When a certain person is getting preferential treatment at exactly the same dollar pay, she says: well, my back hurts too. It is very difficult. We have an oddball contract in that respect. In some cases, if we gave some people light work, we'd have to pay them more money to do it.

MR. WATERS: That's not so odd, is it?

MR. CHAIRMAN: I never thought of that one. We've heard of the fact that they'd be promoted or moved up.

On your employee responsibility — and you raised it under Occupational Health and Safety Act — one of the frustrations we've had, Mr. Waters, is that nobody's prepared to provide information or evidence of misdemeanor or breaking the rules of the work, whatever it is. When we have the co-operation of the employer and the information, both the Workers' Compensation Board and the occupational health and safety people will be able to assist the employer. But you'll find out — and I'm sure as all of you sit here — that people don't want to get involved, including managers. That's the difficult part. The Occupational Health and Safety Act is quite clear on it. But even there, it's like a policeman showing up at the scene of an accident. Everything's happened before that. The occupational health and safety officer shows up at the scene of the work place and doesn't get the information.

So if we can encourage — maybe some reward system — that where a worker is carrying out an unsafe work practice, there be a bonus to somebody to tip them off. He not only could hurt himself but the other worker. I like the carrot approach, even though the safety people don't believe in it. What a thing to say — carrot approach in a Safeway store.

The second thing is, if a worker is carrying out an unsafe procedure and the employer knows about it, then both are guilty of violating the Occupational Health and Safety Act. But you've raised this here, and I thought I would just share with you that it's new legislation. Our Occupational Health and Safety Act was only introduced in '76; I believe the Saskatchewan was in '74. Keith?

MR. SMITH: 1972.

MR. CHAIRMAN: So we have some work to do. We've brought in the amendments this year under Bill 51. We think we're going the right way, but we need the help.

The key thing is that if a worker is carrying out an unsafe practice — another one is drinking on the job. I personally have said that if an employer condones the drinking and an accident happens, how can you then deprive a worker from compensation? So that's why that employer's responsibility. But thank you very much on this. You have a question, John?

MR. THOMPSON: One more question. It's on page 5, on your disability awards indexing. I don't believe that our awards . . .

MR. CHAIRMAN: Good question.

MR. THOMPSON: . . . are indexed to the CPI at all. They're indexed, but there's no . . . Al, could you explain to these people just what the situation really is?

MR. RUNCK: We don't have formal indexing to the CPI in Alberta. Some provinces do, but we don't. Saskatchewan definitely has. In this province, usually the increase or the adjustment is made on the basis of a recommendation to the minister by the advisory committee to the minister, and whatever he decides to do with that recommendation.

MR. CHAIRMAN: It's not only me, but whatever I decide to do with the recommendation. Mr. Waters, I'm glad John Thompson raised that. There's no indexing in Alberta. There's been no increase legislated in '83, and it doesn't appear that this minister is going to go with some recommendation for '84.

MR. WATERS: So I gather that it's up to you and others . . .

MR. CHAIRMAN: It's a legislative approach in Alberta.

MR. WATERS: . . . to apply indexing and . . .

MR. CHAIRMAN: By statute. Amendment to the statute will bring about an increase. The last one was on January 1, 1982.

MR. WATERS: Oh, I see. But not necessarily based on the consumer price index or any other fixed formula.

MR. THOMPSON: Just the way the stars are moving.

MR. CHAIRMAN: I'm glad John Thompson raised that, because that's not happening here in Alberta. Maybe it should. I'll leave that with you.

MR. WATERS: We would very graciously withdraw that point.

MR. CHAIRMAN: It would save me the problem of bringing in legislation. But nobody else has made representation for annual CPI indexing, so . . .

MR. DIMNIK: We got a recommendation in ahead of time then.

MR. SMITH: Mr. Minister, I just wanted to clear up one point, the misunderstanding that workers are not being held responsible for their actions or inactions, by indicating to you that approximately one in three or one in four convictions under our Act are against workers.

MR. WATERS: One in four, did you say?

MR. SMITH: Yes, the ratio would be one in three to one in four of all convictions are against workers.

MR. MASON: May I ask how many convictions there are on an annual basis?

MR. SMITH: In 1982 we had 106 actions commenced by the Attorney General. Of those, some are still in the courts; 44 of them resulted in convictions, of which 35 were against the employers and nine against workers.

MR. DIMNIK: Can I ask if any of those were in class 11-04 at all?

MR. CHAIRMAN: We'll take a look at any employer in class 11-04 who's been convicted, okay? John, you had something?

MR. WISOCKY: Just a comment. The statistics are in our Info here. I share the concern about medical delays and so forth. But in 1981 the average number of patients at the rehab centre was 250, in '82 it was 309, and I know for a fact that this year it was up to 350 at some stages. And lately we've got the waiting period down about two weeks, so we're working on that.

MR. WATERS: That's encouraging. Perhaps that answers your question of what the delay norm is now.

MR. CHAIRMAN: Oh, there is a concern about what Mr. Mason raised. The elective surgery is one that we've got some discussion on. We'll be trying to correct it, because it is different from the elective surgery for the public, who are not at the cost of the public and waiting. But it's there. Okay? Thank you very much, gentlemen, for coming forward.

MR. WATERS: This was the last group that was here?

MR. CHAIRMAN: Yes. Thank you. This concludes our hearings here. Thank you very much, ladies and gentlemen.

[The meeting adjourned at 4:09 p.m.]