

[Chairman: Mr. Diachuk]

[9 a.m.]

MR. CHAIRMAN: Good morning. Welcome to the hearings in Medicine Hat. We have two submissions. The first one is the Canadian Association of Oilwell Drilling Contractors. The second one is Mr. Bryan Richards. I do want to mention that we have received one from Medalta Transport Ltd. They didn't wish to remain, but this will be distributed to all members of the committee as a brief. To the public sitting here, if there's anyone here that wishes to speak on the Workers' Compensation Act or the Occupational Health and Safety Act, other than a claimant — if there's someone here who has a problem with a claim or an account, my executive assistant is sitting there by the coffee machine and would welcome that you introduce yourself to him. He will look after the concerns you have.

Canadian Association of Oilwell Drilling Contractors

MR. CHAIRMAN: Mr. Buchanan, we had a thorough discussion on the task force yesterday, but today I think would be a good opportunity to hear what is unique with the oil industry drilling contractors. You may want to just refer to some of the unique areas that you encounter with the two pieces of legislation. Go ahead.

MR. BUCHANAN: Certainly. As mentioned yesterday, the association fully supports the position of the Industry Task Force. In CAODC's submission, we tried to concentrate on areas specifically related to the drilling and well servicing industry. Many of the points we've brought to light in our submission verify examples, in terms of accountability problems and communication with industry, which were brought out yesterday. I'll cover just the first point, then I'd like to turn the submission over to Stan Schiller, who is a director with CAODC and well-familiarized with the Workers' Compensation Board and its issues.

If you turn to page 1 of the submission, the first point is accountability and temporary and non-Canadian workers in Alberta. We touched briefly on that point yesterday in the overall task force committee, but specifically it's a case that is affecting the Canadian Association of Oilwell Drilling Contractors. I believe everybody is aware that two individuals with Wild Well Control, a Texas-based company, were killed while trying to bring a well under control in Drayton Valley. These fatalities had been assessed against the drilling contractors account class, class 4-03. CAODC has appealed this particular process. Today we don't have the expectation that this committee can really resolve this particular issue for the drilling industry, but I think it identifies or brings to light a number of issues that are applicable not only to this industry but to all industries in Alberta.

In terms of highlighting the position of accountability, CAODC has always represented class 4-03, which has been confined to drilling and well servicing contractors and which our association represents. Early in the spring of last year, through the Workers' Compensation Board, there was the movement to eliminating classes 19-01 and 19-03, which are the miscellaneous accounts, and trying to spread those back through all other industry accounts. The well control specialists were allocated to class 4-03, the drilling and well servicing account. The association was not informed that that allocation was made. It came to light at the fall rate assessment meetings, and that was the first time we had ever heard that that allocation had been made. Our concern is not so much in terms of the fact that the well control specialists were assigned to that

account. The association has tried to maintain pure representation of just the drilling and well servicing contractors, and we're opposed to the expansion of our class without any consultation. If you start expanding it with one, where does it stop and how do we eventually represent that class? So in terms of accountability: lack of communication even in informing us that this move had been made.

The second point that this particular incident brings to light again is what we discussed and touched on yesterday in terms of the coverage of non-Canadian citizens working temporarily in Canada. This is a classic case of two individuals of a company that was temporarily working in Canada. They took out coverage with the Workers' Compensation Board. Their total contributions to WCB amounted to about \$8,000, of which, with the two fatalities, that well control specialist company can only be superassessed a third of the contributions they made. You have two fatalities that are assessed at well over \$200,000 each being charged against our particular class, or against industry in general if we can successfully appeal our claim, and workers' compensation has limited ability to go back and try to charge or go after the well control specialists to obtain those moneys. So we feel there's opportunity to look at exemption status for companies working temporarily in Canada, and Alberta industry should not have to bear those costs of temporary workers in the province.

In order to circumvent that, CAODC recommends that section 9(1) of the Workers' Compensation Board Act, schedule A, be expanded to exempt people of this status. Our recommended wording is:

Any work being conducted by an employer based outside Canada if the employer does not have an ordinary place of business in Alberta or does not employ residents in the province.

They would then be exempt from workers' compensation coverage. Again we feel it's an area that should be addressed and looked at by the select committee.

At this point, I could turn over the remainder of the submission to Stan Schiller.

MR. CHAIRMAN: Go ahead, Stan.

MR. SCHILLER: Thank you. The next item we'd like to address is the merit rebate/superassessment category. At the rate assessment meeting in the fall of '82, WCB officials promoted a reduction of merit rebates for the majority of employer groups. In particular, for class 4-03 it was recommended that a 50 per cent reduction be instituted. We feel this to be totally wrong, because the merit rebate system does promote companies to introduce safety programs, keep safety people on board, and help reduce accidents. However, we do think there is something wrong with the system we have, principally because \$82.9 million was paid back to industry as a rebate in 1982, and only \$3.5 million was levied against the poor safety-record companies. So there really has to be something wrong here. It's going to take a lot of work to overhaul the situation and get it more equalized, but we think there's a real necessity for the merit rebates to provide incentives to companies that are really safety conscious. The people that don't look after this area of their business should be superassessed on it. That's how we feel about that one.

Secondly, we think the increase to a \$40,000 payroll ceiling in 1982 from the \$22,000 that it was in 1981 is far too great. Because of this situation and the increase in assessment, our pay per rig crew has almost doubled, from the \$26,400 for three crews per rig to \$48,300 as of 1983. It has a tremendous impact on our industry.

MR. BUCHANAN: That represents about an 83 per cent increase specifically to our industry group, in terms of that ceiling change.

MR. SCHILLER: Also, it seems to us that with a \$40,000 ceiling, we are paying the people in that tax category — I may be ahead of myself. Am I, Bob? Is this addressed later on?

MR. BUCHANAN: No.

MR. SCHILLER: The people are actually getting paid on a basis of probably \$60,000 to \$65,000 a year on short-term earnings. As you well know, the drilling industry is quite cyclical. During a period of time where they are busy, their rates are fairly high. This produces a high income if somebody gets hurt. In other words, it's way more than what they'd normally earn in their regular job.

I'd like you to address that regulation versus policy, Bob. I think you're more familiar with it than I am.

MR. BUCHANAN: Again it relates to discussions we had yesterday. In terms of the fact that we're dealing with about 15 or 16 pages of regulation at the present time, CAODC firmly backs the position of some sort of movement toward a more stated position defined within regulations, so there's better guidance and guidelines on major policy within the Workers' Compensation Board. Again there was the concern — and we're concerned about it — that you don't want too much regulation, but at the same time we'd like to see a movement toward more regulation so that industry knows what the basic rules and guidelines are when preparing assessments.

Again it would help in terms of keeping the operations of the WCB confined to the basic principles and mandates of workers' compensation. Specifically related to the drilling industry, the camp policy is a very specific policy within the Workers' Compensation Board where we feel there's been a movement away from the basic mandate. We've indicated in the third and fourth paragraph that CAODC adamantly objected to the policy, on the basis that workers are provided camp accommodation as a home away from home. That's why you have camps there. If an employee resides in a motel or is at home at the end of his work day, he's not covered by compensation. Why, then, would an employee injured in a camp after work be covered just because the injury occurred in some proximity to the worksite and because they happen to be isolated? It's still a home away from home, and it's not directly related to work. If an individual slips on the steps walking out of the camp, he's covered by WCB. Had he slipped on the steps walking out of the motel, he wouldn't be covered. The worker is not engaged in his occupation, and he's not receiving payment by his employer. Thus WC coverage should not apply. Another example brought up yesterday was a fight in the camp. Again it's deemed a work-related situation.

So we feel this one policy demonstrates how some of the internal policies are moving away from the basic mandate of covering an individual for loss of income and injury while engaged in his occupation. This example of camp policy again demonstrates the movement of key WCB officials' thinking toward 24-hour coverage employees, a move away from the basic concept. This philosophy has extended coverage and has slowly crept into the Board's policy over the years, to the extent that it is now considered a new standard as an acceptable claim. These again are some of the concerns and why industry would like to be involved in terms of setting a policy. We feel that if it's left solely to individuals within the Workers' Compensation Board to develop that policy, we'd like input to try to get it back to the original mandate.

CAODC's recommendation again backs up the position of the Industry Task Force. We'd like to see compensation awards and operations of the WCB governed by regulation rather than policy. We'd like to see an industry/government task force appointed to

develop draft regulations for compensation qualifications. Any consideration of the development of new policy, the modification of existing policies, and the publishing of the policy manual should be done in conjunction with industry committees. We also recommend that section 12(4) be amended to read:

Each matter shall be decided on the merits and justice of the case according to the regulations and the Board is not bound to follow any previous decision or ruling of the Board as a precedent in reaching its decision or making its rulings.

We also recommend that the select committee thoroughly review the camp policy and make judgments as to its validity in terms of whether it meets the mandate of workers' compensation.

MR. SCHILLER: Adding to that, we are concerned about the employment and worksite qualifications and the interpretations or the lack of definitions for employment and worksite. Just as Bob said, our industry has been tagged with several road fatalities that really have nothing to do with the course of employment. There have been camp incidents, similarly, which really had nothing whatsoever to do with the employment site or what we would call the actual work itself. We really think what the worksite is and what the actual work is, need to be defined.

Next is Alberta health care coverage of medical aid expenses. I think there's been a lot of talk about that recently. Without going into further detail, we recommend that the 1983 select committee investigate the 1980 recommendations regarding the passage of medical aid costs to Alberta health care and report their interpretation of whether Alberta health care was to bear the cost of medical aid claims. Our understanding through previous meetings was that Alberta health care would take care of the medical claims and, therefore, for that reason the ceiling was raised to \$40,000. Now we have both. We're still paying for Alberta health care, plus we have the \$40,000 ceiling.

MR. BUCHANAN: I can point out just a little bit of a differentiation from yesterday. We've included in appendix B a letter from the Minister of Hospitals and Medical Care, Mr. Russell, to the president of our association. In the second paragraph, it stated it was not the intention to transfer financial responsibility, merely administrative responsibility. Again that intent in terms of what was proposed by the select committee in 1980 — obviously we have two different intents. We feel it's necessary, in terms of the credibility between government and industry, to address that particular situation. All of industry was totally flabbergasted by the total reversal that occurred last spring.

MR. SCHILLER: Presently the Act, for calculating net earnings for assessment purposes, includes overtime pay, vacation pay, isolation pay, board and lodging, and so on down the line. We truly believe that all these items, with the exception of regular time only, should be the only calculation for the net earnings calculation. It just seems to us we're including a whole lot of things that should not be there. Any insurance scheme normally bases their calculations on regular earnings.

MR. BUCHANAN: To expand specifically related to the drilling industry, employers are supposed to include \$10 a day in an employee's income for meals provided at a camp, in terms of breakfast, lunch, and dinner. Again you have a situation where that's being calculated into a person's income. If he's hurt, then obviously that's another example of a cost that should not be included in an individual's income. He's being fed at that worksite, and those meals aren't really part of his income.

MR. CHAIRMAN: Gentlemen, I wonder if you could wrap up so that if there are any

questions, we could get to them.

MR. SCHILLER: Okay. We can do it fairly quickly here. Another item we're concerned with is the 90 per cent calculation of net earnings. We just think it's too high. As this is a non-taxable benefit, it far exceeds the income the employee normally earns, and he just might as well not be going to work. In other words, it promotes not going to work rather than trying to return to work as quickly as possible.

What other items, Bob?

MR. BUCHANAN: Just quickly. In terms of short-term injuries, there was a question yesterday of what is a realistic time period. Our recommendation there is that the first 15 days be utilized as a waiting period where there is no compensation paid to individuals, again to try to reduce the administrative costs and create an incentive for individuals to return to work.

Vehicle accidents. Again the major point there is that 25 per cent of fatalities within WCB are related to single- or multi-vehicle accidents. Again here you have a situation of double coverage. All individuals driving vehicles have to have liability insurance coverage, and then again you have coverage through the Workers' Compensation Board. Maybe in terms of social coverage, we've reached the point where WCB could drop covering vehicle-related accidents and allow the existing systems and programs to cover that.

Points 11 through 15 really back up points that were made with the Industry Task Force with regard to criminal activity and employee notification of Board decisions with regard to the 30 days; the same in terms of access to information. As an association, CAODC would like to be able to analyse the accounts to find out who the bad offenders are within our industry and utilize the information to develop safety and training programs and help us monitor and improve the safety of our industry.

One other point in terms of fall rate assessment meetings. Even though the rate has been set for 1984, CAODC would like to meet with the Workers' Compensation Board to review the financial position of class 4-03. Even though the rate has been set, we as an association representing the industry would like to find out whether our deficit position is still on the increase or whether it's being decreased.

MR. CHAIRMAN: Okay. Questions of the gentlemen?

MRS. FYFE: There are two areas I'd like to ask you about. First is the campsite policy change you recommend. I guess I have to think upon some of the calls I've received from constituents. I remember one specifically that was a mother concerned about her son going into an isolated camp. It's not exactly comparable to coming home, is it? Yet I appreciate the position you're putting forward. Is there any kind of compromise suggestion that you could think of? It's not like going back to your wife or family, where there are not the same pressures of living with the people you're working with. There are differences.

MR. BUCHANAN: In terms of relating that to accidents, what is the correlation? Certainly it gets back in terms of social consciousness. An individual is choosing an occupation. He's aware — for example, if I accept a job in the industry or a logging camp, living in remote locations is part of that employment factor. I take that into consideration when I take the job, the same as my taking this job and being aware that there are probably eight or 10 days of travelling a month. It's still affecting me in terms of my relationship at home, et cetera.

The basic principle of the Workers' Compensation Board is to cover a person for

injury while working on the job. To us that's an extension of that social consciousness. How far do you keep covering individuals, in covering them for psychological or sociological impact, and how do you evaluate that and monitor it?

MR. CHAIRMAN: As a supplement to you, if I may, Bob. Has the association considered that if the coverage isn't there, they would then be open to third-party liability action? Are they prepared for that?

MR. BUCHANAN: Well, in terms of civil suit and third-party liabilities, we feel that there is a degree at which civil liability takes over in terms of vehicle accidents.

MR. CHAIRMAN: No, I'm talking camp policy.

MR. BUCHANAN: And in terms of camp. If an individual slips on a step and it's icy, then you're dealing with — just as I can go after a hotel.

MR. CHAIRMAN: My question simply is: the association would be prepared to face . . .

MR. BUCHANAN: We're aware of that, and we feel you can't totally use the logic that because of WCB, the employee has no right to sue. At some point, civil law comes into play.

MR. SCHILLER: I compare it to staying in a motel. You can have the same situation where you have a large group of workers staying in a faraway place type of thing, or away from home.

MRS. FYFE: I guess it could be comparable, but the isolation aspect may not be. So I certainly wanted further clarification on your point.

The second one I'd like to bring up is the net earnings calculation. You have included vacation pay. I can understand some of the other items you have brought forward, but vacation pay is an entitlement under the labor Act. It would seem to me that an employee must receive vacation pay, and that is part of his yearly income. That is not in addition to a normal income figure.

MR. SCHILLER: We're just expanding the whole situation. What's happening in one thing is adding to the other. It may be impossible to exclude vacation pay in the situation. As you said, it is a legal requirement. There's no question about it.

MR. THOMPSON: Mr. Schiller, early in your brief you mentioned the fact that there was a 50 per cent reduction in the merit rebate in 4-03.

MR. CHAIRMAN: Well, it was recommended.

MR. THOMPSON: Oh, just recommended.

MR. SCHILLER: It was recommended. It has not taken place. That was the thought in mind, and it seems to us that the thought has not left everybody yet.

MR. THOMPSON: Well, I still have a question.

MR. CHAIRMAN: Go ahead.

MR. THOMPSON: Did the Board give you a reason why they felt they should be doing this, or did they just say: well, we're thinking about doing it?

MR. SCHILLER: Bob was dealing with this a lot more than I was.

MR. BUCHANAN: Really, that was across the industry at the rate assessment meetings last fall. It was addressed in terms of all industry groups. In terms of trying to reduce the deficit position of class accounts, would employee groups be prepared to reduce their merit rebate? In our instance it was 50 per cent; other groups were 25 per cent.

In terms of trying to solve the deficit positions of accounts, we felt that was short term and could potentially have a harsh impact on industry classes in terms of the ultimate long-term reduction of accidents. Many companies base their accident programs and hiring safety personnel solely on whether they get a merit rebate or not. So we felt that to go after the merit rebate system was an incorrect way of trying to solve the deficit positions. It would be more detrimental. This is where we feel that the reduction — try to solve the financial deficit positions through looking at the investment policies and the funding strategies, where you're talking large dollars, and looking at lump sum payments versus pensions. But don't go after one of the few incentives that attract employers to put safety and training programs in place.

MR. THOMPSON: I'd like to ask Mr. Buchanan one more question. You came down pretty hard on the regulations yesterday, and I see it's still in your mind. Are you more interested in rewriting the present regulations to be more specific, or are you interested in having more regulations? I know you've stated more regulations several times.

MR. BUCHANAN: The point was made yesterday in terms of guidelines of how policy was to be developed, so there's a formalization of that. At the same time there's a feeling, in terms of an expansion, for more regulation on the major key issues which WCB deals with; certainly not to the extent where every possible type of accident is covered under regulation, but certainly in terms of — for example, road fatality policy. Certainly there are broad guidelines that could be covered under a regulation that addresses the situation of road policy and what is covered, so you don't have variances and changes of interpretations. Camp policy is another area that could be addressed.

In terms of the regulations, the last four pages of a 16-page regulation are nothing but a listing of who is exempt from workers' compensation, so your regulations are down to 12 pages. There's a feeling that there can be more expansion in the regulatory area, but you don't want to take it to the extreme of having everything governed by regulation. As industry, we'd like more deregulation, but we feel that workers' compensation is at the other extreme of basically no regulatory guidelines.

MR. MARTIN: Just a couple of areas, and it's ongoing. I think you called it the social consciousness of the WCB. The one I'm specifically dealing with is the net income of 90 per cent that you want lowered to 80 per cent, and the justification basically that there is no incentive to go back to work on what we call a gray area of injuries. We hear this all the time. Is there actually documentation of specific workers where this has happened? I know you give the example here. But that was not an example; that's what could have happened.

MR. BUCHANAN: I can arrange to have specific examples sent for the drilling industry. We sent the example that's included in the appendices at the back to the minister's office, and Brian had it verified by the Workers' Compensation Board. With an individual making that hourly rate, the example included is in fact what would be paid. It

is a true example, verified by WCB. We can send you specific cases, if you desire, in terms of the drilling industry.

MR. MARTIN: I know this could have happened; I don't question your figures. But was this actually a worker that didn't work?

MR. BUCHANAN: The one in the appendix is an example, but I'm saying we can provide you with specific instances. That's not a problem.

MR. MARTIN: The second area — I'll be quick here — is the area about wanting to have a meeting with the WCB to go over the assessment again and talk about the deficit. Have you requested this meeting from the WCB?

MR. BUCHANAN: Other than just through the process today?

MR. MARTIN: So this is a notice that you're going to . . .

MR. BUCHANAN: The rate assessment meetings are an annual review that have always gone on. We assume that that process will be continuing, but this was a question we had. Are the rate assessment meetings going to be held, in the light that rates have been set for '84?

MR. WISOCKY: Just for clarification. The rates have been set for '84. Because of time constraints and resources, we had hoped we didn't have to, because we have so many other things to do. But if that's the request, then somehow, some way, we'll have to try to meet it.

MR. BUCHANAN: That would be a specific request we would have. Even though the rates have been set, it's important for us. For example, the drilling industry's deficit was \$2 million, and it grew to \$12 million. Even though those rates are set, which were set for all industry — nobody can change that — we're still concerned about what the position of our class account is. We don't want to wait another 12 months to find out we're in a \$25 million or \$30 million deficit.

MR. WISOCKY: Mr. Chairman, maybe I should suggest to Mr. Buchanan that he address this official request to Mr. Thomson, the finance person.

MR. CHAIRMAN: I think the representation is well made here, Bob. I think it's a concern all industry would have, that they don't have an opportunity to review the financial position of the class.

MR. BUCHANAN: We had also included that in the task force recommendation with all industry groups. People feel we want to try to stay on top of our class accounts and analyse them.

MR. CHAIRMAN: I don't believe there was a position established yet.

MR. R. MOORE: Mr. Buchanan, getting back to this question of regulation versus policies and so on, we touched on this yesterday. If you think back on it, it came out that maybe there's a need for clearly defined regulations on how policies are formulated. Would that be an area we should be looking at rather than creating more regulations across the board, which to me is a little hard to live with?

MR. BUCHANAN: We're differentiating, I guess. I understand what you're saying. You don't want it to go to the extreme. But I think there's an opportunity where if a task force or group of WCB officials and industry people were set up to address how it can be expanded, then WCB officials could say you're going too far, try to leave that to policies. There are too many instances arising where you can't define regulations. In other areas I think if it were a joint effort of working together on it — and it may take eight or 10 months or a year to work it out, but work together as opposed to separation and isolation.

MR. R. MOORE: I think if you worked closer together, with input from both, that would probably solve a lot of this without regulation or policy.

MR. CHAIRMAN: Okay, I want to thank you gentlemen. I think the committee has exhausted the questions. I assure you the representation about the meetings will be taken up with the Board. I don't think it's legislative or anything, but a request from you and the task force is reasonable. Thank you for appearing again, and we'll see you at some of the future meetings.

MR. BUCHANAN: Thanks, gentlemen.

MR. CHAIRMAN: Thank you very much. The next one is Mr. Richards.
If somebody wants to get a brief coffee, please feel free.

UNIDENTIFIED SPEAKER: Mr. Chairman, I wanted to ask a question. Do we not get a chance to make any comment or ask any questions regarding a brief of this nature? What is the purpose of us being here?

MR. CHAIRMAN: Well, I did announce that if there are any employers or anyone that wishes to address the committee, please indicate to us. We would welcome it. If it's with regard to a claim, I wouldn't encourage that they take it up with the committee. As far as questioning the members of the CAODC, it's not been the practice of having the public question the people that come forward. It's only been the practice of the select committee questioning in certain areas for clarification.

UNIDENTIFIED SPEAKER: Okay. I wanted to ask the committee a certain question that arises from the brief presented to you. I wasn't going to ask him questions.

MR. CHAIRMAN: Fine. We'll work it in at the end of this.

UNIDENTIFIED SPEAKER: I just wanted to know.

Mr. Bryan Richards

MR. CHAIRMAN: Mr. Richards, you have given us a document. We would ask you to indicate in summary form what it is. Unfortunately we haven't had a chance to read it. The committee members are aware that you are a claimant. However, because your request was to address certain areas of the legislation, we felt it would be acceptable to have you make reference to the legislation you have some concern about.

MR. RICHARDS: I'm not sure I can. It's all part and parcel. I can't really summarize it.

MR. CHAIRMAN: Well, please. It's unfair to the committee members. They haven't had an opportunity to read it. You did want to make the presentation here, so give us an indication of the concerns about the Workers' Compensation Act and the Occupational Health and Safety Act that you feel strongly about and that you feel need some changes.

MR. RICHARDS: Okay. For one, the chief lawyer for the Compensation Board, Doug Carr, states on the WCB Today film that they protect the workers' rights. So I phoned him and asked what rights they protect, and he said: well, your right to compensation. But I don't really classify that as a right, because I really didn't want the compensation in the first place.

My major problem was that the city of Medicine Hat broke seven occupational health and safety laws. They were not charged. The Compensation Board received an award for \$376,676.75. Now according to the Compensation Board, there is no such thing as a penalty. There are four different charges that can be made: late payment; late filing; underassessment; and a term of theirs, superassessment, which is either a \$30,000 lump sum or an increase in rates.

The city of Medicine Hat had their rates increased, which is a superassessment, plus they paid this \$376,000. What would the \$376,000 be classified as? As well, they never got a rebate back. How would you classify that \$376,000?

MR. CHAIRMAN: My understanding is that is the capitalization of your pension, Mr. Richards. That is the money that is set out to pay your pension for your lifetime.

MR. RICHARDS: But according to the Compensation Board, the most that they can charge an industry is \$30,000 through a superassessment, in a lump sum. Mr. Williamson said that there is no such thing as penalties.

MR. CHAIRMAN: Compensation, Mr. Richards — and I don't want to get into a debate with you on this — is a mutuality. We had representation made to us from small business people that said if you superassess us too heavily, we will be out of business. Now the city of Medicine Hat could absorb that superassessment, even the \$300,000. But in these hearings, we've had small business people — and the Act has to apply to everybody. But the capitalization of some \$376,000 is for the lifetime of your pension. That is why the city lost, I would gather from your information, their merit rebate.

MR. RICHARDS: Yes, I can understand that. But the problem with both boards — the occupational health and safety board and the Workers' Compensation Board. Being under you, the minister, doesn't this leave a compromise? Should they have not been charged through the courts?

MR. CHAIRMAN: Oh, you're entering into an area that I was hoping you wouldn't. You've appealed to the Ombudsman, and I asked you to address the weakness of or your dissatisfaction with the legislation. The decision that was made is now under review. The Ombudsman has reviewed your concern about workers' compensation. You have his findings. The Ombudsman is now reviewing your concern about the occupational health and safety legislation, your concern that there was no prosecution recommended. I don't think this is the place for you and I to get into a debate.

MR. RICHARDS: Another thing that bothers me is that I have made 10 phone calls or better to you. Right? I've written a few letters, and I set up a meeting where you weren't there; Mr. Hlus was. Mr. Hlus said that we were all going to get together a long

time ago, which is not true. By all of us getting together, I mean the occupational health and safety board and myself, over this problem.

Nothing happened, so I got hold of Mr. Notley. You told Mr. Notley that I have one goal in mind; that is, to achieve legal action. I have never paid any lawyer fees, so I don't know where you get that from. You also told Mr. Notley: the director for southern Alberta, Mr. Ron Hutchison, reviewed the complete file with Mr. Richards and provided him with an opportunity to review the report himself. I have never even met Mr. Hutchison.

MR. CHAIRMAN: Mr. Richards, you're getting into your specific claim. I think in fairness to committee members, because it's still in the stage of an appeal to the Ombudsman, and Mr. Notley not being present, it is not proper for us to enter into debate. I appreciate your concern. What I indicated to the secretary was that we would welcome you to come forward with the weaknesses that you see in the legislation that we're reviewing.

MR. RICHARDS: Okay, the major weakness is that I have no rights. That's the major weakness. I have been put on what I consider welfare. I get \$1,058 pension to support my family of five. Why am I being punished? I made \$30,000 in 1980. I should be making \$38,000 now and taking home about \$31,000 or \$32,000, and I'm at \$12,000. The city paid the \$376,000 to the Compensation Board, plus they probably paid how much they are paying me through just their rate increase, their superassessment. I can't say what they were superassessed. How much the rates went up, I cannot say.

MR. CHAIRMAN: Any questions on this?

MR. RICHARDS: None of this makes any sense. Does anyone have any questions?

MR. CHAIRMAN: No, I am asking if there are any questions from committee members.

MRS. FYFE: I wonder, Mr. Richards, what you would feel about lump sum payouts rather than a pension that would go on and on.

MR. RICHARDS: Oh, definitely.

MRS. FYFE: Would you prefer that as a change in policy?

MR. RICHARDS: Yes. I have a business administration certificate, and I would have accepted a lump sum payment. I would have accepted half of what was given to the Compensation Board.

MR. CHAIRMAN: Have you made a request for a lump sum payment, or not yet?

MR. RICHARDS: You can't get a lump sum payment, according to the Compensation Board, unless your injury is considered less than — is it 10 per cent or 15 per cent?

MR. CHAIRMAN: Ten per cent, yes.

MR. RICHARDS: Mine is at 70, so I cannot get it.

MR. CHAIRMAN: At 70 per cent.

MRS. FYFE: That's the kind of input that we would like to get from the hearing. But we can't get into individual cases, because there are many across the province. They would have to be dealt with in the traditional way, which you are. What we would like to know from you is that kind of thing, the change in policy that would help to resolve the problems that an individual worker has. That's very helpful to us to get that kind of policy input. Are there any other areas, in a general way, that you can suggest?

MR. RICHARDS: Yes. With this pension, I've had two jobs since I've been injured, and both of them paid me \$4 an hour. The compensation claims representative came down from Edmonton, and I told him: look, I've got a job here I like; it's only paying \$4 an hour, which is \$600 a month, which still only puts me at half of what I should be making; could I get a subsidy to get me up somewhere to what I used to be making? He said: no, we cannot do that, but if you go back to school you would end up with more money than you would be making working. Well, this is ludicrous.

MR. CHAIRMAN: Well, I appreciate — we don't have a claims officer here, other than the director of claims services, Mr. Wisocky. John, you had a question or clarification on one of those concerns he's raised.

MR. WISOCKY: Just a commentary. I sympathize with Mr. Richards. I've never met the gentleman or heard about his case before.

I suppose I can go back into history, when Chief Justice Meredith addressed the whole issue. In order to come up with basically a no-fault workers' compensation system, he recognized — and it has been recognized through the years — that there would be some people where there might be some inequity. Through the years, we have tried to adjust those things, with considerable difficulty. I feel that Mr. Richards falls into that category.

The other thing is that the maximum ceiling in effect at the time of his accident has a great bearing on his present situation. Had the maximum in 1980 been \$40,000 or \$30,000, I am sure the situation would be quite different with Mr. Richards. But that's legislation and law, and that's about all I can say.

MR. RICHARDS: Can I stop you there for a minute? At the time I was injured, it was 70 per cent, so I received 70 per cent of my wage. Then when I was finalized — what do they call that, permanent pension?

MR. CHAIRMAN: Yes.

MR. RICHARDS: I received 70 per cent of that. That was in 1981. Now my claim was not finalized until 1982, which is some months past the new rates, and yet the Compensation Board says that I have go back to the rate that was in place when I was injured.

MR. WISOCKY: If I may, Mr. Chairman, that's what the Act says: we have to take the earnings at the time of injury or the time of accident.

MR. RICHARDS: Another thing. If I terminate tomorrow, what is my family left with, and where does that \$376,676.75 go?

MR. WISOCKY: Again, it's the example that some other representatives have made, in the sense that you pay in so much in capitalization. But during your lifetime, Mr. Richards, I am sure that we will pay tenfold the amount of the capitalized award.

MR. RICHARDS: I can't see that.

MR. WISOCKY: The example was given of capitalization of \$700,000 and a \$6.5 million man in terms of payouts.

MR. RICHARDS: What's the interest in the trust fund, though? What is the interest you're making off the trust fund? Could you release that figure?

MR. CHAIRMAN: Yes, it was discussed yesterday. The concern is that it's not as high as possibly some people believe, but that's another debatable one. It's average with the rest of the provincial government investments because, Mr. Richards, the fund is administered under the Provincial Treasury legislation and invested by a committee that a Workers' Compensation representative serves on with the Provincial Treasury people. The Board does not make the investments exclusive from anybody else.

MR. RUNCK: Mr. Minister and Mr. Chairman.

MR. CHAIRMAN: Yes, Al.

MR. RUNCK: I would like to just make one observation. I think Mr. Richards' main point here is that being a severely disabled or handicapped individual as a consequence of an accident is fine. He is receiving a modicum of compensation benefits based on his earnings before the accident. Although he is unhappy about the amount, which through legislation we are bound to pay him, based on his earnings at the time of the accident plus any legislative increases, his main concern is that this has not only reduced his earning capacity and his ability to earn but has put him in the position now where his life and family have little or no security. If he died tomorrow, the only thing they would realize out of his accident would be nothing at all. The pension would be terminated. If he had purchased some insurance policy to cover them, that's what they would have to rely on. Is that it?

MR. RICHARDS: That's right. As well, at the time I was injured I was on probation. The occupational health and safety department never inspected the plant, and it was a public building. Is the occupational health and safety commission supposed to inspect public buildings before they are officially opened? I've had two varying points of view; I'd like to know the truth.

MR. CHAIRMAN: Mr. Richards, the Occupational Health and Safety Act also requires a worker to refuse to work in an unsafe position. It's been strengthened in Bill 51, but it has been there since '77. If a worker felt it was an unsafe situation, the worker had the responsibility. Physically, our society could not have enough inspectors to inspect every building. But when workers request, the occupational health and safety officers will come out promptly if there is an unsafe situation. But the first onus is that the worker must refuse to work where he deems it's unsafe. Presently the employer has the authority to reassign the worker to another job so that the worker doesn't lose any pay.

I appreciate your submission. It's a good example for the employer representatives to realize, because we've had some submission on the fact that our legislation is too generous. I have said to you in writing that I sympathize with your case and appreciate the fact that you don't get fair compensation of lost income, but that was the legislation in the year you got hurt.

MR. RICHARDS: Another thing. When I was at the rehabilitation centre in Edmonton, there was a person in my taxi pool that had been burned eight years before. He had to even get subsidized by welfare, according to him, because as the years go along you slowly siphon off their living.

MR. CHAIRMAN: Mr. Richards, I want to say that I appreciate that you brought the concern that you have to the committee, the worker's lack of — the previous legislation. The reason I welcomed it is that we have received a fair amount of criticism over the new ceiling, 90 per cent of net up to \$40,000, and that formula would have given you a much fairer compensation if it had been in legislation. But we can't turn the clock back, Mr. Richards.

MR. RICHARDS: If what you are saying is true, then you should have met me at the time I was injured back in November 1981, or at least replied.

MR. CHAIRMAN: Mr. Richards, please understand . . .

MR. RICHARDS: It was 22 months later that you finally replied.

MR. CHAIRMAN: . . . that as the minister, I am responsible for the workers' compensation legislation. But I must — and I do consistently — encourage claimants to go through the total process: the claims, the claims review committee, and the Board. It would be totally improper for me to interfere. I was unable, and still am unable — I do not have the authority to change the decision of the Board. They rule on your medical condition. I believe a 70 per cent award is a very fair award from the Board to you — not enough money. On this, we must accept your submission on protection for the worker that you made representation on, made the committee aware that there are workers that have not been receiving fair compensation. The Meredith report said: compensation of lost income.

Unless there are some questions from members of the committee, I think we will read your submission more fully. It wouldn't be proper for me to get into further debate with you until the Ombudsman's office reviews it, and I understand that you are meeting with a representative of the Ombudsman's office in a week or so. All the process is there.

I say thank you for coming forward and encourage you to continue to work with your rehab counsellor from the Workers' Compensation Board to improve your position.

MR. RICHARDS: One last question again. What did you say that \$376,000 was?

MR. CHAIRMAN: That's the capitalization. That is the money that is set aside. You raised a good concern, and it has been raised by employers: what happens to the money if you pass away? I think the committee will be deliberating on this. As Mr. Runck pointed out, if you passed away tomorrow because of a car accident, the way the Act is your family would end up on welfare.

MR. RICHARDS: We are now. Anyway, then somebody is telling me a story here, because \$30,000 is supposed to be the maximum that can be assessed against an industry.

MR. CHAIRMAN: That's under the Workers' Compensation Act. What is it, Al?

MR. RUNCK: I'm sorry. I think we have a little confusion here. A superassessment can be much more than \$30,000, depending on the original assessment. It can be up to one-

third of the amount of money that the employer paid in in assessments in the year the accident happened, or for two years: that and the following year. There is no \$30,000 restriction in the WC Act.

MR. RICHARDS: Okay. I just have one recommendation: in every work force you have a document where you waiver injury, so the workers know what they're getting into. That's the only recommendation I have.

MR. CHAIRMAN: Okay, thank you very much.

MR. RICHARDS: Thank you.

Mr. Lewis Toole

MR. CHAIRMAN: You, sir, wanted to . . .

MR. TOOLE: Yes, I want to ask a question, and I want to make a comment.

MR. CHAIRMAN: Would you introduce yourself?

MR. TOOLE: My name is Lewis Toole, and I am the international rep for the glass and ceramic workers in the area. It's actually aluminum, brick, and glass workers. We changed unions, but I keep using the old glass and ceramic workers through habit, I guess.

The gentlemen talked about foreign workers being in the country, that they shouldn't be covered under compensation. What would happen if one of our workers went to the United States? Would they be covered under their laws?

MR. CHAIRMAN: They are not covered. They are out of luck. That's the reason the representation was made. They are only covered as a worker of a company from Alberta that's assigned to work offshore or away from Alberta.

MR. TOOLE: It isn't a question of tit for tat, sort of thing?

MR. CHAIRMAN: No.

MR. TOOLE: Okay, that's fine. I have a comment I would like to make. We talked about this gray area of people abusing the Workers' Compensation Act on short-term claims and staying away from work longer than they should. I think those people would do that even at 80 per cent, and we shouldn't punish people that have legitimate claims to protect that type of person. I don't think the 90 per cent should be changed.

MR. CHAIRMAN: We welcome it. But please, we would have welcomed — and you can still do it even now. Send me your written submission.

MR. TOOLE: Well, I hadn't the slightest idea. I didn't hear about this until yesterday.

MR. CHAIRMAN: The ads were here, and many of the unions got letters from the office. We sent out some 350 to 400 letters about three months ago, indicating . . .

MR. TOOLE: Sir, that usually happens. The labor council in town just weren't sitting during July and August, and that's why they're not here. I didn't have the opportunity to

take it up at a council meeting, and it wasn't handled. That's why they're not here.

MR. CHAIRMAN: We welcome any written submission from now on. Please send it into my office.

MR. TOOLE: One further comment with regard to people not being covered in a camp. I think this is a position where these people supply a camp. When you're in a motel, a motel owner is responsible to keep his motel in good condition. They are responsible for keeping the camp in condition. If you do away with the compensation, they'll let the camp run down, you know, if they're not responsible for those things.

So those are some of the things that I'm sure have been brought to your attention before. I think it's nice for these people to come before the Board and try to reduce making payment to some worker. But under some of the circumstances, they're never on the receiving end, so they don't know what the situation is.

MR. CHAIRMAN: I don't believe there's anyone else indicated. Thank you, and we look forward to any submission you have now, because the report will not be drafted until some time in the early part of next year. Feel free to send it to my office. And anyone else, if you have any views, send them in. Thank you for appearing. We now have a reason to meet with the occupational health and safety people.

The hearings are concluded here in Medicine Hat. Thank you.

[The meeting adjourned at 10 a.m.]