

[Chairman: Mr. Diachuk]

[9:05 a.m.]

Canadian Meat Council — Western Section

MR. CHAIRMAN: Could I have your attention, ladies and gentlemen? We'll continue our hearings here today, starting with the Canadian Meat Council. I gather that Mr. McGowan, sitting in the centre, is the spokesman — the kickoff batter.

MR. McGOWAN: The lead-off man.

MR. CHAIRMAN: The lead-off batter. Okay.

MR. McGOWAN: You mean that fellow from the foreign province?

MR. CHAIRMAN: I don't know.

MR. McGOWAN: I still have stooks sticking out of my ears from Saskatchewan.

MR. CHAIRMAN: You may want to introduce your colleagues. We have a good amount of time this morning. I see the secretary has scheduled us for a two-hour session. It's either to wear somebody down or to review everything. Go ahead.

MR. McGOWAN: Mr. Chairman, ladies and gentlemen, good morning. The Alberta meat packing industry appreciates this opportunity to express its concern regarding workers' compensation. Many of you have met me; my name is Orv McGowan. I've been asked to serve as the spokesman for the group; however, I will call on other members of the panel to assist in the presentation and the fielding or handling of any questions you may have.

A thumbnail: I'm with Gainers Inc., which was formerly Swift Canadian. I'm in my 48th year in the industry and, for your benefit, Myrna and Louise — whoever you are — I started when I was three.

MRS. FYFE: A child prodigy.

MR. McGOWAN: For the benefit of you other old guys, I'm an old-age pensioner; I'm 66.

With me on the panel this morning, on my immediate right, is Dan Heffernan. Dan is safety and compensation specialist for Canada Packers Inc., their corporate office. On my immediate left is Major Rodd. That is not a military name; that is his real name. He's controller, Burns Meats Ltd. Second on my right is Ron Tolton, director for western Canada, Canadian Meat Council. On my far left is John Finlay, executive director of the Industry Task Force, the people responsible for the submission we gave you in Lethbridge on September 8.

I took the liberty to put before you an index and an example page, to save time. The index might help you to refer to specific issues, and we'll talk about the cattle-kill example later in my comments.

At the outset, I'd like to stress that the Alberta meat packing industry fully endorses the Industry Task Force submission presented in Lethbridge on September 8. In fact, I'm sure you're aware that we had some input into that submission. I would also like to make it very clear that our submission deals with the problems which have evolved from the present structure of the workers' compensation program and not with the people who have the responsibility of administering the program.

Mr. Chairman, if you would indulge us, we would like to proceed through our presentation and ask you to hold any questions. If the timing is right when we're finished with our submission, perhaps we can break for coffee or a seventh inning stretch, and then proceed with the questions. Is that satisfactory, sir?

MR. CHAIRMAN: Mr. McGowan, we'll do our best to accommodate you, but I can't assure you of that. You may stir somebody up there, or I may even come up spontaneously myself.

MR. MCGOWAN: If that happens, fine. We'll make it informal.

The spiralling costs of workers' compensation are seriously affecting the viability of the meat packing industry in Alberta. The industry is disturbed at its continually escalating costs despite improved accident performance. In that regard, I refer you to the little box chart on page 1 of our submission, and you'll notice the comparison from 1981 to 1982. You'll see that there is a 6.8 per cent increase in the assessable payroll. That perhaps is an indicator of what's happening to the industry in Alberta; it's diminishing in payroll. However, despite that the assessments paid by the industry are up 22.6 per cent, and the assessment rate from '81 to '82 went up 14.7 per cent.

MR. CHAIRMAN: Mr. McGowan, you used the word "diminishing". I mean, you have an increase in payroll of 6.8 per cent.

MR. MCGOWAN: I think there are fewer employees, but the increases due to the union contract probably more than account for that increase. As a matter of fact, as a rule of thumb we take 10 per cent on the master contract as an increase, and yet we only have 6.8 per cent. So that tells me that the numbers of employees are down.

The meat packing industry makes a substantial contribution to Alberta's economy, and we feel that that contribution is at risk due to the excessive increases in workers' compensation costs. It's like preaching on motherhood. We know that costs can be controlled by reducing the number of accidents, and they can also be controlled by maintaining the level of cost benefits and administration by the Board at the lowest practical level. We're not for a moment suggesting that somebody should reduce the payments, but they have to be controlled at a level that is practical and logical; in other words, what the industry and what the province can afford.

As an industry, we are committed to providing a safe working environment, and we believe that the worker, in turn, has a responsibility to abide by the safe working practices laid out by the employer. It's also the employer's responsibility to properly instruct workers to perform their duties in accordance with their safety policies.

In turn, we also believe that the Board must administer the Worker's Compensation Act both economically and effectively. As an industry, we believe that the Alberta workers' compensation program should embody the four following features. Number one, we believe the Board should adhere to the original and intended purpose of workers' compensation; that is, to ensure that an injured worker suffers no loss of earnings or income due to occupational injury. Secondly, we as an industry would like — in fact, I'll startle you by saying that we demand — greater accountability to industry, which provides the funds for the program. Number three, we think the Board should establish clear guidelines, regulations, and procedures for claims control, to keep costs to a minimum. And number four, we think there should be a revised allocation of costs between high- and low-risk employers, to encourage safe operations. What I'm saying — and you have heard it so often — is that we think the assessment, the experience rating, and the promotion/relegation system has to be studied to come up with something better than we now have.

The vulnerability of the meat packing industry, along with its value as the number one manufacturing industry in the province, is set out on page 2. We're concerned about the vulnerability of the industry in Alberta. If you look, we operate on a very low margin. Anybody that has had anything to do with studies in the meat packing industry would know that. After tax, our profits on total income only amounted to 1.2 per cent in 1980. If you compare it with the pulp and paper industry, for example, that was 10.6 per cent; petroleum was 7.5 per cent. You can dispute the figures and so on, but these are statistics taken from the figures in the meat council, I believe. Ron, is that correct?

MR. TOLTON: These are StatCan figures.

MR. McGOWAN: Right. But the meat packing industry is traditionally a very low-margin industry. Also, the meat packing industry, historically and traditionally, is a very labor-intensive industry. We've automated to a great extent, but it's still heavily labor intensive. Of course, that means that in relation to the number of employees, we have high payrolls. The money we pay out in wages is a very major cost to us. That is of course reflected in workers' compensation costs, because we pay on the basis of the assessable payroll.

To be competitive, the Alberta meat packing industry faces fierce competition from the packers in other provinces and even out of the country. Sixty per cent of Alberta's meat production must be sold out of the province. If that is so, and if we're going to maintain a healthy producer environment and meat packing industry and enjoy the income from this industry in the province of Alberta, then we must remain competitive. It's very difficult in these times to maintain that competitiveness, particularly when Alberta happens to have the highest rate for meat packing of any province in Canada.

As to the product we produce, I need not remind you that meat is perishable. You may not know that meat must move on a daily basis. In fact we have a saying in the meat packing business: you sell it or smell it. That's the way it goes. You don't get a second chance.

MR. RODD: Orv, I wonder if I could maybe interject at this time.

MR. McGOWAN: Certainly.

MR. RODD: I'm relatively new to the meat packing industry. I've been with the meat packing industry for a little over six months. I came directly from the oil industry, and my background basically is in heavy industry in Ontario. I learned very quickly that meat packing is a unique industry. I had no idea as to the limitations the manufacturer — if I can say that — has over the purchase and disposal of the product, if you will. In the oil industry, for example, if the market is not right, I guess you can leave it in the ground. In the forest industry, if the market is not right, then I guess you can let it grow for another year or whatever. But as Orv said, in the meat packing industry you have no choice; it must go. Whether that market is what you would like it to be in relation to your costs at that time is immaterial. It must go, otherwise it's a complete loss. I apologize for interrupting, but I wanted to share that. I wonder if a lot of people really don't realize that.

MR. McGOWAN: Thanks, Major.

Getting on with the other box on the page, the value of the meat packing industry to Alberta. In relation to size, the meat packing industry in Alberta is the largest, the number one manufacturing industry. It is the largest employer in the manufacturing section and has the largest value-added dollar of all manufacturers. In terms of sales,

the meat packing industry in Alberta produces \$1.5 billion per year.

Getting into the area of the producer, livestock is 36 per cent of Alberta's farm cash receipts. In Alberta there are 10,000 hog producers and 12,800 cattle feeders, and these producers all depend on the ready cash market provided by the Alberta meat packing industry. The industry employs over 5,500 people. The economic benefit, what we term the multiplier effect — that is, the added value, from raw material to raw red meat as you process — we figure is three to one. By the time it's actually finished and you add the dependent industries, perhaps the added value goes up as high as six or seven to one. There are many other industries dependent on meat packing: truckers, packaging suppliers, and so on. I've already named the producers. I think the industry in Alberta — and I might say even Canada — is unique in that it is virtually Canadian-owned.

In addition, I've put before you a fact sheet. This is just a quick example but gives you some idea of our concern as to workers' compensation costs. What we've done here is taken the total inspected kill in Alberta — and what we mean by "inspected kill" is kill that is slaughtered under federal inspection. It does not include provincial or other; it's federally inspected head of cattle. You'll see that the kill was 1,304,543 head. The recognized rate of kill in the industry is 1.5 head per man-hour. If you divide by 1.5 head, it requires 869,695 hours to slaughter those cattle. The next statement is not too relevant, but says it another way: it would require 418 people working 40 hours a week, or 2,080 hours a year, to slaughter those cattle.

The average rate per hour, including taxable burden — and we've been very liberal in this — is \$16 an hour. The actual, if you want to know, is \$16.81, but we knocked off the 81 cents to take care of the non-taxable burdens. That's \$32 a week; in other words, it's a very conservative estimate.

So if you take that cost per hour times the hours, the cost to the industry to kill those cattle is \$13,915,000-odd. If you apply that payroll to the \$4.35 rate — and because the earnings come to \$640 a week and it's somewhere around the \$33,000 level, it is totally assessable. The reason we took the \$4.35 rate is that this was 1982. It was \$5.05, but \$5.05 included merit rebate, and we knocked that out. I have figures, which are available to you, to indicate that the actual net assessment rate for the meat packing industry in 1982 was \$4.32, so we're 3 cents out. I apologize for that. It then would have cost \$605,308 in workers' compensation assessments to slaughter those cattle.

Just to try to drive home a point about what is happening in Alberta: if those same cattle were killed in Winnipeg, the cost would have been \$229,599. In other words, ladies and gentlemen, what I'm saying is that it cost the industry \$375,709 more to kill the cattle in Alberta than it would have if they had been killed in Winnipeg.

Now look at the other advantages here. Yesterday the Alberta live market was \$70 for prime steers; the Winnipeg market was \$72. The cost to move the live cattle to Winnipeg is \$2.50 a hundredweight, so it's a saw-off — no great problem to move the live cattle to Winnipeg — because you're going to get \$72 for them. If you dress them here and ship what we call hanging beef, the rate is \$4.90, nearly \$5 a hundredweight. If you break them up and send it as boxed beef, it's about 4 cents. So it doesn't take much to realize what is happening and what could happen here. The packer may get himself into a position where he sends live cattle out of province to process them because he can't afford to do it here and compete on the eastern market.

This is just an example on the cattle, but the same cost comparison is true for the pork we slaughter and all the processed meat products. These examples serve to highlight the difficulty experienced in trying to make the Alberta livestock and meat packing industry competitive with other provinces.

As I said earlier, the Alberta meat packing industry endorses fully the Industry Task Force on workers' compensation, but we have specific concerns that are outlined in detail in the succeeding pages of our submission. There are 11 specific issues we wish to

address, and at this point I'd like to call on other members of the panel to cover these issues in detail.

First, Dan, I'll call on you to introduce your ratio.

MR. HEFFERNAN: Mr. Chairman, members of the select committee, ladies and gentlemen. Major, Rod, and I will be splitting up the recommendations. As Orv mentioned, there are 11 recommendations, and Major and I will be handling them on a six-and-five basis. There's no similarity there between the rates and the ratio.

MR. CHAIRMAN: I might catch your mathematics later, but go ahead.

MR. HEFFERNAN: The first item has to do with WCB accountability to industry, and what I'll do is go through the recommendations and then the rationale.

The first recommendation is that the Workers' Compensation Board should be more accountable to employers.

The second one is that we recommend the creation of a system with adequate opportunities for industry to provide input into the development, administration, operation, and evaluation of workers' compensation in Alberta. This would include cost/benefit studies of any proposed changes in the Act.

The third recommendation: specific regulations and directives for the Workers' Compensation Board to regularly consult with employers' groups and provide regular financial statements, budgets, and cost analysis.

The fourth recommendation: develop guidelines and regulations for compensation awards through joint government, industry, and worker committees. With this, we can refer to the Saskatchewan model again where they have functional impairment rating schedules and other similar policies and procedures.

Number five: creation of a workers' compensation council with a mandate similar to the existing Occupational Health and Safety Council. We recommend that the management members or representatives of the committee should be chosen by industry itself.

The rationale behind the recommendations mentioned previously. Workers' compensation is a compulsory program for which employers pay all costs. In order that industry remains competitive with other provinces, as well as the U.S., the WCB must demonstrate to employers that their administration and operations are economical and effective. Currently policies of the Board are created internally without the opportunity for industry input. Policies that have been established are not readily available to industry. Existing information available through the WCB annual report, newsletter, and industry class experience sheets is not sufficient. Employers have a right to know how their money is spent; for example, consultation on the allocation or acquisition of facilities is required before any commitments are made. What we find here is that on one hand, we have the actuarial people making forecasts as to what the rate should be and, on the other hand, we have the Legislature making retroactive changes in the legislation, which throws the actuarial studies and forecasts right out of line; thus we end up with a deficit situation.

Another item we'd like to mention here is that again we have forecast a rate — I think it was given five years in advance — and the rate per \$100 of payroll is now double what was forecast by the actuarial studies three or four years ago. Again this demonstrates the inability of the actuarial people to accurately forecast what the rates should be in the future.

MR. RODD: Mr. Minister, ladies and gentlemen, I'll direct your attention to two issues on page 4, the first issue being access to WCB information. There are two

recommendations under this issue: number one, employer access to all Board information related to claims charged to the employer's account; number two, access by industry organizations to summaries of all claims charged to employers in the respective industries.

The rationale for those recommendations is as follows: number one, employers must have the right to access any information that impacts their experience record and therefore their costs; number two, employers can utilize sector or group information to determine the effectiveness and cost benefits of industry-wide safety programs. Actually it's hard for me to believe that we're sitting here saying that we feel that rationale number one even needs to be said. What we're saying is that industry pays for workers' compensation, so we feel we should have the right of access to that information; for example, in B.C. there is complete disclosure to labor and industry for this information.

Rationale number two: employers can utilize sector or group information to determine the effectiveness and cost benefits of industry-wide safety programs.

Issue number two: notice for pension awards. Our recommendation is that a 30-day notification to the employer be given when an award decision for a pension or lump sum is to be made. Rationale: pensions or lump sum awards are large and lasting financial commitments which impact heavily on the employer's accident experience account. The employer must have the right to intercede before a decision and payments are made, to ensure that all relevant information is considered. Number two, the number of claims appeals originated by employers could be reduced because of the opportunity to consider all facts beforehand. Number three, the potential recipient of a pension or lump sum payment continues to receive periodic compensation payments and would therefore not suffer from any notification requirement. Inconvenience due to employers' challenges or inaccurate or incomplete information would be less frequent.

Now, industry does get notification at the moment. What we're saying is the notification is given after the fact rather than before, which would allow us to interject and possibly contribute some information which might have an effect on the ruling.

I'll turn it back to Dan for the next issue.

MR. HEFFERNAN: The next issue is assessment rates. The first recommendation is that we abolish the existing merit rebate/superassessment system. In doing so, the Alberta meat packers support the Industry Task Force submission referring to the promotion/relegation experience rating system, whereby in consultation with industry institute a promotion/relegation experience rating system. Assessment rates under such a system are set independently for each employer, using a differential based upon performance. The model below illustrates the concepts. The present industry-based class rate system would be converted to a graduated rate system for individual employers. Once a year, employers' rates would be promoted or relegated on a rate schedule or remain the same according to their cost experience record. By costs, we mean the true costs. Those exclude items such as pension awards or second-injury enhancement funds. The potential change in rate would be large enough to create financial incentives or deterrents.

The following rate levels have 20 per cent intervals and a range that corresponds to existing rates. Again this is only a model, and the 20 per cent intervals could be changed accordingly, depending upon what is eventually decided. Employers start with a rate closest to their effective rate at the time of conversion. Each year they automatically move to the adjacent rate if their merit assessments or excess costs have been at their maximum limits for three consecutive years. Costs are charged against all income. The income rate schedule would be increased or decreased accordingly to maintain appropriate income levels established by regulations. For example, if it has been decided

that an eight-month operating reserve is desirable, then it would be legislated that if the reserve drops to the four-month level, there would automatically be a 2 per cent increase in the entire rate scale. Conversely, if the operating reserve reached the 12-month level, the entire scale could be dropped 2 per cent.

The idea behind this system is that it makes poor performers more responsible for their own actions. The existing merit rebate system keeps funds that we have out there unnecessarily tied up. The existing assessment system cannot adequately differentiate between types of industries, operations, and degree of risk. There needs to be more financial incentives through potential rate increases to force employers with poor performance records to take appropriate remedial action. There seems to be an imbalance in the present system, as is evident by the \$84 million in rebates as opposed to the \$3 million in surcharges which are not offsetting one another.

As far as individual plants, if there were four or five plants in this province, anywhere you have a separate payroll you would have a separate firm number.

Compensation restrictions. Prevent compensation benefits from exceeding pre-injury employment income. The second one is: offset CPP disability benefits and post-injury employment income as is done in Saskatchewan. In other words, why have a Cadillac system when other provincial bodies are offering more of a Vega or a Ford system, I guess?

Reduce the 90 per cent of net income ratio to a figure which will eliminate the effects of lower income tax liability due to compensation payments being non-taxable.

The rationale behind these recommendations is that workers' compensation is intended to be a system that provides basic protection against loss of earnings. It should be an income security program, not a total income replacement or social service program. It should prevent undue financial hardship for claimants, not reward the worker for injury.

There is no incentive for injured workers to return to productive work when they receive total compensation benefits in excess of their pre-injury earnings. The present 90 per cent ratio is not low enough to offset the worker's reduced income tax liability as well as other employment expenses. The following case illustrates this point. Without going through the total case study, for an injured worker receiving compensation for 20 weeks, it turns out that for each compensation week the employee saves \$43.38 in tax; thus the total compensation benefits are \$16.14 more than the regular earnings, while working, of \$353.91. As you can see, there is no financial incentive for the employee to return to work based upon those statistics.

Major.

MR. RODD: I'd like to direct your attention to page 8. There are three issues on page 8. I will be addressing the first two issues, and Dan will address the last issue. The first issue is compensation limits. Recommendation: reduce the present maximum assessable earnings such that the top compensation payment equals the average provincial wage. This should be approximately \$30,000, we feel. Thereafter, any annual adjustment would coincide to changes in the average provincial wage.

Rationale number one: the limited funds that industry can afford for workers' compensation should be distributed in a fair and equitable fashion to claimants where there is the greatest need. Number two: the average provincial wage is an appropriate income level to use as a ceiling for compensation. Workers on compensation that have above-average income are guaranteed income equal to the average worker; those that have below-average income have all earnings covered.

The second issue, compensable earnings. Recommendation: inclusion of regular wages only, as defined in the Employment Standards Act, in the calculation of net earnings for compensation. Rationale: compensation should relate only to earnings

arising from normal employment; for example, overtime, isolation and travel allowances, and room and board should not be included as normal employment earnings.

Dan.

MR. HEFFERNAN: Disallowed claims: disallowance of claims that are not attributable to specific employment; in other words, if an injury can't be totally attributed toward that individual's place of employment, then we recommend that the claim be disallowed. Persistent collection efforts to recover disability payments made for claims subsequently disallowed: again, we feel that there is little effort to recover funds that have been issued to employers for claims that have been disallowed.

If an injury cannot be specifically attributed to employment, the worker should not qualify for workers' compensation. If doubt exists, the claim should be disallowed and any other applicable social services utilized to assist the individual. We object to the Compensation Board charging it to the second injury enhancement fund, which is often the case in some of the questionable cases.

Where claims are disallowed, workers should be required to repay any disability payments that have been advanced. These amounts should be recognized as debts immediately due and not a compassionate or forgivable loan.

The next item is lump sum payments. Lump sum payments based on a rating schedule for permanent functional impairment, such as loss of use of parts of the body, should be introduced such as, again, the Saskatchewan model. Greater provisions for lump sum payments to compensate for earnings loss.

Some of the rationale behind these are that costs due to functional impairments are not related to earnings but rather to the nature of the impairment, and compensation can be easily fixed to a specific amount according to a schedule created under regulations. In many instances it may be more useful to the claimant to receive a lump sum award instead of a pension, such as for small pensions based on a low level of earnings or a short duration. There are potential savings in administrative costs when a pension is commuted to a lump sum payment. This is evident by the Saskatchewan and Florida models, and so forth.

The next item is enhanced disabilities. Funding for the enhanced disability reserve should come from the General Revenue Fund of the province. The rationale behind this is that when a worker aggravates an injury sustained prior to current employment, the cost should not be borne by the employers alone but rather by all of society, in the same fashion as any other social assistance program. Compensation is not a social assistance program. In hiring workers with prior disabilities, employers are already absorbing the cost of any operations adjustments and taking the risk of future disruption to productivity.

MR. RODD: The final issue of our submission is on page 10, safety education. It certainly doesn't indicate that that is what we think of safety education, to leave it last; it just happens that it is on page 10. I guess one of them had to be last.

Two recommendations: create the opportunity for industry safety organizations to obtain funds for industry-operated safety programs through the assessment of employers in the related industry; number two, require the Board to make available to industry safety organizations information summaries on the claims experience of all employers in an industry.

The rationale for those recommendations: number one, employers are responsible for the integration of safety practices into their operations, and we believe that 100 per cent; individually or collectively, the employer is responsible to ensure that he is running a safe shop. Number two, employers should be able to undertake safety programs jointly with other employers, funded by all employers who benefit.

I read an editorial this morning, and I passed it on to someone because I think it addresses this area.

MR. HEFFERNAN: Major is referring an article in The Calgary Herald on September 20, 1983, referring to a model promotion/relegation system, along with safety education. I will just quote a sentence from it.

Premiums must be high enough to make it uneconomic for employers to allow unsafe working conditions to exist, or to ignore carelessness on the part of employees.

It is our belief that the proposed model promotion/relegation system would in fact provide for this type of system.

In conjunction with that I would ask you to turn to page 3, where I mentioned the actuary or the director of assessments trying to estimate what the future rate increases or decreases should be. In December 1975 it was estimated that by 1984, the rate would be \$2.75 as opposed to the \$4.35 which we are being quoted on presently; for 1983 it was \$2.95. So you can see a trend that it will be reducing and not increasing, as was the case in the last five years.

MR. McGOWAN: Ladies and gentlemen, before I turn the mike over to Ron Tolton to wind up our submission, I'd just like to state two facts. I think I speak on behalf of all industry when I say that we as industry recognize that industry — and I guess you can say ultimately the producer, consumer, or both — must be able to afford the cost of industrial accidents, providing the benefits are restricted to the original concept of the system. However, the industry that I speak of — the producer, the consumer, and all concerned — can no longer absorb the excessive cost of fully indexed lifetime pension awards and still remain competitive and profitable. What I am suggesting is that if the system continues, we are heading toward bankruptcy of industry. In brief, we believe that industry should not have to bear the burden of economic and social change; this should come from general taxation.

One last point I would like to make, and it's something that's very current. I know you people are thinking hard and long, and you are very serious about doing something about the unfunded liability. In Ontario it's about \$2 billion, and it just scares the living bejeebers out of us. It does in B.C. too. You folks aren't as badly off now, and I know you're seriously thinking of revision of the system to avoid what has happened in Ontario and B.C. Let me leave this point with you. This recession that we've been going through has caused employers to trim a lot of fat, and the number of employees in industry is at a current low compared with the period prior to the economic decline.

With this, combined with modern technology, many jobs have disappeared. Therefore this excessive unfunded liability cannot be absorbed from this smaller assessable payroll base. It really scares industry. They realize what the situation is, and they know they're going to be tabbed with this unfunded liability from a much narrower assessable payroll base. If that is so, if we attempt to go that route, then the financial load will weaken the ability of the private sector to provide the jobs that are so desperately needed today.

That's all I have to say, ladies and gentlemen. I would like to call on Ron Tolton to wind up our submission.

MR. TOLTON: Mr. Diachuk, members of the committee, I guess what I'd like to do is just reiterate what has been said to this point in time and particularly to go back to the opening remarks that were made in connection with our submission, to go back to pages 1, 2, and 3.

I think perhaps society, and probably the people of Alberta — and when I say society, I don't mean just necessarily in this province — don't realize the size and scope of the

meat packing industry. It is a big business and it is a fast-moving business, as has already been pointed out to you. It's a business where you have to move fast or else you are going to get caught with a lot of products that are going to start to smell, as somebody said; in other words, you sell it or you smell it. You don't have time to make second guesses, third guesses, or whatever. It has to move, and it has to move now.

As was mentioned in the brief, it's big business as far as the province of Alberta particularly is concerned. Almost 60 per cent of the production of livestock as a whole takes place in western Canada, and over 40 per cent in the province of Alberta. We trade right across Canada, and we trade into other countries. Our deficiency areas insofar as marketing is concerned are in the east and on the west coast; hence we are very vulnerable to other aspects that relate to the industry such as transportation, et cetera. As you can appreciate, the multiplier effect that takes place from our business is large.

We state here that insofar as the in-town operations are concerned, the multiplier effect is 3.5 to one, but if you take the overall dependencies of the industry, it moves up to six, seven, and even perhaps eight to one.

We mentioned the low margin insofar as the meat packing business is concerned. We don't want to cry on your shoulder particularly, but we mention on page 2 that we only got 1.2 per cent return on income in 1980. These are the last official figures that we could get. Since we put the brief together, the 1981 figures have come out, and it dropped that year — and also in 1982, we think — down to .6. That's pretty low when you think of the size of the industry we are operating, where we have sales of over \$1.5 billion a year.

I guess what we're saying is that because of this economic squeeze, we're in a situation where we're basically trying to survive. I suppose it goes a little further, and we're suggesting that one of our increases in costs is workers' compensation. We feel that in this area we would like to see, if at all possible, a reduction in the cost of the operations of the Workers' Compensation Board. We would like to see reductions in our actual assessments. We agree that there should be workers' compensation — don't take us wrongly on this particular point — but we think maybe there should be a little better job of housekeeping in terms of the administration of the workers' compensation group as a whole.

We are particularly concerned about accountability. We mention on one of the lines here — and I forget which page — that employers have a right to know how their money is spent. I think that should be re-emphasized, because again I don't believe that society or people at large realize that the money for workers' compensation comes from the industry responsible for the employment. They are the ones putting out the funds. I feel, and I know our people here feel, that there should be more accountability as to how these moneys are being spent.

I would just conclude by quoting, if you don't mind — it's no reflection on you folks at the table here, because I know you are all in the political world — from a story that appeared just recently, again in The Calgary Herald in their new Sunday edition. It was put together by William Gold, who at one time I guess was the publisher of this paper but not anymore. He did a profile on the former Premier of this province, Mr. Manning. As you know, he was a member of the Legislature for 33 years and a premier for 25. After that he was a senator, and he just retired the other day from being a senator in Ottawa, because he reached the age of 75 and his time is up. It is a pretty good review of his life and some of his philosophies.

I would like to quote a paragraph from this interview, and maybe it's one that a lot of us could use. He is reflecting on his years and his experience in politics or in government not only in Alberta but across Canada. But here he is referring particularly to Alberta.

"We've built up a level of expenditures that is way beyond

the rest of Canada. It's frightening. Now we are facing deficits, which is unbelievable in light of the revenues we still have."

So I am wondering whether maybe we shouldn't do a little bit of old-fashioned housekeeping in some of these areas again, maybe try to be a little bit — what would you say? — more thrifty and go back to some of the pioneer spirit things. I think maybe we just got a little bit carried away. Consequently we are suggesting that with a little more accountability and with a little harder look at how we're spending our money, we could maybe reduce our costs of operations and, in turn, help to make industry, and particularly our industry, more competitive with other areas not only in Canada but in North America.

Thank you very much.

MR. McGOWAN: Thank you, Ron.

Mr. Chairman, ladies and gentleman, that winds up our submission. We thank you very much for your rapt attention. As I suggested, with your permission, Mr. Chairman, if you want to call for a break and then have questions or carry on — just whatever you wish.

MR. CHAIRMAN: I think I will use my discretion and continue for awhile.

MR. McGOWAN: Fine.

MR. CHAIRMAN: That will avoid any distraction. We have had good attention here. If I may kick it off, I would like your members to give me an explanation. I welcome your statement No. 1:

Recognition of and adherence to the purpose of workers' compensation which is to insure workers against significant loss of earnings and direct expenses due to occupational injuries.

Then I go to page 6, and I have some difficulty with your argument that the 90 per cent rate is too high. Then on page 8 you give your concerns about the fact that the worker would not be compensated for income that he chooses to earn, be it by overtime or working in isolated areas of the province. All that income is still taxable. Therefore I have some difficulty accepting your two philosophies here. You came out very well that you believe a worker shouldn't lose any income, when you were giving us the presentation. Can one of you people try to give me a better understanding? I don't believe those two are parallel.

MR. McGOWAN: I'll start off, Mr. Chairman, and I will call on Major to respond further. What we are saying in our basic philosophy — and we want to make this perfectly clear — is that we believe in workers' compensation and we believe that a worker should not suffer any loss of income. When you get into that area, I guess we can get right down to the nitty-gritty and say that we believe in the Saskatchewan system, which basically prevents any worker from earning more money as a result of injury than he did working at his regular job. That's being specific.

Following that along, I know this other bit would appear contradictory. But what we are saying on the ceiling, when we're limiting the ceiling, is that we believe as an industry, and we agree — and this came up in the Task Force — that in Alberta things were buoyant and going like crazy, but we think that Alberta got a little too gay in jumping the ceiling to \$40,000. It cost industry a lot of money, and then of course we were caught in a recession. We are suggesting a saw-off here? Can we afford it? If we

can afford it, fine. But currently we cannot. As a suggestion only, if we're going to get this under control, we are suggesting that perhaps — and this is something you'll have to grapple with, Mr. Chairman — you're going to have to consider reducing that ceiling and limiting the increase in the ceiling on an annual basis in relation to the increase in the average income.

On page 8 we're still not losing the identity of the original concept. But if we can't afford to insure the income level of that worker who may be earning, say, \$37,000 — and we suggest that it should be pegged at the average income — maybe what the legislation will have to do is say to industry: all right, above that level you have outside insurance to cover those people.

Major, can you add anything to that?

MR. RODD: I think you've covered all the points, Orv. If I could just say one thing, recognizing that these are recommendations. Let's take for example the worker who works at the Burns plant in Calgary, full-time employment. But because of the shortage of workers in Alberta in the last couple of years — not at the moment, but it existed in the last couple of years — he has an opportunity to get part-time employment, which is considered on his part to be a temporary situation. What we are saying is, should that type of part-time compensation be continued under the intent of workers' compensation? This is where we say protection of regular wages. We alluded to the Employment Standards Act. We don't feel that we should cover those types of items, because they are of a temporary nature.

MR. CHAIRMAN: Any other comments from the colleagues? An attempt has really been made by Mr. McGowan and Mr. Rodd, but you haven't satisfied me. You've admitted that there's a contradiction in the two areas of your presentation.

MR. MCGOWAN: Maybe that word was too strong, Mr. Chairman.

MR. CHAIRMAN: Well, you used it; I didn't.

MR. MCGOWAN: I know I did. Sometimes I say things that I shouldn't say. It was the wrong word.

What I am basically saying — and it has to do with these three points — is that the original concept and the entire intent of workers' compensation must be an affordable program or society is in trouble. Having said that, there have to be certain acceptable levels of benefits. I'm not suggesting for a moment that an injured worker should ever be destitute or wanting as the result of an injury; that is not the intent. But you know as well as I that the real nigger in the woodpile in workers' compensation is the misuse and abuse of the system, in whatever way. We could spend a day on that alone. But if we ever get to the point and attack it the way they have in Saskatchewan and the way they are doing it in Ontario — and I'm sure the way you're going to do it — and take out some of these inequities and assure . . .

MR. CHAIRMAN: You should use the words "I hope". Don't say "I'm sure". I can't assure you of that.

MR. MCGOWAN: I'm sure we'll go a long way. I think I know you well enough, Mr. Chairman, that this is a very real concern to you, and it will be given your real attention.

The concept is 1898, and we haven't kept up with the times. If this is resolved, and we take into account Mr. Weiler, we take Saskatchewan into account, and all the other things that have happened in this area, I am sure that we can come up with a very

satisfactory but more equitable program that will limit or at least put a stop to the unfunded liability. There is no way in the world that any injured worker should wind up with a higher income as a result of an injury than he would if he had kept on working. That, you know, is part and parcel of every system in Canada, except maybe Saskatchewan. They are still ironing out some of the wrinkles, but they've done quite a job.

MR. CHAIRMAN: I think one of your colleagues sitting in the back wants to make a comment. Am I right?

MR. SPEERS: Yes.

MR. CHAIRMAN: You are a colleague of these five gentlemen?

MR. SPEERS: I am a colleague of these fellows.

MR. CHAIRMAN: Do you want to give us your name, for the record?

MR. SPEERS: My name is Gerry Speers, and I operate a beef killing plant in central Alberta. We kill about 600 cattle a day and we have about 140 employees, so I run into a lot of day-to-day frustrations with compensation claims. Frankly I have no objection at all to the cost of compensation if it's actual and factual. I guess what bothers me is that I've been with the company for just over 40 years now and seen workers' compensation grow — and when I say "grow", I'm talking about the number of cases. I don't know why we didn't have so many cases of tennis elbow, sore backs, and pulled muscles years ago, but today you have all kinds of people abusing the system. People will take six or seven months off work with a pulled muscle, tendonitis, tennis elbow, or sore backs: things that, if they go to a doctor, the doctor's not going to say no, you haven't got it. We think a lot of them are just excuses to get off work, quite frankly. We hear comments on the floor of: I can't wait till my doctor gets back, because I need a week's holiday.

We've had blatant examples we've appealed to the compensation people and gotten absolutely nowhere. I think of a recent one where an employee was off on compensation about three months with a sore wrist. He came back to work. In order that he wouldn't injure the wrist again, we put him on driving cattle, which really doesn't require that much wrist action. He took off in the middle of the day and said he hurt his other wrist. He was in a racket ball tournament that night. We approached the Compensation Board on that and got nowhere on it. We're still approaching them on it. We've had a lot of similar things like that. Frankly if they were real accident cases, it wouldn't bother me to pay for it, but I find it extremely frustrating to pay for things where you know you're just being hoodwinked. You could sit down and cite 15 or 20 incidents like that. That's the part that really bothers me.

The other thing is the fact that if people are off work for any length of time, their net take-home pay at the end of the year is more than it would have been if they were working. On that basis, there's no incentive for them to want to try to get back to work, particularly people with sore backs and that. It's amazing how many people get a sore back in the summer and spend two months out at the lake.

That's about all I have to say. I run into the frustrations of it every day. When you have a production line you have to put people on and you're missing four or five people every day because of compensation, it bothers you. You know, it used to be that if a person cut his finger you'd wrap it up, bandage it, put a rubber glove on it, and he'd go back to work. Now he goes to the doctor, and I'm not sure who says what, but he ends up with five days off and gets compensation for it. It just appears that we're raising a bunch

of cream puffs today.

MR. HEFFERNAN: If I could add a few comments. As far as the article on page 6 referring to the 90 per cent ratio, the intent there was that was no incentive for the employee to return at the 90 per cent net. We recommended a reduction below 90 per cent, just to make sure the employee didn't make more than he was making during normal working hours. As far as the page 8 item is concerned, we recognize that the Compensation Board may have jumped too high in giving a ceiling. It's a limit which industry really can't afford. The recommendation is to try to reduce it to a level which is affordable to industry and which is still protecting the health and welfare of the employee. Thus you'll see an approximate ceiling of \$30,000.

MRS. FYFE: Would you favor going back to the 75 per cent of gross, as a figure, as opposed to 90 per cent of net?

MR. HEFFERNAN: There really isn't much difference.

MRS. FYFE: There isn't in actual figures, but do you feel that that is a more understandable figure on the part of the employee. We tried to leave some incentive in last time, and if that incentive is gone — and I'm certainly concerned about some of the calculations. However, if there is no difference in pay, obviously there is no incentive to go back to work. I just wondered if you felt that would be any advantage.

MR. HEFFERNAN: I don't feel that it is an advantage. I feel the employee is well aware of what he is going to obtain by 90 per cent or 75 per cent.

MRS. FYFE: I guess I'm just wondering specifically what you are recommending. I think we all agree there should be some incentive to go back but, on the other hand, it has to be fair to the employee for the legitimate injuries — that he's not taking too great a cut because he is giving up the right of tort in a situation where he's not wrong and, as you know, those are the basic principles. So what are you specifically recommending?

MR. HEFFERNAN: Referring to that specific item, I think we support the Saskatchewan model again. That would eliminate this 90 per cent problem, the problem of the employee making more than what he would normally make. In fact it's paying the worker the exact amount he would normally be making if he were at the place of employment.

MR. RODD: I wonder if I could just make a comment. We're kicking around the 90 per cent or the 75 per cent. I guess I sort of look at it that the real problem, if I could call it that, is the non-taxability aspect of workers' compensation payments. What we're really saying is that for there to be an incentive, it doesn't make any difference what the percentage is, the end result must be that that take-home pay must not be greater than what that individual gets working on the job.

MRS. FYFE: How much less?

MR. RODD: I'd take out 10 per cent. That's just out of the air.

MRS. FYFE: Okay. That's what we thought we did last time. If the calculations aren't working out that way, I have a concern in that area.

MR. RODD: I guess I'd direct your attention to page 7 again. This is really what we're

saying: the net take-home pay now is greater.

MRS. FYFE: Can be.

MR. RODD: Will be. Is that correct? Because of the non-taxability aspect of workers' compensation payments, they will be greater.

MR. CHAIRMAN: Mr. Rodd, according to Mrs. Fyfe's question, the income tax paid by the worker is deducted.

MR. RODD: I think we're talking about the period while the individual is receiving workers' compensation.

MR. CHAIRMAN: But it's based on the formula — we had to use a formula — that income tax is deducted from his gross income before the salary is arrived at. We're trying to get help from you. What is lacking there?

MR. RODD: I guess we would have to walk through the example on page 7, because what we're saying is that in actual fact the formula is generating an increase in that pay.

MR. SPEERS: Maybe I can answer that question for you. What's lacking is that you make the income tax deduction calculated. But what happens then is that at the end of the year it shows that employee as missing 10 or 20 weeks' or income, so he gets a rebate on the tax he paid beforehand. That's what throws it over.

MRS. FYFE: Well, I think we can understand the model you have shown, and we'll take a look at the calculations. But do you disagree with the basic principle of 90 per cent of actual take-home pay?

MR. McGOWAN: If it helps, Myrna. I know you're asking a specific question. We can't put a figure on it, and we're asking you to look at it. What we're suggesting — and we've kicked it around — is that instead of 90 per cent, we think it maybe should be down to about 87 per cent. I just picked a figure we had in mind. Then it would overcome this type of case. We're not thinking of dropping it to 70 or whatever, but drop it by a few percentage points to overcome this.

MRS. FYFE: I'd like to come back to the comparison of rates that you're paying in Alberta with other provinces. Coming back to your concern for having a competitive edge — or at least remaining competitive within the market place — then what is the comparison of the rates you pay within Alberta as opposed to the provinces that are your greatest competition?

MR. McGOWAN: I cited Manitoba as perhaps your greatest competitor — Saskatchewan. But Manitoba — the livestock market in Winnipeg — is probably the greater.

MRS. FYFE: You said there's a difference of between approximately \$6 and \$2, as I recall?

MR. McGOWAN: What I'm saying in the example here is that given the inspected kill in Alberta, if that actual inspected kill were slaughtered in Winnipeg, the industry would have saved \$375,000. That's strictly the difference between the assessment costs of

workers' compensation.

MRS. FYFE: Okay. I guess I want to come back to why the differences. Is there significant difference in the accident rates in Alberta? I know you could look at the cost of the claims that are being accepted, the administration costs, and I understand that ours are not out of line with other administrative costs across the country. Do you have any feeling as to why there is this difference?

MR. MCGOWAN: I haven't it with me, Myrna, but I've worked on it for years. I think I can boldly make this statement: you can study the accident performance of the meat packing industry in every province in Canada, and you will not find a significant difference. The industry is the industry. It's much the same as far as accident performance is concerned.

Where the difference is here, whereas I used that \$4.35 rate, and the actual is \$4.32 — and I did that in fairness because, as you know, Mr. Chairman, it was \$5.05 but we got the rebate and so on — the rate in Manitoba is \$1.65 in that period. Now I know — and Mr. Chairman knows very well that I've questioned it many times — it does not seem to be a realistic rate. I've argued with them and accused him of taking money out of general taxation and all the rest of it. They will not admit to it. The thing they do admit to is that years ago, when they had surpluses, they invested their money very wisely and built up surpluses. That's why they've been able to retain it. That is their explanation.

MRS. FYFE: Is this true of, say, Ontario also?

MR. MCGOWAN: Ontario is lower. In that same 1982, Ontario was \$3.60. But I wouldn't hold Ontario up as an example, because with \$3.60 they have a \$2 billion unfunded liability.

There's a story there, and I don't mind telling you this. I was shocked. I have the thing in front of me. In 1979 our rate was \$3.20. Bob Brewerton, you probably remember, Mr. Chairman, was director of finance at the time. Bob Reilly is now. We had a meeting with the group, and they assured us at that point — they had a \$4 million deficit, and there was no question about it that our rates were going up. We knew they were going up. We damned near fainted when the rates came out and they had dropped to \$2.90. I phoned Bob and I said: what the hell's going on; we have an unfunded liability, and you're dropping the rate to \$2.90. He said: Orv, you forgot; there's an election coming up. So you can compare, but comparison proves nothing, I guess.

MRS. FYFE: So what we're saying is that some of the unfair competition is artificial, or the same is happening in other aspects of the producing industry.

MR. MCGOWAN: I wouldn't say the comparison is artificial. The comparison is very realistic, and it's something that you have to grapple with. It's there, for whatever reason.

MRS. FYFE: No, not the comparison. The rates.

MR. MCGOWAN: Oh, the rates. Those are the rates, and that's what we have to pay out of our till in the various provinces. That's part of our costs. When the costs are as high as they are in Alberta — this is what we're saying — it is really profoundly affecting the industry.

MRS. FYFE: But as I said, they may be actual costs here, and they may not be actual costs in other provinces, which is part of the unfair competition that you feel you're facing.

MR. MCGOWAN: That could be, Myrna. I can't answer for there.

MRS. FYFE: I'm not going to take up all the time. I do want to ask one more question related to your safety.

MR. CHAIRMAN: I wonder if we could leave that, because there may be questions on this same area.

MR. THOMPSON: I'm getting into the ceiling bit, because at every hearing we've had, there have been bitter complaints about the fact that we raised it to \$40,000. Basically, if compensation is to insure the worker's income and you aren't paying \$40,000, say you're paying \$23,000 . . . I've asked this and been answered, but in my mind I keep having real trouble understanding. The principle is ensuring the worker's income, whatever he earns. Now if you want to go to utopia, you'd have no ceiling, and of course I understand that. We haven't got to that point yet in Alberta. But I can't understand it if the average income of a forest worker, we'll say, is \$33,000 in that industry. I would like to know what the average wage is in your industry, because it must be fairly high if these figures you gave us today about 481 and all this type of thing are accurate.

MR. MCGOWAN: That's cattle kill, John, which is one of the highest divisions of the business. Right now the actual rate against the payroll is very close to \$12 an hour, and that's without burden.

MR. TOLTON: That's net.

MR. THOMPSON: I really would like the answer again. I have had it several times. I've never been able to understand why we should not try to insure the income of most of the workers. That's what we're trying to do by raising the ceiling to \$40,000.

MR. MCGOWAN: John, I understand your concerns, and I'm with you. I still firmly believe we should insure the income of the worker, but I think you come to the point: what can you afford? There's the break point. What can you afford? We can raise the ceiling to \$50,000 and cover it all. But if you have plants closing all over, then by god I'll tell you that the politicians — and I'm facing a lot of them — are the first ones to scream. Like this: these are the headlines that hit in Toronto when Canada Packers decided to close their killing operation. By god, here's a poor young couple that just bought a home, and there are just tears all over. Then, and only then, the legislators get excited and have big meetings: by god, we can't let this happen.

What we're trying to do, gentlemen, is to forewarn you of what is happening in our industry and, I'm sure, in other industries. I know you're familiar with it, and we beg you to do something about it to get it back into control. I don't know whether that answers you, John. You know, you can only afford so much. You might say: look, if a fellow's laid off, why doesn't he get full unemployment insurance? The federal government elects to only give them \$210 a week. He might have been earning \$700 a week. It's the same situation. What are we running, a social welfare program? Or are we trying to intelligently run a program with the original intent of safeguarding that employee against despair and too heavy a loss of earnings in the event of injury.

MR. THOMPSON: One more question, Bill. John, maybe you could give us some kind of run-down on a person at the limit. What is it, \$512 a week that he can get if he's earning \$40,000 a year? I don't know what the figures are offhand, but they vary from time to time.

MR. WISOCKY: It's \$510.31 a week.

MR. THOMPSON: His gross income is \$40,000, or maybe \$50,000 or \$60,000, but he ends up somewhere between \$25,000 and \$28,000 or something like that as a tax-free payment for injury while he is off the job. It would be very hard for a fellow earning \$40,000 or \$50,000 a year, with a mortgage payment on an \$80,000 or \$90,000 home — most people try to live up to their standard of living — to continue.

MR. McGOWAN: I agree with you.

MR. THOMPSON: Now, you'll say: well, that's social conscience.

MR. McGOWAN: All right. Look at the other case out of the realm of workers' compensation — and we shouldn't do that, Mr. Chairman. What if that chap, instead of being injured at work, caught leukemia. He has four children and a mortgage. Who steps in and helps him? So if you want to be socially conscious, maybe we should have a universal plan. I feel far more compassion for sickness of the worker today than I do compensation, because I believe that under the workers' compensation system, they're pretty well taken care of. Sure, there are incidents. We have the union of injured workers marching on Queen's Park in Ontario, but they're a small, vociferous group that really doesn't reflect what's going on. I don't know whether that answers you, John. I'm sympathetic to your question. The system can only afford so much.

MR. THOMPSON: I realize that.

MR. MARTIN: Let me just follow up. I understand exactly what you're saying. But in fairness, Mr. McGowan, the report is misleading, because you do say "significant loss of earnings" in number 1. You do give examples of where it has worked that the worker has gotten more money. But the examples we're using — you used \$37,000 — that person would suffer a significant loss. I just point that out. So maybe in terms of a report, it should be worded a little differently, within terms of what you can afford or whatever. There is a contradiction there. I think that's clear.

MR. McGOWAN: Misleading or contradiction?

MR. MARTIN: Whatever.

MR. McGOWAN: It was never intended to be that way, Ray. In fairness, I guess I should say I'm very happy I used the word "contradiction" and I'm happy you used the word "misleading", because it provoked the discussion we're having.

MR. CHAIRMAN: It's a parliamentary term you can't get sued for.

MR. McGOWAN: You see, I'm getting like the politicians. Now I can call a spade a maybe.

MR. MARTIN: We could continue with that. But one of the things that you do talk

about, number 3 on page 3, is that you ask the Workers' Compensation Board to "regularly consult with employers' groups and provide regular financial statements, budgets, and cost analyses". Following from that, then, I would move over to page 5, where you talk about abolishing the merit rebate/superassessment and about a promotion/relegation system. Now, I don't know whether this is good or bad or what it means at this specific time, and I ask because we'd be changing the whole thing. Surely that's a cost analysis. Do you have any figures, for instance, of how much money this would bring into WCB? Has it been put through the computer? Do you have any idea what it means overall?

MR. HEFFERNAN: No, we don't have any figures to give you an idea as to what . . .

MR. FINLAY: Could I just answer from the Task Force point of view, because the concept was introduced by the Task Force, if you recall. We aren't concerned about what the cost of the program is, because the principle is that you recover from the employers whatever funds are necessary to pay for the cost of compensation. This is where we were talking in the model, for instance, about having to move the rate schedule up and down proportionately to raise sufficient money. In other words, if your compensation program costs \$250 million a year, you adjust your schedule to raise those funds. If your schedule is bringing in \$300 million, then you adjust your schedule down to bring your revenue in line with what your actual costs are. So it's a cost-based system.

MR. MARTIN: Okay, I understand. Let me just follow along, then, and I am certainly sure we'll take a look at it. We often hear, right or wrong — and you represent major corporations and, as a result, can often afford safety directors and perhaps do a better job in safety, I expect. When we talk about the bad actor/good actor syndrome, the people that often end up with some difficulty are the smaller companies. They may be the bad actors more often, if you like, and if you really nailed them — if we can put it that way — you might be forcing a lot of people out of business, which I'm sure wouldn't be very popular in a time of recession. How would this system affect that? I know it's a tough question.

MR. HEFFERNAN: I gather you're referring to the promotion/relegation system. Again, it's only a model. For the smaller-type industry that is suffering from heavy costs to that specific industry or that operation, then naturally there would be some level or ceiling which would have to be attributed. In the case, say, that a small plant had a fatality, that would adversely affect them unless you had some provision for it. Yes, it would put them out of business. It's only a model, and I think it would have to be investigated or reviewed much more before you would actually put it into effect.

MR. MCGOWAN: As I conceive the system, Ray, it could be designed so that it would be even more protective of the small man, because we refer to one pool of income. That's one concept. If it's one pool of income and a fellow has 11 employees and has a fatality, it comes out of that pool and would not affect him. Because of his size, again, you'd take into consideration the degree he would go up and down that scale.

MR. MARTIN: Okay, we'll follow along. I just have one other question.

MR. CHAIRMAN: Is it in another area?

MR. MARTIN: Yes, it is.

MR. CHAIRMAN: Possibly we could get back. Stan?

MR. NELSON: Let Ray finish.

MR. MARTIN: It's just a general question. You brought up, Mr. McGowan, the unfunded liability and brought up an interesting point, I think, because you got into technology. Of course we hope the recession isn't here forever. You're worried about a shrinking force having to pay huge debts in the future. In your industry — I'm sure you thought about it in industry — what sort of projections do you see in terms of the future force? You mention you have 5,500 now. Say five or 10 years down the road, what is your projection in terms of manpower?

MR. MCGOWAN: That's difficult to project. Just like the actuarials, I find it difficult to project the assessment rates. But to answer it directly, this very thing came up at our meeting with John Neal, the actuarial, in the study of our assessment rates in Ontario very recently. He was going up the scale and adding and so on. We had to cut him back, because the history of the meat packing industry — and I don't think it's too much different from other industries — is that we do have shrinking payrolls, because we are becoming more automated. The consumption of meat in Canada has drastically reduced. The market isn't there. There are a lot of things that go into it. Every economist I've talked to believes in that statement.

We've gone through the recession. I hope we're through it; I think we're still in it a bit. But the general belief, and a well-founded belief, is that industry has found how to operate pretty lean. They're not intending to build those payrolls up; they're going to continue to operate lean. Things will suffer, like the operation. They're not going to have the frills and so on in industry that we had before. Not for some time. That we have these unfunded liabilities scares industry, certainly in Ontario and B.C. They are huge unfunded liabilities. Yours is bad enough, but I don't think you're too bad right now if something is done. But you have to face that fact that those moneys may have to be recovered from shrinking payrolls. That's certainly true in the petroleum industry right now, isn't it?

MR. TOLTON: Mr. Chairman, I think what Mr. Martin was asking further was what we feel is the future as far as our industry is concerned, in terms of expansion or decline in the next few years in this province. Is that really what you are . . .

MR. MARTIN: That's one of them.

MR. TOLTON: If I could just interject here. I don't want to have you think I'm looking at this great crystal ball and have all the answers. But at the moment, our industry is certainly declining or shrinking. Further to what Mr. McGowan said, one of the reasons is simply because the number of animals coming to market is declining. We naturally have to rely on cattle and hogs for our raw material if we're going to operate. As numbers go down, it's only natural, I guess, that the meat packing industry is going to shrink. It's an industry that depends on livestock, on live cattle and hogs, for our raw material. The future, insofar as an expansion of the meat packing industry in Alberta and/or western Canada, if you like, is that the next few years do not look too good. You could add the Crow into that as one of the reasons it's not going to expand too quickly.

MR. NELSON: Mr. Chairman, I guess just going back to the assessment rates area, regarding merit rebate/superassessment, would you consider supporting a system — whether it be one, as you suggested, or some other system that may be devised — with a year or two warning or training period for the bad actors to get in line, so we don't put

people out of business by increasing rates that are outstanding as compared to the good actor that has his business in line? I say that with all due respect to the complying industry. It means that for a period of time they will still have this complaint of a higher assessment than they feel warranted. At the same time, it gives the other people who feel they're on a free ride a warning that: at some period down the road you're going to be paying an exorbitant amount; so if you don't get in line in the next period of time which we're giving you as a warning period, look out. Do you feel that might be a fair way of approaching something of this nature?

MR. McGOWAN: I think so, Stan. Certainly I don't think that just because he's a bad actor you just crack down and so on. But currently there isn't that. I would agree with you that you give him fair warning, and through Mr. Chairman's other responsibility, occupational health and safety, people would move in there and see that he cleans up his operation. We'd be quite happy with that.

MR. NELSON: In other words, possibly a system whereby this year he will be rated with the industry. Because of his experience we could forward a note with his assessment, suggesting that due to his experience his rates next year will be such and such unless he cleans up his act.

MR. McGOWAN: Just following up on that concept, Stan. Again it gets into this area of access of information. In our industry — and I think it's true in every other industry — when that type of thing happens, we're not saying Mr. Diachuk's ministry should write a letter to all the rest and say: hey, this guy down here is a real culprit and so on. But we as an industry and as a classification, 9-03, should have this information available to us and even assist that person. If we have the clout on how to do it, we're more than happy to help him do it.

This is the area we find difficult. We can't get that information. You're not alone in it. We find we just can't get it in Ontario either. We think this is wrong. I think an industry needs this information to police. A self-policed industry is the best industry, and I'll cite the dairy industry. In the meat industry we have inspectors running out of our ears, federal too, which doesn't help. By god, I think we're the most policed industry in the world. The dairy industry, the very industry that feeds babies and old ladies, has less control than any food industry in Canada. Why? Because they're self-policed. Nothing will beat self-policed.

MR. NELSON: Well, I could tell you some horror stories that I'm writing some letters on right now in one particular area.

MR. CHAIRMAN: Stan, could I just interject a supplementary question to your question on this area of self-policing and the educational program you propose and are advocating, and you and I have had discussions on. How would you respond to involving the worker? Paul Weiler's work was critical of that in Ontario. How would you involve the worker in your education, self-policing programs?

MR. McGOWAN: Mr. Chairman, the worker must be involved, because workers' compensation involves the worker and the employer. They must work together. He must be involved, and in our industry he is involved. We have safety committees. They head them up, and they're very much involved. Now I think what you allude to . . .

MR. CHAIRMAN: . . . are the original safety associations in Ontario, which did not have the worker involved.

MR. McGOWAN: That's right.

MR. CHAIRMAN: So you wouldn't go that route in Alberta, would you? You would involve the worker in the safety programs, and I'm saying the union or whatever it is.

MR. McGOWAN: At the plant level, where the action is, right. But in the associations like in Ontario — and I'd like to see you have it here — a certain 1.7 per cent of the assessment goes to the IAPA. That funds safety for all industries. It's a beautiful system, gentlemen, and I highly recommend that you . . .

MR. CHAIRMAN: We're planning to look at it later in the year. Stan, continue. You had something else.

MR. NELSON: I want to get into page 4, regarding the benefits. It's in the area where you have a:

30-day notification to the employer when an award decision for
pension or lump sum is to be made.

Are you suggesting that no moneys be paid to the injured worker for that period of time, or nothing for an interim period?

MR. RODD: I think we're saying that the periodic compensation payments would continue prior to the award of the pension or the lump sum payment, so the worker would not suffer.

MR. NELSON: He would get compensation while he's on that interim period until such time as he had a chance to [inaudible].

MR. McGOWAN: I believe he does now, Mr. Chairman, doesn't he?

MR. CHAIRMAN: Yes. Stan, for your benefit, Mr. Rodd's concern is that now the employer gets a copy of the letter that says to the claimant, please find your enclosed cheque of so much.

MR. NELSON: Hey, I get it too. I'm an employer.

MR. CHAIRMAN: I know. But I'm just saying: is that what you want, to have that reviewed before that cheque is made?

MR. NELSON: I'm an employer and also an employee.

The other question I have relates to the comments regarding the worker sloughing off, taking additional time off. It may be warranted; it may not be. There have been concerns raised by workers and, of course, union people. I guess the other side of the thing is whether or not the worker may be offered his job back by a company if he's off for an extended period of time. I guess the concern there of the worker is: if I'm not going to get compensation, what's going to happen to me; my company won't give me my job back when I'm well because, on an extended period of layoff, they've hired somebody else to take my job. Where does industry come from, as far as your industry is concerned, in having the injured worker return to his employment after an extended layoff?

MR. McGOWAN: There's no question in my mind — and I'm sure I speak for the industry

— if he's an employee he's going to be taken back to work. We don't believe in that hanky-panky of trying to dump an employee because he was injured. If he was on our payroll, he's our responsibility. We're just as anxious to get him back to work as quickly as possible. I don't care who it is. The longer you're off work, psychologically you begin to wonder whether you can perform the job any more. So the sooner you can get these people back to work, the better. No, he's our responsibility; we want him back to work.

MR. NELSON: If he has to return or is offered light duties, do you have the same attitude?

MR. McGOWAN: Light duty? We do a lot of that. Sometimes I think we do too much. We get into trouble with the union. Everybody in the union wants light duty by seniority, and that becomes difficult. Usually that's a matter of dialogue between local management and the union. It's not hard to resolve.

MR. R. MOORE: Gentlemen, it's very evident you've done a lot of thought and studying on this whole situation of cost. The escalating costs are a concern to us as well as to you people. Mr. Tolton came in and said: we have to look at the reduction of cost to the workers' compensation group, and reduction of assessment. Basically what I'm hearing today is touching a lot on cutting costs where the worker is involved.

Let's go back to the other area, reduction of cost to the workers' compensation group. In the overall administration of that, where do you see that costs could be controlled or reduced? After all, the administration of the whole program falls in here, and yet we keep on dealing with the poor old injured worker. Let's look at the overall deal. Where do you think we can effect cost-saving changes in the administration? You touched on it, and nobody else has basically come back to it.

MR. TOLTON: Mr. Chairman and Mr. Moore, I think Mr. Speers brought up a few points here, and I don't know whether you were listening or not. I think you were. There seem to be gray areas. There are doubtful cases where, I suppose, compensation is given — and I don't want to go too far here — where it is doubtful whether or not the situation is worthy of the compensation that's handed out.

I don't think there's any doubt about the fact that if a chap loses a finger, he loses a finger, doesn't he? If he loses a leg, he loses a leg. You know exactly what the situation is. I'm not directly involved in the industry; I'm sort of on the outside of it. But it seems to me that there should be some tightening down on these gray areas some way or another. I don't how it should be done, or how it can be done. Obviously it must be done or probably is taking place or is likely taking place in other provinces, because their rates are lower. Our rates are higher and, as I understand it, the reason they're higher is due naturally to the fund's higher payouts.

MR. CHAIRMAN: Well, I must take the [inaudible] we've discussed here. There are some unfunded liabilities in those other provinces. I gather, from Mr. McGowan's comments, that they increased the rates in Ontario to fund some of the present liability, so there is an unfunded liability in those other provinces. But asking Mr. Moore's question, he would like to get from you where you see the input is needed in administration. I'm waiting for some response to Mr. Moore's question.

MR. HEFFERNAN: If I could answer at least part of it, I think we're looking at the control of costs to a great extent. By having control, we would have input to the amendments to the Act and to the changes in benefit levels. This is the area where your unfunded liability is increasing. Because of the retroactive legislative changes that are

occurring in the compensation Act, the costs are increasing, and industry is falling behind in their costs or payments to the Board. I think it is through industry's input and control of workers' compensation that we're going to at least maintain or try to control the costs of the Compensation Board.

MR. MCGOWAN: Accountability, Ron. This is one of our main thrusts. We would like to have more accountability by the Board. And if we had it, we may well learn that they're doing a hell of a job. I can say that I haven't found any board across this land of ours that isn't doing a good job. They are simply administering the Act. The fault and the problems we have are in the system itself. I think we have to revise the system to avoid the pitfalls and traps we have gotten into.

MRS. FYFE: My question was partly answered in the discussion related to safety councils and your support for that direction. We had a submission yesterday from one industry that gave us a lot of statistics on the rapid improvement in their accident rate and the initiatives they had taken within that industry. Yours being very labor intensive — and obviously there's a certain degree of risk involved in your industry — can you explain the initiatives you have taken to improve the accident rates?

MR. MCGOWAN: I think commitment to a documented safety program and documented safety rules and regulations, with equal labor representation on the safety committees as to inspection — even the committee interviewing the injured worker and indicating to the worker that we're not criticizing what happened; but what did happen, and how can we prevent it in the future? When you create this environment with the worker and convince the worker — and this is the big thing — that management truly is interested in the welfare of the worker, then your problem turns around and you get far more co-operation. It starts to tick. I think that's what has happened in our industry. We still have a long way to go, Myrna, but we're well on our way.

MR. HEFFERNAN: If I could add something, the industry has ongoing safety programs within each of the individual plants, which they conform to, whether it be Gainers, Canada Packers, or whatever. These programs are upgraded and updated on an annual or regular basis when we can see areas that require improvement — areas such as some of the kill operations which, through our own internal statistics, have shown some areas of concern we should address. It's through those statistics and the available information we have that we update or upgrade our programs.

MRS. FYFE: Have you used any system of reward for a good accident record, where employees would be monitoring what's happening on the floor with their fellow employees, so you're not falling into the situation where, I suspect, certain employees are taking advantage of the system unfairly?

MR. HEFFERNAN: I can only speak for Canada Packers, but Canada Packers does have safety contests available at their plants, depending on which plant we're speaking of. Individual plants are assessed on a national basis to see where they fit into the system, whether they're good performers or poor. If they're poor, we have to audit them to determine where their problems are and where the areas of correction are needed. I can only speak for Canada Packers.

MR. MCGOWAN: We've used the incentive system, the free trip to Jamaica or Barbados for two weeks and all this, and they're very effective, Myrna. I think in today's environment, it's almost a must. I'm so long in the tooth that I happened to believe

originally that it really is a sad comment when you have to do that sort of thing to incite the employee to work safely. For his own well-being, he should. They are effective, and I think by today's standards we have to use them. I think they're a good thing.

MRS. FYFE: A last comment, Mr. Chairman. You left the impression that you have appealed cases where you feel an employee has received benefits he didn't deserve and that your appeal was not considered. Have you asked for an examination by your own physician? Have you not had a response from the Board? What evidence can you show that your appeal wasn't considered or listened to?

MR. SPEERS: Maybe I can answer that one. As a matter of fact — and this is a couple of years ago — I went down to the Board with our superintendent and appealed a case of a scale man. This fellow sits at a scale, pushes the ticket in, and the scale automatically punches the weight. The beef comes by him on a moving rail, so he really has no physical labor at all. He was off the whole summer with a back problem, and we went down and appealed it to the Board. They sent an inspector out. He checked over the situation as he saw it, talked to other people, and turned the employee's claim down. Then the union went to bat for the employee, and they sent another claims inspector out. He reviewed it, and he turned it down. Then they got the union business agent in Edmonton to go after the Workers' Compensation Board, and the next thing we know we hear a kind of a hoo-ha from the killing floor. The guy got his cheque for whatever it was — quite a large sum, \$2,300 or something.

We've recently appealed to the Compensation Board on one where the fellow supposedly had two sore wrists and couldn't work. He was out playing racket ball in a tournament that night. At the moment, we've been turned down.

Frankly, I find it extremely frustrating going to the Board, and I guess the reason I do — and I might as well be honest about it — is that I think they're heavily weighted to labor. The two strong members on the Board are ex-union members who were adversaries of the packing house industry for many years. I think management is wasting its time going in there.

While I'm talking, I might answer one other question you were talking about: what are we doing on safety? We take 15 minutes off every month and have a safety meeting and show films, do various things. In addition to that, we also have a safety committee comprised of management and union people. Most of our people that wear knives also wear steel mesh gloves. We have steel mesh aprons, hard hats, and hard-toed boots. There are just a multitude of things we have to prevent accidents. Most of our accidents would be with knife cuts, although what's happening now is that we find that most of the expensive accidents are tendonitis, pulled muscles, sore backs, and things like that. We have one fellow that was just off seven months with a pulled muscle. Frankly, if he were running his own business, there's no way in the world he'd take seven months off. We think they're just too lenient.

MR. HEFFERNAN: If I could add something here for a second, Mr. Chairman. I've handled some appeal cases and have had, I guess you would say, some success with some. Although I was successful in removing it from our cost statements, the charge was automatically placed under the second-injury enhancement fund, which again industry is paying for. We see a figure of 20 per cent of the assessment in Alberta, I believe, now going to the second injury enhancement fund.

MR. CHAIRMAN: No, it's not 20 per cent. Nevertheless I want to just bring the '82 report to your attention. A very large concern of the committee in '79-80 was that employers were not appealing or placing their concerns with the Board. The '82 report

shows numbers of appeals to the Board. In 1980 it was 505, 1981 was 650, and 1982 was 1,045. I honestly want to commend the employers for coming forward.

After the '79 report, I did investigate some of the employer representatives. Some of you may fall in this category, where some of the employers thought their representative was appealing the case and all he had was a friendly chat with the staff of the Board, and took him out for lunch yet. So the employer not only paid the claim but paid the lunch for the staff. You can't blame the Board, but the increase of appeals is there. It's doubled in two years. It means that employers are getting involved. I just thought I'd share that with you, Jerry. One more question from John Thompson before we close up.

MR. THOMPSON: Mr. Chairman, any time somebody mentions the General Revenue Fund, my ears perk up. On page 9 you have this enhanced disability thing and your rationale number 2: "Compensation is not a social assistance program." Incidentally, money out of the General Revenue Fund does go into the Workers' Compensation Board at the present time; not an awful lot but some. I think the more you get the government and the General Revenue Fund involved, we are going to see it become more and more a social assistance program. I have real difficulty understanding — you say you rationalize it — how you do rationalize the fact that by taking it from the General Revenue Fund, that will cut back on the social assistance program aspects you people feel are overdone, and with some justification too. Basically, how do you rationalize it?

MR. HEFFERNAN: I think what we're saying is that we are seeing it go the other way, from the social assistance programs creeping into the compensation program. As I think Orv mentioned, it was never the intent to be a social assistance program. We want to ensure that we don't see these things creeping into the compensation program, because it does appear more attractive to the employee.

MR. MCGOWAN: Mr. Chairman, just very quickly, I was interested to receive this pamphlet. Have you seen it? Just a comment. This is a pamphlet where management perspectives . . . Apparently two free enterprisers are using the good officers of the Workers' Compensation Board as seminar participants, at the rate of \$150 per participant. My immediate thought, and it's only a thought, is that I would like your good office and the Board itself to come forth and have this kind of thing to help educate industry on their own, without having to pay \$150 to a couple of entrepreneurs.

MR. CHAIRMAN: You don't want us to interfere with free enterprise, do you?

MR. MCGOWAN: No, no I don't.

MR. NELSON: We're doing too much of that now, Mr. Chairman.

MR. CHAIRMAN: I'd like to see the pamphlet.

I want to say that we've used up our time. We would like to break for a short coffee break now, and then have Mrs. Bev Tilley come forward. She can prepare herself to have her presentation here. We will reconvene in 15 minutes.

MR. MCGOWAN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you.

[The meeting recessed at 11 a.m. and resumed at 11:20 a.m.]

Mrs. B. Tilley

MR. CHAIRMAN: I am sure the other committee members will be back shortly. Bev, would you present your case or the presentation? We have your submission. We would like to know a little bit about what kind of background you come from; in other words, are you an employer? From reading the material, I couldn't determine that.

MRS. TILLEY: Right.

MR. CHAIRMAN: We have about a half-hour, and an opportunity for some exchange — not intended to cross-examine you but for clarification.

Before I start, we will then adjourn at that time. If there is anybody present that has a claim problem or an employer who has an account problem, the staff is prepared to look after anyone who has that type of concern. Otherwise we would like to adjourn at about a quarter to 12, because I have a meeting scheduled for the noon hour.

Go ahead.

MRS. TILLEY: I am involved in the construction industry as an employer. Our employer/employee relationship has always been very good. Yes, we have had workmen's compensation claims with our company.

The basic concerns that we have in the construction industry, as in the brief, are on the coverage and the fact of illegitimate companies operating, whereas legitimate companies register. We take out our licences, liability insurance, and compensation. Then we are left bidding on contracts where other contractors are not doing this and operating fairly. We don't seem to be able to get any satisfaction on this problem area. Basically I think it hits almost every individual who has to hire anyone to get any work done at all. If they are not aware of their position with the Workers' Compensation Act, it leaves them wide open for a lot of problems, as was stated in the brief.

As the representative of our company, I seriously feel that there has to be some terribly rushed improvements with the Act. As I stated in here, when we bring in subcontractors, we normally hire limited companies in the subcontracting field; yet they have no proof whatsoever to present to us that they are covered by compensation, which in turn sends us running around having to obtain this information. Normally a subcontracting company will say to us: oh sure, I'll drop that letter off tomorrow — tomorrow, tomorrow. When we are under commitment contracts, we need that information front and centre, now. As I said in the brief, if we could possibly get some type of card issued in the construction industry with the compensation number on it, it would facilitate checking that account very quickly. The way the Act is written now, even though we are a limited company hiring limited companies to do subcontract work, we then become your collection agency on all your accounts in default. I really don't think that's our company's problem.

MR. CHAIRMAN: Bev, I hate to interject. It's our collection agency, because you as an employer pay assessments collectively. Any reduction we can bring about through administration . . . That is why some number of years ago it was brought into legislation that the principal employer, before it pays the subcontractor — limited or not — may, under the Act, hold all payment until the subcontractor brings the clearance that their account is up to date.

Am I not right, Al? That's in practise?

MR. RUNCK: That's correct.

MRS. TILLEY: That's correct.

MR. CHAIRMAN: What I would like to hear from you — you referred to the card system, the prepayment. If all of these private, independent operator/proprietors had a prepayment of account, that would eliminate some of your problems. But you shared with us here that you have problems even with small limited companies.

MRS. TILLEY: You bet. You'd better believe that you do.

MR. CHAIRMAN: When you tell them, no clearance, no cheque, doesn't that produce the clearance?

MRS. TILLEY: Not necessarily. That also puts us in the position to have a lien put on whatever project we're working on, for failure to pay their contract. Hiring a contracting company is not hiring an individual. They have their 35-day mechanical lien Act. So what happens when that particular problem comes into existence? We're operating as a general contractor, and we now have a lien from XYZ company plopped on our project, which of course freezes all funds that are coming through.

It's not the same as it was two years ago. Everybody is totally dollar conscious. They want payment on their contract within X number of days from when the contract is completed. There is no more 30 days net; that's all over with. It's either pay up, or I'll lien you. Well, that looks just great if you happen to be the general contracting company, that you cannot provide a proper workmanlike manner of having a contract completed without having X number of liens threatened or in fact placed. So that is a very definite problem.

This whole system of having us responsible to make sure that they are clarified through compensation is just fine, except there have been cases where we have employed the same subtrade companies, whether it be in excavation or whatever, for years. They are limited companies. They have a one-man operation, and they have been flatly refused compensation coverage.

MR. CHAIRMAN: There was a time that they were flatly refused, but I would welcome knowing of anything more recent. There was a time shortly after January 1, 1982, rolled around, but is it still happening now?

MRS. TILLEY: It is still happening. I can still give you lists of names of people that have been told. They are not responsible to have it.

MR. CHAIRMAN: They should raise it. You tell those independent operators, or whoever it is, to take their case to my office or to their MLA.

MRS. TILLEY: Okay. That's another problem that we have had to deal with, which of course takes time, doesn't it?

It's the same thing, going backwards in the brief, where the general public, hiring contractors — and I believe I enclosed a copy of the senior citizens' grant application — as individuals hiring individuals to work on their property become a general contractor. They are sitting in the same position as we are in getting clarification that these are legitimate operators. I will guarantee you that there is not one senior citizen who has ever asked, because we have done a tremendous amount of work in that field and we have yet to be asked for a business licence or a compensation number. They haven't got a

clue. They are totally and completely unaware of what their legal responsibilities are. So that is also causing problems.

MR. CHAIRMAN: I'm sorry. Mrs. Fyfe was asking me a question here, whether they are in the same category for compensation. Yes, they are in the same category.

MRS. TILLEY: Sure they are, but how many people know it?

MRS. FYFE: No, I am talking about the . . .

MR. CHAIRMAN: The owner of the property, the senior citizen.

MRS. FYFE: Is not liable.

MR. CHAIRMAN: No, that's a different situation.

MRS. FYFE: That's different.

MRS. TILLEY: Okay.

MR. CHAIRMAN: Under the Act, the owner of the property is not liable for the compensation.

MRS. TILLEY: So where does that put the owner of the property if he goes ahead and hires somebody to reroof the roof who is not covered by compensation, falls off, and breaks his neck?

MR. CHAIRMAN: They have their own home liability insurance. We all have it.

MRS. TILLEY: Right. Okay.

MR. CHAIRMAN: Or should, because part of the mortgage requirement and everything is there.

MRS. TILLEY: Now what if they hire a limited company that is in default to do the work?

MR. CHAIRMAN: The owner of the property, even if it is a commercial one, under the Act is not responsible for the compensation payments. Am I right, Al? Under the Act, it is who employs.

What you are entering into, Bev, is that that is a contract arrangement with the owner of the property. It's like Bill's Grocery wanting to build a new grocery building. He contracts the principal verbally or in a written contract. That is who then becomes the employer.

MRS. TILLEY: But the problem there is if he is doing all the contracting and releasing all the subcontracts himself by employing each individual trade. We're now back into the same bucket, aren't we?

MR. RUNCK: This is very complex. At one time the Act read that if you did a certain valuation of work on your property or whatever, the law required you to have a building permit. If you drew out a building permit, went ahead with the work, and something

went wrong, you were the employer. Most people didn't know that.

Now there have been changes, and you have very complex situations. In some situations the home-owner could be liable, but in the majority of them they wouldn't be. It is complicated. You would have to look at each situation and what arrangements are being made with the person asking the contractor to come in. What is the contract; what does it actually say?

MRS. TILLEY: Okay. Therefore, people that are going to, say, do an extension on their home, act as their own general contractor, then call the excavator, the cribber, the framer, the electrician, the exterior siding people — do they not then become liable for all those people?

MR. RUNCK: Mr. Minister, if I may. I see that we have Fred Fawcett from the assessment department here in the crowd. He might like to give us a reply.

MR. FAWCETT: Construction by an owner on his own home for his own use is exempt. That would include maintenance, additions, whatever he wants to do. So if it's his own house, compensation is not applicable to the owner of the building. If he contracts out to a contractor, who in turn contracts to other people or hires other people, that contractor is liable for compensation on those people. If a person is building a commercial building, that is under the Act and the regulations apply.

MR. CHAIRMAN: I see.

MRS. TILLEY: Which then brings us right back to the people that are walking around operating without business licences, without compensation, solely going in and doing the work on these properties.

MR. CHAIRMAN: Bev, business licences, on my understanding, are local jurisdictions; they aren't provincial. As a matter of fact, several years ago we did away with some — I just forget how many — commercial business licences that we felt did not serve any purpose. But your municipal government, from what I understand, legislates business licences.

MRS. TILLEY: But then in that respect you are losing some type of control to find out how many people are working without compensation.

MR. CHAIRMAN: That's why we need the co-operation of the principal contractors such as yourself.

MRS. TILLEY: Right. Okay.

MR. CHAIRMAN: Rather than our sending the staff, as Fred and others, to find out who is working for your company in Crossfield, your co-operation under the Act by withholding until the subcontractor has his coverage, is there. You raised that mechanical liens question. I will look at it, because I think it's one that gives you as a principal certain problems.

MRS. TILLEY: You bet it does.

What else was there in here that I was concerned about? I think that basically takes care of the brief. The only other thing that I am concerned about is — I'm going through the hand copy of the Act. We come back to page 44, on the liability of principal

contractor and subcontractor. That again is a very definite complaint of mine. I think if people are involved with the construction industry and their account is in default, it still should be you people who collect the money, not me. We have, in the last six months, sent 11 different companies into Compensation to clean up their messes. We did not withhold funds from them because of threats of liens. We just wouldn't allow them back on the property to pick up their equipment until they brought us the letter of clearance.

MR. CHAIRMAN: I just want to keep leaving with you that it's not you and me; it is the employers in this province that want to keep the cost of administration down, Bev. What you are asking for is a staff of X numbers, which will be charged against administration, to try to catch these culprits. Good assessment dollars will be used to track down the bad actors. I know that provincial government departments are most explicit that you obtain the clearance before they pay out. So why can't that happen with your company in Crossfield? You've done it, you say. We welcome that, because it keeps the administration costs down.

MRS. TILLEY: But then we battle the mechanical liens Act and the lien problem.

MR. CHAIRMAN: Well, I'm sure you don't hire that subcontractor a second time.

MRS. TILLEY: Not usually.

The second thing I want to clarify here is a corporation in association with another corporation, when you have corporations controlled by one person who has interest in a second corporation.

MR. RUNCK: Again, I think we'd be prudent to call on Mr. Fawcett for his comment.

MR. FAWCETT: I'm sorry, I didn't catch the whole question.

MRS. TILLEY: It's written up where there is one corporation in association with another corporation, because the same principals are involved in the two different companies. That's how I understand it.

MR. CHAIRMAN: What section of the Act was that?

MRS. TILLEY: This is in section 130(2), page 48.

MR. FAWCETT: You're concerned with a director involved in more than one corporation?

MRS. TILLEY: Yes. Could I have that clarified, please?

MR. FAWCETT: How does that affect your company?

MRS. TILLEY: Because we are involved with more than one company — at least I am.

MR. FAWCETT: We would treat the corporations entirely separately, whether they had the same director or not. Directors themselves are exempt unless they make voluntary application to be covered.

MRS. TILLEY: Okay. Therefore one company does not rely on the next company for compensation privileges; is that correct?

MR. FAWCETT: Correct.

MRS. TILLEY: Okay. That basically takes care of my concerns.

MR. CHAIRMAN: Any questions of Bev?

Thank you very much. I would only leave with you that, as you see, it is complex. We are receiving submissions from all groups and employers. You touched on the area of — sort of getting away from the problem your company has — the clearance issues. We are looking very favorably at a card system. If you could try out with some of your subcontractors, the independent operators, how they would feel about prepaying their compensation, rather than the minimum \$25, say at a quarter or even six months of their requirement. If you get feedback, I would welcome a letter, because we hope to table the report in the next spring session.

MRS. TILLEY: This I have already done. We have already had these discussions with many of our subtrades, and they are very much in favor of it.

MR. CHAIRMAN: If you have some supporting poll from these subtrades, it would help us.

MRS. TILLEY: They are in favor of it. They feel that with that type of documentation when they're going to bid on contracts, et cetera, as I said, operating what we call a legitimate company puts them in better favor even though their subcontract price is higher.

MR. CHAIRMAN: But in the discussions we've had, Bev, I hope that you as a principal wouldn't expect the Board to let you know when some subcontractor's coverage expires. It's still going to have to stay with you.

MRS. TILLEY: If the card is issued . . .

MR. CHAIRMAN: For a period for time.

MRS. TILLEY: . . . for a period of time, there should be no problem, because once you get to the expiry date on the card, fine. Phone the . . .

MR. CHAIRMAN: Subcontractor.

MRS. TILLEY: . . . Board or the subcontractor and find out what's happened at that point. But at least it gives each individual a little better control on what's going on out there. Because let's face it, the people out there demanding work right now are starving to death, and they'll tell you anything. They really couldn't care less whether it is the truth.

MR. CHAIRMAN: They tell government people anything too.

MRS. TILLEY: You're right.

MR. CHAIRMAN: Thank you very much, Bev.

MRS. TILLEY: There is one other thing that we also question; that is, the death benefit

in the Act. We wonder if there is not going to be some kind of a review on that article, because individuals and different companies that we have had meetings with feel that the death benefit business is overpaid. They don't feel it is the employer's responsibility to have these higher assessments to pay into these funds in case there is accidental death. The general feedback we got was: number one, it's unfortunate when there's a death. We've never been in the position to actually out-and-out stop the person from dying. If he's going to die, he's going to die. People have the option of buying life insurance for their families. We feel that maybe they should have stricter limitations on payments under that problem. When somebody has to go on pension for whatever injuries, fine; you are controlling that somewhat. But when it's a situation where you're supporting God knows how many kids from the left side, how many kids from the right side, wives, or whatever — people have the option to buy life insurance if they are concerned about their offspring and their families.

MR. CHAIRMAN: Have you thought that concern out with your associates and colleagues before?

MRS. TILLEY: You bet, and that's the general opinion. If they want to pay the funeral expenses, fine; go ahead. If they want to give the widow six months to get her life back together and wait for the rest of her moneys, finances, and legal ends to be cleaned up, that's one thing. But these permanent pensions, no.

MR. CHAIRMAN: Would you not fear that this would open the case of tort, and they would be in a position to sue the employer for negligence?

MRS. TILLEY: If it's the employer's fault. But it seems that everything always comes back to being totally the employer's fault. You know, an accident isn't exactly what it says. A lot of times it's the employee's stupidity. We don't deny that a lot of times it's a mechanical failure of some piece of equipment they're using.

MR. CHAIRMAN: I'm sure the committee would welcome, Bev, if you have an association that you're speaking for — because you keep saying "we" — the composition of that group of employers, who they are. Is it the Crossfield construction association or something? Because that's quite a radical reversal of the concept of workers' compensation. Workers' compensation, which goes back to 1918 in Alberta, is that the worker gives up the right of any legal action and receives compensation for lost income. What you're saying would permit or leave open the question of law suits, because that "if" part is not easy to legislate.

MRS. TILLEY: Okay. If the worker is dead, it's not to his benefit, is it?

MR. CHAIRMAN: No, but we're thinking of the support of the family.

MRS. TILLEY: That's fine. Everybody has families, some association of family, or whatever. That becomes that individual's responsibility to provide for them if they end up walking down the street and dropping dead or falling off a building. The thing is, compensation should be used for the benefit of the injured worker when he cannot support his family. That's a whole different concept. But when you're paying total benefits of this amount and that amount to a widow — sure it's sad; nobody likes to see anybody killed. The fact is you're then paying forever, until she stops living with somebody and remarries or dies at 95. I realize they changed that, and she goes through re-education and whatever else.

MR. CHAIRMAN: Yes, we now have in legislation a five-year limit.

MRS. TILLEY: Exactly. But five years is a very long time and a lot of money, isn't it?

MR. CHAIRMAN: I'll leave it with you. I won't get into a dispute. But the committee would welcome who this "we" is that you speak of. If it's an association of employers from your area, we'd like that.

MRS. TILLEY: It's a group of contractors who discussed all of this prior to my coming in, because they were busy.

MR. CHAIRMAN: Tell them that you'd like to send the names of the contractors, so we can weigh it. Because it's not that cut and dry.

MRS. TILLEY: Well, as I said, they're more than willing to see somebody denied the right to work due to injury, but it's a little different case when you get into the death end of it. Basically we're paying compensation on the individual for their wages, aren't we? Now we have to pay it for the whole family.

MR. CHAIRMAN: That's what we're paying, yes.

MRS. TILLEY: But we don't employ the whole family.

MR. CHAIRMAN: Thank you very much, Bev.

MRS. TILLEY: You're welcome.

MR. CHAIRMAN: We will adjourn until one o'clock.

[The meeting recessed at 11:45 a.m. and resumed at 1:05 p.m.]

**Farm Equipment Dealers' Association
Alberta - British Columbia**

MR. CHAIRMAN: Can we come to order? I hope the discussions I'm interrupting here will not interfere with the hearing now to be presented: a submission by the Farm Equipment Dealers' Association of Alberta. Mr. Armstrong and your colleague, are you the spokesmen?

MR. ARMSTRONG: Yes, sir.

MR. CHAIRMAN: Fine. We have approximately half an hour of scheduled time. We have your brief before us, and may want to make some observations on your brief. Please proceed.

MR. ARMSTRONG: I think you've seen most of it, but there are a few points I'd just like to raise. On page 3, under funds investment, we said we feel the Board should be complimented on its efforts in securing a satisfactory rate of return on investment funds, and would like to see this approach actively pursued.

I understand there has been some criticism from time to time, which is only natural;

I guess everybody's got to criticize something or other. But I first raised this issue back about 1972. At that time 77 per cent of the investments of the Board were at less than 7 per cent, and 23 per cent were at less than 4 per cent. I want to compliment you on getting this up to 12.25 per cent; I think that's an excellent accomplishment. I think that if you can maintain that investment, particularly when today even a lot of the GICs are down to about 9.5 or 9.75 — I hope you can maintain that 12.25 percentage. I think you're doing fair by us.

Disability pension awards. We have commented on that, and I'd like to re-comment on that, Mr. Diachuk. Provincial class balance arrears increased from \$77,277,000 to \$83,944,000 in 1982; yet just back in 1978, those arrears were less than \$3 million. We conclude from that that industry can no longer support compensation awards on this scale, and I think you've had other people commenting on that too.

The earnings ceiling, of course, in effect July '78, was \$16,500, and on January 1, 1983, maximum earnings increased to \$40,000. Compensation calculation was increased to 90 per cent of take-home pay. We would recommend a sliding scale. We've laid out the sliding scale there and would like to direct the committee's attention to that, and hope it would take this under consideration in providing information to the government at the end of the hearings.

Bill 38, of course, extending that to 1982, will increase costs by \$24 million. The net revenue assessment for 1982 was \$289,612,000, and an increase of only 5 cents means additional revenue of \$14.5 million. So it's going to run close to 8 cents. You're going to have to tack on at least 8 cents to cover this \$24 million. Certainly this time is no time to be adding to the overhead of the struggling economy, particularly in the agricultural field that we're in, in this province.

Rehabilitation. We recognize and support the value of that, but we recommend that the construction of the proposed office rehabilitation centre be postponed and suitable rented space obtained from a presently very competitive market. We don't believe this is the time to make such an investment on behalf of the Compensation Board.

Merit awards/superassessments. We believe this practice should be continued. Perhaps there would be some adjustment in merit and superassessments or something, but we believe this is a fair system.

Accountability to industry. Workers' compensation operations indicate dramatic increases in 1982 in all areas: assessment, compensation, pension awards, administration, and general expense. We've commented on those. At our hearings for our class with the Compensation Board last fall, we brought all these matters to the fore. The 1982 returns didn't show an awfully great improvement in that, and this is one area in which we feel very strongly. We feel business generally feels very strongly about these things. I have made up comparative figures on these and have extra copies here. If your Board would like them after, I'll be happy to provide them to you.

Bodily injury. Much of the loss to be compensated for is damage that will be sustained or would accrue in the future. In this regard, to go into some of your papers here, where you say this money is set up now and put ahead and whatnot, we feel this is an area in which there should be a great deal of investigation and study, because we believe that new methods are being used by insurance companies and courts and so on and so forth. I'm referring now to what they call "structured settlements". It means that you don't have to put this money away now, today. This is what one of the problems is. For instance, we were charged \$1 million in our class for one section, and the costs were \$178,000. At a time when our people are struggling, our dealers are going out of business — White Farm Equipment itself is in bankruptcy right now, and there are a couple of other companies on the verge of it; I'm not here to mention names — we feel that now is not the time to be adding to our overhead and whatnot. Now is the time to be giving us some assistance and help, if the government can.

We feel it's very easy for some of these people in administration in the government up there to say: oh well, we'll just raise rates 5 cents, and 5 cents doesn't mean much. But as I told you, last year 5 cents meant \$14.5 million to the industry. I think we get carried away. We say "just 5 cents". But that's 5 cents on the payroll and, now that you've made the payroll limit \$40,000, it gets worse. I think a point that has to be got home to government is that this doesn't start with dollars; it starts with cents. We've got to get down to the point of — well, I came through the tail end of the Depression. I'm about due for retirement, but I'm thinking here of the future for you people. I think things have got to get a hell of a lot tougher for a hell of a lot of people in this country before they wake up to the fact that this is a recession. One of my people last year said, it's an affluent recession. It certainly is, when you see them lined up for the picture shows and whatnot. But when businesses are going belly up every day — we have one or two every week phone us and say, what about termination legislation?; I guess I'm going to have to call it quits. I don't think the government is recognizing the fact that in rural Alberta, things are tough. And I mean tough.

I think my friend Bill here, my assistant, who is going to have to battle you in the future, has done some studies on this structured settlement deal. Perhaps, Bill, you'd like to add a comment or two on structured settlements, would you?

MR. McCULLOCH: I'm not sure I can add much more to what Bill has said. The key to the concept of a structured settlement is that it plans for future needs. It doesn't take today's dollars to be put away. It's planning of today's dollars to earn, to pay what the projected value of the claim or pension will be. I know that it's fairly new — I would say within five years — in the insurance business. It has certainly benefited both the insurance companies and the individual claimant considerably: number one, from the income tax view, and also that a settlement can be made for a much greater amount but not costing the kind of dollars a lump sum settlement would normally cost.

There's also the danger of lump sum settlements. I think this particular aspect was favorably looked upon by the insurance industry, and now also by the courts, because lump sum settlements were being made to individuals or to their estates or people that were looking after them. The money then got used up very quickly, and those people then became wards of the state again. So the insurance company was making a settlement, and then the government was ending up subsidizing and seeing that these people got looked after. That was why the insurance company brought it in. But I think the key to it is that it's a method of planning for the future, and the example on page 8 of the brief pretty well outlines exactly what is meant by, and what you can do with, a cost factor of \$89,560, and what it does end up providing. It gave a guaranteed benefit of \$380,000 from the plan, for a cost factor of \$89,500.

I'd be more than happy to provide any additional information on the structured settlement approach and calculations, in addition to the example that is set out, or if there is any reason it isn't as clear as it could be.

MR. CHAIRMAN: Maybe while you're on it, what's the difference between what the Board is doing now and what you're proposing here with the capitalization?

MR. McCULLOCH: Okay. I'm just not just completely familiar with what the Board is doing in regard to this, and this wasn't as much any kind of a criticism as it was an approach, I guess, that I have looked at and studied. Is that what the Board is doing, or that kind of approach?

MR. RUNCK: Mr. Minister, it seems to me that what the gentleman may be advocating is that we move away from lump sums and capitalized pension awards. We do capitalize

pension awards at the present time, which would be similar to what you have described as structured settlements, sir. We do take the present value of whatever it's going to cost for the payment and put that away now.

MR. McCULLOCH: I see. But there are still some lump sum settlements being made?

MR. RUNCK: There are some in the smaller, minor injuries.

MR. McCULLOCH: I see.

MR. CHAIRMAN: From Mr. Runck's assistance, I therefore gather that rather than the current employers funding the liability, you're looking that future employers would be required to fund under this structured approach.

MR. McCULLOCH: Not exactly. It's planning for the future but with the dollars of today — letting the dollars earn the interest and being able to pay out that amount of money over a longer period of time.

MR. RUNCK: Mr. Chairman, he's really describing what we're doing now. The employers of today — our philosophy is that in any given year, the moneys obtained from assessments should be sufficient to pay all future costs to posterity for any accident claim that occurs in that year. So this means that our assessments today include assessment to obtain money to capitalize those pension awards, or to structure them, as you have suggested. When a pension award is made, that money is put into a fund to earn interest so that payment can be continued.

MR. McCULLOCH: That's basically the concept that I . . . I wasn't aware that that's what was being done also with regard to the lump sum settlements that were being made. I wanted to imply this approach as well.

MR. CHAIRMAN: The lump sum is different, and that's where you threw me off, Mr. McCulloch, when you were presenting this and interjecting the lump sum. The lump sum is usually less than the capitalized amount. Al?

MR. RUNCK: The reason for that is that when we pay a lump sum, sir, we don't provide for inflation in the capitalization. When you're going to pay your pension award for a life expectancy, under the present situation there's a factor that provides for inflation. If you take a lump sum today, we pay you what it would cost today on life expectancy without inflation. So the lump sums are less costly, actually.

MR. CHAIRMAN: Continue.

MR. McCULLOCH: I think that's the portion on . . . Did you want to go on to the crime-related in depth, Bill?

MR. ARMSTRONG: Yes, I'll go to that right now.

The other thing that we mentioned in here, though, which we haven't specifically mentioned right now, is on this — call it what you like — allowance for inflation or whatever. This is a problem that we feel is not being fair to management, and that is that if you're going to have such awards and have them updated every few years as you have been doing, then there's got to be a different approach to this. We want the whole system checked. For instance, the indexation of pension awards, as we say on page 4,

really has social welfare connotations. The burden of inflationary increases should not have to be borne by the employer but pre-funded by employee contributions or the General Revenue Fund of the province. This is one of the things right now, sir, that is the situation. You say you want the employer now to pay for it, not the future. But the employer now is paying for the ones in the past, where you've increased them so much. Right now. Here's a fellow got a pension . . .

MR. CHAIRMAN: No, Mr. Armstrong. Let me interject here. All pre-1974 pensions that were legislated increases subsequent to '74 are paid from the general revenues of the province. All pensions as of '75 are now capitalized on an increasing scale and are funded by employers.

MR. ARMSTRONG: They are now?

MR. RUNCK: Yes. What happened January 1, 1974 is that the Act was amended. The provincial government accepted the upgrading of pensions which were awarded prior to that time as its responsibility, and those upgradings are paid out of general revenues, as the chairman stated. But today our capitalization, or pre-funding, does have an inflationary factor.

MR. ARMSTRONG: Then why is there such a tremendous increase in our class 5-01? I'm talking about our class; that's all I can go by. Provision for reserves and provision for estimated future claims costs are separate items. In 1978 the provision for reserves in our class was \$778,000-odd. In '82 it was \$1,964,000. And yet by the very figures we have assembled here — and I don't know that you would want to get into that; we can't do it in half an hour; we spent all afternoon with the Board last fall — our actual claims don't amount to that, unless you take into account the enhanced previous claims. This is one of the things where our increase in costs has gone up so much, and this is what we're arguing against. For instance, you take an insurance company. You get a claim there on insurance. All right. They put that money in what they call a bank. But five years down the road, if they suddenly decide this fellow is not getting enough pension now, that's too bad. He still gets the same pension.

We're saying that if you want these indexed, then let's index them and, if they want indexed pensions, maybe there should be an employee contribution here, not just put the whole load on the employer. This is a concept we would like you to consider and discuss when you make your presentation. We don't want to get into that. We'll be glad to provide you with any other information we can at the time and in the immediate future if you wish, Mr. Chairman. We have a lot of figures here, some of which, as you know, we went into when you were here a year ago, previous to '82. But '82 didn't make us any happier when we saw those figures.

The next thing — and I've been before three separate committees, two of which you, sir, were on; one as chairman. Back in 1974 our class was charged with two crime-related deaths, where service station employees were killed. In our submission to the select committee in '76, we protested these charges and said they were not what the hon. Dr. Hohol said in his 1972 select committee: work-related accidents. We don't believe that is, and we believe something should be done about that.

In '76, when we made our presentation, I said that what we are faced with here is maybe some kook coming along and setting off a bomb. One did just the other day, down at Canmore. Fortunately there were no injuries to people in that, but such a bomb set off in one of the big dealerships in the cities could account for many, many deaths, and it would wipe out our group balances overnight. As a matter of fact, I know you don't agree with our contention that it should be paid by a separate group, so we're suggesting that

you have a separate fund, something like you have for enhanced disabilities and so on and so forth; some kind of separate fund so that every employer could finance this fund.

MR. CHAIRMAN: Mr. Armstrong, I think you have only part of the information. It's there now. Al, would you like to . . .

MR. RUNCK: Mr. Chairman, I would like to address that one. Mr. Armstrong will recall that I was present at both those meetings, and the Board did attempt to obtain some relief for the employers through the crimes compensation Act, but it was determined that it would require a change of that legislation, which we didn't have any power over. We do have a disaster reserve, but of course this is different from Mr. Armstrong's contention. They felt very strongly at the time that the crimes compensation Act should be amended so that payment for death or serious injuries because of crime would be paid under that Act and not under the Workers' Compensation Act. Is that correct, Mr. Armstrong?

MR. ARMSTRONG: That's right.

MR. CHAIRMAN: But on these types of fatalities — the example Mr. Armstrong is using — what would happen to an employer or the class if multiple deaths of employees did occur?

MR. RUNCK: If it were multiple deaths in one accident, of course, a major portion of the costs would be relieved from the class and the employer and charged against the disaster reserve. However, their problem was that in these particular cases — these were isolated incidents, I believe.

MR. CHAIRMAN: Whose problem was?

MR. RUNCK: Class 5-01.

MR. CHAIRMAN: So there is a formula presently in place. Maybe after you look at the formula, Mr. Armstrong, you could give us further input, because your presentation indicated to the committee that there was no structure for looking after a disaster. But there is.

MR. ARMSTRONG: Not just a disaster; any individual case where there's a murder involved, whether it's with a farm equipment dealer or an automotive dealer or whether it's somebody gets mad and walks into a hotel and shoots the clerk at the desk. These are not work-related instances, and that's what workers' compensation was set up for: work-related accidents and injuries. As I said, Dr. Hohol brought that forward very clearly in his 1982 report. Anyway, we have expressed it again, sir.

MR. CHAIRMAN: I'm reading where you quoted Dr. Hohol. He said: work-related accidents. That clerk was working at the desk, and it was while he was at work that he was shot.

MR. ARMSTRONG: Well, all right. I take that, then, but the fellow that was serving gas wasn't there to be shot and stabbed. The fellows in the car agency weren't there to be bombed either.

I think we're beggaring the question. When we brought this up at the 1979 meetings, you asked the group following us whether they'd be prepared to pay a slight additional

assessment to cover this for every industry, and they agreed. And I think you'll find that everybody would be in agreement on that.

Anyway, before I go to the next point, sir, our president, Mr. Sharpe, has finally joined us from Camrose. We are very happy. As you know, Mr. Sharpe has attended these for many years with us.

Audit reports. I had some complaints about the audit reports. I was absolutely astounded that the Provincial Auditor had not expressed deep concern over the deficit balances in the provisional class balances. As at December 31, 1981, this deficit was over \$76 million. By December 31, 1982, this had risen to almost \$77 million, and the actual classes in arrears totalled almost \$84 million; yet your Auditor never made any comment on it to the Board or to the government. I mean, how far do you have to get in the hole before the Auditor's going to consider it's significant? I don't know. I was articled in my day and, my god, I tell you, we certainly reported on much less balances in arrears and whatnot, sir. I think that perhaps . . . It makes me wonder, is the audit just a cursory audit?

MR. CHAIRMAN: Mr. Armstrong, let's not criticize the Provincial Auditor. That's not what we're here for.

MR. ARMSTRONG: All right, but I'm just saying that I want to understand why the Board would accept a report like that without any comment on it.

MR. CHAIRMAN: That's why we have these hearings. Earlier today there was a significant response given to us by the gentleman from the Canadian Meat Council that the only way to overcome a deficit in Ontario was to increase the rates. Have you any comment on that?

MR. ARMSTRONG: There's another way, and that's to reduce the expenses.

MR. CHAIRMAN: Okay.

MR. ARMSTRONG: Another thing we have no control over — and I just mentioned it a few minutes ago here. They set up a \$1 million reserve against our class here, and they had \$178,000 in expenses. In two years they've wiped out our surplus in our class, because we have absolutely no say over what they're writing off as reserves and setting up as reserves and so on and so forth. I don't know — the Workers' Compensation Board couldn't substantiate it at our meeting last November.

MR. NELSON: I was just going to make a comment that if there seems to be a criticism due to the Auditor General, I think he's as open to criticism as well as anybody else may be. I don't think it's fair to set the gentleman down for offering that criticism.

MR. CHAIRMAN: Mr. Nelson, we can take that privately. I just explained that our parameters — I wanted Mr. Armstrong to appreciate that the Provincial Auditor is not here to be examined on this committee.

MR. ARMSTRONG: I just felt that I couldn't understand why our Board would accept a statement like that without those comments.

By the way, speaking of the Board, back at the start we felt that . . .

MR. CHAIRMAN: We have only a couple of minutes left of your time.

MR. ARMSTRONG: Right, sir. We said we feel they've done more than an adequate job, but it can be strengthened and can be improved upon. Don't misunderstand me. It's not a total loss, believe me. In many areas they are doing a fine job and a good job, but we feel that first of all they should prepare an annual budget and it should be submitted to the advisory council. I don't believe the advisory council has taken as active a part in this as it should. This is our opinion. Employers generally sort of feel sometimes that although they entirely fund the Compensation Board charges, they don't get involved enough in budgets and financial statements, policies and procedures, and so on. We would like to see a revision of the advisory committee and their responsibilities. I think it would help everybody, and I think possibly they would be able to consider sending more information out to the insured groups.

In conclusion we mention that, and also expand on it. We make some other proposals there in future and altogether. We would like to say that we hope you will give them your consideration, and we appreciate the fact we were permitted to come and speak to you and present our problems to you. I know that in some places that's not so. We've had discussions before, and we've always found that you, sir, are most solicitous and receptive to our suggestions. We thank you, and we hope that this is going to be the case now.

MR. CHAIRMAN: Thank you very much. I regret that we've used up the time and it doesn't give us an opportunity for any clarification any of the members may want. But I hope we can do as you have indicated some time in the future.

I must now ask the representative of the Alberta Trucking Association to come forward. Thank you very much, Mr. Armstrong and your colleagues.

MR. ARMSTRONG: Any time you want information, let us know.

Alberta Trucking Association

MR. CHAIRMAN: Mr. Vincent and Mr. Drinnan. Are you the spokesman, Mr. Vincent?

MR. VINCENT: I'll be the spokesman, and I brought Bob Drinnan along to keep me out of trouble. Also with me is Keith Scott, our legislative manager.

MR. CHAIRMAN: Keith Scott?

MR. VINCENT: Yes.

MR. CHAIRMAN: Please proceed. We have about a half-hour of time. We'd like to have you make some opening remarks and make your presentation, and hope we'll have some time for some clarifications if we can.

MR. VINCENT: I'll attempt to be very brief and direct in this, so we will have some time. I'm appearing here in my capacity as president of the Alberta Trucking Association. For background information, the association was founded in 1938 to represent the interests of the Alberta trucking industry. We presently have about 400 members. These members range in size from one-truck operators to companies having equipment numbering in the thousands. Within Alberta it is estimated that over 80 per cent of the goods moved is handled by an ATA member at one time or another.

As an industry we have some very real concerns about the present philosophy and practices of the Workers' Compensation Board, as well as many of the regulations

relating to workers' compensation. The select legislative committee formed in 1980 to review and up-date the Workers' Compensation Act made many recommendations that have proven to be detrimental to many industries throughout Alberta. The changes that have taken place have shifted the original intent of workers' compensation from the role of maintenance of wage and rehabilitation to that more resembling a social welfare program. Industry must also assume some blame for not giving the 1980 recommendations the attention they deserved. At the time the review was undertaken we in Alberta were operating in an overheated economy and were not overly concerned with certain costs. Under the existing conditions, we were readily passing those costs on. Our belief in a never-ending upward spiral of growth was as misplaced as our belief in achieving world price for oil and unlimited resource capabilities.

In 1982, when the earlier committee's recommendations were implemented, we immediately encountered difficulties, and certain concerns were raised by our members. It was at this point that we decided to undertake a full examination of the changes made to the Act and the regulations. During our examination, we discovered we were not alone in our concerns. Many other industries held views similar to ours, and this led to the formation of the Industry Task Force on workers' compensation, in which the ATA played a very key role.

Earlier we prepared and submitted to you a brief from our association, wherein we outline several specific concerns relating to the Act and the operations of the Board itself. At this time, I would refer to that brief and would like to very quickly highlight our concerns.

In the financial investment area, it is our opinion that the financial investment practices of the WCB and the return on investment leave something to be desired. We are not proposing the Board invest heavily in high-risk areas, but certainly investment markets exist where a higher rate of return could be earned without a substantial increase in risk. The fund has been invested in long-term, low-interest loans, to the disadvantage of employers and employees. The investment of funds is to pay for the present and future commitments made to employees. That should be their only purpose. They should not be for the purpose of providing low-interest loans to various levels of government or for funding government programs or structures. We also believe the investment funds of the WCB should outperform private investment funds, in that no income or capital gains taxes are paid on their earnings.

In the area of assessable earnings, in 1982 the maximum assessable earnings was increased substantially. This, coupled with an increase in the assessment rate, more than doubled the cost of coverage for some individuals. The average industrial wage in Alberta is well below the present assessment amount; therefore, we believe it to be excessive. Our recommendation is to reduce the amount to \$28,000, which we believe to be sufficient for today's purposes and that of the near future.

In the area of lump sum payments, it is our understanding that the WCB supports the issuance of pensions instead of lump sum payments. In our proposal we recommend that a shift be made toward more lump sum payouts. It is our belief that in the long run, this will lessen the burden on future employers and employees while at the same time enhancing the long-term financial health of the WCB. We further believe that the lump sum payout will have an advantage for the affected employee.

In the area of compensation entitlement, one of the most contentious changes to take place in 1982 was the compensation entitlement status of an injured worker. At present, wages earned in a second or third job are considered when granting compensation, even if those wages are not subject to workers' compensation assessment. An example would be someone who operates a farm in the summer and drives a truck in the winter. If injured while driving a truck, the employee is compensated on the basis of both incomes even though no workers' compensation

coverage was paid under the farm income. This inflated income results in a large settlement for the injury, with the entire amount being charged to the trucking employer or to his class. We believe this procedure to be unfair.

The restoration of earning capabilities. The issuance of a lifetime pension for a minor injury — i.e., less than 20 per cent disability — causes many problems in our industry, where the employee returns to work at the same job, with the same pay and the same promotional potential. It is our belief that once an individual's earning capacity has been restored, there should be no further workers' compensation payments.

Assessment and merit rebates. As an association, we strongly believe in the user-pay concept and do not feel that the present system used by the WCB adequately assesses costs on that basis. We recommend that a new approach to merit rebates and superassessments be taken, with an emphasis toward experience rating. We strongly support the Task Force proposals.

Workers' abstracts. In our industry we rely very heavily on the information contained in what is known as a driver's abstract, which is provided by the Solicitor General's Department. This allows us to determine the driving record of an individual and his ability to perform certain duties, as reflected in his or her work experience. We believe the WCB should maintain a worker's injury abstract that would serve the same purpose. We know the driver's abstract makes professional truck drivers conscious of and protective of their driving record. We believe the same would hold true for a WCB record.

Funding for industry safety. Our comment on page 9 of our brief, referring to funding assistance for industry safety purposes, is a view shared by many industries. A great deal of accident prevention work can be accomplished by industry associations that have the benefit of funds received through co-sponsorship. The Alberta Trucking Association has had a very active safety program over the years. One-third of our \$100,000 safety budget came from the WCB through occupational health and safety. This year the funds were withdrawn, and our program is in serious trouble. It may well have to be [discontinued] by year end. Our industry can generate two-thirds of the funds necessary, but from our experience over the past 18 years, it cannot pay the whole cost. We strongly support making funds available to industry through the WCB for industry safety programs.

Third party liability. Due to the nature of our business, many of our fatalities take place as a result of motor vehicle accidents. Often they involve third parties, where accident cause is not attributable to truck driver error. We strongly believe that any workers' compensation costs associated with this type of accident must be recovered from the third party and not assessed to the trucking class or individual employer.

Continuation of wages. In our submission we make reference to the continuation of wages at the employer's expense for the first three days of the injury. This concept was examined by the last select committee but rejected by industry. Upon further reflection, we now believe this concept may be more valuable than first thought, and we would be willing to work with you to re-evaluate it.

The area of appeals. The appeal of an assessment is often difficult for an employer, given the Board's position on confidentiality. You will note in our submission, we feel confidentiality should be more narrowly applied by the Board or perhaps more clearly defined within the regulations.

In the area of class reductions, our comments on class reductions are self-explanatory. Streamlining for efficiency and manageability will benefit both industry and the Board. I will return to this item in a moment.

Employer notification of payments. Prior employer notification of claim payments to allow for employer appeals should be provided. We do not believe our request in this area to be unreasonable and believe that industry, as the payer of all costs, should be

given this consideration.

In the area of proprietorship, in 1982 changes in the proprietorship status significantly affected our industry. The problems originally posed were soon overcome by discussions between the ATA, the minister, and the Board. We do not believe any further change is necessary but recognize the fact that proprietorship has different meanings among different industries. We can abide by the current practices and the use of [inaudible] orders. However, if the problem associated with other industry groups can be met by the Task Force proposal, we can accept that as well.

In the area of policies, over the years certain policies have evolved within the Board that relate to other than in-house operational needs. These policies, some of which are mentioned in our brief, must be incorporated in regulation for understanding and accessibility by industry. The regulation process may be a little bit more cumbersome and rigid, but it has as its advantage a process for comment and the requirement for cabinet approval coupled with industry's ability to acquire copies of the regulation. The current unwritten policies of the WCB can claim no such benefit.

In the area of pension indexing, the Board's current practice of indexing in line with the consumer price index must be changed. A conflict of interest could exist, as outlined in our submission. Further, the long-term cost of the consumer price index pensions will prove unmanageable for the employer and the employee of the future.

In the area of the Board's budget, we were very pleased to hear that the WCB will be preparing annual budgets and govern its expenses accordingly. We must emphasize that this budget must be made available to industry for scrutiny.

This concludes my remarks on the contents of our submission. However, I would like to raise two other points with you. Firstly, in our submission we overlooked the recommendation to allow for the charge back of assessments to the proprietor/owner-operator. It is allowed in regulation in a number of other provinces and is a practice in Alberta. It is an issue that has little contention but should be covered by regulation.

My last concern has to do with advice recently received from the WCB that our class 7-01 will be split with a new class, 7-03, covering couriers, cartage, and furniture movers. The Board cannot tell us what the new rates for either class will be, nor can they tell us how much of the class deficit, if any, will be assumed by the new subclass. They can tell us that our total assessable income for 1981 was \$425 million, of which \$137 million belongs to the new subclass. The Board's reason for granting the new subclass request is that they have a significantly different experience.

We were not involved or invited by the Board to their discussion, even though we feel the economic impact of their decision. We ask the minister and your committee to stop the action of the Board. Our association has had these discussions in the past but always voted down the special interest of a select few for the good of the whole, on the premise that we as a whole were necessary to each other. As an example, a major account of the courier people is the oil and gas industry. There would be no oil or gas industry for couriers to serve were it not for the more accident-exposed sections of our industry that move oil well rigs, pipe, and equipment to make drilling and refining possible. With this beginning, there will be many more sectors in our industry who can make the same special interest arguments as the couriers, cartage people, and so on. Then where do we stop? We strongly urge you to stop the separation and look rather at increasing the size of industry classes, for the long-term benefit of all.

In closing, I would like to state that our industry is full of support for the government's intention to reduce the burden and cost of regulation to business. We are also fully supportive of this committee's work, and we are committed to provide whatever assistance we can to the Workers' Compensation Board to bring about changes we have recommended here today. On behalf of the Alberta Trucking Association, I thank the committee for the time they have given us to make our presentation. We are

prepared to fully answer any questions you may have at this time or at any subsequent time during your review process. Thank you.

MR. NELSON: Mr. Vincent, on page 13 of your brief, you are suggesting that employee group classifications be reduced. Although you have clarified the situation, as far as increasing in another area here, with regard to couriers and what have you — I think that's another note you have that's not in here. How do you propose to do this? On one hand, decrease, and on another hand, increase the classification area within a certain category.

MR. VINCENT: What we're talking about here is . . . You're talking about requesting cost allocations, confidential. What part of that are you referring to?

MR. NELSON: You've indicated that there are too many employee group classifications in the trucking industry. Then on the other hand, you're suggesting that we take the trucking industry, for instance, and break that down into further classifications within that industry by removing couriers from your particular area, plus removing another area. I guess you have to consider that couriers use large truck vehicles, such as Purolator and even Northern Messenger. They're on the highway as well as other trucks too. How would you propose that be done?

MR. VINCENT: I'll defer that to Mr. Drinnan, if you don't mind.

MR. DRINNAN: I think our request is very simple. We don't want our class split any further. If anything, we would see the classes of all industry groups gathered to make them bigger. The request of the courier and cartage group is not one that we support. We have argued it within our industry on many occasions in the past. Maybe 20 years ago, we had the whole trucking industry wanting to have the heavy haul sector separated from our group. At that time we had a rate of somewhere around \$5 a hundred. Had the separation been made, the heavy haul group, who move oil rigs and construction equipment, would have gone to a rate of about \$11 per hundred. The balance of the industry would have dropped to somewhere around \$3 per hundred.

After a long and heated discussion, it was decided that we would keep the group together because, as a whole, we were better to spread the cost of compensation across a wide base as insurance does. If you begin to split it, you then begin to get into areas where some of the smaller groups can't withstand a major fatality. You begin to get all the special status groups who can make a case for a lower rate, wanting to split away from the main group. In our mind that ultimately increases the cost of it for everyone. It certainly increases the cost of administration for the Board itself. I guess if you take our request to an extreme, at a rate of \$6.65 we'd just as soon that there were one class within compensation and every industry was in one group. We would probably have a lower rate, but the rate of some of the people who are in the office sectors and that would increase.

We've had the argument, too, of people who run truck terminals. The terminals are quite often in one separate company from the equipment that runs the line haul. They have wanted to seek a split so their terminal people would be lower, their line drivers would be a little higher. But all that would happen is that they would pay lower for their terminal people, but the line driver would be higher. So compensation is still going to have to be covered. We're totally opposed to splitting them into smaller groups.

MR. VINCENT: I guess now that I have my head together — I'm just listening to what Bob is saying — I guess to an extent you are your brother's keeper in all areas. That's

really what Bob's referring to.

MR. CHAIRMAN: That's the way I gather it, Mr. Vincent. Your presentation was just a further concern on page 13. You're opposed to any further proliferation of classes, or even breaking into subclasses.

MR. MARTIN: I'm a little confused here on third-party liability recovery, on page 10. I think I would like some clarification. I thought this was in fact already the policy of the Board, that they have lawyers that are to go after third-party liability recovery. I would just like some clarification on that.

MR. RUNCK: If we can identify a negligent third party or a third party who may have been negligent, who is really instrumental in the accident, and that third party is not an employer under the Act or the worker of an employer under the Act, the Board does get involved in trying to initiate third-party action to recover the costs of the claim. Unfortunately, if there is a recovery it usually takes about two years' time. So there is that delay, Bob. But what happens is that immediately a judgment is obtained against a third party, the costs of that particular claim are relieved from the employer's experience. The class is eventually relieved of all moneys recovered. Supposing the cost of the claim is \$100,000 and \$80,000 is recovered. The class is relieved of \$80,000.

MR. DRINNAN: My understanding — and I'd like Mr. Runck to expand further on some of the other details of it — is that the Workers' Compensation Board doesn't really decide whether they'll proceed on a third-party liability or not. It's referred to the Attorney General's Department, and they in turn decide.

MR. RUNCK: No, that's not correct.

MR. DRINNAN: That's the information we were given just a short time ago. The other part is that if a recovery is made, a large portion of that goes to the driver and not necessarily back to the industry. So he gets the compensation and what's recovered, and there has to be a fairly sizable recovery before the Compensation Board takes any of the dollars that came from the action.

MR. RUNCK: I believe you will find that the regulations stipulate that the worker receives 25 per cent of gross recovery. This is your point.

MR. MARTIN: The other is the fact that it doesn't have to go to the Attorney General's Department. Is that correct?

MR. RUNCK: No, it doesn't.

MR. VINCENT: So in effect, the worker would receive his compensation payments plus 25 per cent of the recovered moneys from the third-party liability.

MR. RUNCK: That's correct.

MR. CHAIRMAN: I hope you gentlemen appreciate that the Board will only give permission, most often, when the third party is not insured under the Act. But if you have two of your truckers in a collision, or your employee in a collision with somebody else who is covered under the Act, permission is not granted for third-party action in those cases. Am I right, Al?

MR. RUNCK: I'm sorry.

MR. CHAIRMAN: When both parties are insured under the Act, permission is usually not granted to take action.

MR. RUNCK: That's correct, sir. But under section 89(2), what happens is that if one employer is negligent or his worker is negligent, and the other employer is the one whose worker was injured or killed, the employer whose worker was injured or killed can apply to the Board to have the costs charged to the employer whose negligence caused the accident.

MR. DRINNAN: Mr. Chairman, I'm going to come back to you — and I won't today — because we may . . .

MR. CHAIRMAN: Yes, you may have a specific one we can look at.

MR. DRINNAN: We went through this with some of the staff of the WCB, and the numbers and answers Mr. Runck gave us are not in line with what we were given earlier. I'll go back and check that and come back to you.

MR. MARTIN: Just a couple of other areas. You are asking for the policies to be laid out so industry and workers, I take it, can look at it. Again, it's my understanding that this is being done. Al, am I correct that this will be done this fall? A policy booklet is being worked on?

MR. RUNCK: The policy booklet is well under way. What we have done is condensed existing policies into a readable form. Of course, this is a slow, painstaking process. We have to be sure we have them in an understandable form. Many of the ones we have rewritten have been approved by the Board. There are quite a number of them. We have the book, the cover, and some of these, but they're not quite ready for release yet. But it's coming.

MR. VINCENT: One of the problems with policies that we've run into — and we've run into the same problem with another governmental board — is that policies have a habit of getting changed and not updated. The other thing is that I think we have often run into the problem, Bob, of the Board saying that policies are not binding; they are simply policies and can be changed. What we're really suggesting here is that if they're in regulation, then they are not changed ad hoc. There have to be certain actions taken to have them changed.

MR. DRINNAN: We've had difficulties, as a number of other industry groups have, getting the Board's policies. They've been writing them for at least a year now. The other advantage of regulation over policy is that a regulation has to have an order in council, which gives cabinet some alert of what is going on. Policies the Board uses at the moment can be created by the Board, and nobody but they know until they come into effect. They're not viewed by elected officials.

The other problem we have with policies is that you can't be charged under them, and you can't go to court over them. It's our feeling that regulations might be a little less flexible and a little more rigid, but they do have a public-comment process. They do receive approval from cabinet, and you can go to the Queen's Printer and get a copy of them. You can also go through the courts with them, where you can't with Board

policies.

MR. MARTIN: I'll let Ron carry on about the regulations, because I know that's one of his things.

MR. CHAIRMAN: We're moving almost to the time of recess.

MR. MARTIN: Just one thing that is perhaps new. We've discussed maximum earnings before, but just a clarification on the continuation of wages. You are saying that the employer pays wages for three days, instead of the policy as it is now?

MR. DRINNAN: We'd like to have a longer look at it. Industry rejected it last time, and we think we were in error. We'd like to look at it a lot closer.

MR. VINCENT: It's a learning curve.

MR. NELSON: I would just like to get back on one point, Mr. Chairman. Gentlemen, you talked about a policy and a policy manual that is being developed by the Board. There have been some suggestions that industry, and maybe even the structure of the Board, be changed to reflect better or more input from industry who are actually paying the shot. First of all, do you have any thoughts on a change in the structure of the Board? And secondly, do you feel that the three user groups — being the Board, the labor people who are the benefactors of any compensation, and industry who is paying for that compensation — should possibly form a group to assist in developing policy that we can all agree on, so the difficulties that are arising through policy may not occur?

MR. DRINNAN: Very definitely. We would support such an idea, and support the Task Force proposal to do that.

MR. CHAIRMAN: Okay, a final question.

MRS. FYFE: I'd just like to come back to the comments you've made regarding the financial investments of the Board. In reading your submission, it would seem to me that you may have a bit of a misunderstanding as to how the funds are invested. A previous submission before us this afternoon complimented the rate of return we've had, which has been an improvement. There's no way that the funds invested support government projects. That's what I seem to read out of here. If they are used in any kind of government agencies, it is done through a debenture or bond process that has a rate of return that would be comparable to what you could invest anywhere else in the private market.

MR. DRINNAN: In the last year or so, there have been some private company stocks bought under the Workers' Compensation Board funds. But if you go back and look at previous years, there are a lot of hydro companies and various provincial governments that were lent those moneys at . . .

MRS. FYFE: At comparable rates to what they could borrow on the private market.

MR. DRINNAN: Well, I guess we don't see it that way.

MRS. FYFE: But those are the facts.

MR. DRINNAN: One problem we have with it, and I think part of our long-range financial problem, is that there's only a 2 percentage point spread in the calculations the Board makes of capitalizing pensions. In the inflationary numbers that are added into it, it's that 2 per cent spread that makes the difference in the long term. In working earlier this year with the Board, we have a \$22 million deficit this year. If the investment fund produces 3 per cent, we break even. If it goes 4 per cent, we make money. I think our concern is that a better job could be done in terms of those investments, and that the investments should not be looked to, to fund government at long-term, low interest rates.

MRS. FYFE: I think that to say it's funding government is not exactly a fair comment. They are invested at a comparable rate in the market at the time. Had you invested in the stock market a year ago, we would be in a deficit position. Those types of investments are balanced so that the eggs are not in one basket. I've spent a fair bit of time in the trust fund committee asking these same kinds of questions and reviewing the whole strategy. It's done to maximize profit, and there are some pretty skilled people involved in this area. But I just wanted to assure that a misunderstanding wasn't left that Workers' Compensation funds were funding government projects at a low interest rate, because that is not true.

Just one other quick comment, and that relates to the lump sum payments. In your submission you have that from 60 to 100 per cent disability, you would recommend a pension and no lump sum payout. Could you tell me why from 60 to 100 per cent? If a worker wanted a lump sum payment, why not?

MR. DRINNAN: I guess we could agree, if he wanted it.

MRS. FYFE: Okay, that's fine then.

MR. DRINNAN: That was in the sense of the Task Force.

MR. CHAIRMAN: Okay, I regret that we've used up a full half-hour, more than that, and want to thank you, Mr. Vincent, Mr. Drinnan, and Mr. Scott for coming forward. Any additional information — I think you indicated you would give us some other material you may have, so don't hesitate. Do get back to my office on the concern you may want to research further, with regard to third-party liability.

Thank you. We would like to call the representative of the Calgary Chamber of Commerce to come forward.

Calgary Chamber of Commerce

MR. CONBOY: Good afternoon, ladies and gentlemen. Today I have a different hat on.

MR. CHAIRMAN: I see you're wearing a different suit too.

MR. CONBOY: And a different suit.

MR. MARTIN: A different presentation.

MR. CONBOY: And a slightly different presentation.

MR. NELSON: The accent's the same.

MR. CHAIRMAN: You may want to introduce your colleagues and members that are present.

MR. CONBOY: Yes, I'd like to do that. But I'd like to get back to Mr. Nelson and assure him that I don't have an accent; he has an accent.

MR. CHAIRMAN: I'll let you two resolve it after five.

MR. CONBOY: Initially, Mr. Chairman, I would like to hand you a revision to page 4 of our written submission. It's simply some slight adjustment to the figures. We will give you sufficient copies of that.

The Calgary Chamber of Commerce is pleased to have this opportunity to present its brief concerning the Workers' Compensation Act to the committee. As you're well aware, my name is Peter Conboy, and I am chairman of the employer/employee relations committee of the Calgary Chamber of Commerce. My colleagues with me today are: on my immediate left, Gary McIntosh, who is vice-chairman of our committee; on Gary's left is Ms Linda Flannery, who is representing the Alberta Chamber, who has endorsed the brief submitted by the Calgary Chamber of Commerce; on my immediate right is Mr. Bill Paynter, who worked on the committee responsible for this submission; and on his right is Mr. Mike Halpen, who is chairman of our subcommittee on occupational health and safety and workers' compensation.

The Calgary Chamber represents over 2,500 employees, providing gainful employment for some 60,000 Albertans in the Calgary area. These employer members are experiencing very difficult economic conditions, characterized by decreasing sales, layoffs, salary freezes, increasing government-imposed regulations, and increasing costs in many aspects of their business operations. As a result, we submit that your committee should not, under the present economic conditions, entertain any legislative changes that would still further increase costs to employers, to consumers, and eventually to the workers themselves.

Indeed, we believe your focus should be on ways and means of reducing employer costs, which have reached unconscionable levels, caused in part by indexed compensation pension awards, a very high assessment ceiling and benefit levels, and also by overzealous claims adjudication.

As you have all received copies of our written submission, I do not propose to go through any detailed explanation of it. I will confine myself to just a brief overview, and hope we can lead into a free exchange of information. However, Mr. Chairman, I would ask that the written submission be recorded as part of these proceedings today.

This submission really represents a synthesis of a wide variety of views within our organization. As you will appreciate, many of our member firms are small businesses employing between 10 and 30 employees. Many of the recommendations put forth are based on the underlying philosophy that workers' compensation payments are replacement for lost income, and the corporate members of our chamber feel it is their responsibility to provide this replacement.

On the question of overlapping benefits, we do not believe that replacement of lost income should result in a worker receiving more take-home pay after a disability award than before the injury. Our recommendation is that the Workers' Compensation Act should contain provisions to offset the stacking of permanent disability pensions and death benefits from other public sources funded wholly or in part by the employers, and notably the Canada Pension Plan.

On the net earnings issue, we do not feel that overtime or such items as income from each source of employment should be included. Our recommendation is that the Act should be revised to redefine net earnings as basic or regular earnings only.

With regard to the maximum weekly compensation benefits, we feel that the current ceiling of \$40,000 results in very generous benefits when compared to the maximum levels established by governments in other provinces. If we look at our four western provinces, we have British Columbia at \$377.63; Alberta way up there with \$510.31, Saskatchewan at \$418.27, and good old NDP Manitoba at \$360.58, lowest. I was being facetious, Mr. Chairman. Our recommendation is that Alberta should reduce this benefit to reflect what is happening in other Canadian provinces.

On permanent partial disability awards, the chamber suggests that the awards should provide redress for financial losses only; for example, earnings replacement and medical expenses. Paul C. Weiler — who I'm sure you all read before or after your appointment to the select committee — in his report entitled Reshaping Workers' Compensation for Ontario, recently stated:

The Board should compensate such a claimant for the actual wages lost as a result of his inability to work because of his physical impairment.

More precisely, in Alberta the Board should pay this person 90 per cent of the difference between his net disposable earnings before the injury and his net disposable income afterwards. The Saskatchewan Workers' Compensation Board has recognized this need and has introduced a new approach for permanent partial disability awards. We urge the select committee to consider the Saskatchewan approach. We recommend the committee consider a dual system of benefits, involving a lump sum payment for the permanent partial disability and compensation for an identifiable, actual wage loss.

On the indexing of disability awards, we believe that the employer should be expected to fund an adequate pension with indexing at reasonable and practical levels, not full indexing to CPI. Furthermore we believe that both the province and the employers should share equally in the cost of providing for the escalation of pension awards, as it did some time ago.

On the financing of workers' compensation, the chamber has received many submissions from its members, suggesting the select committee investigate coverage through private insurance programs. We also feel that the merit rebate/superassessment system is to recognize the accident prevention efforts of those employers who reduce job accidents and to penalize the poor performers who are responsible for a disproportionate share of industrial accidents. Therefore the policy which limits the merit rebate/superassessment ceiling should be removed. A true merit incentive system should be implemented to reflect the individual experience rating, recognizing the need for an appropriate insurance for catastrophic events.

Our brief covers two other items, Mr. Chairman, notification and informational bulletins. But in the interests of brevity, I'll not dwell on them. I hope that if there are any questions on these or any other items in our submission, we can get at them now. I propose to stop at this time and ask you to direct questions through me to my members. Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Conboy. Questions?

MR. MARTIN: Your recommendation about the ceiling. If I read here quickly, you're suggesting it should be reduced. You don't really say . . . You say you don't want it to go up, and then you say that in fact these benefits should be reduced to compare with benefits in effect in other provinces. What are you suggesting, the same as the Industry Task Force, or what?

MR. CONBOY: As we said in our brief, Mr. Martin, we're suggesting that the select committee look at it and analyse it in comparison to the other provinces, because in

reality this is a cost to industry, and small businesses in the chamber can't afford these costs — these very generous benefits compared to the other provinces. We have to compete for business in the other provinces and out of the country, and it is a burden that Alberta employers have to bear compared to our neighbors both east, west, and south. So we say, look at it. We're saying to you: why is Alberta offered \$510.31, and the other three western provinces \$377, \$360, and \$418?

MR. MARTIN: Just to follow up. Depending on which way you're looking at it, I suppose one could argue that the others are lagging behind.

MR. CONBOY: My son's the only one out of step. Yes, I've heard that philosophy.

MR. MARTIN: The other thing I might ask you, then — I guess it comes down to what people determine as fair. When we get into this it's always good, as we did yesterday, to philosophize a bit about what is fair. If I recall, I think the Industry Task Force is asking for \$30,000 as the ceiling. Let's just use that as an example to talk about. I think you agree there has to be compensation. The worker makes \$38,000, and compensation is set up to help the person. I know you'll say that we can't afford it, and the workers, who we as MLAs get a lot of pressure from — you should see all the cases that are turned down — would say that was very unfair. They make \$38,000 and now they have to take a severe cutback.

MR. CONBOY: I think, Mr. Martin, it's a twofold question: what is fair and what can industry afford and what can we cost? I ask you, is it fair to pay an unemployed chap who's making \$38,211? I think our philosophy would be to say: no, it isn't fair in the context of being fair. But as I said, it's a two-barrelled question: what is fair, and what can business stand?

If you are going to put businesses into receivership — and I think you're fully aware of the number of receiverships that are occurring in Alberta today — are we biting the hand that feeds us? If we are going to have an overgenerous ceiling that is going to be a hardship on businesses, that is discouraging businesses from locating in Alberta or continuing in business in Alberta, then surely the compensation rate and all other classifications are going to have to increase, because it's coming from fewer people.

I think it's a two-barrelled question: what is fair, and what can business stand? That's why we ask you to look at the other provinces, because I'm sure they're faced with the same problem.

MR. NELSON: Dealing with the same figures, I'm just wondering if you've taken out an actual average cost that has been paid by the Boards of the various provinces you've identified here as against the maximum ceiling, which probably isn't achieved anyway.

MR. CONBOY: We have one for Alberta which we just whipped up very quickly, Mr. Nelson, because I'm sure you're aware that the annual report was made public yesterday, the first day of the hearings. So it didn't really give us a heck of a lot of time. I believe in Alberta — Bill, you can . . .

MR. CHAIRMAN: Mr. Conboy, the Task Force had access to the information in the '82 report, and you know that.

MR. CONBOY: Mr. Chairman, I simply made a statement that the annual general report was issued to the public in Calgary yesterday. We got it yesterday, so we've had — but I think we know Alberta. To answer your question, Stan, I'm not sure what it is in the

other provinces. Bill did the research on it. Perhaps, Bill, you can answer that.

MR. PAYNTER: We contacted the claims people directly in each province and posed the question to them: what was their maximum weekly payout? We did not canvass how they arrived at it. We know the rates they calculated it on, but we do not know the average salary in that province, et cetera.

MR. NELSON: What I'm referring to is that if these are the maximum payouts in relation to the ceiling — for example, in Alberta not everybody receives the maximum of \$40,000 — what would the average be, and would Alberta's average be significantly lower, possibly in relation to the other four you've identified here?

MR. CONBOY: The average ceiling in Alberta in 1982 was around \$22,000 to \$23,000.

MR. NELSON: Twenty-three three, I think.

MR. CHAIRMAN: Compensable.

MR. CONBOY: Yes, compensable.

MR. NELSON: That might be a good one for our staff here to assist us with.

I had one other item. On page 7 of your brief, you've identified the area of some of your members wishing to examine the opportunity to look at private insurance programs as against workers' compensation. I'm just wondering whether you've given any consideration to the area of lawsuits that may occur through not having available the Workers' Compensation Board Act, which removes this lawsuit activity. Going into the private sector, of course, may remove that from the employer's option.

MR. CONBOY: Certainly that comes up, Mr. Nelson, without a doubt. I think that the big, bad bogeyman of "if you didn't have WCB, we could sue you" is way overemphasized. I think perhaps we would get away with a lot more claims through a court of law than are handed out by the WCB adjudication committee. I don't know. I think, as one notes, the time element is something that would be quite realistic for the worker.

To answer your question: no, we didn't look at it on the basis of what the cost of litigation suits would be.

MR. NELSON: Would you not suggest that some employers might welcome a lawsuit, just to possibly alleviate the probable cost of some accidents that may happen out there? I use "accidents" in a parenthetic sense.

MR. CONBOY: I think I would agree with that, Mr. Nelson, but certainly not the members who are members of the Calgary Chamber.

MR. NELSON: Well, not the small business guy, because he can't afford the time and money.

MR. CONBOY: That's right.

MR. NELSON: Thank you.

MRS. FYFE: On that same subject matter, it's my understanding that there has been

some work done in comparing the State of Oregon to Alberta, which has a similar population and an economy that is not that dissimilar, where there is the system of tort — I believe they have a mixed system — and that the costs have been incredibly higher when you get into legal fees. Maybe the fee structure in Oregon is different from those set by the Law Society in Alberta; I'm not sure. But have you looked at any other jurisdiction that does not have a workers' compensation system, to look at the cost to business?

MR. CONBOY: To answer your question, Myrna, I'm not sure whether our committee did. Did we look at that, Bill?

MR. PAYNTER: I'm not aware of the Oregon study. But I think we're sort of missing the point made by members of the chamber. The idea was not to scrap workers' compensation but rather, how do we control the funds and pay for workers' injuries?. Leave the concept in place, but instead of the Board handling the funds in the manner they have, those funds could be handled through private insurance coverage. The basic principle stays the same, that all workers' injuries and costs are covered.

MRS. FYFE: Except that the insurance companies are moving out of worker' compensation coverage.

MR. CONBOY: Myrna, off the top of my head — we haven't covered it, but I am personally familiar, not with Oregon but certainly with Texas, California, and many states where we have operations in the States. Yes, the average may be higher. But the good performer, the diligent employer with the accident prevention program, is considerably lower. In our brief we've asked you to look at that. The ratio of merit rebates to superassessments handed out through the Alberta Compensation Board is 28:1, and we think that's got to be wrong. There's got to be something there. So yes, maybe in Oregon the average is higher, but the bad performers are paying and the good performers are getting relief. We agree with that concept.

MRS. FYFE: If we weren't talking about merit rebate exactly in this line of questioning, I can appreciate that we look at a different system that would penalize those that aren't trying to improve the situation, and provide a greater incentive. You'd probably get a lot of support around this table to consider that recommendation very seriously. But because you have recommended that government investigate the possibility of the role for the private insurance companies, I haven't seen anything that would indicate that the private insurance companies are that anxious to move in this direction; secondly, that it provides anywhere near the coverage that our workers get now; and thirdly, at any less cost to the employers. I wondered if you had any further information.

MR. CONBOY: I think I can answer the latter part of your question, but let me first go back. Merit rebate/superassessment does have a great bearing on assessment, on your classification rate. I think we pointed that out.

MRS. FYFE: I didn't say that. I wasn't bringing that item into it.

MR. CONBOY: Okay. To answer the latter part of your question, Myrna, yes. I have a letter in front of me from an insurance broker who is advocating that they're very willing indeed to get into that business.

MRS. FYFE: But not necessarily all classes, not necessarily the higher risks. There are a

lot of factors that . . .

MR. CONBOY: I'm sure there are. But this particular letter has not stipulated only the good ones. It has said: to cover the workers' compensation in Alberta.

MRS. FYFE: I guess we would certainly welcome a submission if you have any members within the chamber that could provide us a basis of fact or a basis of comparison.

MR. CONBOY: I am sure we could come up with that submission for you, but I wish you would look at it in other provinces beside Alberta too, because . . .

MR. CHAIRMAN: Mr. Conlan, because I don't have with me a study that was printed in the American occupational health and safety magazine, I think in June, what I will do is mail it to you. It reflects on some of the comments; their review of the U.S., for which we so often reflect on the costs. Maybe after the committee the chamber will look at it, because it gives a complete study of the United States plans, where there's a growth of more states going into the state fund because the private sector is pulling out.

MR. CONBOY: Yes. Also I'd be happy to have our committee contact the insurance brokers who are members of the chamber and see if we can get you a consensus of feeling. We haven't explored it sufficiently, but we can do it for you.

MRS. FYFE: Thank you.

MR. CHAIRMAN: Any other questions?

MR. THOMPSON: I'd just like to get back on this maximum ceiling thing. Have you people done any research on the impact it's had on increasing your assessment rates? I'd like to ask John to give us a few of the statistics on what the average claim is, how it — wasn't there 1 per cent that go longer than a year, or that type of thing?

MR. CONBOY: I'd like to answer that question before John gets in. We've gone to a great deal of depth and received many, many letters from our members. This one is from a company of consulting mining and geological people, and I'll just read you what they say to us.

Our only complaint at this time is we feel the maximum yearly assessable earnings of \$40,000.00 is too high. This makes a large difference in our premiums when it jumped from \$22,000.00 in 1981 to \$40,000.00 in 1982 and 1983.

That's from the controller of the company. We had many letters such as this.

MR. THOMPSON: Are they saying that the total increase is based on the rise in the maximum ceiling?

MR. CONBOY: No. I would suspect that we know that from 1981 to 1982, virtually all classifications were increased. But the point is that if you're in a particular type of business, such as a consulting company, your premiums were based on \$22,500 or thereabouts, you have 60, 70, or 80 technical, professional people at \$40,000 or \$38,000 working in that office, your assessment is going to jump from \$22,000 to \$40,000, without a doubt.

MR. CHAIRMAN: But then, Mr. Conboy, you state on page 2 that you "fully support the

concept of reasonable workers' compensation". Is it reasonable for a worker earning \$40,000 to receive 75 per cent of \$22,000 when he's on compensation, which they were receiving prior to '82?

MR. CONBOY: It's Mr. Ray Martin's question. I think it's twofold. Is it reasonable? I don't know.

MR. CHAIRMAN: You used the word "reasonable".

MR. CONBOY: We think it isn't reasonable to assess the people at \$40,000 in offices and in areas where they're not exposed to accidents to the extent they are. We say: look, the average payout was based on \$23,000; what are we doing up at \$40,000? Can business afford it? Can they afford the going rate? I think other provinces have looked at that, Mr. Chairman, and we ask you to look at it. I don't think it's reasonable to expect a payout of 75 or 90 per cent of a net of \$40,000.

MR. PAYNTER: Perhaps I could just add something to what Peter said to Mr. Thompson. The impact that all employers feel is that if the rate is \$1.50 per \$100, one year it's \$1.50 per \$100 on \$22,000; the next year it's \$1.50 per \$100 on \$40,000. You've essentially doubled the assessment. Granted there are some experience factors that have to be calculated in there, but the basic impact is almost a doubling of everyone's assessment in Alberta.

MR. THOMPSON: Excuse me, but not everyone in Alberta makes \$40,000.

MR. PAYNTER: But employers are charged the particular rate times \$40,000.

MR. THOMPSON: No.

MR. CONBOY: No. Up to the maximum of \$40,000.

MR. CHAIRMAN: No, Mr. Paynter. I'm sorry, but you disappoint me, when you've been doing the study. The assessment is based on the actual salary of the worker.

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

MR. CHAIRMAN: That's right.

MR. CONBOY: What Mr. Paynter is saying is that if it was reasonable, if we went up to \$40,000 — and initially there was no ceiling — then surely the compensation classification rate for that particular industry, if it's a technical service with professional and technical people, should decrease. It didn't decrease, Mr. Thompson. It went up also. Not only did it also go up but employers found it very difficult to understand why it went up, because they were told that all the medical costs, which are about 43 per cent of the claims, according to the publication, were not going to be charged to us also. But that was four years ago. We are going to get them back now. That's why the deficit is \$101 million and not \$76 million, as it says in the annual report.

MR. CHAIRMAN: It said \$101 million in this report.

MR. CONBOY: Did it?

MR. CHAIRMAN: I want to say thank you to you. We've used up our time. Thank you for your presentation. I will send you that survey, Mr. Conboy, if you would leave me your card so that I won't misdirect it, and look forward to further response from the chamber on Mrs. Fyfe's request. Okay?

MR. CONBOY: Yes. We will get back to you. Thank you very much for your time.

MR. CHAIRMAN: I would like to call Dr. Markham to come forward, as soon as the lady and gentleman vacate the desk.

Dr. J.W. Markham

MR. CHAIRMAN: Dr. Markham, please be seated.

DR. MARKHAM: I would like to introduce Mrs. Donna Lentjes, a collaborator of mine. Mrs. Lentjes is a nurse who is also interested in the same area.

MR. CHAIRMAN: Thank you very much. It will improve the presentation, I'm confident.

I want to just announce that after Dr. Markham's presentation, we will have a coffee break or seventh-inning stretch. If there are any claimants or employers that have a personal concern with their relationship with the Board, we would welcome you to come forward and speak to the staff during the coffee break. We accommodated some yesterday, and we will do that again today. We are on a fixed schedule for the full day. I can't promise you some time after the day's hearing, but we usually try to accommodate that. However, the interest in Calgary is such that it may not provide for that. Again, a claimant or an employer with a particular individual problem with the Board, the staff would be pleased to look into it.

Dr. Markham.

DR. MARKHAM: Good afternoon, ladies and gentlemen. I believe you already have a copy of the submission which I made, concerning the provision of in-plant occupational health and safety services of good quality to small work places. I have other copies of that available if anyone present would like to refer to one. If I don't have enough, I would be very glad to send copies to them if they give me their address.

I think the last speaker commented on his appearance. My real appearance should be in work clothes and a hard hat, because I am an occupational health worker. The uniform I am wearing at the moment is as a professor of Community Health Sciences at the University of Calgary, so don't be misled.

We have heard the very real dilemma of the increasing cost of workers' compensation. I would submit that while this is a very real problem, it might be constructive — in addition to discussing the sharing of costs between government and the Board, and benefits that should be paid — to attempt to attack the burden of ill health and disability in the work place. This is a familiar thing to the Workers' Compensation Board. The Workers' Compensation Board contributes to the occupation health and safety protective agency and, of course, it has given merit rebates to people who have a good record in terms of preventive work, preventing illness and accidents.

However, I think the picture is changing. You may think that at the moment you have a bad situation, but in the 1982 Act you have redefined the term "accident" to include industrial disease. Recent developments concerning the employment of women, where at least in the United States — and I imagine Canada is similar — nearly 60 per cent of women are at work during the first six months of their first pregnancy and when, quite rightly, women are being allowed to enter the work force in all departments, the

work place is becoming almost a pre-nursery. Now what is the implication of, first of all, long-term compensation for industrial disease, with conditions of a 20-, 30-, 40-year latent period and, in addition, perhaps even cross-generational claims in the future? I don't want to frighten you when you already have enough problems, but I am telling you what you already know. It may suggest that we should have a long-term preventive policy in addition to a short-term preventive policy for accidents.

What do we have? We have mounting premiums in spite of having one of the best professionally staffed state agencies in Canada. I say that with no sense of trying to be complimentary; it's a fact. Merit rebates are useful. But it seems to me that there's a whole area of prevention which is not being attacked; that is, the in-plant occupational health service which works from within a place of employment, by direct contact on a day-to-day basis with workers and management, and which works with them to reduce this disability and illness load which everybody wants to reduce.

How are we covered in terms of in-plant occupational health services? We know that all big firms and organizations have occupational health and safety services. It's good business, and it's humanity. I think it's something that this society must aim for. But in Alberta 70 per cent of workers work in organizations with under 600 employees. What is the coverage of in-plant health protection in places like that? I can't give you precise figures, but I can assure you — partly on the basis of figures produced by your own protection services — that with under 200 employees, it's quite rare to have in-plant occupational health services to look at the ongoing safety and health protection of workers.

By international agreement — I will just run over these services quickly. They should provide environmental health protection, a safe work place, and they should try to do so in terms of accident prevention. They should keep an eye on the health of the worker who is exposed to some hazard; they should be protected. But just in case it fails — like noise, for example — they should monitor it and make sure the worker is properly protected. There should be emergency treatment and first aid training where it's applicable; the adjustment of work to a person's ability, so people are not forced into situations or don't have to keep on going into situations where they may not be able to cope.

It may not be theoretical to suppose that we should keep and analyse health records for all workers, in small work places as well as large. This is not only so for justice to the worker who has been exposed. If he has been exposed to asbestos, there should be some record of his exposure. If you can see that there is some deterioration in his health over a period of time, I suggest there should be a record. Not only does this help in determining the person's entitlement to something to which he's entitled; it also helps to prevent unjustified claims, and these may be of a lifetime character. Of course, there may be a place for things like alcoholism programs and fitness programs. These have their own particular ethical problems and so on, but we can see that suitably done, they may contribute to the occupational health care of the working community.

Why is it we hardly have any in-plant occupational health services for small work places? I worked in an early one of these in London, England, and we covered 80 small factories with 8,000 workers. It was damned hard to get people to join. There are various reasons it is hard to get this kind of thing going to a good quality. Is it worth anything to the worker or the employer if it's not of good quality? No, it's not. Would we have a hospital that wasn't accredited, and send people there for treatment? No, we wouldn't.

What about occupational health services? It would seem that if we want to have a good-quality occupational health service for workers in small industry, we have to have service which has the right skills: some environmental skills, accident prevention, ability to measure a poisonous fume, and ability to come up with decent answers. It should have

some kind of health surveillance from doctors and nurses. It should be tied in at the work place with management and workers, who know the problems, who know the incipient problems, the planning of what's going to be done next month, to get in there early.

How the heck do you start a service like that when you don't have a single member? Where does the money come from? Is an entrepreneur going to do that? I will tell you from my experience of trying to sell it in London, England, he would be a damned brave entrepreneur if he did. How did we get over it? We got over it by having the Nuffield Foundation give us money. It sank every year, and we had to get members. Finally, after five years, we were self-supporting. Twenty years later, that service still exists in London. But there are very few like it, for that same reason, I suggest.

First, to make the thing work, I suggest that we need a minimum economic size for that service, so you can employ the range of skills which you need to offer the workers and management a decent service. We have to get enough firms within a certain geographical area to join, to make the thing float. Remember, a service like this has to take responsibility for people's health; it doesn't just come in and answer a question when somebody thinks of something to ask. It should have some continuity of care. And because this is a very difficult pattern to institute in small industry, it's very difficult to get both sides of industry. What the heck is the role of that service? How do you use it? It's a fairly dilute service.

As a worldwide pattern, Canada, Britain, and the U.S.A. are a long way down in the provision of occupational health services for small industries. I submit that is for the reason I have stated. Many European countries do it, and they use regulation. I suggest that in Alberta today, regulation is an unacceptable solution to the problem, to say that you will bloody well join. You may have different views if a service which is of good quality and economical is available. Will education and volunteerism do it? I think our experience over 20 to 25 years in the U.S., Britain, and Canada has shown that it won't.

However, I suggest that if the Workers' Compensation Board were to recognize that people should not only receive a merit rebate if they have a good record in the short-term stuff, but they should also receive some recognition for the health and safety protection of their employees for the efforts they put in by internationally accepted standards. If there were some rebate of what they have to pay, to recognize the fact that they're trying to prevent costs for the Workers' Compensation Board and recognize their responsibility in the long run, down the road, then I suggest it would be quite possible.

I have gone into the details as to how this might be implemented — and I say "might". This is not something that a pair of people can talk about and say, this is the best way to do it. It has to be done by consultation between both sides of industry and government, and I would hope the health professionals. How could this be done? What would the premium remission be? Who would provide the service?

To set this up right away as a private thing would be pretty difficult, but it might be done, providing it was obviously good business for the industry to join. For example, a premium remission that I suggested would give a \$4 per cent premium firm, roughly speaking \$100 a year that could be spent on this service of good quality. There are other people who could provide it. For example, the local authorities already have to provide services for their own employees. Therefore, if they were to also provide services for small factories, on repayment, on a per employee per year cost, it would mean they could increase the size of their protective service for their own employees. This would help them give a better service to their own employees, in addition to providing a public service — a voluntary service, of course — for other places in the city.

I won't speculate further, except perhaps to say that if this idea appeals to the Workers' Compensation Board — it is, incidentally, similar to an idea used in Japan and in other parts of the world where social security remissions are given to people who, after

all, take care of their own shop with their own workers — we might consider a pilot scheme in Calgary. We from the Department of Community Health Sciences do wish to carry out a research project, where we will try to see how many in Calgary have coverage for these kinds of services for their workers and would like to join a scheme of the kind I have described, under conditions of various rebate remissions. We may find at the end of it all that they just don't want it, even with the rebate remission, but we propose to try to find out.

I would very glad to answer any questions, Mr. Diachuk.

MR. CHAIRMAN: Possibly I could just ask you, to kick it off, Dr. Markham, if you are familiar with the program in Red Deer that the Red Deer public health unit is involved in with small businesses in the Red Deer area?

DR. MARKHAM: Indeed, and I think that really is an example to the rest of the country. It has a problem — and I am not now being directly critical at all of Red Deer which, as I said, is something that I admire. If you provide services from the public purse for health, they are apt to be a bit of a blank cheque. I think our experiences with Madam Begin teach us that it is very difficult to finance infinite health expenditure from the public purse. The British national health service, which is at the moment foundering somewhat on the rocks, I think — you can gather from my accent that I've had some experience — is one.

Although I admire that model — and it's very similar to the Quebec model, and they are also having trouble with their budget, I understand, and with the implementation of their very visionary scheme to provide occupational health services for small work places from community health centres — I believe that in fact there isn't much service visible yet. This stuff doesn't come cheaply. Equally speaking, it shouldn't be a blank cheque.

MR. CHAIRMAN: Thank you for your observations.

MR. MARTIN: Just to make it a little clearer, who would you see as part of the staff on this, because we're getting into costs?

DR. MARKHAM: Say, for example, we were looking at what I call the minimum economic size; that is, you want to get a team of preventive health workers together. I need not add, not curative health workers; I didn't say that. I should have done, shouldn't I? You would certainly have a safety officer. You would want to have nurses. You would want to have environmental hygienists. You would want to have some physician input, but they are apt to come a bit expensive these days. They may get cheaper as time goes on; I'm not sure. They would simply be the professional input who would in fact be working with the real people who provide health at the work place; that is, the managers and workers, because they are the people who are going to provide the healthy, safe working conditions. The professionals are simply a resource to work with them, through whatever agency is appropriate to that industry.

MR. THOMPSON: Mr. Chairman, to the doctor. This includes industrial disease but goes far beyond this, more or less. How do you expect to get the medical records? It seems that those are pretty confidential documents with the medical profession. I don't know how you're going to have a health scheme over here and a health scheme over there, without some kind of liaison.

DR. MARKHAM: Yes. The question of how to co-ordinate the information system, I think certainly to provide evidence about the health of the work force, is an extremely

thorny task. At the moment I am actually the chairman of a subcommittee on data collection of the task force on the health surveillance of Canadian workers for the Department of National Health and Welfare, so I have become acquainted with what we would like to do and the problems that you quite rightly point out.

I think whatever you do with health information concerning individuals has to be done with their permission; once more, not only their permission but their willing permission. Say, for example, you had records on a person who had been exposed to asbestos. I suggest you should have records of not only his health but his exposure. In asbestos that's all you may have. Therefore, that would only be released with the person's permission. But in the case of a compensation claim, it would pay them or their family to have it released. I suppose the Workers' Compensation Board might feel that they wouldn't be willing to pay compensation in a doubtful case, unless they had that evidence.

Now what would happen if the person refused permission? Again, I would think that might have some influence on the decision of the Workers' Compensation Board in deciding whether to grant the claim.

MRS. FYFE: Mr. Chairman, I would just like to ask a question regarding the project in London, England. Were there studies to determine the effectiveness of the program, compared to other areas that didn't have this voluntary program? Were accidents actually reduced?

DR. MARKHAM: The one that I was doing in London, England, was not specifically oriented toward accidents. Actually, in the England of those days — you realize I'm talking about 25 years ago — the idea of accident prevention and injury control was in its infancy. One of the things we had to do was sell ourselves to employers, entirely voluntarily. Therefore, we were not effective in terms of accident prevention and injury control to a point where you might have said that we could really test our effectiveness. We attempted to test our effectiveness in terms of environmental change, which is a kind of process thing, but we didn't do it comparatively with other areas.

MRS. FYFE: Has there been any work done on the programs initiated in Japan, or have you done any research elsewhere to look at the effectiveness? I agree that there is a lot of concern in smaller businesses that just don't have the excess dollars to spread across the safety officers or whatever other requirements are necessary.

DR. MARKHAM: It may well be that Mr. Smith may be familiar with this. But I am not aware, in the case of small work places, of objective evidence compared with comparison groups that shows benefit from it. One is, of course, aware of more general evidence in terms of the provision of occupational health services; for example, where there have been cancer outbreaks in connection with nickel refining and, following intervention, the cancers cease to occur; in the case of lead poisoning, the intervention by an in-plant service and the reduction in lead poisoning. I think there is a good deal of evidence concerning the effectiveness in large industry concerning safety or injury control programs.

Therefore, I think the straight answer to you is no. It's very difficult to do such a study. It would be very nice if we could do one here, is perhaps the facile answer.

MRS. FYFE: How much would such a study require in upfront costs?

DR. MARKHAM: I haven't tried looking at that one.

MR. CHAIRMAN: Careful on the figure; it's being recorded.

DR. MARKHAM: I couldn't give you an off-the-cuff one, but I would be glad to try to produce a plan, if you wish.

MR. CHAIRMAN: Dr. Markham, something that I thought I would ask your colleague, the nurse — and tongue in cheek because of the fact that you have reflected the costs. One of the presentations today was on the cost of compensation and all the health and safety programs. Why must we have a doctor's approval for the nurse to do preventive inoculations and all the other injections in a work place?

MRS. LENTJES: I guess the way I would answer that is the doctor is the back-up for many aspects, from his knowledge background and clinical expertise, but it may not be necessary to actually supervise the nurse giving them.

MR. CHAIRMAN: Well, you know the program in Alberta. Almost annually I am faced with it almost annually: for some reason nurses need approval of a doctor; yet every time I have been in a hospital, the doctor is usually at his office and not supervising when the nurse is giving me an injection.

MRS. LENTJES: I guess one response I might make to that is it becomes a legal problem in that nurses are not, by Canadian or Alberta law, authorized to act in a nurse/practitioner role and take that kind of responsibility. There has been move in the States for this to happen, and that may be the route to go if you're looking at costs.

MR. CHAIRMAN: That's why I thought I would ask you. I will let Dr. Markham give us his comment, because being in the field he's in, he's seen the other area. We have a supply of occupational health nurses in this province. Recently I met with Liz Dawson, and she is confident that most of the occupational health nurses are in industry; very few are not practising the profession that they took additional training in. But I cannot understand it, because I can appreciate the cost to industry of having a doctor — and they don't come cheap — to pay for the cost of preventive medicine.

DR. MARKHAM: Perhaps I could answer it and keep myself out of too much trouble with my colleague . . .

MR. CHAIRMAN: That's right.

DR. MARKHAM: . . . by saying that in the central Middlesex industrial health service where I worked, the nurse did function in an extended role. The nurses, of course, were never asked to do something they weren't trained to do, but they were allowed to use their own judgment as to whether they asked a doctor. So indeed, the service functioned with the nurses performing what you might call the major medical role, but they had the physician back-up if they wanted to ask for it.

MR. CHAIRMAN: Thank you, and your colleague, very much for your presentation.
We will have a seventh-inning stretch, a 10- to 12-minute break.

[The meeting recessed at 3 p.m. and resumed at 3:15 p.m.]

MR. CHAIRMAN: If we can reconvene and accept the courtesy of the people present to give us their attention, we will now request the representatives of the Prairie Implement Manufacturers Association.

Prairie Implement Manufacturers Association

MR. CHAIRMAN: I gather Mr. Boulanger, sitting in the centre, is going to be the lead-off batter.

MR. BOULANGER: No. Mr. Bill Spiers will be the spokesman for our group, and I and Mr. Kuelker will be taking certain segments.

MR. CHAIRMAN: Mr. Spiers, we have a half-hour. We would like to welcome some opportunity for clarifications or questions, but you may have some overriding comments. Go ahead.

MR. SPIERS: Thank you. This is a presentation from the Prairie Implement Manufacturers Association with respect to Alberta workers' compensation. I, Bill Spiers, am president of the association.

The Prairie Implement Manufacturers Association represents over 100 farm equipment manufacturers based in the prairie provinces. Twenty-five of them are located in various communities throughout Alberta. We appreciate this opportunity to present our views, concerns, and recommendations with respect to the Workers' Compensation Act. Our association fully endorses the recommendations contained in the Industry Task Force brief, which we understand has already been placed in your hands. It is therefore not our plan to elaborate on further recommendations by the Task Force but to emphasize a number of recommendations that are of particular concern to us. In addition we will touch on a couple of areas that were not addressed in the Task Force brief.

Somewhere along the way, the basic purpose of workers' compensation has been lost. For whatever reason, it has become a social welfare program that goes far beyond the original concept of providing reasonable income and rehabilitation costs for injured workers. To put it mildly, we are very concerned — if not appalled — at the spiralling workers' compensation payouts, which in turn have pushed assessment rates to an unacceptable high. The burden on our members has become very heavy and has harmed their competitiveness in both national and international markets. In a period of deep economic recession, it is difficult to understand how anyone could agree to the shockingly large increase in expenditures between 1981 and 1982: compensation, \$91 million, up 40 per cent; pension awards, \$135 million, up 31 per cent; medical aid, \$39 million, up 32 per cent; administration and general expense, \$23 million, up 26 per cent.

It is interesting to note that the assessment rate for agricultural implement manufacturers in Alberta, class 8-03, is \$4.75 per \$100 of payroll, while the rate in Saskatchewan is \$2.25. It is of little comfort to us that the Board decided to freeze the rates at \$4.75 for 1984. Alberta employers should not be expected to shoulder the financial load that workers' compensation legislation has placed upon them. If government wants to provide injured workers with extras over and above what they might reasonably expect to receive, then it should look to some other source for funding.

There is an urgent need to re-examine and overhaul the workers' compensation system and make such changes as are necessary to return it to its original concept. With this in mind, we wish to emphasize the following points.

At this stage, Chairman, I would like to have Clem and John come in on it at various points. Right now, Clem Kuelker, please.

MR. KUELKER: Item No. 1: although employers fund totally the cost of workers'

compensation, they have little if any say in how their money is spent. As a result, costs have gotten out of control. People tend to be more generous when they are spending someone else's money. It is therefore not only very important but also very right that industry become involved in Board decisions, to ensure that its dollars are spent wisely.

We recommend that the advisory committee, or a workers' compensation council, as recommended by the Industry Task Force, become more involved in the affairs and decisions of the Board, so it will be more accountable to industry.

Item No. 2: there is little doubt in our minds that compensation is being paid to persons who should not be entitled to receive it. Section 19 is much too generous in its interpretation of who should be entitled to receive compensation, having in mind that it is totally funded by the employer. Where a decision is made under section 19(2) to pay compensation to a worker who suffers personal injury that is attributable to the serious and wilful misconduct of a worker, it should not be paid from the Workers' Compensation fund. If the Board wants to compensate such a worker, it should find its money elsewhere. Section 19(2) reads as follows:

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.

Section 19(3) should be rescinded. It purely and simply gives the Board the authority to pay compensation on behalf of an employee who is found dead anywhere near his place of employment. It reads as follows:

If a worker is found dead at a place where the worker had a right, during the course of his employment, to be, it is presumed that his death was a result of personal injury by accident arising out of and during the course of his employment, unless the contrary is shown.

Section 19(5) stretches the point beyond the original intent of workers' compensation. It reads as follows:

If a worker is required as a condition of his employment to attend any classes or take any course of instruction, the classes or course of instruction are, for the purposes of this Act, deemed to be part of his employment.

Recommendations are that section 19 of the Act be rewritten to exclude coverage for any worker who suffers personal injury because of his or her wilful misconduct, and (b) clearly and specifically define the actual place of employment and limit the eligibility for compensation to that place of employment.

MR. BOULANGER: I'll take item 3, which has to do with Bill 38, medical aid. The Alberta Health Care Insurance Amendment Act, 1983, resulted in the passage of a Bill which, in our view, is inexcusable. It was passed despite the recommendation of the 1980 select committee that Alberta health assume responsibility for medical aid related to occupational injuries, thereby ignoring pleas by the employers to be reasonable. This is just another example of why workers' compensation costs are accelerating beyond reason. It is wrong.

We recommend that Bill 38 be repealed without delay, and that Alberta health care be charged with the responsibility of providing medical care related to occupational injuries.

Item 4, the merit/rebate superassessment system. Here again we agree with the Industry Task Force that the present merit rebate/superassessment system leaves much to be desired. Our recommendation is that the submitted format of the merit assessment or excess cost assessment system proposed by the Industry Task Force be carefully

examined, with a view to implementing it as a replacement for the present merit rebate/superassessment system.

MR. KUELKER: Item 5, calculation of income for compensation. Section 51(4) states in part that the calculation for compensation shall be based on each source of employment the worker had at the time of the accident from which he no longer has the ability to earn, regardless of whether the source of employment is in an industry to which this Act applies. Here is another clear example of workers' compensation legislation exceeding reasonable limits.

The recommendation is that section 51 of the Act be amended to provide that the calculation for compensation is based only on a worker's regular net earnings at the place he was employed when injured.

MR. BOULANGER: Item 6, total disability compensation. Section 51(7) of the Act provides that in the case of permanent total disability or temporary total disability, the injured worker shall receive compensation amounting to 90 per cent of said worker's net earnings or average net earnings. At the 90 per cent rate, which is not taxable, an injured worker on compensation can, in certain circumstances, draw more money than if he or she were working. This is a negative incentive to return to work and should be changed.

Our recommendation is that the compensation for permanent and temporary total disability be reduced to 80 per cent of net earnings under section 51(7), and likewise proportionately that part of 80 per cent of the net earnings under section 51(8).

Item 7, maximum wages for assessment. On January 1, 1982, the maximum wage for assessment purposes and compensation benefits was increased from \$22,000 to \$40,000. It is difficult to understand how such an unprecedented increase could be sanctioned. It simply doesn't make sense. The maximum weekly compensation in Alberta is well above all the other provinces and the Territories, save for Newfoundland — for whatever reason. This is another unnecessary cost to employers. If additional coverage is desired for highly paid employees, it should be that employee's responsibility to purchase additional insurance coverage and should not be provided by the Workers' Compensation Act.

Therefore our recommendation is that the \$40,000 ceiling be reduced to the average worker's weekly wage, which in 1982 was about \$23,000.

MR. KUELKER: Item 8, pension indexing. We do not argue the question of whether or not permanently disabled workers should receive indexed pensions. What does concern us is that employers apparently are paying the cost of indexing. In our view, employers should not be expected to pay for costs that are beyond their control. Inflation is beyond their control and should be paid from general tax revenue by all the people of the province.

We recommend that the employer not be required to pay the cost of pension indexing but that it be paid out of general tax revenue.

Item 9, integration of compensation with other income. We agree with the Industry Task Force recommendation that injured workers who are able to work either full or part time, should not draw full compensation. In such cases compensation should be reduced so that it, together with the worker's ability to earn, will equal his or her previous earning capacity. Similarly, compensation should be adjusted for disability benefits under the Canada Pension Plan.

We also agree that disability pensions from Workers' Compensation should end at age 65. The compensation for loss of retirement pension should be integrated with the CPP and old age security payments.

MR. BOULANGER: Item 10, access to information. Again, we agree with the Industry Task Force that employers should be entitled to access all information about previous or present claims of persons employed by them and that, upon request, such information should be made available to the employer by the Workers' Compensation Board.

MR. KUELKER: Item 11, safety education. We agree with the Industry Task Force recommendation that a more co-ordinated approach to safety education is needed and that workers' compensation funds should be used to promote and develop the kind of industry-wide programs proposed by the Task Force.

MR. BOULANGER: Item 12, exempted industries. Workers' compensation regulations provide that employers and workers in certain industries are exempt from application of the Workers' Compensation Act. There are more than 200 industries with exempt status listed in regulation 1187/81. Presumably the industries in question — for example, teachers, bankers, dance studios, game farms — have been exempted because of minimal accident risk in these occupations. In our view this is discriminatory.

There should be no exceptions to coverage under the Workers' Compensation Act, regardless of the degree of risk. If the practice of exempting certain industries continues, then the same exemption should be available to the industries now compelled by law to comply with the Workers' Compensation Act.

We recommend that all Alberta industries be required to contribute to workers' compensation.

MR. KUELKER: Item 13, the shared premium costs. As almost everyone knows, employers are required to pay the total workers' compensation premium. We believe that employers and employees should share the premium cost in the same way unemployment insurance and Canada Pension Plan premiums are shared. We believe the workers would be more safety conscious if they were required to contribute to their own compensation plan.

The recommendation is that serious consideration be given to sharing workers' compensation premium costs between employer and employee.

MR. SPIERS: In conclusion, we would like to assure the select committee members of our commitment to the health and safety of workers employed in our industry and our commitment to the principles of workers' compensation; that is, to provide injured workers with reasonable income replacement and rehabilitation. Our only concern, as already indicated, is that the basic purpose of workers' compensation has been lost sight of. Our recommendations are designed to bring that basic purpose back into focus.

Thank you very much.

MR. CHAIRMAN: Thank you. I have to excuse myself; I have to take a phone call. I'll have Mrs. Fyfe share this continuation of exchange.

MR. R. MOORE: In your submission, you have that disability pensions would cease at age 65. If I remember right, the Industry Task Force said that old age security would be reduced by the amount of the Canada Pension Plan, but you have that they would cease at that time. Is that your intention?

MR. KUELKER: We have looked at this at great length, and certainly we're not trying to create any type of hardship. Our philosophy as such is that an employee normally retires at age 65 — or at least a great many of them do — and has or should have provided, or

will provide, for his retirement after age 65 by paying into a pension fund during the span of his working career, and/or with the supplement of Canada Pension and old age security. So theoretically he should be no worse off with these incomes than he would be had he not been injured at that point. We don't really feel that the industry should be responsible for this man beyond that point, keeping in mind that many injuries really happen not only because of the employer providing an unsafe environment but also because the employee didn't exactly watch what he was doing.

MR. R. MOORE: The other point you bring up — and we haven't heard this very often — is about the recommendation for the compensation premium, that the cost be split between employer and employee. Have you given that much thought, or is that just an idea or thought of how that would be? What would be a fair proportion? How do you divide up the responsibility toward that premium?

MR. KUELKER: I know it is a bit of a tough thing to go to the employees now and say, from here on in you're going to have to share this cost fifty-fifty. We also know, though, that if incentive for more care is given, through whatever means, this additional care is being taken so that no injuries occur.

I think we are all in this together. I think we've got to realize that. The industry is providing work for the work force in an effort to provide a living for everybody, and I'm quite sure that in today's environment we're not any more in that excess profit situation that some industries may have been in over the past. So anything it takes to curtail, or give some incentive to be more careful and more interested in what the individual is doing, will help.

Off the cuff, and it's not in these recommendations — it has been thrown around; I've heard it in the circles here — should the first day of accident be paid by the employer? Should the second or third day also be paid by the employer? Or should the first month even be paid by the employer to the worker? All these things would certainly reduce the cost of operating the Board itself. Hopefully it would. If you look at the statistics in the 1982 report, you will find a total of 74,000 injuries in the province in 1982, of which about 40 per cent were over with within the first three days. So I'm sure the industry would gain a great many premium dollars if they were to pay those first three days out of their own pocket.

To make it a little bit more interesting for the employee, I think that if a ruling came through that the first three days would only be paid at the rate of 50 per cent as his portion towards the system, we would increase this number of 40 per cent first-, second- and third-day injuries by a great deal. I have some examples I could probably give you.

MRS. FYFE: We've got quite a few questions that members want to ask, so maybe you would like to give one example; then we can go on.

MR. KUELKER: I'd like to give you an example. We had a fellow pitching in a baseball game who was injured. He got a direct hit on his cheek, and it fractured his cheekbone. It happened on a Monday night. He had to go to the hospital, and in fact had to be brought to Calgary to repair this damage. He came back to us on Thursday and said, would you be able to employ me at a little bit easier task until I get back into full swing again? He was on a group insurance plan which was only paying 66 per cent of his wages or up to the UIC maximum.

What I'm really saying is that there are many injuries that would not place a great deal of hardship on either the employee or employer to give him a simpler task and, by doing so, reduce the cost. This fellow worked with a pin sticking approximately three-

quarters of an inch out of his head for roughly four to five weeks, until it was removed, and there was no problem. Both he and we could cope with that, and we could provide a living for him. It was not a workers' compensation case. Had it been, I'm sure he would have never even come near the place.

MRS. FYFE: Thank you.

John, did you want to clarify one point quickly?

MR. WISOCKY: Just the point on the statistics. In 1981 we still had the no-lost-time accidents reported to the Board, and there were roughly 75,000 to 80,000 claims. It took a staff of 35 to 40 people to process all those claims. In '82 we had about 3,000 no-lost-time claims, and no staff to do it. In other words, we reduced our staffing by about 40 people.

MR. THOMPSON: I'd still like to speak on the shared premium costs, page 8. From my point of view, at least, you've used an unfortunate example when you used unemployment insurance. To some workers at least, by the fact that they pay into it they look on it as a savings account and make damned sure they get their money back out. I don't say that a person is going to chop off his finger to do that. But I really think that with that and the fact that the workers pay, I wonder if industry is prepared to take that extra worker involvement in the plan. If they're paying into it, they'll be demanding far more control from their point of view. Like I said, this is one of the first times I've heard this, but I wonder if all employers would support your suggestion. Have you talked it over with other people?

MR. KUELKER: It has certainly been discussed in our circles, or it would not be in the brief.

MR. THOMPSON: I don't mean your association; I mean with employers in general.

MR. KUELKER: I wouldn't say that we have not talked it over with other employers, but I'm glad we did bring up something that is new. I hate to make this session that terribly boring. Nobody wants to hear the same arguments over and over.

MRS. FYFE: You definitely don't make it boring.

MR. SPIERS: I would comment on that, regarding the employee taking advantage, saying it is a savings. I know more employees who have not had workers' compensation than those that have, and I don't believe that other than a certain segment of employees think of it in that manner. I don't think it is a general belief.

MR. THOMPSON: I don't either. But I do know that some do — I feel that some do; I can't say I know that some do. I feel that some workers feel that if they pay into unemployment insurance, they're entitled to get their money back out of it.

MR. KUELKER: It's an insurance. That's really what it is. I don't think it's savings, because if he doesn't get unemployed at any given time, he will never collect.

MRS. FYFE: We had a suggestion yesterday from a group of industry representatives that suggested that there are other approaches that have been successful, and it was a carrot approach. Rather than asking employees to contribute, which really goes against the basic principles of worker's compensation — as Mr. Thompson said, if you change the

basic principles, then you would have to look at other ways the whole planet would like to be modified.

John, are you finished?

MR. THOMPSON: Yes.

MRS. FYFE: Okay.

MR. NELSON: I'd like to get into the area on page 4, regarding No. 3. I'd like to pose a question as to why the public system should pay for the injury — this is Alberta health care — possibly caused by an employer's negligence. In many cases there are injuries due to employees' negligence, but also in a lot of cases there is employers' negligence. Why should the public system pay for the negligence of an employer when we have this other?

MR. KUELKER: You have to recognize that all of us are paying into the Alberta health care system, and we're all paying into it for 24-hour coverage. The item that John brought up a little earlier as far as exempted industries are concerned: you're covering all of them under that same system. Why would you single out a, should I say, small portion of society to be responsible for their own accidents and not cover them under that system?

MR. NELSON: I guess another question is where you have high risk industries that have a substantial number of accidents. Just because of the nature of those industries, should the rest of the public pay for the accidents caused through negligence on a jobsite?

MR. KUELKER: It certainly is a debatable question. But obviously in 1981 you did get the answer. You made the recommendations, you brought it through the House, and then in 1983 you decided that that wasn't a good thing and just simply reversed it. Without coming back to industry a year ahead of time or a year later and saying you needed a few more extra dollars if you can do it under the health care system, you simply made the legislation retroactive to 1982, and then came to us and said, it isn't going to cost you any money. I'm not so sure who was doing the calculating, the Board or the government, on where this additional money was going to come from over the next period of years.

MR. NELSON: What I'm trying to find out is where the equity is, where the high risk is. People are being injured or killed on a jobsite through negligence by either party, and the public purse is supporting a system that right now costs \$2.4 billion a year. Where does that end?

MR. KUELKER: Well, if you say that is unfair, we'd simply say it is also unfair that you're just making one portion of the public responsible for it, and the other portion is covered by the public health care system.

MR. NELSON: Well, maybe that's an area that needs to be examined.

MRS. FYFE: I think you'll have to carry on the debate. We have one more question that I think we'd like to get in before . . .

MR. NELSON: I wasn't debating.

MRS. FYFE: Discussion.

MR. NELSON: No, a question.

MR. MARTIN: Because it is new, I'd go back to your shared premium costs. I think people on the other side of the issue might say to you, first of all, that the workers have given up the right to sue an employer, so they've given up something very tangible. They have examples of that in the United States. The other thing they might say in terms of negotiations — if all of a sudden there were going to be some up for premiums, I'm sure they'd be looking to cover that in the wage negotiations. So you might end up paying the same thing anyhow.

MR. KUELKER: I don't think I could buy that argument, because we're still going to have to be competitive as far as the wages are concerned. We're going to have to be competitive with those people in other provinces and in other industries that are not covered under the Act. This is a situation that I have never run into, where we have said to the worker: look what we are doing for you here in this aspect; we have to pay another 4 point some-odd per cent for workers' compensation to cover you. I'm not so sure whether that has ever entered into the negotiations with any of your companies, but that's a new one to me that that argument has been used.

MR. MARTIN: It has been said by some labor people that when they go to negotiation, an employer sits down and says that they're paying this.

But besides that, I'd go back to what compensation is about. The fact is that workers gave up the right to sue their employer, which I'm sure you would agree can be very expensive. They'd say that that's what they gave up; that's their part of the bargain. How would you allude to that in terms of shared premiums?

MR. KUELKER: I think we're well aware of the fact that that is what they have given up, and it is a significant item. I'm not just sure whether that is going to keep holding water. If I recollect properly, right now there is a case before the Ontario courts challenging that type of situation. Still I think what we said right at the very beginning: we are all trying to make this thing work. There is just no way costs can keep on escalating the way they did over the last three or four years, without having to pay the consequences somewhere down the line.

I'll give you a very plain example. When a mini-megaproject is announced in the province, they bring the big guns out from Ottawa, and they have created 90 permanent jobs. I don't think anybody gives a darn how many jobs we're losing in the process because of overpricing ourselves out of the system otherwise. It's a case of employing these people and keeping them employed, and not breaking the companies in the process of doing it.

I have a letter here from a member of ours that says: I simply cannot afford to pay you \$60,000; where am I going to get this money? His premiums went up from \$14,603 in 1980 to \$59,401 in 1983, with the same work force. He states he had 45 workers in 1980, 46 in '81, 46 in '82, and 45 in 1983. He did a study on what it actually cost the Board on his behalf. The Board comes back and says they have managed to pay out for him in actual accidents — if I can just find that quickly here — an amount less than \$4,000. So this fellow is very alarmed. Where is he going to get this money? There it is, \$3,702.

MR. CHAIRMAN: I'm sorry, we must finish off here with Mr. Martin, because we're past the time.

MR. MARTIN: Well, I'd just follow up with that same employee. You know the concept of WCB, and I'm not going to get into that classification of whether it's fair or unfair; it

may be unfair. But for same employee with 45 people, surely if something happened and there was a major suit, that would drive him out of business very quickly too.

MR. KUELKER: I agree.

MR. CHAIRMAN: Thank you very much, gentlemen. We've used up the time and exceeded it. Thank you for your presentation. I regret that I had to take a phone call, but I gather my colleague handled it well. Thanks for coming forward.

MR. KUELKER: Thank you for letting us make the presentation.

MR. CHAIRMAN: Can we have Mrs. Gauthier and Mr. Scratch from Arrowhead Drilling Limited come forward.

Arrowhead Drilling Ltd.

MR. CHAIRMAN: Mrs. Gauthier, you are familiar with the procedure. We have about half an hour's time for your presentation. We have your submission here. We'd welcome any general remarks on your submission and, if time permits, some exchange or clarification and possibly even your colleague Mr. Scratch to assist you.

MRS. GAUTHIER: Oh, he's definitely going to do that, Mr. Diachuk.

Mr. Chairman and members of the select legislative committee, good afternoon. My name is Gloria Gauthier, and I would prefer to be referred to as such. I am the treasurer and manager of administration for Arrowhead Drilling. My colleague Mr. Bryce Scratch is our manager of training and safety.

Arrowhead Drilling opened its door for business January 1, 1980. We presently own 10 rigs, which were all built in the province of Alberta in Edmonton. We appreciate your granting us time to address your committee.

First of all, we want to state that we fully endorse the concept of workers' compensation. Despite the best efforts of people, accidents can and do happen, and we support the payment of financial remuneration and medical costs to those workers who have legitimately sustained injury on the job. However, we have growing concerns with the existing Workers' Compensation Act and its administration. This is what we would like to present to you today.

I emphasize that we are here to address the concerns of our company and our workers only. The Drilling Contractors Association has already presented their submission which, to our way of thinking, was an excellent one. In line with our submission, the first area we would like to expand on is claims. For this, I will turn you over to Mr. Scratch.

MR. SCRATCH: Thank you. As you have already received our written submission, we would like to briefly introduce some recently developed company statistics, and also emphasize some major points. Our records show that 5 per cent during 1980, 15 per cent during 1981, 10.5 per cent during 1982, and an alarming 30 per cent just in the first eight months of 1983 of all compensatory claims processed by the WCB and Arrowhead Drilling, with reports from the worker and co-workers, were of the questionable, unwitnessed, unsubstantiated, and non-legitimate type.

The claimants' co-workers' statements and company investigations have shown that some claims were not justified as worksite injuries. Some, we believe, were initiated by the employee for convenience and financial remuneration by the claimant. An example,

claim No. M2402253: dry, chapped hands; wanted time off to see girl friend; doctor ordered time off. Worker later admitted facts about requiring time off to see his girl friend. Compensation \$412.50; medical \$36.70; pension nil. This is only one example, but the dollars add up. At times the cost of appealing it outstrips the significant reduction in accident experience and should not have been necessary.

The Board has rejected some claims after input from the claimant's co-workers, company investigations, and by the WCB performing their own internal investigations. Although the WCB has not responded to the co-workers' statements in most claims, they have on occasion rejected a few claims, which has helped to control questionable, non-legitimate, industrial claims. However, from our dealings with the Board, response to co-workers' statements has been inconsistent, and sometimes maybe not cordial.

We can show the percentage of claims processed for compensation which have been rejected by the Board through joint action with co-workers and the employer. We are concerned about the alarming statistic of 30 per cent for questionable, non-legitimate, industrial claims.

Just recently the Board rejected as non-legitimate claim No. B2771910 for an alleged back injury. But this is only one example of claim abuse which must be more diligently, effectively, and consistently controlled in the future for (1) maintaining cost levels of claims, (2) maintaining and hopefully improving the co-workers' image of the Board by credibly responding to the co-workers' statements during investigations, and (3) retaining compensation awards for the legitimate and eligible worker.

If money is more prudently allocated to justifiable and bona fide industry accident claimants, there should be more funding available for proper improvement of compensation and/or reduction in overall claim costs. Discussion with our employees indicates that if a person is about to be terminated and/or a job is ending, the possibility of a fraudulent claim increases. I'll give you claim No. B2771910; that's one the Board had just formally rejected, with co-operation. I say that that was a job well done.

Therefore to summarize, we — co-workers and management — feel that in this economic crisis, an individual with limited integrity will attempt to obtain funds from (1) Workers' Compensation Board, (2) unemployment insurance, (3) welfare, (4) fraud or possibly some other criminal act. Why does this Board reward said questionable and possibly fraudulent claims with compensation? If somebody signs this document initiating a claim and the Board rejects it through whatever dialogue it takes, either appeals or whatever, we really question when that cost is reversed from our accident experience and goes into a general fund. To the best of our knowledge, the claimant still retains some of this money. Yet you talk to the people, and they feel that is a fraudulent type of claim. I am not aware of any charges being laid under the Act or anybody with this. I'm not saying it's a mutual concern, but I haven't got that information available.

MRS. FYFE: Did you want to make any comment on that specific question, or do you have any information?

MR. WISOCKY: Just the point that we have had some cases of fraud — what we thought was fraud. We referred to them the Attorney General's Department, and some have been prosecuted.

MR. SCRATCH: Thank you.

Just picking up from the hon. member's discussion at the hearing in Red Deer, where you said it's the duty of people to try to inform if there were complications or problems. We've tried to do that — I have the list here — right back from the first claim all the way through. It behooves us to try to get all our co-workers in to substantiate the data at appeals, let alone go further up the line to Board members and to take this other

action. We'll explain our cost ratios later. The dollars we're talking about are very low, but it is the principle of the fact, for the co-workers and the fellow that legitimately needs it.

MR. WISOCKY: Just a point of clarification. I don't want to leave the impression that we have a lot of fraud cases. It's a rare exception, and it happens once in a blue moon. Your point about collaboration by witnesses and so forth is a difficult area, because if I'm testifying against you, or vice versa, it's a real difficult problem. The Board does the best it can to get the facts and adjudicate on the facts.

MR. SCRATCH: We're trying to reciprocate the facts with you people too, but sometimes something happens and I think we come to a very legitimate decision. Other times it doesn't happen, and the co-workers out there feel: hey, he can do it; why can't I? And that's getting back to this initiative.

MRS. GAUTHIER: I'd just like to expand on Bryce's comments here. Arrowhead Drilling has appeared before the Board to appeal cases three times over the last two years. While this doesn't seem like very often, when we were in Red Deer auditing the hearing, Mr. Diachuk stated that roughly only 1 per cent of all claims in the province of Alberta are appealed to the Board; therefore what was the problem? The amounts involved do not justify the cost of making an appeal. You have to get your people in; you have to travel out. There are other costs involved, which is probably the real reason such a small and insignificant number of these are ever claimed back. We have gone simply because we are there to defend a principle. We believe in the integrity of our workers.

It amazes us that after a thorough review of the cases we have taken — including the claimant's report, our investigation report, the statement of claimant's co-workers — only the claimant is deemed to tell the truth. This is the definite inference to be drawn when he receives the benefit of the doubt. There is no other inference you can draw. We find that it just doesn't wash. I'm sorry; we really believe in the integrity of our employees. We don't think they're there to lie. They have no axe to grind. They're not going to benefit in any way.

So to proceed with our submission, the next item . . .

MRS. FYFE: You're suggesting that in all three cases, you were not successful in your appeal.

MR. SCRATCH: Yes, we were in one. But the Board agreed to extent the benefit of the doubt to both parties. The contact with the Board stated that the costs were removed from our experience. But the worker still retained the funds, and he got them from a reserve fund. I think that's the correct working or whatever. And yet if you talked to the workers, that was a case of fraud. I have the facts here. I've given the claim numbers. If you wish to expedite some of this, if you don't mind, you could either follow that or get it through your own people.

MR. MARTIN: Perhaps you could give it to John.

MRS. FYFE: Yes, leave them with him before we leave. It would certainly help our committee.

MR. SCRATCH: Sure.

MRS. GAUTHIER: While we're at it right here, it might be a good point to interject that

we have often wondered about appealing these kinds of claims to the Board where the Board themselves have made the decision. Perhaps there should be some other panel or some other person of an independent nature who could adjudicate in these cases and who would not be involved either with their decision or our feelings — on a more independent level.

MR. THOMPSON: That's the first time I've heard that, but I've been expecting it.

MRS. GAUTHIER: Proceeding with our submission, the next item you have is merit rebates and superassessments. This is another area we are very much interested in. Bryce, would you like to take over?

MR. SCRATCH: We would like to discuss the merit rebate system with you in simple terms. Let's consider one dollar paid to the WCB. Twenty-five cents is retained by the Board for administration, handling costs, et cetera, leaving a balance of 75 cents. According to existing Board policy and procedures, only the maximum of 33 and one-third cents could be returned to the employer with a creditable accident experience. During 1982 the average cost paid out for claims by the Board on behalf of class 4-03, drilling contractors, before merit rebates and superassessments — this is according to the Board — was 54.6 cents. In other words the cost ratio is 54.6 cents, leaving a balance of 20.4 to be paid out in merit rebates. If we go through the calculation, 75 per cent minus the cost ratio gives you the rebate available. Right? So 75 minus 54 cents is 20.4 cents.

Let us consider the following, according to Arrowhead's accident experience. For every dollar paid to the Board in 1982, 25 cents was retained for administration and handling costs in the Board, and 15.2 cents was paid out for claims on our behalf, leaving a balance of 59.8 cents. We received the full merit rebate of 33 and one-third cents, leaving a balance of 26.5 cents on the table. Is this just? Hence we are suggesting that consideration be given, not only for ourselves but for others with similar experience. A super rebate or some other means should be considered. I've toyed with that in discussions with other people. I think this is something that could entertain a dialogue after the fact here. I tried to come up with numbers, but I'm not an accountant. I would get us in a deficit situation and the Board vice versa. So I think it's a long discussion, but I'm trying to flag it. It should be an area for thought.

MRS. FYFE: Have you taken a look at the proposal put in by the Industry Task Force and the forest products also?

MR. SCRATCH: Not the forest products. I think there's an area of concern. I think what we have to go through here, if I could progress, I have a couple more that I could leave.

MRS. FYFE: Go ahead.

MR. SCRATCH: Our understanding from the recent hearing — and that's the one in Red Deer — was that the average merit rebate, as stated by a Board employee, was in the order of 22.5 cents.

MR. RUNCK: Approximately.

MR. SCRATCH: But that's the case. So after 22.5 cents, then when we received our maximum rebate from the Board this year, we still left more than that on the table.

Arrowhead has spent significant time and money conducting and monitoring programs

beneficial to our workers. Our past record speaks for itself. Our cost ratio, as we said, was 15.2 cents in 1982. In 1980 and '81 we couldn't apply for that, because we were a new company. But in that three-year period our average was 11 per cent, where the industry was 47 in that same three-year period. The costs of these beneficial programs have already been borne by the company. Why should we be penalized by the Board by retaining larger sums?

MRS. GAUTHIER: I would like to add that the WCB assessments have become a very serious cost of doing business, and we as a drilling contractor pay the same dollar per hundred rate for our office staff as we do for field personnel, while our neighbor down the hall, who is a lawyer, pays nothing for clerical people. They are exempt from the Act due to the nature of their business. In 1982 this amounted to \$19,800 for our clerical staff alone. I have heard much about the universality of workers' compensation, and I know that our company is contributing. Is what we have in existence really universality? I wonder.

The next issue that comes up has to do with directors' coverage. This again is an area of concern. Under the last change the option was given a company that does not have employees — only directors of the company — that they can opt out of the Act. They do not have to pay workers' compensation premiums. This is fine, and I have no quarrel with it. There are major corporations that have directors to whom they are paying salaries, and so on and so forth. At the current rates and the current ceiling, it can become a very costly procedure.

However, in our industry we are dealing with very active directors. We are dealing with directors who operate trucks, do welding, and so on and so forth. These people are actively engaged in the field; yet they have no workers' compensation coverage. They have opted out of the Act. We have been informed by the Board that if any of these people are injured — because they are directors and have opted out — we may no longer enjoy the protection offered under section 18(1) of the Act. I take that to mean, actually, that these people can sue us because there is no coverage under the Act for them. Am I right in this, Mr. Diachuk, or can you tell me?

MR. CHAIRMAN: AL.

MR. RUNCK: This is a question that has been raised, and technically she may have a point.

MRS. GAUTHIER: This is something I don't think too much thought was given to at the time, that the coverage for directors was made optional in the companies. It is causing us grave concern because of the people with whom we are dealing. We need them for specialized services that we cannot perform ourselves, and it's something I would much prefer to deal with before the fact than after. I don't want to wait until we're in court to find out what happens. It is something I feel should be addressed. I don't have ready answers; I'm not sure what should be done. But I think it is something some attention should be given to under the Act when changes are now addressed, because I don't really think people are aware of the exposure they presently have.

MR. WISOCKY: Mr. Fawcett has taken the notes, and I suggest that he visit the lady and get some more details, because it's a matter of sorting out — one's a worker and one's a director. This is not the time to go into details.

MRS. GAUTHIER: No, I can appreciate that. Our time is limited here.

The other area we have had problems with has to do with clearances. It came to us

as a great shock, and we learned about it the hard way. We were assessed by the Workers' Compensation Board for unpaid WCB premiums on behalf of a trucker who had gone into receivership. We paid somewhere in the neighborhood of \$2,000. That makes you very edgy.

We are already paying very high costs to workers' compensation on behalf of ourselves and our own employees. So we made it a point to find out what this was all about and have subsequently been running our payables through the Board each month for clearance, to make sure the individual's account is in fact in good standing, that he does in fact have an account, and that that account is in good standing with the Board. We have instituted a company policy that we will not do business with anyone who does not have an account with the Board or whose account with the Board is not in good standing. We are not about to put ourselves in a position where we have to pay extra dollars on behalf of somebody else who is in business.

On the lists I have been sending in over the last year, I am averaging approximately six problem accounts overall. Some months there is minimal — maybe three — and other months I might have six or seven that require follow-up calls. I stumbled onto the deal about directors through this particular activity. We will get a letter from the Board, stating that this company's account is not in good standing. That is all they tell us. So we phone the company. We take the expense of phoning long distance to this individual — none of them are ever in town here — and saying, are you aware that you have a problem with the Board? Invariably the answer you get is: no, I don't know what you're talking about. Or the reverse: what business is it of yours? I would probably say the exact same thing. What business is it of mine, really, that the man has problems with the Board?

It becomes my problem if he doesn't pay his premium, however, because under the existing section of the Act the Board can come after me for that portion of the premium that relates to the work he has done for me. When you phone back to the Board and say: I have this letter in front of me saying that Joe Blow's account is in arrears with the Board; can you tell me if it's been straightened out? You get the answer, I can't tell you that over the telephone.

Economic times being what they are here, we're dealing with a lot of small companies who require cash flow, and they require it quickly. We endeavor to meet our payables every 30 days; in other words, we're not holding onto cheques for people for 60 or 90 days. We endeavor to get them out very quickly. I send my list by messenger to the Board in Calgary, in order to defer any delay through the postal service. I ask that they call me when that list is cleared, and we will pay the messenger cost of picking it up so that again there will be no delay in the mail and so that we can get this money cleared for these people immediately. Then you run into this problem, where they say to you: I'm sorry; I can't tell you that over the telephone — I already know the man is a problem — so I'll have to send you a letter.

They will also only handle three requests on any given telephone call. If I have five or six companies I'm checking on, I can't do it all at once. I can only give them three, and then we go back through this again. I have to wait for them either to send me a letter or go through the business of getting another messenger to pick this up to find out whether or not there has actually been a change in the status of the man's account. I appreciate the confidentiality aspect of it. I am sure these are the instructions these people have been given. I have no quarrel with that. I just think they're carrying it too far. If I already know that the man is a problem, surely to heaven they can tell me if he's paid his bill.

The other aspect of it is that if the man goes in and gives them a cheque, they will not clear it for another 10 days, because they are waiting to make sure the cheque does not bounce. In a sense, I can't quarrel with that either, because I'm sure the Board has

been stung with NSF cheques. I mean, it happens; people do these things. But on the other hand, I'm willing to gamble. If they could just tell me that they have the cheque, I'll gamble that the guy gave them a good cheque and will release his cheque. I'll take the consequences if the thing bounces, because they're going to come back at me anyway. Although I understand that if it's a minimal amount — and I don't know what the Board considers minimal — they probably would not do that.

These are the areas we're running into in trying to get clearances. A lot of our accounts are in the thousands of dollars. I might have an account that is \$6,000 or \$7,000. A rig move can run over \$50,000 or more. I'm not going to release a cheque to a trucker. Too many companies have gone into receivership. But I do want to release the cheque very quickly. It could be three weeks. It could almost be the end of the month before I go through all this hassle to finally get him straightened around with the Board. His accountant says everything is fine, the Board says it isn't, he checks with his accountant, his accountant calls the Board. We're caught in the middle. We're becoming a collection agency for the Board, but we're not getting the benefit of it. There's no percentage fee that comes to us.

These companies are fighting to survive. Our industry needs them. Our industry will not survive without these companies. If anything should upswing, it's going to be very disastrous because so many of them have gone under, especially trucking companies. Again, this is a grave area of concern to us, and I would like to see if something could not be done to expedite clearances through the Board.

Now if there are any questions, we would be . . .

MR. CHAIRMAN: Ray.

MR. MARTIN: Just one. I think you've probably brought out a problem with director coverage, and I know you'll look into it. Do you see a solution to it? If the person isn't, my understanding is that, by law, you could be sued.

MRS. GAUTHIER: Yes. I sought legal opinion on it, and everyone waffles. Nothing has ever been to the courts. Until something is tested in the courts, nobody is really prepared to stand up and be counted.

MR. MARTIN: What would your suggestion be to end the problem?

MRS. GAUTHIER: I'm not sure of the legality of this. But I really feel that if that individual opts out, he is doing it of his own free will and knows the consequences of it. He still should be liable to the Act.

MR. CHAIRMAN: My understanding would be that in the company you name, it wouldn't be an exclusive decision of the director; it should be company policy.

MRS. GAUTHIER: If you only have two directors, Mr. Diachuk, it is the company policy. The man is a director. It could be him and his wife. Maybe she does the books.

MR. CHAIRMAN: Then who would they sue, if there are just the two of them?

MRS. GAUTHIER: I hire him. I pick up the phone and say: Joe Blow, I want you to go over to the depot and pick up some pipe for me and haul it out to the rig.

MR. CHAIRMAN: Oh, I'm sorry I think we're on a different . . . My understanding was that you have a concern that directors can opt out.

MRS. GAUTHIER: I am.

MR. CHAIRMAN: What you're referring to is the independent operator or the small company that doesn't carry any coverage.

MRS. GAUTHIER: No. They are small companies, but they are actually under this area with the directors. We have run into it. I have received a letter on Wolf Transport, which I have right in front of me. I shouldn't have mentioned that, but I am advised that they do not employ any employees other than directors of the company and therefore may no longer enjoy the protection of such and such of the Act. So here I am. This is from the Board.

MR. CHAIRMAN: Al, there's definitely a . . .

MR. RUNCK: Mr. Chairman, the thing here is simply that if you have a limited company and the directors of the limited company have not taken out coverages, they are not workers under the Act. Therefore if they are injured while that company is performing some service, because they technically are not workers, they may have the right to sue.

MR. CHAIRMAN: Yes, I appreciate that.

MR. RUNCK: That's your point.

MR. CHAIRMAN: I appreciate that, but then they fall into the same category: no coverage, no business with your firm. It's like a person that is an independent operator, just a trucker.

MR. SCRATCH: I think, sir, they want to perform a service, and probably they're the people that are going to do the best job for us.

MR. CHAIRMAN: Let's get onto the coverage, because we're running out of time. Go ahead.

MR. SCRATCH: Okay. On the coverage, if they opt out and then something happens on our location, they could turn around and sue us. Maybe one of our workers drops something on them. They could in turn sue us. But if all workers on the site were under the Act, our understanding is that there wouldn't be this suit. So for us to employ people like that, we're putting ourselves in a situation — and I think there are many others out there — which could result in liable action.

MRS. GAUTHIER: We're comparing apples with oranges, are we not?

MR. RUNCK: Excuse me, Mr. Chairman. I think this brings up the other subject we had as the pink card, the confirmation of coverage. I think what he's saying is that today the man may show coverage, and they hire him; tomorrow there's no coverage. It's been rescinded. They have no way of knowing. The individual now has an accident, and they're in a bad position.

MR. SCRATCH: That would be a similar parallel, but the concern was the principle of opting out.

MRS. GAUTHIER: The thing is that this man falls into a separate category from some members saying, if you don't have an account with the Board — either because you haven't got it, or you haven't paid your account with the Board — we won't deal with you. These people don't have to have it. They flat don't have to have it, and still are within the law as far as the Workers' Compensation Board is concerned.

MR. CHAIRMAN: They have to have it on the terms of your agreement when they do business with you. I know that if they went over to the Department of Public Works, Supply and Services, the department would not pay them until they produced coverage.

MRS. GAUTHIER: So you are saying what we should do is force them, even though they are directors, to get coverage.

MR. MARTIN: Maybe ask them about the card, if that would do.

MR. CHAIRMAN: When you made the presentation on the directors, I was looking at the directors that are not involved in the day-to-day work on your site. You are now referring to a small company, husband and wife, and the husband decided he doesn't need coverage. But he needs coverage by the terms of your agreement with your company.

MRS. GAUTHIER: That's true, but on this particular deal or on the particular problem with directors, I guess I have gone beyond my concerns with my own company. I think there are a lot of people who don't realize that there's a time bomb sitting out there that may explode.

MR. SCRATCH: Just to put a typical case: you get, say, an air conditioner that goes down at night in a shack, or something like this — and this has happened — or a furnace goes out. You phone the local plumbing place, which could be anywhere, maybe to pick up at the nearest shop or one that's available to get out there. That principal has opted out, because when you talk to him, the first thing you ask him is: have you got WCB coverage? He says: well, the Board tells me I don't need it. Or you find out after that he has opted out. In that case we needed that individual to do that task at night to keep heating the camp, so we didn't freeze the rest of them. We could then be taken to task, through a libelous action, because we did that. Yet if they were covered and working, it's inequality. There's that term again.

MRS. GAUTHIER: What Bryce is saying is that so much of it we really cannot find out until after the fact.

MR. CHAIRMAN: After the fact.

MRS. GAUTHIER: This is our biggest problem.

MR. WISOCKY: Two points. The example that the gentleman gave — I wouldn't even be worried about whether he's covered or not. It has nothing to do with the Act.

MR. CHAIRMAN: John, let me interject here. According to Mrs. Gauthier, when an audit is pulled on them, and they see that Bill Diachuk did some plumbing service and doesn't have coverage, Bill Diachuk is then charged against them for the assessment because, in the eyes of the Act, he's a worker.

MRS. GAUTHIER: That's right.

MR. RUNCK: I was referring to the example he gave.

MR. SCRATCH: It's a double whammy, you might say. You get one or both.

MRS. GAUTHIER: Yes.

MR. SCRATCH: Depending on the situation.

MR. CHAIRMAN: I think we've got the thing up on the service. I understand what we're talking about. In my relationship with Arrowhead Drilling, that's where they got caught.

MRS. GAUTHIER: Oh, yes. For the example that Bryce is bringing up, this gentleman couldn't get coverage if he wanted it, because he doesn't operate heavy equipment. That's my understanding. As such, he's deemed to be an employer regardless, because he couldn't get coverage anyhow.

MR. CHAIRMAN: Yes. It's part of that proprietor problem that we've created.

MR. SCRATCH: What she's talking about is.

MRS. GAUTHIER: That's right.

MR. CHAIRMAN: Okay. I want to say thank you. We've used up a good portion of our time, but we welcome that. We hope that you can give us input. Particularly the Task Force, but some of them have indicated the card system of prepaying an account; in other words, if that would serve your company as well as others. Give it some thought by checking with some of these subcontractors, the rig mover, or whoever it is. How would they welcome that?

MRS. GAUTHIER: You're talking about a dated card that expires on such and such a date and is going to be . . .

MR. CHAIRMAN: That's right. We would like to consider something like that, that would be a minimum of three months. We don't want the assessment officers chasing, trying to collect money, because they would be using good assessment dollars to try to collect bad debts. But the prepayment of a card, I have been advised by some independent operators, proprietors — the fellow that you referred to, Bryce — that they would prepay a whole year so that they don't have to get a release. Try to get a feel on it from the people that you contract with.

MR. SCRATCH: Yes, but I said in the middle [inaudible].

MR. CHAIRMAN: Thank you very much for coming forward.

MRS. GAUTHIER: Thank you very much for your time.

MR. CHAIRMAN: Calgary Messenger and Courier Association. Thank you for being patient with us. We got into an area that you would maybe welcome.

Calgary Messenger & Courier Association

MR. CHAIRMAN: Mr. Owen, would you introduce your colleagues and yourself. As I said, we appreciate your patience with us while we went a little longer. But as you heard, the discussion was worth it, and we hope everybody will benefit from it.

MR. OWEN: I'd enjoy to, Mr. Chairman, ladies and gentlemen of the committee. My name is Sandy Owen; I am the president of the Calgary Messenger and Courier Association and the assistant general manager of Redman Express Delivery in Edmonton and Calgary and the subsidiary, Jay's Messenger in Calgary.

On my left I have Luc Comtois, who is a director of CMCA and is the owner and general manager of Bow City Delivery in Calgary. Luc will be submitting the historical data and information that we have in our briefs. On my right I have Joe Podiluk, who is the vice-president of the Calgary Messenger and Courier Association and owner and general manager of All Rush Messenger and Road Runner Couriers in Calgary. Joe will be discussing the recommendations of the CMCA.

We represent over 74 courier companies in Calgary. At last check, we found that there were close to 1,000 drivers and support staff within the city. We have an estimated annual payroll of over \$20 million. We feel that if we could prorate our numbers to cover the province, we would be recognized as a major industry. We only ask that we be treated as one.

We would also like to acknowledge that the Greater Edmonton Delivery Association endorses our views, and we likewise endorse the recommendations made by the Industry Task Force. It is our intention to highlight the points written in our initial presentation and its supplement, as submitted to the committee, followed by a 15-minute question and answer period.

Thank you.

MR. COMTOIS: Mr. Chairman, members of the select committee. You have received a brief and a brief supplement, containing all of the correspondence and arguments showing that our industry has been treated most unfairly by the Workers' Compensation Board. I would like to bring to your attention a letter written by our president, Mr. Owen, to Mr. Holmes, director of assessments, on April 26, 1982, requesting a re-evaluation of our rate of assessment.

On June 23, 1983, we received a letter from Mr. Thomson, notifying us of our reclassification. Quoting from paragraph three: "... it will not be until January 1, 1985, that sub-class 7.03 will begin to move to its appropriate rate." Referring to our experience summary from 1977 to 1981, we have accumulated a class surplus of \$815,030. In 1982 our class surplus stands at \$1,213,696, an increase from the last year of almost \$400,000. The surplus now exceeds the yearly annual payments of our industry.

In Mr. Thomson's letter of August 17, 1983, under paragraph 7:

The new subclass will have the entire historical experience of
its constituent industries transferred to it ...

as well as the accumulated class balance. We see no reason why we should continue to be overassessed. There is no justification for any further delay in our reclassification, with the establishment of a lower rate of assessment.

With all due respect to the select committee, is there anything at this time that would allow you to act to correct the situation and make a reclassification with the reduced rate effective January 1, 1983?

Thank you.

MR. PODILUK: Mr. Chairman, members of the select committee. In addition to recommending what Mr. Comtois has introduced — that is, a more speedy or expedited enactment of reclassification and, hence, a rates reduction — in the process of dealing with the WCB during our negotiations as such, we discovered several areas that gave us concern. We noticed that in the groups preceding us, the same concerns were in evidence. They are: the absence of a person on the WCB staff with whom industry can liaise and the apparent lack of understanding of the current industrial requirements as they relate to workers' compensation. In our supplementary presentation, which was distributed to the select committee today, we have enclosed information which indicates that neighboring provinces — namely, B.C. and Saskatchewan — have recognized the foregoing requirements and have installed the necessary mechanisms.

With whom do we consult regarding specific problems? B.C. has appointed an employers' adviser to their staff — perhaps an ombudsman, if you will. The functions and responsibilities of this position are detailed in the last two pages of our supplementary presentation. We are also aware that the province of B.C. allows for more liberal access to company and employee files, which assists in determining employee accident experience and assists the employers in accident adjudication under specific references.

We also have concern over the method of assessment remittance, particularly during these unpredictable economic conditions. A system of payment based on actual payroll experience would be more equitable; that is, monthly or quarterly payments be made based on the immediately preceding month's payroll. This procedure will represent remittance on actual experience and, therefore, eliminate the periodic adjustments or possible overpayments based on estimations of payroll. Again, the above procedures are currently in effect in the province of B.C.

Considering the information discovered during our industry's endeavors with Alberta WCB, it became somewhat evident that the employers who fund the WCB do not enjoy sufficient, if any, input into the WCB Act or WCB operations. Again, we borrow from a neighboring province — this time Saskatchewan — wherein section 162 of the Saskatchewan Workers' Compensation Act provides for a committee of review consisting of five or more members, with equal representation from employers and workers. The committee is to operate a minimum of once every four years.

The general purpose of this committee is to fairly review the WCB Act, the operations of the WCB, and recommend revisions which adequately reflect the current operating environment. An excerpt of chapter W-17.1 of section 162 is contained in our supplementary presentation for the select committee's perusal. Lady and gentlemen of the select committee, we therefore respectfully recommend that provisions existing in the provinces of B.C. and Saskatchewan be examined and considered for adoption by the Alberta Workers' Compensation Board.

Thank you.

MR. OWEN: Earlier today, we heard that the Alberta Trucking Association feels that we are rich relatives. I can understand their concern about losing the reserve surplus that is in our account. What we are concerned about is that our surplus would be sucked up by that industry's rating.

The problem with the courier industry is that our revenue is relative to the vehicle in its average earnings. You must understand that a courier vehicle makes a lot less money than a line hauler, a garbage truck, or gravel hauler. This is why we feel, even though there is a very, very adequate surplus in the account, that we are being overassessed.

It was also indicated that without the Alberta Trucking Association, there might not be any oil patch work for the courier industry. Let us say, not because of the Alberta Trucking Association but because of inefficiencies of other government agencies across

Canada, the courier business has grown to the point it is at now. We feel that businesses are dependent on us; we're not dependent on them. It's really a hand-in-hand situation.

We weren't really interested in asking for a new class but to be placed in a class that was compatible with our experience. We reviewed the surplus funds and, using the basis of the related industries that we'll be lumped in with, we feel that with a \$1.2 million surplus in our account, based on our net assessment, which is less the one-third refund or rebate, we could theoretically sit back and not make any submissions for 2.4 years. There is that much in the surplus fund now. We would like to use that money to operate with.

With that, ladies and gentlemen and Mr. Chairman, we invite your questions.

MR. NELSON: Gentlemen, it seems that your basic concern here is your area of payment into the fund. I guess I would like to pose a similar question to you that I posed to the trucking people this morning. Two of your members that do courier business — and I refer to Purolator and Northern Messenger in particular; and I don't know how many others do interprovince and intercity line hauling. What type of experience would they be placed into? Would they be placed into an experience as you've suggested, or would they stay with the larger trucking industry that is doing line hauls? How would you propose that area?

MR. OWEN: I will answer that the same way that I received it in an answer from the Workers' Compensation Board. With Redman Express, we have over 40 salaried employees in the province that are not active in transportation, in unloading or loading. Many of them are performing clerical duties. But because all of our revenue comes from transportation, those people must be lumped into that class.

It is our feeling that if, through an audit, a company could show that the majority of their revenue was not from courier but from line-haul trucking, they should be held in that particular class, unless Workers' Compensation came up with a split rate. Our records are all available, and we can show our revenue by courier and by our warehousing. Redman Express is not at this point in time into line hauling. So I would have to say that it would be up to the ratio of line-haul work as opposed to courier revenue.

MR. NELSON: So the Board would then have to determine, for someone with the name of a courier, and separate them into line-haul operators as against your basic localized courier service. Don't you create additional workload and administrative costs by playing around with that stuff? It costs you the money.

MR. OWEN: You might, Mr. Nelson. It would cost us a lot less money. I don't think there are that many we would have to deal with. You picked up one, Northern. Northern may be into line hauling, but they are cross-Canada. Redman Express is an Alberta-owned and -operated company — Bow City, All Rush. Of the 74 member companies, I can't think of any more than one that would relate to your concerns.

MR. NELSON: What about Purolator?

MR. OWEN: Purolator isn't a member of the association.

MR. PODILUK: They aren't a member of the association; however, they are a member of the industry.

MR. NELSON: Well, I would expect that even people that aren't members of your

association would have to be given the same consideration.

MR. OWEN: I would tend to think so. But as far as intercity — or city to city, for those who are not used to the term — Purolator and Loomis are basically the only two courier companies that cover city to city. There are many of us that will use other agencies to get something to a destination. Again, it goes back to being an envelope and not 25,000 pounds of freight.

MR. NELSON: I appreciate that.

MR. OWEN: Purolator is basically into light parcels.

MR. NELSON: I trust you guys more than I trust the post office.

MR. PODILUK: Our new competitor.

MR. NELSON: No.

MR. MARTIN: Just to follow up about wanting an employers' adviser. You used the examples, I think, of British Columbia and Saskatchewan. I am not sure of the need for this. Would you explain to me why you see this need? It would be another high-paying position, I would think.

MR. PODILUK: In our dealings with the Board over the last several years, it became very, very evident that we never had any one particular person that we could consult with. We would be talking to Mr. Holmes, to Mr. Thomson, or to other people, which was somewhat time wasting. We had difficulty in actually getting some precise information. It was our feeling that perhaps a very qualified and well-versed adviser, who knew the Board thoroughly, would be a person we could consult with. We could get the answers, and he could perhaps direct us to other areas of the Board with specific problems. I think in the long run, we would probably be saving time for the Board rather than usurping time, and we would be much more efficient in our dealings.

MR. MARTIN: Are the B.C. and Saskatchewan people actually board employees, John?

MR. WISOCKY: No, they are employed by the local ministries of labour, and these are people that have to be trained. What they actually do is go to the boards, get the information, and convey it to the third party. So it really makes sense for the two parties to get back together in the first place.

MR. MARTIN: The point I am driving at — and I am sure you are aware of the Industry Task Force — is that there has been a lot of criticism about the administrative costs and the rest of it. Of course, that would be a cost; you would have to look at it in terms of that. I guess what I'm saying is: is the necessity there, or is there a better way to do it that would be cheaper?

MR. PODILUK: We don't have any other recommendations insofar as alternative systems of perhaps information or liaison with the Board. I am sure that somebody will want to study the cost-effectiveness of this as it relates to Board expenses. But we find that under the present operation of the Board, it is an industry need.

MR. CHAIRMAN: Any other questions? One of the questions I have, Mr. Owen, to you

and your colleagues — we have had a fair amount of representation on reducing the number of classes. You are one of the first groups that is coming out and saying give us another class. I am advised — and I don't have any statistics in front of me — that in Alberta we possibly have more classes than any other jurisdiction in Canada. As Ray Martin said, we also get submissions about the administration costs going up. Can you help us out with this? Your submission is strong. As Stan Nelson said, the truckers, this afternoon, opposed you people breaking away from there.

MR. OWEN: We're not asking for an additional class. But when you are sitting there with \$1.2 million of our operating funds in a surplus account, we are saying: put us into a class that is more compatible with our claims experience.

MR. CHAIRMAN: You are not making representation, then, that you want to be put in with a group of employers that have the same experience.

MR. OWEN: Yes, sir.

MR. CHAIRMAN: What happens if that marriage goes sour, and somebody in there says you are too expensive?

MR. OWEN: I guess they would have to take a look at the claims history of the industry, the moneys available from the industry, and perhaps the surplus funds that are in there now. Again, when you're a rich relative, it's amazing how many cousins are around the house.

I want to make a comment. There were some comments earlier about the spending of Workers' Compensation money. One would tend to think that as long as it is for the benefit of the employers in the province of Alberta, any expenses that are incurred would probably be fair. We have a copy of an advertisement here that was in The Calgary Herald on September 21. It basically says: are you employed by one of the generous companies? This was for donations to the Calgary Philharmonic Society. The Workers' Compensation Board was one. In your frustrations, maybe you would tend to wonder how this would benefit the employer.

MR. WISOCKY: I haven't seen that, Mr. Chairman. But I wonder if that's through our staff association, which is not money collected from industry.

MR. CHAIRMAN: Derrick, could you help us?

MR. PIETERS: Yes, it is from the staff association and does not come from the funds.

MR. CHAIRMAN: Would you straighten out the Philharmonic Society and tell them to put it down to the staff association and not the Board?

MR. PIETERS: Yes, I will do that.

MR. OWEN: I stand corrected, sir.

MR. CHAIRMAN: I had one more question for you. I'm sorry, this one threw me off. I would be just as concerned as you. How would your association assist the Board with the card system which we are considering? About twice a year I get a regular letter from a businessman in Calgary, complaining about messenger service people that are not covered. He suspects, and so forth, that there are people doing business in Calgary that

don't have coverage. Is there any way you can help the Board to remove some of these people that apparently are in competition with you and don't carry coverage? You heard Mrs. Gauthier's representation today.

MR. OWEN: Yes.

MR. CHAIRMAN: You see the dilemma. Do you see where a card system for the small businessman, small employer — limited or not limited — or the independent operator, who is a proprietor, would resolve some of that concern? I am sure the assessment staff of the WCB don't want to go out looking. Periodically in the summer we do utilize university staff to review some firms that we suspect are not complying with the Act.

MR. OWEN: Mr. Chairman, thank God for free enterprise.

MR. NELSON: Amen.

MR. OWEN: In the province of Alberta there are no licensing requirements at all for the courier industry. Where it might be too heavily regulated is in B.C. In Vancouver there are only 36 courier companies. In Calgary there are 74 that belong to the association. The smaller companies come and go, and it's hard to control them. We don't even have any idea where their operations are, if they're working out of a basement or out of an office. If the city had some type of licensing requirement and they let us know, we would sit down with the management of those new companies and try to educate them about the legal requirements of the Workers' Compensation Board and the Alberta transportation Act. There are a lot of companies out there running with illegal plates. We try to reach these people and educate them. We would endeavor to do this. But without knowing who these people are, it's very difficult. As far as any other action, we're not a legal body. There's nothing we could really do other than try to slap their hands.

MR. CHAIRMAN: No. You're a voluntary association. I appreciate that. Your membership consists of firms that voluntarily join your association.

MR. OWEN: One of our by-laws is that they run their business in a professional manner. We feel that not complying with the Workers' Compensation Act is detrimental to our association.

MR. CHAIRMAN: Please don't misunderstand me. I am not saying that a person — Sandy Owen — who has a truck and wants to deliver items should have coverage. We get complaints from people who carry coverage that these firms and these individuals are there. You may want to address it later in your own association. I would hope that a card system of prepayment would resolve it. As I sit here, and being practical, I don't believe it will resolve all the problems that we seem to face with carriers not having coverage.

MR. PODILUK: Mr. Chairman, perhaps we didn't attend the meeting early enough to gain a better appreciation of what the card system might involve. Is there a time . . .

MR. CHAIRMAN: Oh, the card system would not require clearance, not require the principal — if you subcontracted some work, before you paid out the subcontractor for the services, you would have to be assured that the subcontractor has coverage. Presently you have to get clearances, here in Calgary, from the Calgary office.

We really ran into difficulty with the definition of proprietor in January 1982. It was after that that the Alberta Construction Association — and I believe some other employers — came forward with a step what would remove the requirement of clearances. They would prepay their coverage and then have, say, three months' coverage. Every time you have to give them a cheque for their services, you would see their card and say: fine, you're covered; you don't have to get a clearance.

MR. OWEN: I think the question was almost answered earlier by one of your members; that is, how do you control the expiry date of the card? Is it issued quarterly? If a fellow comes through on October 15, does it run until January 15?

MR. CHAIRMAN: Well, we haven't addressed that, but we are interested in input on it. That's why I raised it.

MR. OWEN: We would like to work with it and see . . .

MR. CHAIRMAN: I imagine that in your case, some of your members are doing business for firms and they say: get us your clearance before we give you a cheque.

MR. OWEN: Actually when the Workers' Compensation Board amended the Act on proprietor, it did us a big favor. It was costing us a fortune just to get clearances. When they redefined the driver/owner as a worker, it cut down on a lot of administration, but it created a lot more headaches.

MR. CHAIRMAN: Where were you when my office was flooded with complaints?

MR. OWEN: I am only saying — maybe I should say myself only, at Redman Express. But we have over 1,000 drivers in the city of Calgary. At our peak period, we had over 1,600.

Mr. Chairman, members of the committee, we thank you for your time and the opportunity to speak to you. We hope that you will consider our recommendations.

MR. CHAIRMAN: Thank you very much. We will adjourn and reconvene tomorrow at 9 a.m.

[The meeting adjourned at 4:55 p.m.]