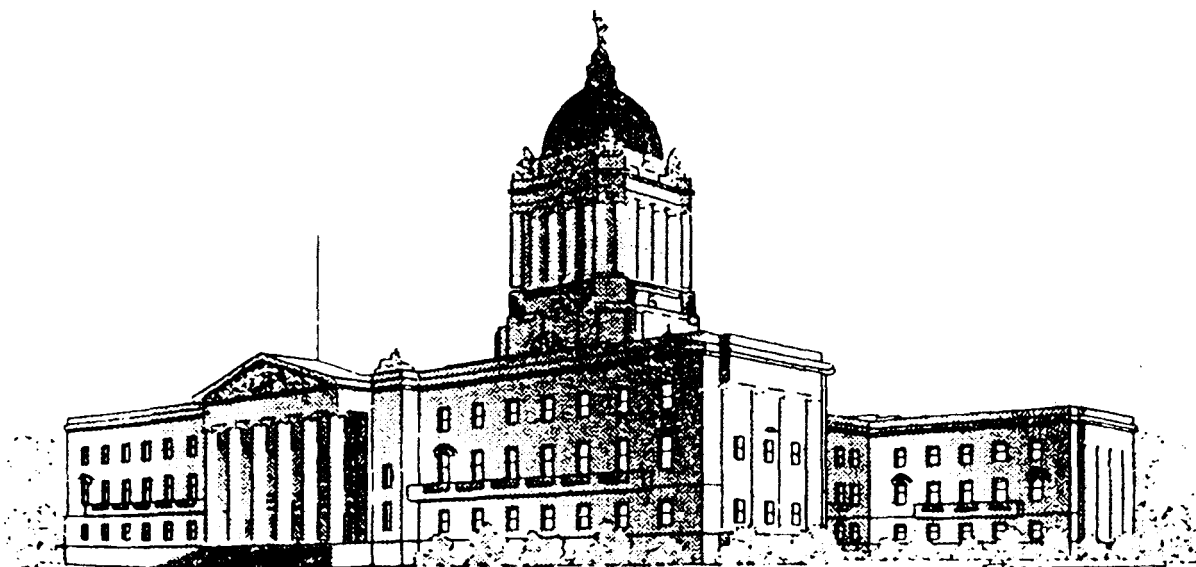




Fifth Session - Thirty-Sixth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Utilities
and
Natural Resources

Chairperson
Mr. Peter Dyck
Constituency of Pembina



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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<i>Vacant</i>	St. Boniface	

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON PUBLIC UTILITIES AND NATURAL RESOURCES

Tuesday, June 8, 1999

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Peter Dyck
(Pembina)**

**VICE-CHAIRPERSON – Mr. Denis Rocan
(Gladstone)**

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mr. Radcliffe

Mr. Ashton, Mrs. Driedger, Messrs. Dyck,
Fauschou, Helwer, Lamoureux, Maloway,
Penner, Reid, Rocan

APPEARING:

Ms. Pat Jacobsen, President and Chief
Executive Officer, Workers Compensation
Board

Mr. Don Paul, Vice-President, Rehabili-
tation and Compensation Services,
Workers Compensation Board

Mr. Alan Scramstad, Director of Legal
Services, Board Counsel, and Corporate
Secretary, Workers Compensation Board

Mr. Wally Fox-Decent, Chairperson,
Workers Compensation Board

Mr. Alfred Black, Vice-President,
Financial Services and Administration,
Workers Compensation Board

Ms. Deborah Vivian, Chief Appeal
Commissioner, Appeal Commission

MATTERS UNDER DISCUSSION:

1996 Five Year Operating Plan of the
Workers Compensation Board

1997 Five Year Operating Plan of the
Workers Compensation Board

1998 Five Year Operating Plan of the
Workers Compensation Board

1999 Five Year Operating Plan of the
Workers Compensation Board

December 31, 1996, Annual Report of the
Workers Compensation Board

December 31, 1997, Annual Report of the
Workers Compensation Board

December 31, 1998, Annual Report of the
Workers Compensation Board

December 31, 1996, Report of the Appeal
Commission

December 31, 1997, Report of the Appeal
Commission

December 31, 1998, Report of the Appeal
Commission

Mr. Chairperson: Good morning. Will the Standing Committee on Public Utilities and Natural Resources please come to order. This morning the Standing Committee on Public Utilities and Natural Resources will be considering a number of reports from the Workers Compensation Board. The reports are as follows: the 1996, 1997, 1998 and 1999 Five Year Operating Plans; the Annual Reports of the Workers Compensation Board for the years ended December 31, 1996, 1997 and 1998; the December 31, 1996, 1997 and 1998 reports of the Appeal Commission. These reports were initially considered by the committee on May 25, and today the committee is continuing with consideration of these reports.

Before we get started with the opening statements, did the committee wish to indicate

how late it wishes to sit this morning, or should we revisit this issue at noon?

Mr. Daryl Reid (Transcona): I am prepared to sit until 12:30 p.m. at the latest, if necessary. I am not sure we will be concluded our questioning at that point, but I am prepared to sit to that period of time.

Mr. Jack Penner (Emerson): Mr. Chairman, I think most of the committee members today will have another commitment at twelve o'clock, and therefore I would suggest that we adjourn the proceedings at 12 noon.

Mr. Chairperson: The request is that we go until 12 noon due to other commitments. [agreed]

Does the minister responsible have an opening statement, and did he wish to introduce the officials in attendance from the Workers Compensation Board?

* (1010)

Hon. Mike Radcliffe (Minister responsible for The Workers Compensation Act): I have no opening statement this morning, and I have introduced the staff on a previous occasion, all of who are well known to this committee and I do not think any further introduction. So with those few words I would invite the parties to proceed.

Mr. Chairperson: Did the critic from the official opposition want to make a comment?

Mr. Reid: I think, for the sake of preserving time here, we will just confine our remarks strictly to questioning and allow that to take place over the course of this morning.

Mr. Chairperson: That is agreed upon. Did any of the officials want to make any comments? No. Then we shall proceed.

How does the committee wish to proceed with this morning? Shall the reports be considered separately or shall the questioning be done on all reports considered together?

Mr. Reid: With the will of the committee, I am prepared to consider all of the reports, and

hopefully by the end of this morning, if we can pass some of those reports, perhaps not the final or current years because there may be still some questioning that I would have in that regard, but I would look towards the end of the sitting this morning to having some of the reports passed.

Mr. Chairperson: Is that agreed upon then that we will proceed with the entirety of the reports? [agreed]

The floor is open for questions.

Mr. Reid: I want to pick up where I left off in the last committee, dealing with Mr. Doug McCulloch. I have gone through my records, and I have found that there was a release form that was sent to me. I am not certain because I do not recollect, I guess perhaps due to the aging process, our memory sometimes fail us. I am not sure whether I have passed this clearance on to the board, but I do have it here and available if they wish to see it. I will pass this across the table to members of the board to allow them to see that approval.

In the case of Mr. McCulloch, I know the board had dealt with this matter after reviewing the situation where Mr. McCulloch had his funds withheld, social assistance monies withheld, that were supposed to have been remitted to the Department of Family Services, I believe, to repay monies that the individual and his family had received. Unfortunately, there was a lien that was placed against the home by social services, and since those monies were not repaid by the board back to the social services, that lien had still remained on the family home. That is part of the reason why I have raised the issue here.

I guess I want to go into the bigger picture in dealing with the McCulloch case to find out about others that may be in similar circumstances because I want to find out where, in the legislation—I know you referenced Section 40, I think (1), last time, but I want to know in the regulations or in your policy book, where you have that specific power to make those deductions and whether or not there is a requirement for you to remit those monies back to the social services agency for which, I believe, was the intended purpose for the

deduction. So I would like to know, from your regulations or from your policy, where you get the power to make those.

Ms. Pat Jacobsen (President and Chief Executive Officer, Workers Compensation Board): I am going to ask Don Paul to outline the actual process and, I think, Alan Scramstad, if he is here, in terms of the legal section for anything that Don cannot cover, in both the overall process and also the specifics in terms of Mr. McCulloch's case.

Mr. Don Paul (Vice-President, Rehabilitation and Compensation Services, Workers Compensation Board): As I had indicated to you earlier, in terms of the McCulloch case itself, it would appear that at least we have done the right thing in terms of getting the money out to the individual with a cheque some time ago, and followed up with a letter of apology with regard to the specific case.

As it relates to the process, I think perhaps the best way for us to explain it to you is that prior to December 31, or January 1, 1992, the board was unable, by legislation, to deduct any monies as a result of, in this case, the social welfare system. Subsequent to that, from January 1, 1992, up until September 1, 1995, the board was of the view, based upon some legal opinion, that any monies flowing as a result of social assistance were considered to be post-injury income and, therefore, deductible.

However, in the latter part of 1995, because of some problems that we were experiencing and the question of fairness, we did, in fact, change our process to work with an agreement with the City of Winnipeg Social Assistance Program whereby a waiver system was put into place. The intent of this, of course, was a win-win situation in those cases where individual injured workers, because of complex claims or the fact that their claim might have been initially denied on appeal, were in dire straits and would only receive monies through the welfare system, that they would be able to receive some monies along those lines while they were waiting for their appeal to go through. We had an agreement whereby the social assistance people would get us a waiver signed by the individual and the injured worker. They would submit that to us in

the event that the claim was compensable. We would then evaluate the amount of monies that were paid to the social welfare system, provide them with those monies, and the excess going to the injured worker.

That worked fairly well, particularly with the City of Winnipeg welfare or Social Assistance Program. We did not have an agreement as such with the provincial welfare system. This went to, I guess it was April 1, 1999, when we went to a one-tiered system. To make a long story short, in terms of the case of Mr. McCulloch, we did not have a waiver on file in order for us to make reimbursement to the social agency, and we withheld it. So it was clearly wrong.

In terms of our legal opinion, perhaps Alan can help me on this. It is more so by exclusion than by inclusion in terms of the references to why and what allows us to be able to deduct any social welfare or social assistance monies on the basis of what is termed The Law of Property Act, which tells us that the board may be liable in the event that there were monies flowing, as a result of the injury, from another agency. I do not know if I am explaining that properly in terms of the legal issues, but that was a legal opinion that we had, that we could be held liable for the additional monies, in the sense of having to pay twice for it.

In the case of McCulloch, however, we need a waiver in order for us to be able to make any type of reimbursement, and that did not occur in this case. In terms of a process as to where we are headed in the future, first of all we have asked our acting director of claims payments to handle any incoming provincial welfare cases because there are not as many. There are five or six that come in a year, as it relates to that, so we want to make sure that there are none that fall through the cracks as it relates to that.

We have had one discussion with the provincial welfare agency, or the provincial social assistance program, and we have another one lined up on June 17 to discuss process and where they are going. But clearly it is up to them. If they provide a waiver, then we have to honour the waiver. That is about where we are at in terms of the process.

Mr. Reid: I understand you may have that process set up with the city of Winnipeg, but Mr. McCulloch resides out in Portage la Prairie, in that area of the province. Do you have such a setup or process with that particular body of elected representatives in that community?

Mr. Paul: We have arrangements with the municipality. We did not have an arrangement in the sense of having the waiver on file. We clearly missed it. We withheld monies when we should not have. But the overriding aspect is the fact our legal people have indicated to us that we are obligated by law, after December 31, 1991, post-1992, to collect and to honour any waivers.

Mr. Reid: So the waiver that you have, the process that you have in place, is between the Compensation Board and the municipality social service agency that would allow for the withholding of monies, comparable monies, that would have been paid by the social services agency to the claimant before the appeal would have been successful. Am I understanding correctly how that functions?

* (1020)

Mr. Paul: That is one format that it can take, and I have probably used the wrong terminology here in terms of the waiver. It is more of an assignment, and the process that actually takes place is that when an individual goes to the welfare department, they sign an assignment over and a waiver of monies. When we do accept the claim, the social agency then contacts us. They indicate to us the amount of it. We look at the amounts. We take off any costs for expenses, rent and clothing vouchers, and then make the monies payable, according to what is left over, to the social agency, with the rest going to the injured worker.

Ms. Jacobsen: I just wanted to point out that we are running about 37 days in terms of injury to pay, and so most of these situations are people who are waiting for their case to be adjudicated. In the agreement, just to be clear, it is an agreement between the individual and the social assistance department, whereby they accept that while they are waiting for their monies from the board, they would have access for daily living from social assistance. Ultimately the right

solution is for us to be able to process claims more quickly for more simple cases. In most cases it has to do with timeliness.

Mr. Reid: In Mr. McCulloch's case, and for the sake of his family, timeliness was not the issue. It was the rejection of the claim. As I have indicated at the last time we sat at these committee hearings, about two weeks ago, Mr. McCulloch was continuing with medical treatments and, in fact, at that point was unable to walk as a result of medical procedures. It may have been a short-term disability in the sense of the treatments, the effect of the treatments; nevertheless, he is still undergoing the treatments.

It is not the question of delaying the resolution here; it is question of accepting it in the first place based on objective medical evidence because it is very clear that he is still ongoing in his medical treatments and that there is a disability continuing. So it is how the claim was handled in the first place and also the fact that he had not signed the waiver and the fact that the Compensation Board withheld monies, I believe, inappropriately, and the fact that the Compensation Board did not, in turn, forward those monies that they withheld from the claimant's final appeal settlement to the social assistance agency that led further to the frustrations and the anger that that family has towards the compensation system in Manitoba.

Now, I think the objective of all of us in this room here is to make sure that we have a compensation system that is functioning effectively and in the best interests of the stakeholders, especially the claimants, but in this case that did not happen. It created no end of frustration and grief for that family who were forced, because of circumstances beyond their control, to go on to social assistance and then to find a method to proceed or continue with their medical treatments to allow the individual to recover from the workplace injuries.

So it was a compounding problem. The individual was injured at work and went through medical procedures that did harm to him. He may have a full recovery, but we do not know yet. Then he was forced to go on social assistance to support the family, and then the

monies were withheld when the appeal was finally successful many, many months later. Then adding another insult to the injury was the failure to remove the lien from the family's home and property. So there is a wide-ranging problem that we have.

I am trying to determine here whether it is a systemic problem that we have. You say you have, I think, five or six other cases a year that you have dealing with matters like this. I am not certain, as I said last time, that we have the power within the act to do that. Do you think that we do? Perhaps I think I asked for the legal opinion on that last time. I am not sure I have received that legal opinion in that regard, but I would be interested to receive information in that regard.

Mr. Radcliffe: Mr. Chairman, I know that customarily the questions come from the critic to the minister and from the critic to the particular expert witnesses, but for my own edification just on listening to the evidence to date, if we do not have an assignment, which Mr. Paul has indicated, and I believe the department has indicated that an apology and an appropriate transfer of funds were issued—but I just wanted to comment that because there was no assignment executed, the board would have no other alternative but to forward those funds to the claimant. It is regrettable if the claimant received these monies and misspent them, did not apply them to the lien and was confused, and I am just speculating in that respect.

I just wanted to point out for purposes of the record that, in the absence of an assignment, the hands of the board are tied. If there has been an inappropriate withholding and then subsequently discovered and acknowledged, then that only course of action of law is to forward those monies to the claimant. It is then up to the claimant to recompense the social service agency to discharge the lien off his property.

Mr. Reid: I believe that is the way it should have happened, and perhaps should happen, as I indicated the last time, in all cases. I do not see the mandate of the Compensation Board as being a collection agency. Now, I think that you should have a process where you would notify the appropriate agencies that were perhaps

payers in the process of support, but I do not think it is the role and function of the Compensation Board to be a collection agency on behalf of that other government body.

My question is still outstanding with respect to the legal opinion that we have on the entitlement to withhold those monies and pay those monies back to the social agency and where we get the powers in the regulations or the act, and a description of that for my education.

Mr. Radcliffe: Mr. Chairman, we have Mr. Scramstad with us today, who is senior legal counsel at the Compensation Board, who will take us down that path.

Mr. Alan Scramstad (Director of Legal Services, Board Counsel and Corporate Secretary, Workers Compensation Board): I will try not to muddy the waters, as Allan Fotheringham would say. Under The Law of Property Act in Manitoba, any person who owes a debt to another person where they are served with a properly executed assignment is required to pay the debt to the person indicated in the assignment. That is The Law of Property Act. That is the law of general application in Manitoba. It applies to the board except to the extent that The Workers Compensation Act would vary that.

Now, The Workers Compensation Act actually has an express provision that deals with assignments and garnishment, and that is Section 23. If you look at Section 23(3), it says that for accidents that occurred prior to the date this act came into place, being January 1, 1992, that benefits payable on claims that arose prior to that are not assignable. It is silent on claims after January 1, 1992, so by implication, those benefits are not free from assignment. That is a standard statutory interpretation tool, that if you expressly exclude one thing and are silent on another, you are considered to have meant that the other is not excluded, is included, so Section 23(3) excludes assignments on old act pre-1992 claims. The act is silent on new act post-1992 claims, and our view would be that that requires us to honour assignments.

Where we do not honour an assignment that is properly executed, the courts have found that

debtors can be liable for double payment. If you pay the wrong party, you can be liable for double payment. That is the situation that the board faces and other people face.

Mr. Reid: As I indicated last time, I am not a lawyer. I cannot argue on the issue or the basis of legalities. I do not have that knowledge and that experience. I can only argue the case on the merit of the case as it affected the individual claimant and family affected, and whether or not it is, in the test that I apply, fair and just treatment for the claimant. I do not see that being the case in this one, and I am concerned about how its effect may have an effect on future claimants.

I guess the outstanding question that I have not asked yet with regard to this is: because the monies were withheld and the lien still remained on the property, the family's property, why were those monies not forwarded to have that lien removed? Or perhaps I should back up a bit from that and say: were those monies forwarded to the social assistance agency, and were they at fault for not removing the lien from the property? So it is perhaps a twofold question.

Ms. Jacobsen: Money has been forwarded to the claimant in a correspondence that went out about May 18.

Mr. Reid: I recognize that. Perhaps I should have prefaced it by saying that I am aware that that had occurred, but the monies were withheld by the Compensation Board for a period of time. I want to know: were they forwarded to Family Services, for example, to ensure that the lien would have been removed from the family property, and did that agency fail to remove the lien? Or was it the monies were not forwarded?

* (1030)

Mr. Paul: No, the monies were not forwarded at all. They were held at the board. Nothing was done with it because we did not have the waiver at the time. So when we resolved the issue on May 18, the monies were sent directly to the injured worker, to Mr. McCulloch. It would then be up to Mr. McCulloch to make reimbursement based upon the criteria that he has as a relationship with social assistance in

order to offset that and pay back whatever monies were owing to social assistance, in which case they would then take the lien from the house.

Mr. Reid: So the monies were withheld, and because there was no waiver, no monies were forwarded to Family Services. Therefore, the lien continued in effect. I guess the next question following that: why were the monies held so long before a decision was made to forward those monies to the family for payment? I mean, there must be people who are reviewing the file in cases like this, and I would expect that there would be somebody who would look at the fact that there would be no waiver on file and that you would not have the ability to forward those monies because you had no waiver. Why was that review of that file not undertaken?

Mr. Paul: Clearly there was an error here. In the absence of the assignment, the monies should have been sent directly to Mr. McCulloch, and then it would have been up to him, in the absence of the assignment, to then proceed and to work out a deal with social assistance as it relates to that. It was an oversight on our part. It was clearly an error on our part that we have apologized to Mr. McCulloch for and have since submitted the cheque to him for 66-and-some hundred dollars.

Mr. Reid: Well, I am not trying to take a run at the board here or at any individual. That is not my objective here, is to try and tar and feather anyone here. I just want to make sure that there is a process within the system that would act in a more timely or more appropriate fashion to make sure that the families and the claimants were not hurt in the process here.

If there is some method that you have worked on to try and resolve situations like that, perhaps training, in-house training, for your staff, for senior managers, et cetera, so that we do not have a recurrence of this, I would appreciate some understanding in that regard, whether we have implemented that process.

Mr. Radcliffe: I think, Mr. Chairman, that we have adequately covered the particulars of this incident, and I think staff have very ably explained the situation. It was a regrettable

situation, and it has been rectified to the best of everybody's ability at this point in time.

I would now invite staff to speak on a conceptual or general basis to respond to my honourable colleague's question, to explain to us what safeguards have been placed in effect, or the fail-safe system, in order to address the issue so that this does not happen again. If staff could be responsive to that, I think would be appropriate.

Ms. Jacobsen: We have done a couple of things that we think will help. One is that we have centralized in terms of the people who have this assignment so they will be dealt with by a common director with some sensitivity in terms of the assignment.

The second is that we are in discussions with the province and with other municipalities to make sure that we have a much more formal system in terms of between the claimants and the social assistance departments, which is where the primary link is the most important link.

Mr. Reid: Well, it seems like you have some changes that are perhaps occurring inside the organization to address what has occurred in this case and perhaps prevent others, and I will not belabour the point.

The last question that I have is this. Since I wrote to the Workers Compensation Board on March 4, I have not received a response yet, and I am wondering when I might anticipate a response to my letter, my two-page letter.

Mr. Radcliffe: If I can inquire to who the addressee was on the letter.

Mr. Reid: Well, Mr. Chairperson, I would rather not put that on the record, but I will let the minister read the letter if he wishes, if he would not mind returning it to me for my files. I am not sure if there are other reasons why there was not a response, but for the sake of informing the claimant and the family and so I might have some understanding in writing of reasons for the decisions and the process that happened, I would appreciate a response. It allows me to do my job, too, because the claimants do come to me for assistance, and if I cannot get a response,

then I cannot help the claimant; so if you can give me some guidance here.

Mr. Radcliffe: Mr. Chairman, I am sensitive to my honourable colleague's position in this case, and a full written explanation will be forthcoming forthwith on this matter. I apologize for the dilatory nature of the response, if, in fact, that is the case.

Mr. Reid: I appreciate that, and I look forward to the response coming forward. I will leave that particular issue, and go on with other areas dealing with compensation.

I mean, I am aware of situations that happen in the board with respect to the Anna Harder case, for example, which, I am sure, members of the board know full well what has happened in that. I will not put any more details on the case, but there are problems that need to be addressed internal to the board's operations. I, in no way, want to denigrate or take personal attacks at any individual. There are claimants that sometimes are in positions where they, perhaps sometimes through their own fault or through no fault of their own, come into some benefits to which they are not entitled.

I am sure the same would apply to employers, and I have a number of questions in that regard with respect to employers, but I would hope that in cases like the case involving Ms. Harder that we would be much more vigilant to make sure that those types of situations did not occur because I think it sheds a bad light on the overall operations of the board, and we want to see it remain a viable entity for all of the stakeholders, especially the claimants. I mean, that was the original intent. By having these situations occur, I think it undermines the compensation process.

I guess I should turn my questions more directly to—I know the minister's predecessor had a history of wanting to take direct runs at claimants that abused the compensation system, and I take great exception to that, while there may be cases that do occur from time to time. I have asked questions in the past dealing with the number of fraud cases that are investigated and based on overall accidents. I would like to ask that question again with respect to that. If you

have a sheet available, because perhaps you do not want to put it on the record, but if you have the information available, I would appreciate receiving information in that regard so that I would have an understanding of your investigation process.

I have in the past raised questions with respect to the private contract investigation firms that would investigate matters that would come from—I guess it is your special investigations unit. I would like to know the number of claims that you would be investigating in that regard too. Do these investigations also include investigations on employer practices?

Mr. Radcliffe: Mr. Chairman, I just do not want these records to go by on the record unremarked upon my honourable colleague. What I do want to point out for the purposes of posterity is that the Workers Compensation Board does review and handle and process in the neighbourhood of 42,000 claims a year. That is not to excuse or overlook or neglect any one individual claim, but I just want to point out that the board has a very competent board, that the staff is a very competent staff.

I appreciate my honourable colleague pointing out areas where there have been individuals who have fallen between the boards on this issue, and pardon the pun, but I do not mean it to be a pun because it is a serious matter. We take it seriously, because it is nonnegotiable, nondiscretionary front-line money for each individual involved. From an overall general administrative point of view, I think that what the public should acknowledge, what my honourable colleague should acknowledge, and what I certainly acknowledge is the competence, the expertise of the board, the efficiency of the board overall when one is handling over 42,000 cases a year. I think that that is something that is remarkable.

* (1040)

With regard to any minister who is responsible for the Compensation Board and public monies being handed out to recipients, I would comment that I do not think my honourable colleague for a moment is condoning any fraud or any misapplication of money. I can

assure him that I, too, will, because I take the responsibility very seriously as the custodian or the caretaker for these funds, ensure that if there is deliberate or fraudulent misapplication of money with aforethought, with mens rea, with intent, that it be dealt with most vigorously. This is not to say we are trying to victimize victims, but where there are people who are abusing the system, the message has to go out from the board and from government that this is not acceptable. I guess one must draw the distinction between being compassionate for the individual's weakness but not condoning the behaviour and being very vigorous with the behaviour.

With those general words, I would invite staff to respond then to the particulars of the question of my honourable colleague of the number of fraud cases, the role of the PI firms and the scope of the investigation be they to employers or employees or both.

Mr. Paul: With response to the fraud itself in terms of Anna Harder, there is no question that it was a lose situation for all of us. It is before the courts, but I wanted you to know that we have taken steps in order to correct problems as it relates to authority levels and take dollar amounts, for example, from junior levels and on up the line in terms of authority at certain points in time, so that more senior staff would be involved in claims that are more costly and more likely to be able to capture problems before they resolve into the kind of situation that was before us in that particular case. We have done a number of things as it relates to that by going up the chain of command in terms of senior staff assessing the files in that unfortunate case.

As it relates to the investigations and the special investigations, it is not necessarily with respect to fraud per se, because I think that is sometimes a misnomer. The assumption is that every case is a fraud case and that is clearly not it. There is program abuse, and it can take different forms, the perception being in many cases—it has probably proven out in the fact that simply by the nature of the business the bulk of the investigations are done on the basis of injured workers. However, there are other investigations for employers, health care providers and such.

In terms of the overall numbers in the statistical information, Mr. Reid, I can go back to 1995 for you. We had 194 investigations. In 1996, there were 239 investigations. In '97, it dropped off a little to 223; in 1998, to 275 investigations; and 1999 to date, and I believe that is up to May 1, it is 132 investigations.

Mr. Reid: I do not mean to take all the time of the committee with respect to the numbers, but if there are sheets that you have available that perhaps you could just share with us that may save some time, if you have those sheets available and you are willing to do that, then it would provide us some background information.

It looks like the number of investigations are relatively stable, you know, within a range from year to year considering there is what, between 37,000 and 43,000 cases, I guess annually. It fluctuates with the economy, I would imagine. So then the number of cases under investigation are relatively stable. I am looking for a breakdown of those numbers that you have given me with respect to whether those are claimants, investigations on claimants, or whether there are investigations on employers or both. Perhaps if you have a breakdown on that, and if you have a sheet that would provide that, I would appreciate that too.

Mr. Radcliffe: We certainly have that information at hand. We would be more than pleased to compile it in the form which my honourable colleague has suggested and forward it to him posthaste.

Mr. Reid: I am also looking for information. I have had cases drawn to my attention with respect to—I will not use the firm's name, out of fairness to the firm.

Mr. Radcliffe: A particular employer.

Mr. Reid: It is a particular employer here in the city of Winnipeg, not necessarily confined to the city of Winnipeg for their operations, but they do foundation work. Perhaps you have seen the television commercials on TV where you have leaking basements. In that particular case, my understanding is that the employer has made the employees directors of the firm to avoid, I think, paying premiums. I do not think that is

acceptable, if that is the case, but that is the information that has been given to me. I am, in my role as critic, obligated to ask the questions with respect to how the board handles situations like that, what processes we have in place to make sure that firms that want to avoid their legal obligations are taken to task and are dealt with in the most appropriate fashion.

Mr. Paul: I am unaware of the individual company. But, as it relates to the issue at large as what you have talked about in terms of some of the cases that the special investigations people get involved with, some of them are for deducting WCB costs for subcontractors and the like. So, in terms of fairness to that, that would fall under their scope of authority and their mandate. So, if you could provide us with additional information as it relates to that, we would be more than pleased to follow up in that regard.

Mr. Reid: I think, Mr. Chairperson, that the senior members of the board perhaps already have knowledge of this particular company, and I will not put the name on the record. I will leave it to the investigation. But it is my understanding that this company, as I said, made their employees directors, and these directors have nonvoting and no profit sharing while they are considered to be directors.

So it is a problem that you have with the way these cases are dealt with, and I would hope that there would be some policy. If it requires legislative change to make sure that unscrupulous companies—I use the term guardedly—that are setting up a situation to avoid their legal responsibilities with respect to the compensation system and the premiums attached thereto, we would want to deal with that. So I will leave that to the minister, in that particular case, to speak with the board about how we best handle that. I know the minister is a lawyer, and perhaps between the board's legal counsel and the senior staff in the ministry, that matter can be dealt with in an appropriate fashion, because I do not think that it is appropriate that we leave that situation, or perhaps others like that, linger on.

Mr. Radcliffe: Mr. Chairman, I would like to thank my honourable colleague for bringing that to my attention. I have made a note of this

particular issue, and I will conduct the appropriate inquiries and receive the requisite advice on this matter and inform my honourable colleague as to what the outcome is. I think that, quite rightly, his remarks are that adherence to the rules cuts both ways, and this is something that, in order to maintain a credible system, I think all the parties involved want to see that there is no slippage.

Mr. Reid: Well, I appreciate that undertaking. Perhaps there may be others that I am not aware of, and I guess that was part of the question I had with respect to the special investigations unit that you have functioning within the board's operations to determine the breakdown. I have not seen that sheet, and I do not know if it will be provided later or not, to find out the breakdown of the number of cases that are investigated.

Can you tell me then, perhaps you have this information here, the number of employers that the board has difficulty with with respect to payment of premiums. That is, no doubt, an issue that can be somewhat contentious in the board's operations, and I am just trying to get an understanding here, if you have global numbers in that regard.

* (1050)

Ms. Jacobsen: I think we will have to take that as notice, Mr. Reid, because I am not sure that we have the numbers, unless Alfred who is in charge of the Employer Services—I will take it as notice and follow up in terms of the employers' information.

Mr. Reid: Can you tell me then, are there times when the senior management of the board would handle directly case files or files dealing with employer collection claims? Are there times like that or do you leave that strictly to the staff of your Employer Services?

Mr. Wally Fox-Decent (Chairperson, Workers Compensation Board): In my time I never ever handled any individual case regarding employer collection, to my knowledge. I am thinking back over three and a half years as CEO. Perhaps Ms. Jacobsen would want to respond as well.

Ms. Jacobsen: I do have the numbers here for 1998, that there were 4,000 employers that were assessed penalties in 1998, and they ranged from late filing, late payment, underestimated payroll and inadequate reporting, the bulk of which are in late filing.

Mr. Reid: Can you tell me what the penalties are for each of those? Is there a global number that you may have in that regard, so that I can have an understanding of if it goes as an assessment penalty or whether there is an actual sanction or fine that is applied?

Ms. Jacobsen: The fines are in total about \$800,000.

Mr. Reid: So 4,000 employers were assessed and the lump sum figure that was collected as a result of those penalties being applied was in the range of \$800,000 or thereabouts. I guess it would be very close to that from what you indicate. So that is about, what, \$20,000 a claim would be the average cost associated with each of those on average which seems to be very serious amounts of dollars that would be collected on average in these cases. So I take it then that we have a number of problems with respect to the collections of employer premiums, and perhaps you would want to comment on that.

Ms. Jacobsen: Yes, we could comment in terms of the types of situations. The predominant issue is around defining assessable payroll and the discussion with employers around what constitutes a payroll. The more closely we can link that with employers' filings for other purposes in terms of their recognition of payroll, then the closer we get in terms of matching. I will also ask Alfred Black to follow up on this item.

Mr. Alfred Black (Vice-President, Financial Services and Administration, Workers Compensation Board): I just wanted to add that the \$800,000 divided among 4,000 firms would be \$200, not \$20,000 per firm, Mr. Reid.

Mr. Reid: Thank you. My math is very bad obviously, Mr. Chairperson. So \$200—good thing we have an accountant here to keep me on the straight and narrow.

Can you tell me with respect to the cases that you have, because you have assessed fines in these cases, how many cases would actually have to proceed to court? Do all of these 4,000 or so cases have to go to court to have these monies collected, or is it just a matter of the board assessing a fine there, and can you tell me how many times the board has actually gone to court in these matters?

Mr. Black: These are administrative penalties, not fines, so, so far as I am aware, none would have had to go to court in that year.

Mr. Reid: Has the board undertaken any court action against employers in the course of the last—well, for the reports that are in question here, do you have a breakdown by year?

Ms. Jacobsen: I think I would have to take that as notice and report on it. To my knowledge we have not, but I would have to ask if—[interjection] I would still like to take it as notice and report back.

Mr. Reid: Well, that would be fine. I know there will be a package of information, perhaps, that will be coming over later, and if you can include that information in with that package, I would appreciate that.

Mr. Fox-Decent: Mr. Chairman, it might be worth saying that our act provides quite significant powers relative to dealing with those who are not complying with the rules of the system. We have, for example, search and seizure powers which are quite extraordinary with regard to an employer's assets, if an employer simply does not pay their bill, and a particular company that you might have been making reference to earlier faced the seizure of all their assets at a particular point.

I am not sure what company you are referring to nor are you sure what company I am referring to, but we do not hesitate to use the powers at our disposal in the act to bring employers to their appropriate assessment and to bring them in line if there is an attempt to defy the assessment system of the board.

Mr. Reid: I will not go further down that road if the board can provide me with the information

with respect to the number of cases. The issue with respect to the number of investigations that you have ongoing and the other information I requested, I will leave it at that, and I will move on with other areas.

One of the questions that comes as a result of some of the earlier five-year operating reports was dealing with the umbrella coverage for the number of firms that are involved. If I go back in the old reports, and I am going from memory here so correct me if I am wrong, there used to be approximately 70 percent of the firms covered under the umbrella coverage and that has been shrinking, from what I can see, down to 62 percent or 63 percent now.

Now, to me it leaves the impression that there is a trend here, that we are getting fewer and fewer firms covered under the umbrella of the workers compensation system, and I believe in past five-year reports that there was going to be some discussion undertaken with respect to this issue, how we bring more firms in under the compensation system both on a voluntary and perhaps as a mandated basis.

So I would like to know what action or what work has taken place in that regard to make sure that we do not see a continual erosion of firms covered.

Mr. Fox-Decent: Mr. Chair, our act is quite unusual in that you are only covered by being named, whereas the typical pattern across the country is the reverse. You are considered to be covered unless you are excluded. The board at its last planning symposium, which was held in January of this year, addressed the issue of coverage. Certainly there is an interest on the part of the board in actively exploring issues of how coverage might be changed. Obviously, what I am suggesting is the board is interested in looking at issues of expansion of coverage. There is a voluntary route which is possible, and quite a number of firms, who are not required to be covered, use that voluntary route. Fortunately, we are seeing some interest in the agriculture sector, which of course is excluded from coverage under the act.

There are other issues relative to what groups of employers or what types of

employment, resulting in employers who employ in those sectors, might be given serious consideration for addition to the group that are covered. So it is very much on the mind of the board. I think it is fair to say that, although the board has certain regulatory power relative to coverage, it also is probably a legislative issue.

Mr. Reid: Well, I guess, it bears the next question then. Is the ministry or the government contemplating making any legislative changes to the Compensation Act?

Mr. Radcliffe: Mr. Chairman, at this point in time, we are not, but I certainly am very interested in receiving advice from the Workers Comp Board on the particular issue, and it is something that I can undertake that I am prepared to research and consider very seriously.

* (1100)

Mr. Reid: I appreciate the information.

I have always wondered—I use this example and I am sure the board members have heard this before—why a window washer would not be covered under the compensation system. To me, it is strange, considering that most of us perhaps have a, I use the word, "fear" of heights. I guess the people who are doing the work do not. But I would think that there would be some risk associated with workplace injury. We see from time to time where scaffolding has failed or lift systems have failed, but the window washers are not covered, as an example, just an example of areas that are not covered.

I mean there are several others that no doubt the board could provide advice to the ministry on, perhaps which should be using the umbrella of coverage. Perhaps there should be some consideration given to reversing the onus you are in, except by virtue of being excluded from the compensation coverage, as other jurisdictions have. I agree with that interpretation, that analysis that you have made, that that would perhaps be the more appropriate way, knowing that the government of British Columbia, just a short time ago, moved in that direction themselves. I know there are other jurisdictions that have that process as well. So I think it would be wise for the ministry to consider that.

Perhaps it cannot be done in this session, but for future sessions of the Legislature, whoever the government may be at the time would make that consideration.

Mr. Radcliffe: Well, I can only anticipate a favourable conclusion to our legislative experience now, and we look forward to bringing in new legislation in the next term as well. On that happy occasion, I think my honourable colleague does pinpoint a very cogent parallel that the experience across the country should be considered. That sort of touches on my conversation of yesterday.

I think that one of the things that I would also want to consider would be the cost of liability insurance that perilous occupations would obviously employ to cover themselves. I am sure that there are lots of other issues that play on this market, because if there is a compensation scheme, then obviously other expenses and overhead would not be involved, and who bears the burden, and where is it located, and all these sorts of things. So I think it is something that is material for significant further discussion.

Mr. Reid: We will leave that to the minister and the board to have that discussion. I just raised it because I had noted that it was an area of interest for myself in talking with members of the labour community in particular and also people who work in these areas, more specifically, and also that had been in your five-year planning report. So I just wanted to know what progress had been made in that regard.

One question I neglected to ask with respect to the sanctions—I think I neglected to ask it with respect to the range of sanctions for employers that have the additional assessment for late filing and underestimating, et cetera. When you provide the information, if you could also provide a range of sanctions, because you have given me the global, and we have the average. I am just trying to get a range here of what the high-lows would be in that regard.

Mr. Radcliffe: Certainly.

Mr. Reid: In the question with respect to collection, from what I am understanding is that

there is a problem with the policy direction in the collection branch of the Compensation Board, and it deals with a definition of what they are. This is the term I use, and it is a quote—and I will not say the name of the persons that were involved—but they are not certain on whether or not they are a babysitter organization or they are an enforcement arm with respect to collections. There needs to be some clarification of policy direction with respect to collections.

With respect to using the building that the Compensation Board is in now—and you can correct me if my numbers are wrong, as I stood corrected here a few moments ago—the building, I think, originally was assessed at \$9.6 million in '97, if I understand the numbers correctly. That assessment changed to \$3.5 million in '98, so there is a change in there. Yet the purchase price, I think, was what—\$3.3 million. Are those correct numbers for 333 Broadway?

Mr. Black: Those are essentially correct. I think the assessment from the City of Winnipeg was made in '93 or '94, and it continued year by year up until 1997, I believe that is right. The purchase price of the building was a little under \$3.5 million.

Mr. Reid: I am trying to get an understanding here how the assessment can vary so widely. If the building when the previous tenants were in there was assessed at \$9.6 million and then the next year it is assessed at \$3.5 million, I am not sure, does the Compensation Board have some magical powers that they use in the assessment process with the City of Winnipeg?

Mr. Radcliffe: Mr. Chairman, unless Mr. Black has some radiance and brilliance that he can shed on this, we all have read in the local newspapers the difficulties that the City of Winnipeg Assessment division has had with their market assessments, and this may well be an appropriate inquiry through Urban Affairs or Rural Development—

An Honourable Member: Passing the buck.

Mr. Radcliffe: That is right, exactly—or, more appropriately, the City of Winnipeg. I defer to Mr. Black if, in fact, there is anything further to add. I do not know if we have anything. This

would be a body of knowledge wholly within the control of the City of Winnipeg.

Mr. Fox-Decent: I think, Mr. Chair, the only light I can shed is that we were obviously delighted that the building was reassessed, because it had a very significant impact on the property tax that we pay the City of Winnipeg. I believe that the reassessment was a result of some sense about downtown Winnipeg and reassessment of property values relative to vacant buildings and what seemed to be a rather doldrums real estate economy. That building, which we are now in, had been vacant for some extensive period of time, except for a small group of Manulife who had remained there. Basically, five of six floors had been vacant. We were really very pleased when they reassessed the building and thus, of course, the property taxes are very dramatically reduced from where they had been when it was assessed at \$9 million.

Mr. Reid: No doubt the board was pleased, and it would minimize the ongoing costs of operation because of the reduction in tax level based on the assessment. Can you tell me how much it cost to do your renovations in the building?

Mr. Black: The cost was \$3,050,000.

Mr. Reid: Are there any additional renovations anticipated that would add to those costs?

Mr. Black: Yes. From time to time associated with changes within the administrative structure, there are minor renovations made to the building. To give you an example, the elevators are now being improved and some units are having their offices restructured on one of the floors.

Mr. Reid: Can you tell me what your numbers are in the current staffing levels, please? Do you have a breakdown organizational chart that perhaps you can provide internal to your operations as well?

* (1110)

Ms. Jacobsen: I would be happy to provide an organization chart. In fact, I can forward that right now. In terms of the staffing levels, the

total number of staff in terms of right now is 428.5, of which 24 are term plus there are 56 seasonal positions that come in in the summer for summer relief.

Mr. Reid: Could you provide me a breakdown between your management function and your line operations, so I might have an understanding of the numbers on that regard too?

Ms. Jacobsen: I would be happy to do that. I have that here and could speak to it in a global sense, if that would help. In terms of the line operations, about 213 of the positions are in the rehabilitation and compensation division, which is a line operation, 117 are in financial services and administration, which includes our employer services direct service. The balance are in a variety of functions that relate to other areas of the operation.

Mr. Reid: Thank you for that information. It is my understanding that the—to switch focus here a little bit—Appeal Commission has now moved. I do not know if Ms. Vivian wants to come to the table or not, but it is my understanding that there has been some changes in that regard, and the Appeal Commission is now moved to another building. I think it is the Royal Trust Building. Perhaps you can give me some background on why those changes were made, so I might understand, and if my understanding is correct that there may have been a potential or perception of conflict. I do not know if that plays a role in this process as well. Perhaps you can explain that.

Ms. Deborah Vivian (Chief Appeal Commissioner, Appeal Commission): Yes, you are absolutely right. I can give you some background. As you know the Appeal Commission has been located at its original building since 1990, I believe, and has always been in its own separate building. When the WCB moved to 333 Maryland, they came very close to a building and in fact then some staff were moved over. It is my view that the independence of the Appeal Commission should be recognized in its building.

We did some research and all appeal commissions that are independent by the legislation are in separate buildings. So,

basically, the board were more than happy, met with me, and as the property that we were in is leased by the board, it was thought that probably the most sensible thing to do in order to preserve the independence of the Appeal Commission was for the Appeal Commission to move and the WCB to take over our current premises. However, there were also other factors that came in that were equally important, and I would not actually have described this as conflict, more that we wanted to preserve what we had which was independence, and the board was more than willing to talk to us on that issue.

But there were separate issues. It had been felt in the past that the Appeal Commission had too much space that was not properly utilized. It is very long and narrow, and we could use the space or the space could be used more functionally, and, in fact, that has been borne out because we have cut down our current space by 11,000 square feet—sorry, 1,100 square feet, I beg your pardon. We did not have 11,000 to begin with.

Over the years there have been a number of requests from people who are at the Appeal Commission which have been taken into consideration. For example, we could never run an MRP and a hearing at the same time because that meant using the one existing boardroom that we had. So within our smaller space it is much more functional. We now have a second hearing room which means we have improved our scheduling capabilities by being able to schedule them together, which means our scheduling will be a lot easier. As you know, a hearing can involve quite a number of people as can an MRP. Also, the MRP room was made slightly larger which was a request from the physicians out of the medical review panel process. All the offices are slightly smaller. Basically we have ended up with a very functional, smaller space which I hope everybody will be able to visit in the near future.

I do not know if you have any more questions.

Mr. Reid: Is there an intention to buy 175 Hargrave?

Mr. Fox-Decent: No.

Mr. Reid: Pretty clear.

Mr. Fox-Decent: That is at this point in time. There is no intent in the foreseeable future to purchase 175 Hargrave.

Mr. Reid: Well, I understand that if you have the ability to have two hearing rooms, it would perhaps speed up the process of scheduling for the various hearings, and I think that that would probably be in the best interests of the parties that are involved, all the stakeholders. In that case, I guess the question is if the Appeal Commission was in that building, why would the Compensation Board want to move into that same facility? Was there no other space that you could have looked at to maintain the distance or to at least maintain the perception of separation between the Appeal Commission and the Compensation Board activities?

I am trying to get an understanding here of why the decision was made to go to that particular building and structure because as the claimant walks in the door to go for an appeal and sees that there is compensation functions in the same building, on the name board, for example, I think my perception would be, is there a separation between the two; is this going to be a fair and impartial process? So I am trying to get an understanding here of why the selection was made to go to that building versus looking for other rentable space in the downtown area.

Ms. Vivian: Actually, I think I am going to put it on the record that it actually probably occurred—this actually occurred in the first few days of my mandate where the WCB were intending to move five staff into the building, and I believe that it took awhile from my orientation for me to put the processes in place, and I do not think that we really were able to talk frankly about what I felt to be the independence issue for the Appeal Commission. However, we were very quickly and that is, I believe—I made my feelings known that I felt they should be in a separate building. The board were perfectly practical about it.

So I think perhaps if I had been on the board a little bit sooner, perhaps there would not have been a move of the initial three staff, but once

the initial three staff had come, that is when I put a caution on them that I felt we should be in a different building with a different access because even in my short experience, claimants identify us with the board already. So we have to be very up front in telling people at hearings that we are independent. The commissioners are independent. I thought having a separate building was very important to that perception.

Mr. Reid: I agree that there is a need to have a maintenance of the perception at least, if not in reality, that there is a separation between the two. We want to make sure that the claimants, or whichever party is appealing, understands that there would be a separation between appeal and the adjudication functions.

You are new to the Appeal Commission, relatively new, in terms of other staff at the board. Can you tell me a bit about your background? What other experience do you have that would qualify you to be the head of the Appeal Commission?

Ms. Vivian: I do have a resume if you would like to look at it. However, I graduated in the '70s as an SRN from England. I also have my ophthalmic nursing diploma. I have part of my midwifery.

I came to Canada and graduated as an R.N. I then went back to the University of Manitoba and graduated with a Bachelor of Nursing degree, at the same time that I was working at one of the hospitals in Winnipeg. In 1989, I went back and actually did a full-time law degree at the University of Manitoba. So basically I have a long experience in both health care, through nursing, and law.

* (1120)

Mr. Reid: Thank you for that understanding. I am not wanting to get into the areas of discussion of law because I have no experience there.

I have no other questions on the Appeal Commission, but I would like to turn my attention if I might to Ms. Jacobsen, continuing along the same vein of questioning, because I had indicated before that I would be asking questions with respect to background and

experience that would perhaps qualify her for the job in her new capacity at the board. I know you have provided me with a list, your corporate chart. I am trying to get an understanding of your experiences prior to coming to the head of the Compensation Board here in Manitoba. Perhaps you can give me some background information on that as well.

Ms. Jacobsen: I would be happy to also share my resume, if you would like that. Basically I have about 22 years of public service in the Ontario public service in six different portfolios, two of which were at the deputy minister level. I also have, in terms of private sector background, eight years experience in the private sector, two of which were in marketing, and six of which were in health and disability insurance.

Mr. Reid: Can you tell me the names of the firms that you worked with in the private sector?

Ms. Jacobsen: I worked for Eaton's; I worked for Manulife Financial; and I worked for Liberty Health.

Mr. Reid: Can you tell me, what were your duties and responsibilities in your, I think you said, deputy minister capacity in the Province of Ontario, and also your duties and responsibilities when you worked with Manulife and Liberty Health, I think you said?

Ms. Jacobsen: In the Ontario public service, I was the deputy minister of executive resources, which is the senior human resource position, and I was deputy minister of transportation.

When I left the Ontario government, I was senior vice-president at Manulife in charge of corporate strategy, information technology, human resources and communications. When I went to Liberty Health, I was in charge of all health and dental claims for government accounts.

Mr. Reid: Can you give me a broader understanding of what you mean by responsible for all health and dental claims with respect to Liberty Health?

Ms. Jacobsen: Liberty Health is primarily a health and dental group insurance company. It serves three types of clients: individual

customers, group customers, and government accounts. I had the government accounts for health and dental insurance.

Mr. Reid: That is like employee benefits. Is that the function of it?

Ms. Jacobsen: Yes, it is. It is, for example, all of the aboriginal accounts for the federal government; for the federal government provides health and dental services and supplementary funding for health and dental.

Mr. Reid: Did you have any involvement as a representative or employee of Liberty Health, involvement in any dealings between the Ontario Workers Compensation Board and Liberty Health?

Ms. Jacobsen: Yes, I did. As a senior vice-president in terms of all government accounts, I would have talked to the Ontario board about both their bid. They had a bid out for employee benefits, and we made a bid on that. We also bid on two other projects that they had let to open tender.

Mr. Reid: Was your involvement with Liberty Health dealing with the case management approach that the Ontario Workers Compensation Board has embarked on?

Ms. Jacobsen: No. In fact, we did not bid on that contract.

Mr. Reid: If I can turn my questioning to the five-year report—the five-year plan, I should say—there are a number of questions that I have with respect to the report itself. Last time, I think I had indicated that I had a question with respect to the overall organization plan that the Compensation Board has embarked on, and I am not sure if that process is complete at this point. I know you have given me your chart, but I am trying to get an understanding of whether this reorganization has been fully implemented and whether or not the people have been told about their new responsibilities and new titles, and I am sure, new pay that would go with those, new and improved titles that would be assigned.

Ms. Jacobsen: The reorganization is in process. It has been implemented to the director level.

The main direction was to group all health rehabilitation and time-loss claims together into one division and have that organized along sectoral lines for better service. The other part of that reorganization is to implement case management, and that is the piece that is still evolving over the last month and will continue over the next couple of months.

Mr. Reid: So we expect to see the completion of the reorganization by the end of the summer, by the beginning of September then.

Ms. Jacobsen: We expect to have most of the positions finished by the end of September. We might still be in recruitment for some positions because the case management model is in fact a new model, but we will have the organization finalized as a structure.

Mr. Reid: You indicate that the case management is a new model. Where is that model drawn from?

Ms. Jacobsen: Most boards across Canada have moved to a case management model, and in fact there was an internal review that was completed by last summer before I came to move to a case management model. It awaited the senior structure for implementation, but it rose from within a staff cross-section of adjudicators and managers looking at other case management models across Canada.

Mr. Reid: I am trying to get an understanding here of what is meant by the case management model. Can you describe for me what your vision is, what the board's vision is with respect to this model and how you see it functioning? How is it going to improve the operations of the board and the way it deals with claims, for example, deals with employer problems? What is the intent of this new process, this new function?

Ms. Jacobsen: The actual intent of the process and one that in fact, when I came, was one of things that the board in terms of the board of directors had great interest in seeing implemented. Because of the structure, it takes a functional organization that historically had been organized along functional lines of wage loss claims, health claims and rehabilitation and

groups them together for implementation, so therefore it brings together all the parties that are involved in a claim participating together in that model.

There is then a person that is accountable for all of the relationships with the claimant and provides much more streamlined services to claimants.

Mr. Chairperson: Order, please. If I could just ask those visiting to do it in a quiet manner, I would appreciate that. Thank you.

Mr. Reid: I was having a little difficulty hearing the response. Correct me if I am wrong, but are the private sector insurance companies, and I guess this leads back to my questioning with respect to your role at Liberty Health and Manulife, are they attempting in the jurisdictions, because I know the board has discussions with the various compensation systems across Canada and you meet fairly regularly, the private insurers are attempting to move into the case management model in other jurisdictions and I know particularly the province of Ontario.

Can you tell me: has Liberty Health or Liberty Mutual, for example, have they made application to the board for any grants?

Mr. Fox-Decent: The answer is yes.

Mr. Reid: Because I would imagine if this particular firm which is a private sector insurer has made application, there would have to be some criteria or some paperwork that would have to be attached to that application. Can you give me some explanation with respect to that particular application what was included in the paperwork that came to the board the grant monies?

* (1130)

Mr. Fox-Decent: I would have to take that as notice relative to the detail, Mr. Chair. I can tell you that the grant applications are considered by a committee of the board, which is called the service committee, on which sit one representative from each sector and one labour representative, one employer representative and one

public interest representative. They have already begun their consideration in detail of the grant applications that are before the board this year.

Mr. Reid: Has a decision been made with respect to whether or not the board is going to grant that application for funds?

Mr. Fox-Decent: The answer is no. The matter is before the service committee and is being considered along with all of the applications from a variety of interests, whether it is the University of Manitoba or whether it is the Manitoba Federation of Labour, whatever. The final course on this, if I could describe it, Mr. Reid, is we now have a two-stage process. One is a letter of application which outlines in broad terms what the organization is intending to do with a sum of money we might give. We are still at the first stage of the process.

The second stage is that a number of grant applications will be selected to go on to the second stage, and at the second stage there will be an evaluation. If it is a grant application that is beyond the competence of the board to judge—for example, some of the medical applications are for research and would not be within our competence—we would be seeking peer group evaluation of that.

But at every stage the service committee of the board makes recommendations to the board of directors. So this will finally end up as a number of grants being recommended to the board of directors. As I remember my time line—and the corporate secretary is here and will correct me, Alan Scramstad. The time line is that the board will consider the applications on recommendation from the service committee in November of this year.

Mr. Reid: I may have missed the first part of your response with respect to the reasons that were given. I am trying to get a clearer understanding of the reason for the grant application from Liberty Health, Liberty Mutual, and also the objective that perhaps would have been stated with that application.

Mr. Fox-Decent: I do not have that with me, but I would be very happy to provide that to you within 24 hours. I presume, Mr. Reid, you

would like to see the call that went out for grant applications this year with the criteria, and you would then want to see, in the case of one particular grant application, what the request was for in that context.

Mr. Reid: I am aware of the information that went out. At least at this point, I do not see that as being part of the issue. I guess the issue here is the involvement or the request or the application coming from a private sector insurer who, in the eyes of some, may be a competitor of the compensation boards in Canada. I find it strange that a competitor would look internal to a board's operations to seek grant monies to allow them to further their own individual business interest.

So I am looking for some explanation on the reasons or objectives that were given to the board with respect to this application.

Mr. Fox-Decent: I do not have the information immediately at hand that you are asking for. Regrettably there was a meeting—not regrettably that there was a meeting, but regrettably a meeting of the service committee which was held about a week ago where the first round of applications were considered, I was not able to attend. So that meeting proceeded without me. Therefore I am not able to bring you first-hand information from that meeting, but I would be very happy to provide you—give me 24 hours—the details of this particular application.

I think there were two applications, in fact, from this company. I would be happy to provide that detail to you, if you would be willing to give me 24 hours to do it.

Mr. Reid: Yes, that would be fair and reasonable, if you could. In fact, that is a very short period of time and I appreciate that.

I am going inside your five-year plan here. I am looking on page 13. There is some information you provided with respect to changes in your medical focus here dealing with short-term disability management, et cetera, and talking about good working relationships with the various clients of the board; business, in particular, they reference here, industries, specific clients. It talks about treatment-seeking

priority status for the diagnosis and assessment and treatment of injured workers.

I am wondering if you can give me your definition or an understanding of what is meant by that particular statement. That is from the last paragraph on page 13 of the five-year plan.

Ms. Jacobsen: This section of the report deals with trends that are happening in various boards across Canada. One of the things that we are seeing in various boards is that they are looking at various ways to provide very good rehabilitation health care. Some boards are, in fact, hiring more on-staff medical support. Some are, in fact, expanding through the ability to fund the public sector to enable an expansion in terms of access to medical care that is specially geared to the kinds of services that our claimants need. So what this trend says is this is happening across Canada and that what we have committed to do is to look at what some of the initiatives are around health care to ensure that our claimants have very good access to timely and quality health care within a public health environment.

Mr. Reid: Do you see that the board will be adopting, the activities of the board, you will be adopting this method of handling your cases involving injured claimants?

Ms. Jacobsen: What we have committed to undertake for the board of directors is that we would do a research and analysis in terms of access to care and develop strategies to come back to the board of directors, so it is too early for us to say what we think the solutions are.

Mr. Reid: It also indicates in the Canadian Compensation Trends, the same section, and I do reference that this language is used throughout the five-year plan, so it is not just showing up in Canadian Compensation Trends, but it is throughout the document. That leads me to conclude that this is more than just looking at what other jurisdictions are doing because the language is showing up in the document itself.

So I am trying to get a clear understanding here of what the overall plan is for the next five-year planning phase because it indicates here that other jurisdictions are looking at preferred health care providers. I am trying to get an

understanding of what is meant by that as well. Are we looking at seeking out doctors that will provide more timely medical treatments, or is there some other definition that would be involved in what is meant by preferred health care providers?

* (1140)

Ms. Jacobsen: We have increased, in fact, the numbers of medical staff at the board in part in terms of to deal with volume and in part to deal with the access to specialized care. But, we do see our health costs and the access to the right kind of health care of people who know the kinds of disabilities that our claimants experience as a critical service issue for our claimants. Therefore, what we have undertaken to do is to develop a health care strategy for the board that would look at a variety of options around the provision of health care.

Mr. Reid: Can you define a variety of provisions for me so that I have a clear understanding of what is meant? I mean other jurisdictions have their ways of perhaps accessing doctors. I am going to lay it right out here. My concern is that we are going to have queue jumping. I want to get an understanding in here of what the intentions of the board are with respect to this five-year plan.

I am going to give the minister an example here. If I am a person waiting for open heart surgery and the board has a claimant waiting for open heart surgery for a claim that has been accepted dealing with the heart, I want to know what conditions are going to apply with respect to the treatment I should expect from my health care system versus the treatment that the claimant of the board should expect from the processes that you are establishing.

Ms. Jacobsen: I think that the board is very mindful, as the other Canadian boards are, that we are operating in a public health environment and that anything that we do has to make sure that it fits within a provincial public environment. So we would not be seeing us launching into something that provides two levels of care in terms of treatment.

Mr. Reid: So then you are telling me, you have indicated in the Compensation Trends in your document, and the language is common

throughout, that the other jurisdictions are using financial incentives and buying blocks of unused time in public facilities and using private facilities. I mean, that is the language that is used here in Canadian Trends.

Perhaps I am making the link between what the five-year plan is telling me, and I have read through the document several times trying to understand the concept and the direction that the board is planning on taking in the next five years of whether or not the claimants of the board are in a position to receive—or the plan is to provide for them the ability to queue jump or to receive preferential medical treatment to allow for an early return to work, while the other people in our province who are waiting for those same procedures will be in a position of having to continue to wait because we have finite medical resources in the province; whether or not the individuals who are claimants of the board will be receiving preferential treatment or whether or not they will be placed in the same process of waiting as we are experiencing now.

So I am trying to get a clear understanding here of the direction we are headed in with respect to the claimants.

Mr. Radcliffe: I think I would invite staff at this point to comment only on that issue from the board's perspective. I do not think that staff here or the board is qualified in any way to respond from what would be a public health issue, but I think that some appropriate remarks with regard to the direction of the board would be appropriate.

Ms. Jacobsen: I would again say that this is an area of evolving policy and that we have not finalized the policy in coming forth to the board of directors. What this does indicate, however, is that we do think that access to health services is important for our claimants and if there are ways that we can utilize public areas that have down times and that have unused facilities, it is very much in our common interest, both the public system and our system to do so.

Mr. Reid: When I reference the common language between the Canadian Trends section, if you look back to the Mission statement, it says, and you can look specifically at No. 2 in

the Mission statement: "The board will focus on effective ways to reduce the impact of injuries and to return people to health and to work. Strategies include implementing a case management model, more support to workplace-based disability management programs and development of accelerated health care access."

So perhaps you can describe for me or define for me what is meant by that particular phrase in the Mission statement that you have and how what I have described to you earlier is not going to be the case with respect to queue jumping and accelerated health care not disadvantaging other Manitobans who would want to be in a position to have similar procedures done.

I am not referencing involvement with the health care system of the province. I am dealing strictly with how the Compensation Board functions. I am trying to get an understanding here because, when I read through this document in its entirety, the link is there between the Mission statement and the Canadian Trends. So it appears to me we are moving in that direction and I am trying to get an understanding here of what the intent is.

Ms. Jacobsen: I think there are a variety of ways that you can have the development of accelerated health care access, and the acceleration does not mean vis-a-vis nonclaimants. It means vis-a-vis claimants historically. One of the ways, for example, that we have implemented initiatives around that item in the mission is by increasing our number of board physicians so that we can, in fact, shorten the length of time that people are taking for assessments, so that we can actually provide them with faster services. That is an example of how we can provide a faster level of timeliness in terms of our own health care.

I have just been given here, in terms of the range, we have gone, over the last three years from 36,000 medical consultations within the board in 1995 to 52,000. Part of that is to help cut down the time where people need good quality assessments.

Mr. Reid: I understand the board has an obligation to provide support for the claimant

both in the sense of wage loss and rehabilitation but also for medical procedures where they are warranted. You say you have increased your medical procedures from 36,000, I think you said, to 52,000. Can you tell me: all of those procedures, is that including the board's internal evaluations of claimants conditions and also in private practice medical facilities, in other words, private practice doctors?

Mr. Paul: These are the in-house, with respect to the board's own health care physicians. On the 52,000 in 1998, those are consultation on claim files so that our adjudicators and case managers are getting actively involved with our health care professionals much earlier in the process to try and determine ways we can jump into the fray a lot earlier to assist injured workers in getting back to work.

In terms of examinations at the board with respect to our own doctors, which is in-house again, we had, for example, from 1997, 2,542 examinations. That would include all examinations with respect to the clinical findings on total temporary disability benefits and permanent impairment awards. We jumped to 3,252, so we are doing more of them and we are doing them earlier with respect to the in-house process in order that we might facilitate an earlier return to work.

Mr. Reid: It is no secret, I mean there has been enough announcements and press releases and public speaking engagements that the private sector insurers, disability insurers have made over the last number of months, in fact into the last couple of years, and one can gain access to those statements relatively easy. Mutual Liberty Health, for example, has made no secret of their interest in becoming involved in the case management model. Looking at horizontal integration of services and taking over or buying out disability vocational rehabilitation service providers, and then offering employers the opportunity to reduce their costs and the Compensation Board's for that matter, too, by facilitating early return to work.

* (1150)

I guess the question that I have as a result of some of their involvement in these areas and,

now that the board has put this very similar language into your mission statement here, adopting perhaps from Canadian trends, perhaps from private sector competitive insurance industry, disability insurance industry, similar language, one has to wonder what the future holds with respect to our board's operations. If you look at the fact that these private sector disability insurers are going to make money, they are not moving into this to lose money. They say that they can save compensation boards and employers dollars through reduced premium costs, through reduced operating costs. The question is: where does that money come from?

I think we are all pretty astute to determine that there is only a finite amount of money in the pot, so who is going to be the loser in the process if the private sector disability insurers are trying to move into the compensation field applying for grants, two that you say you have? The employers and the compensation boards are going to save money. Where is that money going to come from?

Mr. Fox-Decent: I can certainly say, Mr. Reid, that at the level of the board of directors, and I think I can say at the level of senior management in the corporation, because the relationship between the board and them through me is very close, there is no consideration being given to shifting responsibilities that presently are inside the board to outside the board.

I cannot go much further than that. I want to assure you that there is no consideration at this point being given—I say at this point only because we are talking about the foreseeable future—to any form of privatization of services that are presently offered by the board from its own resources.

Mr. Reid: Granted, you say that now, Mr. Fox-Decent, but the Ontario experience does not bear that out. A lot of this is based on political will, and the government of Ontario has opened up the doors and is allowing this process to take place.

Your operations are a creature of the provincial government. Yes, we set the legislative policy and the board is there to implement

and administer that, including the financial matters, but to a large part, that direction comes from provincial governments who are responsible for compensation boards. The board itself can perhaps delay that decision now through the decisions that they will make with respect to grant applications. Then the bigger picture remains with respect to what is the will of the provincial government to move in that direction or to allow the board to move in that direction, and perhaps the minister should, in fairness to the board representatives, respond to that.

I want to know what the intent is of himself as minister, his department and his government with respect to allowing private sector disability insurers to move into the field that has been, to this point in time, the sole responsibility of the Compensation Board.

Mr. Radcliffe: Mr. Chairman, I can only advise my honourable colleague on my experience in the Department of Labour and therefore being the minister responsible for the Workers Compensation Board from I think approximately the end of January to the present time, and I can say categorically and without equivocation that I have had no conversations with any individual touching on these topics to which my honourable colleague makes reference. I have no intention at the present time to embark on such an inquiry, and I know not of any policy inside our government at this point in time in this field at all.

So, to date, I want to give my honourable colleague every assurance that there is nothing on the books at this point in time. I do not have a crystal ball. I do not know where government policy will take us, as does my honourable colleague not know, but I can only give you assurances as to what is on the table at the present time.

Mr. Reid: Well, I understand that the minister, like myself, is to a large degree at the will and pleasure of our various caucuses and that there will be certain direction provided by the leadership in either of those, no doubt, now and into the future.

I am concerned. When I raise these matters, I am concerned about the direction that the board

is taking currently. In no way was it my intention to slight or, in any way, to minimize your abilities, Ms. Jacobsen, with respect to being hired by the board. Perhaps you have a great deal of experience that you bring to the board with respect to your involvement in other governments and other sectors of the economy, but I have a concern with respect to the role that the private sector disability insurers are playing now and are attempting to play within our compensation system.

I am trying to put it into position, because I have respect for the Workers Compensation system, not only just in Manitoba but in Canada. I am a supporter of that system. Yes, it has warts just like every other government activity or involvement in activities or agencies, but we can work at improving those. But, to allow for others that are what I see as direct competitors to access funds, to undermine the very system that we have in place, I think is inappropriate. I would hope the board would take that very seriously when they give considerations—your service committee, I think you said, is giving consideration to the grants now. When that final recommendation comes through to the board level—I expect that the board will have to have some input into this matter now that it has been raised in this regard, or at least I hope it would be.

I draw that matter to your attention, so it can be dealt with in the most serious sense. There are other questions I have with respect to the medical practices of the board. In past, I have asked for information relating to your staffing costs for your Medical Services branch, and I am wondering if you could provide that information for me. You have referenced that you handle 52,000 claim files now. I am looking for information with respect to the number of doctors you have on staff, the salaries that go with that. I imagine they are over 50,000, so it is public information already. If you could give me a breakdown of that information as well, and whether or not you have contract doctors working for you, the numbers, and any indication of whether or not there are going to be changes in your staffing level with your Medical Services department.

Mr. Chairperson: As previously indicated we were to rise at 12 noon. However, I believe

there was a will of committee to also pass a few of the reports. Is that correct?

An Honourable Member: Up until the current one.

Mr. Radcliffe: I think I sense a willingness on the part of committee to pass all the outstanding reports except for the most recent round of reports.

Mr. Kevin Lamoureux (Inkster): Mr. Chairperson, having sat patiently both downstairs and upstairs listening to what has been going on, I do have a number of questions and would ask, because of the time constraints, that we do reconvene at some point in time. I have absolutely no objection in terms of passing the dated reports and keeping the ones that are the most recent. So on that note we are prepared to pass.

Mr. Radcliffe: I thank my honourable colleague for those remarks. If in fact he has questions of a specific nature, if he could frame those and forward them to the board if they

require research in order that that could assist us in responding at our future meeting when we do meet again and then we could be more responsive to the particular issues of which he is interested.

Mr. Chairperson: Then to proceed. Annual Report for the Workers Compensation Board for the year ended December 31, 1996—pass; 1996 Five Year Operating Plan—pass; Report of the Appeal Commission for the year ended December 31, 1996—pass; Report on the Workers Compensation Board for the year ended December 31, 1997—pass; 1997 Five Year Operating Plan—pass; December 31, 1997, Report of the Appeal Commission—pass.

* (1200)

As previously agreed upon, I believe that brings us to the close of this committee meeting.

Is it the will of the committee that committee rise? [agreed]

COMMITTEE ROSE AT: 12:01 p.m.