

Third Session - Thirty-Eighth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Human Resources

*Chairperson
Ms. Marilyn Brick
Constituency of St. Norbert*

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON HUMAN RESOURCES

Thursday, June 2, 2005

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

VICE-CHAIRPERSON – Mr. Harry Schellenberg (Rossmere)

ATTENDANCE - 11 QUORUM - 6

Members of the Committee present:

Hon. Mses. Allan, Oswald

Messrs. Aglugub, Altemeyer, Ms. Brick, Mr. Cullen, Mrs. Driedger, Mr. Loewen, Mrs. Mitchelson, Messrs. Santos, Schellenberg

APPEARING:

Mr. Kevin Lamoureux, MLA for Inkster

WITNESSES:

Mr. David Sinclair, Private Citizen
 Mr. Graham Starmer, President, Manitoba Chambers of Commerce
 Mr. Bill Gardner, Chair, Manitoba Employers Council
 Ms. Darlene Dziewit, President, Manitoba Federation of Labour
 Mr. Pete Walker, Health and Safety Representative, Manitoba Federation of Labour
 Mr. Ted Hudson, Private Citizen
 Ms. Gerry Schedler, Private Citizen
 Mr. Craig Schedler, Private Citizen
 Ms. Liz Elliott, Private Citizen
 Mr. Gerald Allen, Private Citizen
 Mr. Doug Dobrowolski, Association of Manitoba Municipalities
 Mr. Bruce Hacault, Private Citizen
 Ms. Lois Wales, First Vice-President, Manitoba Government Employees Union
 Mr. Rick Farley, Workers Compensation Board
 Mr. Robin Reed, Frontier Teachers' Association

Mr. Peter Wohlgemut, Private Citizen
 Mr. Ray Perreault, Private Citizen
 Mr. Ron Perreault, Private Citizen
 Mr. Les Lilley, Private Citizen
 Mr. Harvey Levin, Private Citizen
 Ms. Karen Mozden, Private Citizen
 Mr. Alex Forrest, President, United Fire Fighters of Winnipeg
 Ms. Debbie Woodman, Private Citizen
 Ms. Brenda McAdam, Private Citizen
 Ms. Anne Savignac, Private Citizen
 Mr. Robert Smith, Private Citizen
 Mr. Shannon Martin, Director of Provincial Affairs, Canadian Federation of Independent Business
 Mr. Brian Ardern, President, Manitoba Teachers' Society
 Ms. Dianne Zuk, President, Pembina Trails Teachers' Association
 Ms. Kathy Coulombe, Private Citizen
 Ms. Heidi Eigenkind, Private Citizen
 Ms. Darlene Kernot, Private Citizen
 Ms. Dorothy Wigmore, Private Citizen
 Mr. Ronald J. Nash, Private Citizen
 Ms. Ruth Ann Furgala, President, Manitoba Association of School Trustees
 Mr. Dave Sauer, SAFE Workers of Tomorrow
 Mr. Bob Dolyniuk, General Manager, Manitoba Trucking Association
 Mr. David Markham, Executive Vice-President, Mining Association of Manitoba Inc.
 Mr. Patrick Campbell, Private Citizen
 Mr. Stephen Copen, Employers Task Force on Safety and Compensation

WRITTEN SUBMISSIONS:

Manitoba Nurses' Union
 Ms. Hilda Froese, Chair, Garden Valley School Division Board of Trustees
 Ms. Lisa Steffler, Private Citizen
 Mr. John Steffler, Private Citizen
 St. James-Assiniboia School Division
 Ms. Charlene Bergen, Private Citizen
 Mr. Stephen Hunt, Director, District 3, United Steelworkers
 Ms. Linda Davies, Private Citizen

MATTERS UNDER CONSIDERATION:

Bill 25-The Workers Compensation Amendment Act

Madam Chairperson: Good evening. Will the Standing Committee on Human Resources please come to order. This meeting has been called to consider Bill 25, The Workers Compensation Amendment Act.

Our first item of business is the election of a Vice-Chairperson. Are there any nominations? Mr. Aglugub?

Mr. Cris Aglugub (The Maples): Madam Chair, I nominate Harry Schellenberg, the member from Rossmere.

Madam Chairperson: Mr. Schellenberg has been nominated. Are there any other nominations? Hearing no other nominations, Mr. Schellenberg is elected Vice-Chairperson.

We have a number of presenters registered to speak this evening which you will find noted on the presenters' list before you. We have also posted the lists at the entrance of the room. Before we proceed with these presentations, we do have a number of other items and points of information to consider.

First of all, a second meeting has been called, if necessary, to hear any presenters which may not get to speak this evening. This second meeting will be held in this same room, Room 254, on Monday night, June 6 beginning at 6:30 p.m., if required.

Second, if there is anyone else in the audience who would like to make a presentation this evening, please register with staff at the entrance of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with photocopying, please speak with our staff.

As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations with

another 5 minutes allowed for questions from committee members.

In accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. Further, if the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

For the information of the committee, several written submissions on Bill 25 have been received and distributed to committee members. These submissions are from John Steffler, Lisa Steffler, the Garden Valley School Division, Manitoba Nurses' Union, and St. James-Assiniboia School Division.

Does the committee agree to have these documents appear in the Hansard transcript of this meeting? *[Agreed]*

On the topic of determining the order of public presentations, I will note that we do have a number of out-of-town presenters in attendance marked with an asterisk on the list.

As well, David Sinclair, No. 11 on your list, is here tonight in place of his brother-in-law, Mr. Bruce Kitching, who recently passed away. It has been requested that Mr. Sinclair be allowed to speak as soon as possible, as the funeral is going to be occurring tomorrow. Is that agreed? *[Agreed]*

With these considerations in mind then, in what order does the committee wish to hear the presentations?

It has been suggested that we hear out-of-town presentations with the exception of Mr. David Sinclair, who will be moved to No.1 on the list. Is that agreed? *[Agreed]*

I would like to inform all in attendance of the provisions in our rules regarding the hour of adjournment. Except by unanimous consent, a Standing Committee meeting to consider a bill in the evening must not sit past midnight to hear presentations unless fewer than 20 presenters are registered to speak to all bills being considered when the committee meets at 6:30 p.m. As of 6:30 p.m. this evening, there were 67 persons registered to speak to Bill 25. Therefore, according to our rules,

this committee may not sit past midnight to hear presentations without unanimous consent.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I have to first say the person's name. This is the signal for the Hansard recorder to turn the mikes on and off. Thank you very much for your patience.

We will now proceed with public presentations. Mr. David Sinclair, would you like to come forward, please. Mr. Sinclair, you can proceed whenever you are ready.

* (18:40)

Mr. David Sinclair (Private Citizen): Thank you, Madam Chair, honourable members. Good evening. My name is Dave Sinclair and I am a captain in the Winnipeg Fire Department. I am also the brother-in-law of firefighter Bruce Kitching. Bruce was scheduled to speak here tonight. This is something that he really wanted to do. Unfortunately, Bruce died on Sunday as a result of heart injury. He was 48 years old.

Last May, just a few hours after Bruce had returned home after a busy shift, he suffered an aortic aneurism. I understand this is a very common heart injury for firefighters. For the next year, Bruce went through many life and death surgeries, three to be exact, but on Sunday the fight was over. I am here to speak on behalf of Bruce's wife, Kathy, and his family. I am glad to see that heart injury will finally be recognized as a line of duty injury. It is especially sad that Bruce died before this bill was passed. Bruce died, and, as of today, his WCB claim has not been accepted.

I will not go into the tremendous impact that Bruce's death has had on his family, both financially and emotionally. I also understand that there are other widows of firefighters who have died of occupational disease who are here tonight, and they are much better able to explain to you how much we need these amendments. I would like to thank all of you for the work you do and the time you have given me tonight.

Please pass the bill as soon as possible so that other firefighters will not die of occupational diseases without proper compensation. Thank you.

Madam Chairperson: Thank you very much, Mr. Sinclair.

Hon. Nancy Allan (Minister of Labour and Immigration): David, I would like to thank you for appearing at the committee tonight on behalf of David Bruce Kitching. I would like to thank you for your courage in being here. I know this must be a very difficult time for you, and I would like you to pass on my condolences to your sister-in-law Kathy and his family.

I will be at the funeral tomorrow, but I would also like to put on record that it is in his commitment and his work in the community that he paid the ultimate sacrifice with his life. That is incredibly unfortunate. I just want to say thank you once again for being here this evening. I know how difficult that must be.

Mr. Sinclair: Thank you.

Madam Chairperson: Thank you very much.

By consent of the committee, we will now move towards out-of-town presenters. Our first out-of-town presenter is Graham Starmer from the Manitoba Chambers of Commerce. Before you proceed, I just need to know, is this a presentation made by two individuals, or only one?

Mr. Graham Starmer (President, Manitoba Chambers of Commerce): Yes, it is.

Madam Chairperson: Okay, before you proceed I need to have the other person announced, and I need to have consent of the committee for the other person to speak.

Mr. Bill Gardner (Chair, Manitoba Employers Council): Thank you, Madam Chairperson. My name is Bill Gardner.

Madam Chairperson: Okay, and is it the will of the committee to have both presentations heard simultaneously? [Agreed] Please proceed.

Mr. Starmer: Honourable members, The Manitoba Chambers of Commerce, now in its 75th year, is the

umbrella organization for Manitoba's chamber movement. With a membership comprised of local chambers as well as direct corporate members, we represent in total approximately 10 000 businesses and 75 communities across Manitoba.

The MCC is unique amongst the business organizations that will present to you. Our organization is not confined to any specific region within Manitoba, nor do we represent only one size of business. In fact, the MCC represents the entire spectrum of the business world from sole proprietorships to some of the largest companies in Manitoba. Nor do we represent only one particular sector of the economy. To cite a few examples, our membership includes representatives within the transportation industry, mining, technology, services, manufacturing and agriculture.

It is a pleasure to be provided the opportunity to share our views with the standing committee concerning amendments to The Workers Compensation Act.

At the outset, first let me identify that the MCC is a member of the Manitoba Employers Council and Employers Task Force on Workplace Safety and Workers Compensation and supports their submissions to this committee which will present it later.

The MCC is supportive of a safe, healthy and productive workplace. The MCC expects The Workers Compensation Act to provide the Workers Compensation Board with the tools to provide efficient and effective support and services to injured workers so as to ensure their early and safe return to the workplace. Let us not forget that the WCB is an employer-funded organization and, according to our government's word, if not its actions, and the Meredith principles, is to act as an independent administration.

Let me reiterate those facts: The MCC is funded by employers, has an independent administration and is provided guidelines for which to operate by the government. It has the board of directors who makes decisions related to the plan and we expect that the workers compensation process to function in a fiduciary and financially prudent manner.

The MCC is supportive of the WCB policies and/or legislation that provide fair compensation and needed medical support. We also expect and support

the premise of fairness and balance, and, where appropriate, an expedited process of claim management to facilitate return to work as soon as medically possible. The means to all of these noble ends must be reasonable, practical and effective.

The WCB review took considerable time and energy to bring forward its recommendations. It was by any standard a truly noble effort. Business and labour, starting with differing points of perspective, engaged in detailed negotiations and ultimately forged a common, a detailed vision for the betterment of the WCB system. Frankly, the interference with that delicate balance by cherry-picking certain aspects repudiates the efforts of good will of the authors and the communities they represent.

In fact, the legislation that is before us tonight brings into glaring perspective a growing fissure between Manitoba's business community and labour communities. Sadly, it is a division that is being wrought by the heavy hand of our own government. The problem, simply put, is this: if the government is to appoint representatives of labour and business, allow them, indeed encourage them to negotiate a balanced consensus, then it cannot, it must not invalidate those efforts by cherry-picking through recommendations.

Now specific concerns. The MCC is concerned that the so-called reverse onus, as described by our Premier (Mr. Doer), removes the authority from the Board of Directors of the WCB. Currently, it is within the Board's scope to decide who to cover and when to cover. The WCB's authority to run its own activities and maintain its own decision-making role is crucial to its effectively, diligently and responsibly meeting its purpose. To have the Province suddenly dictate to them who should be included or removed in WCB is completely inappropriate. Not only would this open the door to interference for political ends, it may affect their financial model and viability. Governments have recent experience in legislation which causes board governance problems.

* (18:50)

The MCC membership passed a policy this past April, which states the Government of Manitoba continue not to include teachers and school divisions in the WCB. This resolution goes directly to the heart of concern of taxpayers that any expansion of coverage has to be rationally evaluated as to impact

and in consultation with the stakeholders. School divisions have already evaluated the substantial cost to the local taxpayers in their property taxes should this be implemented or dictated by government. It is also felt that there will be impacts on small business and health care.

It is also noted that the government, contrary to the review recommendations, has no problem in substantially increasing the cost which employers have to bear but has conveniently decided that the cost of enforcement of WCB shall continue to be paid by employers.

On a more positive note, the inclusion of changes in some of the governance changes to the act are welcomed and, hopefully, the upcoming report from our Auditor General has been anticipated.

The WCB exists to help both employers and employees. The detailed recommendations of the review panel represented the ultimate in policy development. Not only did it truly bring together labour and business in consensus; its vision represented a true and balanced improvement of our WCB system.

I might note at this point that, related to my comments related to the reverse onus, to the government's credit they have currently entered into discussions about amendments to the act which may assist in this area. I would ask that, in order to expedite this submission, the areas listed as attachments be read into the record to save going over each of the areas of recommendations from pages 4 to 6.

Madam Chairperson: I am sorry. Did you want to speak, too?

Floor Comment: Madam Chairperson, I am just here to assist, so I do not have anything to add at this stage.

Madam Chairperson: Okay. Thank you.

Mr. Starmer: If you have any hard questions, that is why he is here.

Madam Chairperson: Oh, I see. Thank you.

Mr. Cliff Cullen (Turtle Mountain): Thank you very much, Mr. Starmer and Mr. Gardner, for your presentation.

You have put forward a number of recommendations, and I just wondered which would be the single most important recommendation that you are putting forward tonight? Is there anything you would like to see changed in this particular legislation?

Mr. Starmer: We believe that one of the most important items is to leave the authority of expansion of coverage with the WCB board. We think that that is a good governance model, and not to do so would cause nothing but disarray in the business community.

Mr. John Loewen (Fort Whyte): Thank you for your time and effort on this bill.

With regard to the issue of coverage of teachers, we have raised this issue a number of times in the House during second reading, and although I do not know that it is on the record, I did not hear it or have not seen it, we have certainly seen the minister indicate across the House that there is absolutely no intention, in fact she has indicated on the record that there is no intention, of expanding any of the coverage without a lot of consultation.

Have you got assurances from the minister that coverage of teachers is not part of the plan?

Mr. Starmer: We have assurances from the minister at the present time in writing that that is so, but because of the construction and the make-up of the act, that is not certain should the honourable minister change or should things change. As you know, things strategically are usually balanced a couple of years down the road, so that is our major concern.

Mr. Loewen: Thank you. I am not sure if you are aware or not, and I appreciate the fact that you have included the report from the Auditor General in here because it is anticipated that we will get that this fall. Unfortunately, as a result of the government's decision to include in this bill the provisions for the firefighters which we all agree should pass, we do not really have much option in terms of legislators but to see this bill proceed through the House.

Again, it is strange to me that the minister would put forward this comprehensive a bill without waiting for recommendations from the Auditor General's report because we are of the same view as you that there will be a lot of worthwhile

recommendations that should be dealt with and unfortunately they will be missed. Would you be in favour or would you think it reasonable to strip off the portions of the bill that deal with the firefighters so we can pass that immediately and hold on until the fall until we see the recommendations? Would that be something that the Employers Council would agree with in terms of the other recommendations?

Mr. Starmer: Yes, it is the Manitoba Chambers; the Employers Council will be doing their stuff later. We would be supportive of that as long as the process of dealing with the issue of the firefighters are dealt with expediently because of the situations.

I would point out, of course, that the aspects of that within the proposed amendments sort of run contrary to the recommendations of the review committee.

Mr. Loewen: Well, thank you. I appreciate that, and you should know that there is a private members' bill before the House that deals specifically with the firefighters issue with exactly the same wording that is in this bill and we do have an option, I guess, to pass that and hold off to this.

Just again to reiterate, I think all members of the Legislature have indicated support for the firefighters portion of the bill even though it does not exactly follow the recommendations from the report. Thank you.

Madam Chairperson: Mr. Starmer. Thank you very much. Oh, excuse me, Minister Allan.

Ms. Allan: I would like to thank you very much Graham and Bill for being here tonight and taking time out of your busy schedules to present on Bill 25. I also want to thank you for the ongoing relationship that we have in regard to legislation and matters that matter to business and labour in our province. You know that my door is always open, and I think we have had an excellent relationship.

In regard to splitting off the bill in regard to the legislation that the Tories tabled in the House, I would just like to remind everyone in this room this evening that firefighters not only want the legislation that is in the bill that the opposition tabled in the House but they are also supportive of removal of the cap and the ability to top up. So I want you to know that it is not that simple to just say that we can split

the bill off and you know everything will be ducky. So I just wanted to thank you very much for being here this evening.

Madam Chairperson: Thank you very much, Mr. Starmer. Did you have one final quick, quick comment?

Mr. Starmer: Sure, I just wanted to respond to the minister's statement about the—

Madam Chairperson: If you can be 15 seconds.

Mr. Starmer: Sure. True we have a really good relationship with the minister and the minister has been great in dealing with us and in discussing the contentious issues related to the cap. We, as you will see in our submission, have concerns, particularly about the cap, primarily because we believe that the million-dollar aspects of that have been underrated and we believe it is substantially more than that.

Madam Chairperson: Thank you Mr. Starmer.

Mr. Starmer: Thank you.

Madam Chairperson: We do have one change to our list here for the committee. We have a member who was listed as No. 1 on the Standing Committee on Human Resources who has since informed us that she is from out of town. So I would like to call Darlene Dziewit, President of Manitoba Federation of Labour.

Just before you proceed, is this a joint presentation or—

Ms. Darlene Dziewit (President, Manitoba Federation of Labour): No.

Madam Chairperson: Only yourself?

* (19:00)

Ms. Dziewit: Thank you, yes. With me tonight is Mr. Pete Walker, who is the Workers Compensation person at the Manitoba Federation of Labour. If there are any technical questions that I do not have the answer to, he would be happy to supply that.

Madam Chairperson: You may proceed, Ms. Dziewit.

Ms. Dziewit: Thank you, Madam Chairperson. First of all, on behalf of the 95 000 members of the

Manitoba Federation of Labour, I would like to extend to the family of our brother, Bruce Kitching, the MFL's deepest sympathies. We honour him and the work he did to include presumptive injuries into the legislation. I think he is an admirable human being and we wish his family the best.

The Manitoba Federation of Labour is pleased to present the following views on Bill 25, an act to amend The Workers Compensation Act. The amendments contained in this bill are long overdue and are the result of the first meaningful review of the act in a generation, but before I address the provisions of Bill 25, I would like to provide a context.

Workers compensation is a contract between working people and their employers that is nearly a century old. It flows from a review of workplace conditions carried out by Justice Sir William Meredith. His findings and recommendations, in essence, frame an agreement in which employers recognize their responsibility to provide financial security and other measures to workers who are injured in their workplaces. In return, injured workers and their unions gave up their right to litigation, seeking damages against their employers in the court system following a workplace injury. The agreement is clear and straightforward. Workers have lived up to their end of the bargain. Unfortunately, the same cannot be said about employers and the compensation system.

The last two significant changes to the workers compensation benefits hit injured workers hard. The first change reduced benefit entitlement from 75 percent of gross pay to 90 percent of net pay, which resulted in substantial reduction in the amount injured workers received from the Workers Compensation Board in order to live and support their dependants. The second overhaul was a package of measures that made benefits harder to qualify for and further reduced the amounts injured workers received.

The rationale advanced at the time was that an unfunded liability of some \$250 million existed and it had to be retired. The measures were so aggressive that the liability was erased in only two years, not the planned five year period. The unfunded liability went away, but the draconian changes did not. That is why the Manitoba Federation of Labour is pleased to see the amendments to The Workers Compensation Act

that are contained in Bill 25. They address some of the flaws in the current act in a way that will improve the workers compensation system for injured workers.

For example, Bill 25 extends coverage to include the nearly one in three Manitoba workers currently not covered by the act unless compelling reasons can be advanced to have workers and employers excluded from the system. Workers that will be covered include volunteers and those in work experience jobs. Enforcement has been strengthened by the establishment of administrative penalties to be determined by regulation.

Workers will no longer lose pay as a result of being injured. Employers will be required to pay employees from the first day of the injury.

The list of occupational illnesses related to firefighting has been increased, meaning that when a firefighter contracts one of those diseases, it is accepted that it has occurred as a result of workplace exposures and there is no onus on the firefighter to prove that the illness is work-related.

Measures to discourage claim suppression measures by employers have been improved. Benefits will no longer be reduced by 20 percent after 2 years of receiving them.

Age discrimination has been removed, and benefits will no longer decrease by 2 percent per year after age 45.

The cap that limits the amount of lost wages that will be compensated for by the system has been removed and the minimum amount can no longer fall below minimum wage.

There is improvement in the act's provisions around an employer's obligation to re-employ and retain injured workers once they are medically fit.

These are a few of the positive aspects of Bill 25 and the government is to be congratulated for including them, but there are gaps in the bill that we must point out and urge the government to take action on.

The principle embodied in the firefighters' provisions, the idea that certain diseases are inordinately high among certain occupations and should

be automatically recognized as workplace-related, is a principle that should be applied to all professions. There is no shortage of research that shows some jobs have a higher than normal occurrence in some diseases; however, current legislation requires a worker to prove that workplace exposures were the dominant cause of their illness. The vast majority of workers do not have the skills or resources to overcome this barrier. In fact, not even modern medicine is able to provide the evidence that The Workers Compensation Act requires.

The practice of epidemiology can and does show that people who are exposed to certain toxins under certain conditions are at higher risk of acquiring certain illnesses than the general population, but what medicine can scientifically determine by studying groups of workers, it is unable to do for individual workers. An individual with lung cancer is unable to scientifically prove that their condition is due primarily to the exposure of a certain toxin in their workplace even if it is known that that toxin is carcinogenic. An individual's condition could be caused by multiple and different exposures through their lifetime. In almost every case it is simply impossible to prove that an individual's condition is primarily due to a particular exposure, but that is precisely what the Manitoba legislation demands.

When the results of studies of certain occupational groups are compared with the number of occupational disease claims that are accepted from workers in those same groups, then it is obvious that many workers who are made ill by workplace exposures are not being compensated. To illustrate how occupational diseases are under-compensated, one need only look at cancer rates and compare those with claims accepted by the WCB.

Dr. Allen Kraut of the Occupational Health Centre has estimated that between 2 and 8 percent of the 3000 people in Manitoba who die from cancer each year develop their illnesses due to workplace exposures of hazardous materials. That means there are between 60 and 240 workers who die each year in Manitoba due to occupationally induced cancer, yet the 2002 Workers Compensation Board Annual Report notes that only one cancer-related fatality claim and eight fatality claims related to asbestos exposure were accepted by the board.

When there is evidence to show that certain occupations have a higher incidence of certain

diseases, then the onus on workers to establish a workplace link should be removed for workers in those occupations. To facilitate this, a panel of experts should be struck to review occupational disease and establish a list of diseases related to individual occupations that are automatically assumed to be work related when workers fall ill with them.

Another omission relates to the recognition of chronic stress related to occupational illnesses. Right now, workers who become ill as a result of chronic stress levels experienced in the workplace are excluded from making a claim. This is unfair and not in keeping with the analysis put on the record by the Supreme Court of Canada in a ruling on a case from the province of Nova Scotia, and I quote, "excluding injured workers from the normal compensation system without regard for their actual needs and circumstances and depriving them of an opportunity to establish the validity of their individual claim on a fair basis is inconsistent with the ameliorative purpose of the act."

The fact is, chronic stress is a common feature in many workplaces today because of corporate "lean" staffing philosophies, work process speed-up, understaffing, and the drive to compete with sub-standard workplace conditions elsewhere in the global economy. Chronic stress is invisible. This means that workplaces never thought to be in any particular need of workers compensation coverage compared to manufacturing setting can actually be very much in need of access to the system, since chronic stress-related illnesses are rampant. We recommend that chronic stress-related illness coverage be included in the act.

I am near the end of my 10 minutes, but I will touch briefly on several other issues we would like addressed. When the shift was made from calculating benefits based on 75 percent of gross income to 90 percent of net income, net was calculated as if CPP and EI premiums had been deducted from gross income. However, these deductions are not submitted to the federal authorities. This depresses compensation benefits for a certain period of the year and reduces future entitlement to federal program benefits. We recommend that when net income is calculated by WCB, the CPP deduction not be included in this calculation.

In the area of privacy, we recommend that Bill
25-

Madam Chairperson: Thank you, Ms. Dziewit.

(19:10) *

Point of Order

Mr. Loewen: Just a point of order first. I wonder—I know the speaker is near the end of the presentation—if we could just ensure that the full presentation as written is submitted for the record so that we have it.

Madam Chairperson: Agreed by the committee? *[Agreed]*

* * *

Ms. Dziewit: *In the area of privacy, we recommend that Bill 25 include a provision that employees may not retain medical information or use the information for anything but an actual appeal of an award to an injured employee.*

And, finally, some of the provisions of Bill 25 will undo aspects of the act that have been in place since 1992. We recommend that all current and active claims that are affected by Bill 25, regardless of when the accident occurred, receive the benefit of the amendment, retroactively.

Thank you very much for your attention and I invite any questions you may have.

Mr. Loewen: Thank you for your presentation. I certainly hope the minister will look closely—

Madam Chairperson: Mr. Loewen, could you pull your mike a little closer. I apologize, but we cannot quite hear you.

Mr. Loewen: Sorry. I do not usually have that problem. I do hope the minister takes your recommendation seriously.

With regard to the occupational diseases issue that you raise, I wonder if your organization has concern about the fact that there are still parts in Winnipeg—*[interjection]* Ouch, are you okay?

An Honourable Member: I was going to do that quietly.

Madam Chairperson: Keep going please, Mr. Loewen.

Mr. Loewen: —parts of Manitoba that are now exempt from the smoking law, smoking by-law prohibiting smoking. Do you have concern that workers are facing extra risk in those locations?

Ms. Dziewit: We always have concern that workers are facing risks from smoking in the workplace. I think that may be something that falls under a different forum than today's discussion. I would be more than happy to talk to you about it in more detail.

Mr. Loewen: Thank you. Just my last question, you know, we have been asking questions ever since we received the Auditor General's report on the Crocus Fund and; I am wondering if you, as head of the MFL, can provide us with any insight into how it could be that the fund which has been monitored by the MFL lost \$61 million.

Madam Chairperson: Mr. Loewen, actually have to just hold on a moment, please.

At this point, I would like to take a moment to remind committee members that questions addressed to presenters should be questions of clarification based on information contained in the brief. The question should not be used to debate with presenters or as a vehicle to ask leading questions. Thank you. Please proceed, Mr. Loewen.

Mr. Loewen: Well that is it, I was just looking for further information. You know, if the individual wants to respond, that is fine. Otherwise, I will leave it at that.

Madam Chairperson: That is your choice, but—

Ms. Dziewit: I am appalled that this important piece of legislation would be turned into a crass political move on someone's part. I am appalled by it, and I think we should be paying attention to this legislation. It is very important.

Madam Chairperson: Thank you. *[interjection]*

Hello, hello. I have to at this point intercede and say there cannot be any applauding from the gallery. So I would like to remind the members of the public who are observing the committee meeting that they are not to participate in the committee meeting by applauding or commenting from the audience. Thank you.

Mr. Cullen: In regard to your presentation here, and you discussed the chronic stress situation, I wondered if your organization has done any investigating this in terms of any coverage in other jurisdictions. If so, also what the cost may be here in Manitoba in terms of the cost to employers and also what kind of a degree we have or would encounter stress, the chronic stress levels in Manitoba.

Ms. Dziewit: Thank you. I will defer to our resident expert.

Madam Chairperson: I have to recognize Mr. Pete Walker.

Mr. Pete Walker (Health and Safety Representative, Manitoba Federation of Labour): Thank you very much. An interesting question. Research on stress as compensable is not necessarily available. It is the fact that a person suffers an illness as a result of chronic stress and, because Manitoba legislation forbids them from filing compensation, that data is not available.

Mr. Kevin Lamoureux (Inkster): Madam Chair, the review that ultimately led to the legislation that we have before us had a number of recommendations that I think the worker and the employer wanted to see brought in, and I was wondering if you could just give a brief comment in terms of one of the concerns that was addressed by the previous presenter. I will just read exactly what it is that was indicated.

He had indicated, and this is from the Chamber, if you like—

Madam Chairperson: If you could summarize, Mr. Lamoureux.

Mr. Lamoureux: I will absolutely. Business and labour starting with differing points of perspective engaged in detailed negotiations and ultimately forged a common view, a detailed vision for the betterment of WCB system. Would you agree about the cherry-picking? Is this the best that we could have done at this time?

Ms. Dziewit: Well, I do not know that this legislation is cherry-picking. There are pieces of this legislation we are extremely happy about, in large part. There are also things that are missing from the legislation and, in preparing our brief, we have complied with MFL policies which are adopted

democratically by our members. So that is why we have some agreements and some disagreements with the legislation as it is currently outlined.

Madam Chairperson: Minister Allan, 10 seconds.

Ms. Allan: I would just like to thank my sisters and brothers, Darlene and Pete, for being here this evening. Thank you very much for your presentation. Thank you.

Madam Chairperson: The next presenter we have in keeping with our out-of-town list is Brenda Hudson, private citizen.

Brenda Hudson has been called once. She will now be dropped to the bottom of the list in keeping with the rules I read at the beginning of the evening.

The next presenter we have is Ted Hudson. Is Ted Hudson here?

Good evening, Mr. Hudson, did you have something on it to distribute to the committee?

Mr. Ted Hudson (Private Citizen): No, I did not, Ma'am. Sorry, my wife could not make it here tonight.

Madam Chairperson: That is fine. Mr. Hudson, you can proceed whenever you are ready.

Mr. Hudson: You know it all happened in November 17 of '99 when my—

Madam Chairperson: You have to speak a little louder. I apologize.

Mr. Hudson: I say it all happened in November 17 of '99 when I was working for Yanke Transport. I got out of a tractor in Hurst, Ontario, and I come down on a block of ice on my left shoulder. I have been dealing with compensation on that from '99, November 17, to October 16 of 2001 when they cut me off. They said there was nothing else the matter. They tried one MRI, and I told them I was claustrophobic and that, and they never had made the arrangements to notify St. Boniface Hospital. At that time I was living in Brandon.

I come in to have it done, and they tried to put me in the machine. I do not know if it was just the ones that were working at that time or not, did not

seem to show any consideration or anything, and my forehead and the top of nose bounced off the roof of the thing, and the girl said, "Well, you do not fit in anyway," she says, "That is it." I was let out of there, and on the way out a gentleman told me he worked there. He says, "It might be some good to you to know if you went to the Health Sciences Centre, they have two different machines there that you would likely fit into." I said, "Okay. Thank you." I phoned my worker at the compensation department then and told them about it, what I had been told, and the guy that answered the phone, he was my worker at that time, told me to mind my own damn business. I carried on and kept seeing them, seeing my own doctor in Brandon at that time. I was put on pills, from one thing to the other, and there was never another deal made for to send me for an MRI.

Later on in 2001, I believe it was, or the early part, I believe it was 2000 or 2001, I am not sure, they phoned me and told me they were going to make a deal for to send me to Vancouver. That never came through. Then it was Calgary. That never came through. Then they were going to send me to Toronto, and that never came through. Then towards the summer, more or less, they phoned me and told me that they were going to send me to Grand Forks. I said "Fine, I would have to contact my lawyer because I had had an assault charge years before that," and I did not understand if I could or could not get through the border at that time. I phoned him. He made the arrangements and everything and told me it was no problem going through.

I phoned compensation and got a hold of my worker at that time and told her, I said, "There is no problem with me going through. I just talked to my lawyer, and it is all set." "Well," she said, "We are not going to bother sending you now because" she says, "it is all in your mind." I said, "What do you mean?" She says, "I work here. Our medical staff told them that all the pain that I was getting was all in my mind. It was not in my shoulder." Since then, I have gone and had an MRI done in Brandon on January 10, this past January, and they found there was a three-eighths tear in the muscle, the rotator cuff is torn in three places and both tendons in the top of my shoulder and one half in the back are both torn, too.

* (19:20)

I have been putting up with this. It has been causing me problems. I just got married in 2001, on

the same day as my birthday. Now the wife has separated and left because of all the commotion that compensation has caused me. They tell me I cannot go back to work, from the doctors that I have seen, Doctor Johnson [*phonetic*] and Doctor Birt, Doctor De Korompay, Doctor Engelbrecht and Doctor Chase, I have seen. They have all told me the same things. I went back to work last year, or tried to go back to work to try to save a marriage, and I had to quit because my shoulder would not take it. It has taken down now to where I have not got my wife anymore. We are trying to work it out, but it is long and hard and with only her working and me not being able to it is no good.

Trying to fight with compensation about it, I give them the letters. I went for a couple of tests, one with a Doctor Moore, I think it was, some kind of a pain deal. I went through that and he said what they were trying to figure out was a name for the pain to find out if I had it, a chronic pain, I think it was. Doctor Moore said, "Yes, as far as I am concerned, you have got it." But there were two questions on the compensation medical file. One of them was does not being able to work and having the extra income cause you a problem. Yes, it does. The other one was basically the same thing, only reversed a little bit the other way, and I answered it. Doctor Moore told me he had never seen these questions asked. If he was asking about the pain, he would not ask them because they had nothing to do with it.

Anyway, compensation kicked that back and said it was no good because I did not have the chronic pain. I had the chronic pain, but the wrong name for it to what they wanted. Lately, all they have been doing is bouncing it back from one to the other, go to the appeal board, go to the compensation, go to the appeal board, go to compensation. It has just been playing a game and it has taken me to where I am now with nothing.

Madam Chairperson: Thank you, Mr. Hudson.

Ms. Allan: Thank you, Mr. Hudson, for being here with us this evening and sharing your very difficult time that you have had. We have staff from the WCB at the back of the room, and David Scott is here, and we would like to suggest that perhaps in regard to your individual experience, if you would not mind, they would like to touch base with you about it.

Mr. Hudson: Okay.

Madam Chairperson: Seeing no other questions for Mr. Hudson, thank you very much for your presentation.

Mr. Hudson: Thank you.

Madam Chairperson: For the information of the committee, the next presenter we have is Gerry Schedler. No. 12 on your list is the next out-of-town presenter but, before she comes to the mike, her son is Craig Schedler, and he is No. 63 on the list. We have been requested, due to travel requirements and other considerations, that we allow Craig Schedler to move up to be following Gerry Schedler.

Is there agreement from the committee to see same happen? *[Agreed]*

The committee then calls Gerry Schedler, a private citizen. Ms. Schedler, do you have copies of the presentation?

Ms. Gerry Schedler (Private Citizen): No, it is just a private thing.

Madam Chairperson: That is fine. If you just want to make sure the mike is close enough so we can hear you that would be perfect. You can proceed whenever you are ready. Thank you.

Ms. Schedler: Hello, my name is Gerry Schedler. I am here today to represent my husband, Barry Schedler, my family and all firefighters.

September 3, 1998, Barry was diagnosed with lung cancer. We could not believe this was happening to such a strong, healthy man. Barry always took care of himself and was a non-smoker. The cancer was already stage 3, and there was no cure. Our whole world was turned upside down. The next nine months would forever change our lives. We had three young children and I was a stay-at-home mom. Barry became very sick and the children did not understand that their dad was dying.

May 30, 1999, Barry paid the ultimate sacrifice. Barry was 48, and I was a widow at 46. Craig was 17, Nicole was 13 and Phillip was 12. How could we go on? We lost a husband, a father, a dedicated firefighter. Then there was the financial impact. Since Barry was a young man at the time, the pension provided him was insufficient to raise our children, and there was no workers compensation.

There was CPP, the children got orphan's allowance until they were 18, but we all know they do not move out at 18. There was no paycheque coming in every two weeks, and the bills kept coming.

Now there is post-secondary education. The children's choices are limited because they cannot be off work for two years and go to college and have no income. When Barry was sick, he knew there was no compensation, so he asked me to do what I could to help. So, even in death, Barry wanted to help other people. That is who firefighters are.

We did this fight in 2002 and got some of the cancers passed. Unfortunately, lung, colon and heart were not included. I would like to thank the NDP government for their support. Stress plays a big factor in these diseases. Firefighters do not hesitate to run into a burning building, so I guess my question is why is there hesitation of this many years for things to happen.

There are non-smoking by-laws everywhere, but yet these men and women work in this environment every day with no workers compensation. This will affect the decisions of young children whether they want to be a firefighter. My son, who is here tonight, had said to me when his dad was alive he thought about being a firefighter, and when he saw what happened to his dad he changed his mind.

If there were workers compensation, it would mean a better post-secondary education for the children that are left behind, and there will be many more families that go through this difficult time.

In closing, I would just like to say life is a journey and we do not know what path it will take us down. Thank you very much for hearing my story.

Madam Chairperson: Thank you very much, Mrs. Schedler. Seeing no questions from the committee, I thank you for your presentation.

Ms. Schedler: Thank you very much.

Madam Chairperson: The committee calls Craig Schedler. Craig, did you have a written presentation you wanted to distribute?

Mr. Craig Schedler (Private Citizen): No.

Madam Chairperson: Okay, Mr. Schedler, you can proceed whenever you are ready.

Mr. Schedler: Thank you very much, committee.

Good day, ladies and gentlemen. My name is Craig Schedler. My father was Barry Schedler and he was at Winnipeg Fire Department. He was diagnosed with cancer in September 1998 when I was 17. It was in my Grade 12 year of high school, a very big time for a young person in their life.

Cancer is a very vicious disease. To watch my father battle it was very hard. My brother and sister were still very young and they did not realize what was going on, but I did. He got very sick and he was in and out of the hospital a lot. It stressed everyone, especially my mother. I could see her worrying about Dad and the bills. It hurt. Then he passed on in May '99. A whole new set of worries would arrive with us.

I was freshly out of high school and I was going to go to university, but I put it off and started work instead. I often worry about my brother Phillip and my sister Nicole, how this has affected them. I also worry about the cost of running a household to my mother and post-secondary education for my brother and my sister, now. Thank you for hearing what I have had to say.

Madam Chairperson: Thank you very much for making your presentation. If you could just stay at the mike for a moment, please.

* (19:30)

Ms. Allan: Craig, I would like to thank you and I would like to thank your mom Gerry for being here this evening. I want to thank you for making your presentation. I know it has probably been very difficult, but I want to thank you for your courage.

I just want to say that it is times like this when we realize as legislators that we can make a difference in people's lives, and it is your story that makes us realize that. So thank you.

Mr. Schedler: Thank you very much.

Madam Chairperson: Thank you.

Mr. Lamoureux: Just to make a quick comment, Craig, your father is one of the reasons why we have

this legislation here, and I just give my compliments that it took for you and your mother to come here and make a passionate presentation. It is very much appreciated. Thank you.

Mr. Schedler: Thank you very much.

Madam Chairperson: Thank you, Mr. Schedler.

We will now revert back to our original out-of-town presenters' list. Our next presenter is Liz Elliott, a private citizen. Ms. Elliott.

Floor Comment: Hello.

Mr. Chairperson: Ms. Elliott, I just need to recognize you. Please proceed, Ms. Elliott.

Ms. Liz Elliott (Private Citizen): Hello. I am here today to speak on behalf of injured workers in Manitoba, people who still deal with the negative impacts from a workers compensation system that was decimated by the Conservative Filmon government back in 1992. At this time, amendments were made to the act to address the unfunded liability of the WCB, but they went much further than that, turning a relatively fair system into one filled with pitfalls for injured workers.

Manitoba now has the dubious distinction of having among the lowest WCB premium rates in Canada. This has come about at the expense of injured workers who rely on a system that is meant to provide financial security while they recuperate, and other necessary benefits.

The historic compromise that was made many years ago by workers saw us give up our right to sue our employers to be made whole again after a workplace injury has occurred. If you look at the changes through those lenses, you will, hopefully, understand why we are so passionate about this opportunity to make the many injustices perpetuated on injured workers by the Tories.

We believe that many of the amendments proposed in Bill 25 will fix many of the inequities that injured Manitobans now have to face. This is a good start, but there are still some measures that we believe should and could still be brought forward for consideration to make this bill better for injured workers.

As workers, we have asked you, the government, to take a stand and fix a system that is broken. Throughout the public review process, workers have been letting the government know that there are problems with the current system. The message to you through the public consultation, was to fix it. Now, with the report completed and the legislation submitted to the Legislative Review Committee, you have an opportunity to follow the advice put forward by members of the public and make the changes that are necessary. The amendments in Bill 25 address many of the problems that injured workers have had to deal with and their passage into law will result in a system that is fairer.

But, having said that, more is needed. I ask that you include more reforms in addition to those already outlined in Bill 25. The workers compensation system should provide adequate protection for workers in return for our loss of access to the court system for compensation. This is our last clear opportunity to beef up Bill 25, to make it more relevant to workers today, to make it more relevant in today's working environment. Sometimes doing what is right requires an extraordinary resolve.

Occupational diseases. Workers are not able to scientifically demonstrate that their illness's primary cause was based in the workplace, but that is the current requirement. We are not knowledgeable in these areas, and it is wrong to deny benefits to people sickened by their workplace when they cannot meet the impossible standard. For that reason, we urge you to include in Bill 25 a provision that establishes an occupational disease panel. The panel make-up should include physicians who are knowledgeable in occupational illnesses and ideology issues, as well as representatives of employers and workers. The panel would review the available science and determine a schedule of occupational diseases that would be considered presumptive with claims of exposure history and diagnosed illness.

Stress. The type of stress one incurs as a result of a serious and a traumatic event can be alleviated following a short period of professional treatment and allow the affected worker to return to work, but chronic stress manifests itself into other illnesses. By excluding chronic stress from The Workers Compensation Act, all those workers who are suffering a related illness are prevented from establishing a claim. This is contrary to the principle of caring for workers injured by their workplace and

must be removed. Chronic stress is a serious workplace hazard and must be recognized as the cause of the serious workplace injury that it is.

We request that the act be amended to reflect this by removing the exclusion of chronic stress as the cause of compensable occupational disease. Right now, WCB benefits are paid on the basis of 90 percent of net pay. Part of the calculation to arrive at that figure is the deduction of CPP and EI premiums. Even though those premiums cannot be forwarded to these federal agencies, two things result. The WCB benefit is unreasonably reduced, and the workers' access to full CPP and EI benefits in the future is reduced since there is now a gap in contributions.

We ask that the amendments in Bill 25 include one that ends the practice of using imaginary CPP and EI premium deductions when calculating net income. Only after changes to the Canada Pension Plan Act and the Employment Insurance Act are made to allow contributions from workers receiving WCB benefits should these deductions be reinstated in our act.

Privacy. Where the employer obtains a file for an appeal process and the employer or the representative completes the appeal or does not take action within six months, they must be obligated to return the file and its contents to the WCB. The act must contain wording to prevent the employers from making copies, or using the information for any other purpose than an appeal.

Retroactive benefits. We feel that a two-tier system will be created if all the amendments are not applied to all claims that are from 1992 forward and are still ongoing or active. We recommend that all Bill 25 amendments apply to all current and active claims, regardless of accident date, on a go-forward basis from the time the amendments come into force. We also believe that there are some amendments that can be applied retroactively for all injured workers at a minimal cost to the system. These include subsection 39.1, wage loss benefits no longer be reduced to 80 percent of net after 24 months; subsection 38.2 (a)(b), which says that permanent impairment awards be calculated on the basis of 1,030 from 1 to 30 percent, and 1,240 from 30 to 100 percent; subsection 29.3, lump sum awards granted to surviving spouses and partners not to be reduced by the value of impairment awards granted to the worker prior to his or her death; subsection 112.1,

the date of death will apply in determining benefits for dependents. Thank you very much for your attention.

Madam Chairperson: Thank you, Ms. Elliott. Do we have questions for Ms. Elliott from the committee? Seeing no questions, I thank you very much for your presentation.

Ms. Elliott: Thank you very much.

* (19:40)

Madam Chairperson: For the information of the committee, presenter No. 4 on your list, Charlene Bergen, is not able to stay. She has given a written submission. Is it the agreement from the committee to have this written submission placed into Hansard? *[Agreed]*

Also, United Steel Workers have forwarded a written submission for the committee. Is there agreement from the committee to include United Steel Workers' written presentation in the Hansard recording? *[Agreed]*

Thank you very much.

Mr. Lamoureux: I am wondering if we can just extend that offer for anyone else that might be present that if, in fact, they are unable to stay and they have a written presentation, they should feel free to bring it to the back and we will have it considered as being read.

Madam Chairperson: Just a moment. Is there agreement from the committee? *[Agreed]*

Okay, I would like to inform everyone present that, if you wish to make a written submission to the committee and you do not wish to come forward to make an oral presentation, we will take your written submission and it will be forwarded to all committee members for their perusal and it will also go into our Hansard recordings. So, if anybody wishes to proceed in that fashion, please see the staff at the back of the room.

I would like to call Gerald Allen, a private citizen.

Good evening, Mr. Allen, if I could just ask you to make sure that you are close enough to the mike so that we can hear you.

Mr. Gerald Allen (Private Citizen): Can you hear me? How is that?

Madam Chairperson: That is good. Thank you. You can proceed, Mr. Allen.

Mr. Allen: Chairperson, WCB was passed in 1910. In 1913, wage loss was added and WCB probably has not been properly looked at since 1959 properly.

1982, I was injured to my right ankle. 1998, I finally put a claim in for, at that time, it was a PPD and I believe now it is a PPI they call it. At the time when I got my PPD for my right ankle, things were pretty fair. Compensation, I did fight a little bit, but it was not too bad with the help of my rep. Now, in 1999 with the injury to my ankle, walking and limping to one side for over 10 years, it wore out my right knee pretty bad. I chipped my bones and they took bone chips or spurs, I am not a doctor, and my doctor wrote that in to WCB. Since then it has been a battle.

I was off for five months because the medication they gave to me did quite a damage to me. It made me come through. The stress I was under was unbearable. The work case manager or adjudicator or whatever you want to call them now today, WCB, was verbally, to me, very much and my family.

The way they calculate the impairment now is you get 1 percent to 5 percent, you get \$500 for your injury; 5 percent to 10 percent, \$1,000; and, of course, 10 percent on, thousand and—you pretty well got to lose a limb before you see that much money.

When I went in for my impairment, Doctor Tang-Wei in Brandon had me up to about 14 percent. By the time I seen their doctor, I was down to less than between 2, I believe it was 2 percent. The changes, it is unreal how it could come down that far. Even Doctor Tang-Wei could not believe it.

Now, the calculation on the impairment and for my wages when I was off, I happened to be over 45 years of age. I lost 2 percent of my wage for every year over 45. When I got my impairment, and I am going to skip as I go along, when I got my impairment, because they waited two and a half years, sometimes for three years, I was over 45, so they are going to say now I lose 2, 4, 6, 8, whatever percent, where I should have actually lost no percentage at all on my wage. That wage thing

should completely get right out. That is discrimination being over 45. A man is hurt at work; he does not go to work and say, "I am going to get hurt today." At least, I do not think they do.

Again, they have been touched on Canada Pension and EI. When I had my surgery for my third time to my knee, I already paid my Canada Pension up and I had already paid my EI that year. It was just with the overtime, it just happens to work where I am. They still take it off, probably, that is the word they use. If you look it up, it pretty well means nothing. Could, I believe, the word is. So I figure that following year I will just be able to claim that on my income tax. No, you cannot because they do not send it in. I believe my wife and I calculated for that time I was off I was probably out a thousand dollars if not more. I mean, if you want it right down to the tee, I could get it.

When you try to get a hold of your case managers, they always seem to tell you on the phone that your file is downstairs. Today, do we not have computers? Have they forgotten computers in WCB? Apparently, they have. I am not even going to bother looking at this anymore.

For injury, in my case, I needed knee surgery and, of course, you know the way the medical thing is today, you do not go in unless you damaged your knee and you have a fracture or you go in for surgery. In my case, I waited six months. That is when you seem to be having the problem with WCB. When you finally arrange it with them that you are going to go in, they say, "Give us a couple of days of notice." And sometimes your medical doctor or the nurses will phone and say you are going in for surgery on Tuesday and this happens to be Monday. You phone WCB. You tell your work case manager that you are going in and they tell you, "Oh, everything is settled. You are going to be okay for your wage loss." Not going to happen. I have gone for surgery three times for that knee and I have yet, once, had my cheque on time. I believe I went four or five months before I finally saw my money. They finally said, "Oh, we found your case finally."

Thank you. That is all I have to say.

Madam Chairperson: Thank you very much, Mr. Allen. Are there any questions from the committee? Seeing no questions, we thank you very much for your presentation.

As we previously agreed, for the information of the committee, Linda Davies has made a written presentation and will not be appearing here for an oral presentation, No. 23 on your list for the committee members.

Our next presenter is Doug Dobrowolski from the Association of Manitoba Municipalities. I need to ask leave from the committee for Mr. Dobrowolski to appear instead of Mr. Bell. Is there leave from the committee? *[Agreed]* Thank you very much.

Mr. Dobrowolski is No. 18 on your list from the Association of Manitoba Municipalities for information of committee members. You may proceed, Mr. Dobrowolski.

Mr. Doug Dobrowolski (Association of Manitoba Municipalities): Thank you. Good evening, on behalf of the Association of Manitoba Municipalities, I am pleased to appear before this committee today to present our association's view on Bill 25, The Workers Compensation Amendment Act.

For a number of years, Manitoba municipalities have been urging the provincial government to review how volunteer firefighters are treated under The Workers Compensation Act. We have had opportunity to express these concerns to the provincial government on numerous occasions, and we are pleased to have the opportunity to express our views to The Workers Compensation Act Legislative Review Committee that held meetings across the province last year.

* (19:50)

Mr. Vice-Chairperson in the Chair

The primary concern for municipalities is the equal treatment of part-time, volunteer firefighters when it comes to diseases caused by providing firefighting services. The Province of Manitoba has been a leader in providing compensation for occupational diseases for full-time firefighters. However, part-time, volunteer firefighters were not covered under this legislation. In many communities, it is the part-time firefighters who provide the firefighting service and they are the ones facing the hazardous situations. In certain instances, part-time firefighters are present at as many fires as their full-time counterparts in other areas. For this reason, we have been urging the provincial government to add

part-time firefighters to the coverage currently offered to full-time firefighters.

We were pleased to see the research being done over the last few years on this issue and we are happy to see coverage extended to part-time firefighters under this bill. We have begun discussions with the provincial department to look at costs associated with extending this coverage and the best way to balance the coverage for municipalities. It is imperative that the rates do not increase too dramatically as municipal budgets are already at the point of exhaustion.

A second issue our association is pleased to see in Bill 25 is the allowance for private top-ups of WCB benefits for part-time firefighters. Many municipalities simply cannot afford full-time fire departments and in many other communities it is not cost-effective to maintain full-time fire departments. In these cases, communities rely on volunteers to provide any local firefighting services. Volunteers are an essential component of the community and they are often the ones who organize local projects and events.

Our association has always believed that preventing private top-ups for volunteer firefighters is a disincentive for those looking to volunteer. The maximum insurable earnings clause in the current legislation is a further disincentive to attracting volunteers and we are pleased to see that it is removed in Bill 25. The AMM is pleased to see that Bill 25 will allow for private top-ups and remove the maximum earnings clause as this will help attract volunteers and guarantee that those who make a commitment to the community will not be penalized financially should an accident occur.

The AMM is pleased to see Bill 25 address the two primary concerns and look forward to working closely with the department in the development of the regulations. Volunteers are the life-blood of many communities and it is paramount that every possible measure be put in place to ensure that they are compensated to the fullest should an accident occur.

The AMM is pleased to see measures in place that extend compensation for occupational diseases to part-time volunteer firefighters and that allow for private top-ups above WCB coverage for volunteer firefighters and is supportive of this bill. Thank you.

Mr. Vice-Chairperson: Thank you, Mr. Dobrowolski. Any questions?

Mr. Cullen: Mr. Chairman, thank you very much for your presentation. Certainly, we recognize the important role that volunteer and part-time firefighters play throughout Manitoba. I think we have in the area of 3600 across the province, so, obviously, they play a very important role.

In terms of the regulations that could be brought forward under this legislation, would you concur that the regulations would be the same for the volunteer and part-time as they are for the full-time firefighters?

Mr. Dobrowolski: Yes.

Ms. Allan: I would like to thank you very much for your presentation. It is very nicely put together as your presentation was the other night when we were in committee.

I just wanted to thank you very much for outlining some of the benefits in this legislation that go beyond the presumptive cancers and the heart injury that is in the legislation. I referenced it earlier this evening, but it is nice to hear it from the presenters. I just want to say that we have really enjoyed the opportunity to work with the AMM and will continue to work with you as we develop the regulations and as this legislation is implemented. Thank you.

Mr. Vice-Chairperson: Any further questions? Thank you, Mr. Dobrowolski.

Next on the agenda is Bruce Hacault. You have no handout?

Mr. Bruce Hacault (Private Citizen): No, I just got a verbal.

Mr. Vice-Chairperson: Please proceed. The floor is yours.

Mr. Hacault: Okay, I suffered an injury in 1999 at Maple Leaf. I cut an ulnar nerve, three and a half tendons. I was on comp for five years, and the impairment award they gave me was only \$13,000 then. It has been quite a few years and I went back to comp for another impairment award because the hand is getting worse. These two fingers now have

collapsed. I got a nerve in the elbow here that is acting up. Their doctors, I went and saw them, and their doctor says to me, "Well, there is no change in your hand." He says, "There is nothing." There are no measurements, like I have to do pinching, gripping. They gave me restrictions, I cannot lift more than 10 pounds. I cannot go near cold or hot so it is hard for me to find a good job that I used to have at Maple Leaf because I took the buyout. After the injury, they forced me out basically so I left. But to find a good job now with this injury, it is impossible.

The adjudicator I had a long time ago, he was a good adjudicator. I will not mention his name, but he has moved up. He was a good, honest adjudicator. He helped me out the best. Now they gave me these other ones that do not; they just push you around. He told me, he said, Bruce whatever you do, he says, whatever job you try to get, do not tell your employer you have a permanent injury because they will not hire you, and which is true.

So I work at this job and I run pretty hot machines and it is pretty dangerous, but I got to work because I got a wife and kids to feed. But with the compensation, like these awards to people like us with permanent injuries, severe ones like in an alner nerve where the hand is deteriorating and all, every couple of years it shrinks. It gets worse, arthritis, it cramps, it aches. It is pain that I would not wish on nobody, but when I go in for another lump sum after six, seven years and their doctors tell me there is nothing wrong with my hand.

I went to Lorette Park [*phonetic*] here at the Health Sciences Centre, and she is an arm specialist. She has already told me that I cannot work anymore. She says if this nerve bothers you or gets worse, your whole arm could collapse and go out. It is in here in the elbow. It is some kind of nerve. So I say, well, I got to pay bills and I said, I got kids to feed.

So, on these impairment awards like when I got hurt at Maple Leaf, I know the payout on the principal to comp was over a couple hundred grand for this injury, and all I got was a lousy \$13,000. Now that is not fair. You know, if they would of gave me a half of that money, I would not be standing here today. You know, you try and live with a hand like this and work and raise kids, I got restrictions, I cannot lift no more than 10 pounds. Well, come on, what can you do. That is their restrictions they put on me. So, if I go where I work,

if I grab something that is heavy, and some stuff is heavy, and I pull all the nerves or the muscles out of this hand, how am I going to tell my boss, "Well, I got to go on comp." Meanwhile, they tell me not to tell them that I have a permanent injury because they will not hire you, right?

So something has got to be done. This is just for us guys with permanent injuries—*[interjection]* Yes, because what happens if the whole hand shuts down on me and the arm. Who is going to cover me? Who is going to take care of me? This is a serious injury. This is not a little toy injury. You cut that ulnar nerve; it is like a chunk of liver. You slice it all, there are millions of wires in there.

I had Doctor Turner who did two surgeries. He says, "Bruce, you could come back for years. We cannot fix it." There are like millions of little wires in there. He says, "You cut right into it." Right there is just where I had it, and I got to suffer with this for the rest of my life. You know, I am only 37 years old and I got two little beautiful girls. I cannot do shit with them because of this arm, and it is not fair. Okay.

Mr. Vice-Chairperson: Any questions? Okay, there are no questions, I thank you for the presentation. Oh, excuse me—*[interjection]*

Mr. Loewen: Just so you are aware, the minister has indicated that there are Workers Compensation Board staff at the back. Perhaps you could talk to them.

Floor Comment: I got to go through a repeal of this thing with the hand, but that is okay.

* (20:00)

Mr. Vice-Chairperson: Next on the agenda is Lois Wales from the Manitoba Government Employees Union. Do you have any written copy for distribution? Thank you. Please proceed.

Ms. Lois Wales (First Vice-President, Manitoba Government Employees Union): My name is Lois Wales, the first vice-president of the Manitoba Government and General Employees Union, and this is Rick Farley, our WCB expert, if you have questions to ask of Rick.

The Manitoba Government and General Employees Union applauds the Government of

Manitoba on its initiative in Bill 25 to amend The Workers Compensation Act.

Representing over 32 000 workers in Manitoba, we believe that these amendments are long overdue and a welcome change to the current act. This is the first review of the act since the major changes were made in 1992. Before 1992, the act reflected Justice Sir William Meredith's principles of historic compromise where employers recognized their responsibility to provide financial security and related supports. Injured workers gave up their right to sue their employer in exchange for a guarantee that they would receive a fair and just compensation. The employer agreed to provide financial security along with other measures to workers who were injured in the workplace.

Changes to the act in 1992 were designed to greatly reduce the compensation benefits paid to injured workers and their dependents with a goal to reducing the reported, unfunded liability of \$250 million. Those changes were so aggressive that the unfunded liability was reduced in two years on the backs of the injured workers. Injured workers' wage loss benefits were reduced from 75 percent of gross earnings to 90 percent of net earnings. This change provided for a profound negative change in the compensation to injured workers and their families. Impairment awards for injured workers were drastically reduced to an insulting amount. At the same time, as injured workers' benefits were being reduced, employers' assessment costs were going down, even though workplace injuries were going up.

The MGEU is pleased that the proposed changes will remove some of the draconian changes addressed by the previous government. These proposed changes address some of the flaws in the current act in a way that will improve the workers compensation system for injured workers and their families. For example, Bill 25 proposes to extend coverage to workers who currently are not covered by the act unless compelling reasons can be made to exclude employers from the system. Benefits will no longer be reduced from 90 percent of net to 80 percent of net after 25 months of benefits.

We are pleased that the age discrimination has been removed and benefits will no longer be decreased by 2 percent per year after age 45. Positive provisions have been added to the act to obligate

employers to re-employ and retain injured workers once they are medically fit. Bill 25 removes the punitive yearly maximum and minimum earnings from the act. Administrative penalties have been strengthened to discourage claim repression by some employers.

We are very pleased to note that the negotiation of top-ups to 100 percent of net income will no longer be considered a collateral benefit. Changes to the act allowing injured workers to be paid from the day of their injury remove one of the financial barriers to injured workers when making a claim.

These are positive aspects of Bill 25 that the Manitoba Government and General Employees Union thank the government for initiating. However, we would be remiss if we did not bring to attention areas of The Workers Compensation Act that Bill 25 does not address.

We urge the government to act on these issues as well and will point these out in my following remarks. We are disappointed that the proposed legislation does not recommend the removal of the practice of board sheltering of an injured worker's non-taxable benefit from their probable income tax refund. This practice further reduces an injured worker's wage loss benefits creating a greater financial burden. Workers receive 10 percent less of their actual loss of earnings. This sheltering causes their wage loss to be reduced even lower.

The current practice of the board is to use a three-month period for calculating sheltering, even though they know that 82 percent of all time-loss claims are for three weeks or less. The result serves in favour of the employer, lowering their assessment costs at the cost of the injured worker. We believe that an injured worker should never receive less than 100 percent of their net income. The current legislation ensures that injured workers receive less than 90 percent of their net income. The principles embodied in the firefighter provisions under Bill 25 should be applied to all professions. Judge Meredith only envisioned a two-part test for workers to have their claims accepted. The test to have their claim accepted was that an injury would have arisen out of and in the course of their employment.

The current legislation states that in order to prove that an occupational disease arose out of and in the course of the employment there must be, in the

opinion of the board, a demonstration of dominant cause, peculiar to or characteristic of, a particular trade or occupation, or peculiar to the particular employment.

The medical community cannot research or do epidemiological studies of workplaces or chemicals that workers are exposed to. The current legislation places the bar far too high for workers or for their physicians to reach. Occupational disease claims are grossly undercompensated in our province.

It is our view that sections (a) and (b) of the occupational disease definition should be removed from the act, and an occupational disease panel should be established to research and establish a schedule of occupational diseases. The work of the panel should be ongoing to ensure the schedule is complete, both from the point of viewing of existing substances and processes, but also to assess new material and processes as they emerge. This schedule would be the basis for accepting compensation claims without the need for re-adjudication.

A further omission relates to the issue of chronic stress in the workplace. The current legislation has placed stress claims in the definition of occupational disease and clearly states that the only type of stress that is compensable is stress due to a traumatic event. This removes the ability of injured workers from claiming non-trauma-related chronic stress caused by the workplace environment.

As we have stated earlier in our presentation, this could hardly have been seen as Meredith's vision of compensation. His vision was of inclusion social compensation system, not one that is exclusive. In today's changing world there is a great uncertainty with threats of jobs being sent offshore, with workers being asked to do more with less. Stress has become recognized in the workplace as a legitimate illness. It seems strange that many disability programs through private insurance companies provide coverage for chronic stress, but the public social insurance system of compensation does not.

We recommend that section 1(1.1), Restriction on definition of "accident", in The Workers Compensation Act be repealed. Further, we recommend that item (d) be removed from the definition of "occupational disease" and be placed in the definition of "accident" as item (c), and that the current item (c) then become item (d). These changes would

recognize the reality of chronic stress as an accident under the act and provide fair and just compensation for workers afflicted with this illness.

Another omission relates to how WCB calculates an injured worker's net income. Currently, the WCB uses CPP and EI. These deductions are made, but there is no legislative ability to remit them to the federal authorities. This serves to lower the employer's assessment cost but results in lowering the injured workers calculation of net income by the board. These workers are not even eligible for these benefits of these deductions. We recommend that when calculating net income, the CPP deductions not be included in the calculation. Further, we recommend that EI deductions not be included in the calculations after an injured worker has been on benefits for greater than 104 weeks. After 104 weeks workers are not eligible for these benefits.

In closing, I would like to touch on one other issue, that is, of survivor's benefits. There is a huge omission—

Mr. Vice-Chairperson: Excuse me, 30 seconds.

* (20:10)

Ms. Wales: —in the current legislation dealing with surviving parents of children killed on the job. The proposed legislation of the amount paid to cover burial costs does not allow the WCB to provide for other benefits. The loss of a child never can be compensated for, but supporting a family through their loss through counselling should be. Thank you.

Mr. Vice-Chairperson: Well, thank you for your presentations.

Do members of the committee have questions for the presenter?—

Ms. Allan: I would just like to take this opportunity to thank you very much for your very well done presentation this evening on behalf of your organization. Thank you.

Mrs. Myrna Driedger (Charleswood): Thank you. As a former nurse, I am intrigued by some of the discussions here around occupational disease, and I wonder if you could just explain to me I guess around how one would go about determining, related to cardiovascular disease, for instance, how would

one take an issue like that and determine that it has been caused due to work versus you are not just genetically predisposed to it. I guess, as a former nurse, my thinking is that it would be very difficult to sort of separate where that might have been caused from, and if one is looking at trying to include it as—*[interjection]*

Mr. Vice-Chairperson: Excuse me. Your name?

Floor Comment: Rick Farley.

Mr. Rick Farley (Workers Compensation Board):

As we said in our brief, that is what the medical community has problems doing. Just as the medical community has difficulty providing medical evidence in supporting an injured worker's claim, how do you do it? As we said in our brief, the bar is set too high. Bear in mind that the compensation system does compensate and allows for compensation of pre-existing conditions, but because of the way the occupational disease definition and the wording that is presently in the act, it is almost impossible, if not totally impossible, if you consider the MFL's brief in terms of Doctor Kraut's medical opinion, to have these claims accepted.

I would encourage the members of the committee to look at the Workers Compensation Board's annual report on injuries. You will find that the lowest injury compensated in our province is for occupational disease. It does not make sense at all.

Mr. Vice-Chairperson: Thank you. Any further? Before we continue, we did not recognize Mr. Rick Farley. Is there leave here to recognize him retroactively?

Some Members: Leave.

Mr. Vice-Chairperson: Thank you. Any further questions? Thank you very much.

I will now call on Robin Reed, Frontier Teachers' Association. Do you have any written copies for distribution to this committee?

Mr. Robin Reed (Frontier Teachers' Association): No, mine is an oral report.

Mr. Vice-Chairperson: Okay, please proceed with your presentation.

Mr. Reed: Thank you, Chair and committee members. I bring greetings from the far North.

In looking at The Workers Compensation Act, we know that teachers are not covered under that, and I think that the board needs to start looking at things in terms of equity issues. If the compensation board is not covering all workers, it becomes an equity issue. I must mention, in Leaf Rapids where I am from, I am the deputy fire chief. If I am injured at a fire call, I have compensation, whereas as a teacher, under the Workers Compensation Board, I am not covered. It becomes an equity issue for me.

I think, also, that we have had several speakers, and I know that this applies largely to teachers and that is the question of stress and stress-related injuries. To that end, I have three brief stories of encounters I have had with teachers who have suffered from stress-related occurrences.

The first one was the first year that I was principal in our school. I had a young teacher come from Alberta. She had a 4-5 grade split. There were a couple of special needs kids in there, and the classroom size was 28. I knew that she was in some difficulty by Christmastime, and I tried to go to her classroom to help her out with the situation. We did not have enough money for an aide to be in that room at the whole time. She came back after Christmas and her situation had not improved. On a Sunday in the middle of January, I got a phone call from her in the afternoon, and she informed me at that time that she was quitting, and not only quitting teaching in Leaf Rapids, she was quitting teaching.

To me, a lot of people look at that in terms of that must be a character flaw. Why can they not handle these young kids, the parents who have demands, and, of course, the administration too? We have to take some blame in that too. But stress is a major problem in our schools.

The other incident happened quite a few years ago to a good friend of mine. He taught shop in Leaf Rapids when we were full blown and had lots of students and lots of teachers. My friend Dennis started giving back things that were given to him at strange hours. I remember that in a garage in a back yard several of us teachers going, "What is going on with Dennis?" We intervened. I remember having this conversation. I was not the principal. I was the president of the Leaf Rapids school teachers and it

became my problem. They told me that I was the one who had to approach his wife who was also a teacher, and to approach the RCMP. We managed to get Dennis flown out the next morning. We think that he was suicidal.

The last person I want to talk about is myself. Two years ago, our neighbouring community of Granville Lake had some problems with their water and their students. Their population moved to our diminished-sized school in terms of numbers, and with it came a lot of the problems that come with displaced people. We have suffered in Leaf Rapids with being evacuated for forest fires. These people were coming because of their water systems. We were out for a couple of weeks.

These people had been with us, before they went back, for a year and a half. They brought a lot of social problems coming to a larger community. We did not have the teachers on staff that could handle the numbers. They looked to the principal, me at the time, to address some of the issues that they had. We were working with two school committees as opposed to one. I knew that something was wrong. This was before Christmas. I went to visit a doctor, and I told him that I was having some chest pains. So immediately we think that there is something there. He sent me out to a cardiologist here in Winnipeg and I went through the tests and there is no problem with my heart. He suggested that it was stress.

Going back to school in January, after the March break, I felt pretty good about everything and I started out, though, very quickly to go down a slippery slope. We cannot define stress as a single incident. I mean, you can, if you take into catastrophic incidences as a school burning down as we had in Frontier, the Moose Lake school. This is a slippery slope, and it is debilitating in terms of how you feel personally.

My janitor, who has children in our school, came to me after school to complain about something the kids had done in one of the washrooms. I guess it was the proverbial straw that broke the camel's back. I asked her to leave my office. I was unable to even listen to her problem. I went to the clinic. We did not have a permanent doctor. We had a locum in, a nice lady. She gave me some pills and sent me home with a note that I was not to go back to school for two weeks.

* (20:20)

Well, pills are wonderful things, but without counselling and those resources available, they do not do much to help you. Through the MTS, I was able to go to counselling. I stayed off work from the beginning of February until the end of March break, and then returned to finish off that school year. I resigned as principal. The work, the stress was too much, and I returned to the classroom.

If we are talking about workmen's compensation, teachers and other people that are not covered by it, it is an equity issue. Stress happens in all workplaces. You do not have to be a teacher to be under stress. An office worker, their chances of physical injury are like teachers, low, but they do have stress-related injuries that are not physical but can turn into physical.

I thank you for your time.

Mr. Vice-Chairperson: Thank you for your presentation.

Do the members of the committee have questions for the presenter? Okay, I thank you very much.

I will now call on Jan Forest, private citizen. Jan Forest. Jan Forest has been called once.

The next one will be Kim Knox-Powers, private citizen. Called once.

I will go on to No. 37, Peter Wohlgemut, Border Land Teachers' Association.

Madam Chairperson in the Chair

Madam Chairperson: Mr. Wohlgemut, you can proceed.

Mr. Peter Wohlgemut (Private Citizen): Committee members, ladies and gentlemen, my name is Peter Wohlgemut. I teach Grade 5 at West Park School in Altona in Border Land School Division. I am here this evening to explain to you why the inclusion of stress-related injuries in the workers compensation program is important to me as a teacher.

Teachers rarely sustain serious physical injuries on the job. In fact, in 13 years of teaching, I can

recollect being physically injured only once when I slipped on some ice in the schoolyard and had to go to the hospital to get my hand stitched up. In my experience, physical injuries sustained by teachers at school have been few and usually require relatively short periods of convalescence. In my case, I was back at school within a few hours.

Stress-related injuries on the other hand can take considerable time to recover from, if, in fact, there is sufficient recovery to allow a return to teaching at all. In the relatively small division that I teach in, I have known several colleagues who have left the profession, either short-term or permanently, due to stress-related illness and problems. It is something that is very difficult to talk about because the usual response is that they could not handle the classroom or they could not hack it as a teacher.

It is assumed that the disability results from a character flaw or incompetence rather than factors in the workplace. This, despite the fact that in many cases, these same individuals have been very effective veteran teachers until a combination of factors drove them into the ground.

In all honestly, it is somewhat understandable. With a physical injury there are often easily visible signs of injury and it is usually fairly simple to identify the cause of the injury as well as why and when it occurred. Stress-related injuries are usually the result of a combination of stressors, and they result from their cumulative effects. Where they result mainly from one particular stressor, it can be equally difficult to deal with because of the stigma attached to injuries resulting from stress.

I know of parents and students who have deliberately and publicly worked to get teachers removed from a school, making their life a living hell until they were so physically worn out and emotionally injured that they could not continue in the classroom without a period of convalescence. But who wants to give into such bullying by leaving? Many teachers do not until their bodies literally force them to.

Teachers tend to be perfectionists who care deeply about the students they teach, and this can result in considerable self-induced stress. For most of this year, I have worked with a class of 28 students with a variety of needs. It is not uncommon for me to be up until the wee hours of the morning, planning,

marking or thinking about school issues, and I am not unique in that regard. It takes a very deliberate effort to avoid sleep deprivation and to ensure that my family gets the time that they need from me as well as getting some personal time. I have deliberately taken up hobbies and other responsibilities to ensure that my time and focus are not always centred in my classroom. Driving oneself to meet the varied needs of a large class is very stressful.

We also tend to try to avoid being away from the classroom even when we should. Preparing for a substitute means letting go of the classroom. I will never forget the colleague that we quite literally had to make a doctor's appointment for and send home and take care of the classes of because she was so reluctant to leave her students despite being visibly and obviously ill. Other times, teachers go to work because they know a substitute cannot be found, and if they do not go, then their colleagues will have to cover their classes that day, adding to their colleagues' stress. When teachers miss a day, they still have to plan that entire day which requires much more work than if they just taught it themselves, not to mention the follow-up, regardless of how good their substitute is. Thank goodness we have moved away from awarding teachers who never miss a day of work.

In addition to the stress resulting from a burning desire to reach and teach every single child in our care, there are the external stressors that exacerbate the situation. The introduction of new curriculums has slowed down, but every time a teacher's assignment changes, there are new curriculums to become familiar with. I went from a multi-grade, middle-years situation three years ago, to a Grade 3, single grade last year to a Grade 5, single grade this year. In addition to new curriculums each time, each was in a different school with different practices, traditions and new routines and expectations to learn.

The burgeoning field of brain research and the resultant information about how we learn has inundated schools in recent years. Teachers are expected to become familiar with a plethora of new ideas about how to teach, not a few of which conflict with one another. While there are some wonderful ideas flowing from this research, they add yet another stressor to the workplace with some employers and parents expecting traditional practices, others demanding the latest innovations and

teachers wanting to utilize whatever they can to help their children learn.

The people you work with, as we all know, can also be a source of stress. I have had the opportunity to work in a number of school settings ranging from very supportive, collegial settings, to tense, walking-on-eggshells-type settings. While the former can help alleviate other stressors, the latter just adds to them.

Parents can be the teacher's biggest ally or their bitterest enemy. Which way it is going to be often cannot be forecast until that first contact over a problem with their child. I have heard the teacher's first call home compared to playing Russian roulette. If a positive relationship has already been established, it can help, but you never know. I have had calls that I expected to go poorly, go very well, and I have been blindsided by unexpected attacks.

And you have the students themselves. I have taught many students who took very little effort to teach or work with. A little guidance, some help and they were on their way, many of them, unknowingly, lightening my day. Others, for a variety of reasons, have taken enormous amounts of energy to work with. Sometimes it is behavioural issues, other times emotional or academic. Issues from outside the school do not get left at the classroom door creating even more complex dynamics. Put several of these students together in a class or have a large number of energy-intensive students in a grade and the stress on the teachers multiplies. I have experienced both ends of the spectrum. I had groups that I could do really neat things with because they actually energized me. On the other hand, I also had groups where a good portion of my time was spent ensuring that no one got hurt and property did not get damaged.

Combining any of these stressors, along with other stressors that we all experience in our lives, can drive any teacher into severe illness. Many of us manage to stave it off until a holiday period. It is not uncommon for the first part of the summer holiday or the winter break, spring break or weekends, to have teachers out sick. We push ourselves until that first chance for our body to relax, and then the accumulated stress knocks us down. If the stress is more severe, so is the resultant illness. I do have friends that have been out for days, weeks, even months directly as a result of illness which struck them down because of stress.

* (20:30)

In the case of my experience teaching junior high, which I alluded to earlier, you can quite easily tell which year was the harder one by the number of sick days that I had to take to make it through the year.

Ongoing stress has a cumulative effect on the body. Your resistance gets low and illnesses that you could normally fend off take their toll. You reach the point where exhaustion, either physical, emotional or both, simply means you cannot function. Your body is injured to the point where it is not possible to work.

I have heard concerns expressed about the cost to divisions if they have to pay for workers compensation for teachers. The fact is they pay now through sick days. For teachers who do not have enough sick days to cover the period of their disability, there is the MTS Disability Plan, which we pay for ourselves largely because we see the need and no one else has been willing to meet it.

Continuing to refuse to recognize stress-related injuries will not make them go away in teaching or any other profession or occupation. It will simply mean that teachers will be forced to continue to pay for their own work-related injuries whenever the resulting disability is serious enough that they use up all their sick days. In addition, it perpetuates the illusion that these disabilities are the result of a character flaw or incompetence rather than recognizing that they are the result of ongoing work-related stress.

My understanding is that workers compensation is designed to assist individuals injured at work. Whether that injury is the result of a single physical event or the result of cumulative effects such as stress should not matter. If the disability is the result of one's work, it should be covered by workers compensation. Thank you.

Madam Chairperson: Thank you very much Mr. Wohlgemut. Does the committee have any questions? Seeing no questions, we thank you very much for your presentation.

Mr. Wohlgemut: Thank you.

Madam Chairperson: The next presenter, which is presenter No. 14, is David Zirk, private citizen.

An Honourable Member: No. 44 on the list.

Madam Chairperson: No. 44 on the list. Once again, I would like to call David Zirk. Seeing that Mr. Zirk is not here, his name will be dropped to the bottom of the list where he will be called again.

Steve Hunt cancelled. He has given a written presentation.

Is Kevin Connolly here? Not seeing Kevin Connolly, I call Ray Perreault. Is Ray Perreault here? Ray Perreault, private citizen.

You may proceed Mr. Perreault.

Mr. Ray Perreault (Private Citizen): Thank you very much, Madam Chairperson.

First, I would like to thank the committee for the opportunity to state my case as to why there is a drastic need for changes in how the Workers Compensation Board of Manitoba presently operates.

Furthermore, having reviewed Bill 25, I would like to commend the Legislature for taking a positive step in trying to make these changes. It is suggested these amendments do not go far enough in correcting what is wrong with the present system.

The events that I am about to present to you today are of my personal experiences with WCB and will hopefully give a clear picture as to why I believe this is so. With that in mind, I am sure everyone here today has either had dealings with Workers Compensation Board that did not go very well or has heard horror stories from or about someone who has had the unfortunate fate. Today, you can add my story to that list.

Unfortunately, in the fall of 1997 I suffered work-related injuries which forced me to file a claim, and, by all accounts, my dealings with WCB started with no apparent problems. However, 61 days later all that changed drastically. While I was still seeking medical attention for my injuries, WCB terminated my injury claim forcing me to return to work with my still untreated injuries. Soon I discovered that my employer was interfering with my injury claim, going as far as to make false statements of claim against me in order to have my benefits terminated. This is well documented in my WCB file. For the next year and a half I continued to seek medical

attention for my injuries and, with medication, continued to work at a moderate-to-light duty capacity. During this period, I sustained other injuries, but did not file a report due to pressures by my employer to have them looked after without using WCB as not to interfere with the safety program initiative put in place to award bonuses for days accumulated without compensable injuries.

However, in the fall of 1999, my condition had seriously worsened and after seeking emergency care, I was advised by the doctor to take time off to seek proper medical treatment. At this time, the employer advised me that I could go on the company's short-term disability, again circumventing WCB.

My doctor would later send a report to WCB indicating that my present condition was related to the original injuries back in '97. However, WCB refused to accept this diagnosis, and having used up short-term company insurance, I was forced to go on EI medical.

Now this is where it starts to get seriously wrong. Let me make one thing perfectly clear. I can provide physical evidence to substantiate everything I am about to say here and more. During the course of the following year, the employer filed further false statements against me to WCB. He also altered insurance forms submitted with other documents intended to prevent my claim for benefits. He also outright terminated my employment with the company. I was also subjected to an interview by a WCB field rep who refused a copy of my statement and altered it on the computer manipulating what I had actually stated and knowingly submitted this to my file.

On top of this, case management at WCB was holding my file in review and was preventing pertinent medical information from reaching my file. When I finally intervened and personally sent this information to them, I discovered upon receipt of a copy of my file, that the reports in question had been altered and certain portions had been omitted. Further to this, a medical advisor at WCB, weeks prior to giving me a physical examination, states on file that I am fit to return to work. When I finally attend his appointment, he refuses to do the exam and the head of the medical unit attends in his place. This doctor indicates that I am suffering from conditions related to my compensable injuries which

he gives a definitive diagnosis for. He also refers me to a specialist for treatment and will be sending me in for an MRI which, I might add, was denied and the documentation in my file suggests that case management interfered.

Nonetheless, even after this, case management still refused to reinstate my claim and continued to hold it in review. It was not until I intervened again on my own behalf going directly to sector management at WCB to find out why this was occurring, only to discover the case manager on my file was now using all the defaming information submitted by my employer in an obvious further attempt to keep my file from reinstatement.

The sector manager indicated the case manager had six new questions that needed to be answered before any decision could be made on my claim. One of the questions asked why my doctor states on the company disability insurance that my illness is not work-related. Well, this relates back to the insurance document my employer falsified and submitted to WCB which was used to indicate that my doctor stated that my condition was not work-related. Another question was why were benefits for company insurance cut off, which is something the employer advised WCB about and was again a false statement due to the fact that the insurance was only for 13 weeks and had simply run out.

All the other questions raised followed a similar pattern, and having thankfully kept a record of all documents, I was able to put together all the information that would be needed to answer all these questions. At this point, I made arrangements with sector manager to fax this information along with a formal complaint against the case manager and employer. Would you believe that within 24 hours, my claim was reinstated.

Now you would think that everything would be okay after all of that, but even after a new case manager was put on my file, further attempts to disrupt my benefits were attempted by tampering with new documents. After correcting this attempt, it was concluded medically that I could no longer perform any labour-related employment and would have to start living a sedentary lifestyle due to my injuries.

With this, WCB offered vocational retraining which to me sounded like a way to turn this around

in a positive way. After completing the program, however, I was given little or no assistance in trying to secure employment in this field. Furthermore, and with yet another new case manager, as recently as these past few months, certain information pertinent to my present condition was reinterpreted to obtain a decision deeming me and giving me permanent restrictions and disabilities. This decision has virtually eliminated my employability and is a decision that I will now have to look at appealing.

So what is wrong with this picture? Is there agreement here that what has transpired in my file is against even the legislation and policies that exist today? I would like to point out that I filed complaints with Fair Practices, the special investigations unit at WCB, the Minister responsible for the WCB and so on. To have this addressed was either ignored or dropped after a short period of time.

* (20:40)

I also made inquiries with the Crown Attorney's office who directed me to the RCMP Special Investigation Unit and was advised that the unit is no longer mandated to investigate matters of WCB. I was told to contact the Ombudsman's office who finally agreed that there was evidence to warrant an investigation and, by all accounts, did so. However, I have been waiting for over a year for the final report, but I do not expect that any actions were taken or would be taken against WCB or the employer for that matter. Why? Simply because it is what needs to be changed in the system.

All this legislation and policy is fine, but what actually happens when they are not adhered to? In my case, nothing, except for the fact that had these individuals not colluded against me, I may not have the disabilities I have to live with today. What needs to be drastically changed is the fact that everyone at WCB and the employer, for that matter, cannot be held accountable for their actions. It states so in legislation, and after what my family and I have been put through, this is definitely wrong.

If the shoe had been on the other foot and I would have falsified documents or made false statements to the board, you can be sure as hell that I would have been charged publicly and flogged, for that matter, as a warning to others. It appears to me that the system is set up in such a way that those at WCB know that they will not face any serious

consequences for their actions as long as the interests of the board and the employer are maintained.

Clearly, I have the proof that these individuals violated legislation and went beyond their jurisdiction, yet they are above the law, as there is no one who has any power to administer any justice in such cases. This can no longer be acceptable. An institution such as WCB should not be above the law and should not be allowed to investigate itself.

Another aspect of the legislation that needs even more amendments is concerning the input which an employer has regarding the entitlement and administration of an individual's claim. Employers should not be allowed to submit any information outside the context of the events of the workplace accident. Any unsubstantiated and unrelated information should be deemed an attempt to interfere with the injured worker's right to claim. The length of time of an injured worker should be determined by medical and should not be influenced by pressures invoked by the employer.

Furthermore, an individual's claim for benefits should be based solely on the opinions of the medical doctors actually administering the care to the injured worker, not on assumptions of medical advisers who have not physically examined the patient or is not thoroughly familiar with the accident history of the patient. Additionally, case management at WCB should not be allowed to manipulate any medical information when they seek a medical opinion from said medical advisers in attempt to sway a decision on a claimant's file. It is clearly obvious that this is a common practice at the present time at WCB and has been for much longer, and this is definitely an issue that needs to be looked into.

In conclusion, I would like to point out that what I presented here today with regard to my dealings with WCB is only an overview of everything that transpired. You might suggest that mine is an isolated case, but I refute that with the fact that it is common knowledge that WCB and other insurance-like agencies continually manipulate information in order that they get a decision they want. Irregardless, I believe it truly shows what can and does happen to a great number of claimants, and it should not be allowed to happen any longer.

So how can this be fixed? I believe it can if you the committee members take a much harder stance

on where the system needs to be properly amended. Like everyone here, I never asked for a free handout but rather only hoped to be fairly treated and allowed to get proper medical treatment for my injuries. With the system set up as it is today, that does not happen. Besides, is it not called the Workers Compensation Board? Then explain to me how employers and those at WCB empowered to administer this compensation have a greater voice in how a claimant should be treated than the actual medical practitioners. This is where the system needs the greatest change. The evidence does not lie. Thank you.

Madam Chairperson: Thank you, Mr. Perreault. Do the committee members have any questions? Seeing no questions, we thank you very much for your presentation.

Mr. Perreault, a private citizen, Mr. Ron Perreault. Mr. Perreault, you can proceed.

Mr. Ron Perreault (Private Citizen): Thank you. My name is Ron Perreault.

On December 28, 2000, I suffered a workplace injury. For a year and a half, I continued working. I sustained three other injuries during that time. In April 2002, my employer told me to leave my place of work to have my injuries looked after. I contacted WCB and was told by them that they would cover 90 percent of my wages and they would look after my injuries.

I phoned my employer after talking with WCB and agreed to take time off to have my injuries looked after. I did not agree to a layoff due to shortage of work. My employer gave me a record of employment for this reasoning on the following pay period. I was informed by a supervisor that this was normal procedure.

WCB paid wage losses up until September 11, 2002, when they felt I was capable of returning to work with no workplace restrictions. However, they would not give me a letter stating I had a clean bill of health which my employer wanted before he would take me back to work. WCB did not give me any assistance back into the workplace. I have gone through all the appeal processes with WCB and have been denied any assistance. I am still left with my workplace injuries, no income, and told there are no further avenues I can pursue this matter. I could say more, but I think that is enough for me tonight. I thank you.

Madam Chairperson: Thank you, Mr. Perreault. Does the committee have any questions for Mr. Perreault? Thank you very much for your presentation, Mr. Perreault.

Les Lilley, a private citizen.

Mr. Les Lilley (Private Citizen): Hello.

Madam Chairperson: Hello, Mr. Lilley. You can proceed.

Mr. Lilley: Hello, my name is Les Lilley. I worked with the board in my capacity as a union rep for many years, more years than I would like to admit to. I would certainly like to take the opportunity to speak to you about the Workers Compensation Board and the potential changes.

First of all, let me say that the WCB works. Claims are paid in a timely manner. People who are injured fill out forms and are paid within a satisfactory amount of time. In some cases people are paid before the forms arrive, but in saying that, there are many areas that need attention. I would like to focus on several of these issues within the board structure.

First, return to health and work. To return workers back to work in a timely fashion is something that is good not only for the worker but for the workplace and eventually the community. Morale improves and the general well-being of the worker and the workplace improves. An important part of this structure is the occupational therapist, or in the present case, the lack of an occupational therapist. These professionals are needed, especially when the board is trying to get someone back to work. The OT will examine the workplace, duties, and any other issues that need to be addressed. Right now the wait for an OT of the board, there is a several-month delay, which in my case means we must use the employer's OT. Although I know these people are professional, it still is the employer watching the employer.

Secondly, stress in the workplace and its short-term and long-term effects. Workplaces are now a very different thing than they were just a few short years ago. Workers' productivity, quality, and all other aspects of what they do in the workplace can be monitored minute by minute from many miles away. The introduction of cameras so a worker is

monitored for his entire shift, whether management can view these tapes at their discretion or the threat of this can cause an immense amount of stress on the worker. This stress, as everyone is aware, can manifest itself in many ways, industrial diseases such as heart disease or mental health issues, for example, but it also causes the worker not to have his mind on his task of what he is doing but on how many widgets he is producing per hour. This is unsafe and should be viewed very critically by the board. Chronic stress should be included in the act.

We should not forget the main goal in all of this, and it is the prevention of workplace accidents and in a perfect world the elimination of accidents, but we do not live in a perfect world. Welders get burnt, machinists get steel slivers, which leads me to my next topic called claim suppression.

If a worker's right to report accidents is jeopardized, not only will that worker have his or her rights denied, but it will deny everyone the right to discuss the cause and deny everyone the right to know what happened and how to prevent it. Claim suppression in itself is very hard to prove. Employers will say that it certainly does not exist and will be offended by the very suggestion that it happens in their workplace, but there are indicators of something going on. First of all, when a workplace goes from one year having a large number of accidents to the next year having very few, what changed? For example, my employer last year had 240 reported injuries. This year so far they have had 8.

When an employer starts to discipline workers for, as they call it, safety rule violations such as not expecting the unexpected, what is that? Also, when the company disciplines a worker for choosing, as is the case of a crane slinger, for looking up, even though he was wearing his safety apparel, he was disciplined for looking up and got dust in his eyes. How is he supposed to do his task? He has to look up.

Now there is a place for discipline for safety rule violations. If I refuse to wear my protective gear for no good reason, then I should be disciplined. This, believe me, is very rare. Workers are not demanding the right to hurt themselves.

* (20:50)

Another and probably the biggest indicator is that a supervisor's bonus is based on many things,

but when it is based on the number of reported injuries, that is an indication that something is there. I am not suggesting for a second that a supervisor will jeopardize my health and safety by hiding accidents, but instead of going on compensation, I can go on my weekly indemnity. After all, there is not a lot of money difference.

If a worker believes that his employer is doing things to suppress claims, where does he go? What department in the board does he speak to? I have worked with the special investigative unit, but, obviously, this unit's primary function is not the investigation of the employers, and, quite frankly, they do not have the resources to perform this task. So a vehicle should be put in place for this issue.

Also, if the worker does report to this board, the worker has absolutely no protection. There is no whistle-blower protection and the employer will know that that individual is complaining. A worker must have the right to be able to talk to the board, and then a meeting with the board, but the board not giving his name to his or her employer.

If it is proven that a company is actively suppressing claims, either the fine should be very serious and obviously tied to the size of the company, and also the supervisor should be involved in criminal charges. Again, I thank you for your time.

Madam Chairperson: Thank you very much, Mr. Lilley. Does the committee have any questions for Mr. Lilley? Seeing no questions, we thank you very much for your presentation.

Chris Christensen, South Eastern Manitoba Labour Council. Called once, Mr. Chris Christensen.

Next presenter on our list is presenter No. 57, Harvey Levin. Mr. Levin is not present. Oh, sorry. Thank you, Mr. Levin. It is okay, it will just take a second. Do you have your presentation? Oh, it is being circulated. Okay, whenever you are ready you can proceed, Mr. Levin.

Mr. Harvey Levin (Private Citizen): Okay, ready to go then. While there are many good recommendations to be decided upon, there are also omissions that have not received the attention they deserve. I do understand the recommendations that have come about through consensus of the WCA review panel.

These recommendations are a minimal step forward. They only take workers back to what they mostly had before 1990. One notable exception is the fire-fighters clause.

I would like to address some of the omissions that have relevance to my co-workers and to all workers of Manitoba.

Chronic pain. Chronic pain was specifically written out in the previous changes to the act and for the most part, ignored this time. While the physical part of the injury may have healed, that does not mean that the pain has abated. The worker must return to work most often to the same job that caused the injury in the first place. I am merely referring to repetitive injuries in this instance.

The WCB maintains that workers must work with some degree of pain after an injury. The medical community is also of the same opinion. Workers constantly work in pain. It is debilitating pain that I am concerned about. This type of pain mostly affects middle age to older workers or workers with high seniority. Chronic pain was written out and kept out for purely financial reasons. Employers recognize that the aging workforce would be a significant cost as the ability to bounce back decreases with age and that is from injuries. The same workers had no problem using and abusing the workers' good health in order to make a profit.

Stress. Stress was also written out in the previous changes to the act and ignored again. There was not an employer out there that does not want more for less and has no qualms about driving workers to their breaking point in order to do so. Stress was written out because employers knew they are going to abuse workers in the relentless drive to increase production and reduce costs by not replacing or the laying off of workers but expecting those left to carry on the extra burden.

Dominant cause. Dominant cause was reworded in the previous changes to the act to reflect the fact that employers knew that the practices and working conditions of the past were going to come back to haunt them in the present. This would be exposures to carcinogens, chemicals and the like. Again, employers had no problem making money off the workers when they were healthy.

Shift work. Shift work is not recognized at all. There is much proven, objective, medical evidence

that shift work adversely affects workers' health, work performance, injury recovery and quality of life. Not that the employers care about workers' quality of life. There are many more omissions, but I realize time here is limited and I have more observations to express.

In my efforts to advocate on behalf of injured workers, I have noticed that there are attitudes and informal practices that occur at the WCB. The health care unit goes out of its way to find ways to deny benefits based on its own version of medical evidence. Most often, adjudication accepts these versions even though there is good argument to suggest otherwise. In the odd case where the health care unit supports a contentious claim, adjudication can still ignore the support and deny the claim.

Another issue is the over-reliance on degenerative disc disease and pre-existing conditions. Many cases have been lost and workers' lives ruined as a result of the creative use of these two conditions by the health care unit. In a serious majority of the time, it is work that is the cause of these two conditions in the first place.

Every word in the act, policy manual and adjudicative guidelines should be in plain English. Since 1990, the WCB has become very confrontational and legalistic. The average worker simply cannot maneuver in the system.

Employers absolutely have the ear of the WCB. The WCB places too much weight on what the employers says. The worker, who is actually doing the work, could not possibly be right. The worker is guilty of inflicting injury upon him or herself and must prove that it is the doing of work that is the cause of the injury to prove innocence and receive benefits. I would hope that the recommendations will also help in correcting the above observations.

On a final note, health and safety in the workplace is a wonderful concept. It is because employers choose to ignore this concept that workers compensation came into being. It seems we have not progressed much since the early 1900s. Employers get to destroy workers' lives with minimal cost to them. Thank you for your attention. Respectfully, Harvey Levin.

Madam Chairperson: Thank you very much, Mr. Christensen. Sorry, Mr. Levin. I apologize.

Does the committee have any questions for Mr. Levin? No? Seeing no questions, we thank you very much for your presentation.

Patrick Riley, Manager, Claims Division, Canadian Pacific Railway. One more time, I am going to call Patrick Riley, Manager, Claims Division, Canadian Pacific Railway. No? His name will be dropped to the bottom of the list.

Karen Mozden, teacher with the Seven Oaks School Division, from out-of-town. She registered tonight, but in keeping with our hearing out-of-town presenters first, is it the wish to hear Mrs. Mozden? Yes. You can proceed, Mrs. Mozden. Do you have written submissions to circulate to the committee members?

Ms. Karen Mozden (Private Citizen): I do not because I have not been able to. I have asked the individual that was doing the copying, but she was not able to make copies.

Madam Chairperson: That is fine. You can proceed.

Ms. Mozden: Thank you. Members of the Legislative Assembly, ladies and gentlemen, my name is Karen Mozden. My condolences to those individuals who have lost family members due to workplace illness.

I too became a widow at 41 years of age with three children, aged 14, 10 and 7. I questioned my husband's workplace after his death of cancer, although I am here today to advocate for teachers.

My education includes a Master of Education from the University of Manitoba with certification in French, a Canadian counselling certificate, a Level 1 administrative certificate and I am working on a special education certificate. I have been a classroom teacher, a guidance counsellor, a resource teacher and administrator so I understand the stress within the teaching field.

Presently, I am a guidance counsellor at West St. Paul School, in the Seven Oaks School Division, in a kindergarten to Grade 8 milieu. Serious physical injuries rarely occur in the profession of teaching. I have never had a physical injury in my career. I rarely can remember a teacher having had a physical injury either. One teacher cut her finger on the paper

cutter and went into shock. She had to be taken to Seven Oaks Hospital.

Stress-related injuries, however, have been considerable and sometimes have taken many months to recover or result in a termination of a teacher's career. I have known several colleagues who have taken a short-term or a permanent leave of absence due to stress-related problems. Dealing with stress-related problems is difficult since teachers see themselves as a failure when such a problem exists. They say to themselves, "I should have worked harder to manage the class better. I should have been stricter, or I should have been more creative." Such negative thoughts and feelings can cause self-induced stress or trauma.

* (21:00)

In addition to the negative self-talk, a teacher also deals with a tremendous workload in the classroom. I know of a veteran teacher who taught high school for many years. Two years before retirement, she was asked to leave the high school to teach all the subjects including French and a Grade 8 classroom too in another town. She had no basic French background or middle school training.

One teacher I know taught a different grade four years in a row and had to change classrooms and schools each time. These actions create more stress on teachers. Staying up until two o'clock in the morning is not uncommon for teachers in order to complete the correcting of projects, tests or assignments or to prepare for classes. Getting to sleep is another problem for teachers, since mentally the mind does not always shut off. When I go to sleep, I often think about the day and how I could have dealt with situations differently using other strategies. This action often results in sleep deprivation.

Teachers have also to meet the needs of the various students in the classroom. Within the make-up of the classroom, there are academic, social, emotional and behavioural needs. In one of my classes, I had 30 students with a six-year variation in reading levels. The students were multicultural and were from various socio-economic backgrounds. Two of the students were new to Canada and two were students from a northern community who had family members needing health care. Meeting all the needs of these individuals was monumental.

Dealing with behaviours, emotions and social issues of students in the classroom can be a job in itself and takes a tremendous amount of patience and energy. Although there is a huge amount of research about behavioural methodology, the beliefs sometimes conflict with the school community, family, teacher or the student himself or herself. Students are not always willing to work with the teacher, guidance counsellor or resource teacher so become very non-compliant. In addition, mediating arguments between students takes hours of time, as well as keeping students safe and materials in the classroom unharmed.

Teachers deal with forms of verbal, mental and physical bullying from students, sometimes daily. I have been in a workplace where students have told me that they wanted to get rid of me and proceeded to go to the guidance counsellor and then to the administration. I felt like the students were bullying me. In addition, teachers often have to deal with allegations. Even though the issue is not true, it is necessary that they go through the process.

How to teach is another area of stress, since there are many ideas. Again, there is an enormous amount of research about the methodology of teaching. Every student learns in his or her own unique way, and it is for the teacher to determine the best way. When the teacher has 30 students in the classroom, that task can be overwhelming. In addition, teachers have to listen to how parents and other staff members think that they should teach. These different opinions can leave a veteran teacher, despite a beginning teacher, with conflicting ideas.

Other individuals in the teaching system can be an additional cause of stress. Having taught in various school settings, I have had both supportive and collegial settings to tense and nerve-wracking settings, where every day I had a nervous stomach. The latter setting can add to any additional stress that a teacher is feeling. Even when a teacher has a supportive staff, it is often difficult to find the time to chat because of the onerous schedule of each teacher.

Parents can be very supportive and also non-supportive. I have had parents who have brought lunch for me and invited me to their homes for lunch. I have also had parents who have been drunk and screamed at me about how their child hated me and my teaching. I have seen communities force the "powers that be" to get rid of a teacher. The teachers

had to leave the school community due to the negative remarks of the parents. Veteran teachers have become ineffective as a result of numerous factors in the workplace causing burnout.

Teachers do not like to be away from a classroom since that means preparing for a substitute teacher, even though the teacher feels ill. I have seen many teachers come to school even though they looked like "death warmed over." When I ask them why they are at school, they will respond with comments like, "I had a class outing today, I did not want the students to go with someone they did not know." or "I had to give the students a test today." No matter how good the substitute is, generally there is work left undone that the classroom teacher has to do the next day. Many times a substitute is not available, so teachers have to offer their support by covering the class or doing duty.

Being a single parent, it is often difficult for me to think about self-wellness as well as the needs of my family. I have forced myself to develop interests and activities so that my thoughts were not always on teaching. Coping with any of these stressors as well as the stressors from home can drive any teacher into severe illness. Many of us cannot wait until the holidays, or can wait, until the holidays to be sick. Then we spend the holidays recuperating. The adrenalin stops being secreted and the accumulated stress takes its toll. Ongoing stress has a cumulative effect on the body and weakens the immune system. Teachers reach the point of exhaustion, whether that means physical, emotional or mental, and cannot function in the classroom because it is impossible to work.

Physical injuries have a cause and effect. They are easily visible and can be treated by a doctor. Stress-related injuries are difficult to understand because it is difficult to determine when and how the injury started due to the various stressors and the cumulative effects of these stressors. Counsellors, psychologists and psychiatrists treat these injuries. There is a stigma attached to seeing these professionals, and members of society have their own personal feelings and thoughts about seeing these professionals and telling others about seeing them.

There has been an expression about the cost to divisions if they have to pay for workmen's compensation for their teachers. The fact is,

employees pay for stress-related illness now through sick days.

For teachers who do not have enough sick days to cover their period disability, there is the MTS Disability Benefits Plan which teachers pay since we feel that there is a need. Recognizing stress-related injuries is imminent. Presently, teachers are forced to continue to pay for their own work-related injuries whenever their sick days are diminished. In addition, it perpetuates the illusion that these disabilities are the result of a personal character flaw or incompetence rather than recognizing that they are the result of ongoing work-related stress.

As I understand, the workmen's compensation is designed to assist individuals injured at work. Whether the injury is a physical event or the result of cumulative effects of stresses from work, it should not matter. If the disability is the result of one's work, it should be covered be workmen's compensation. Thank you for the opportunity to address you this evening.

Madam Chairperson: Thank you very much, Ms. Mozden. Does the committee have questions for Ms. Mozden? Seeing no questions, we thank you for your presentation.

We are now on presenter No. 19. We have finished all the out-of-town presenters. We will now be returning to the beginning of the list for in-town presenters.

Grant Rondeau, private citizen. Calling one more time, Grant Rondeau.

Alex Forrest, United Fire Fighters of Winnipeg. One moment, Mr. Forrest. I think I missed somebody. I apologize.

Is Russ Morrow here? Do not go anywhere, Mr. Forrest. I think Mr. Morrow had cancelled, so I think that is why he is crossed off on my list.

So Mr. Forrest from the United Fire Fighters of Winnipeg, you are our next presenter. Please proceed, Mr. Forrest.

Mr. Alex Forrest (President, United Fire Fighters of Winnipeg): I would like to thank the committee for the time you have given me today to speak on Bill 25. I would like to say thank you to all political

parties for what you have done for firefighters during the last few years and what you are about to do.

In 2002, the Manitoba government passed Bill 5. The bill was the first of its kind in Canada and it created a WCB presumption for firefighters who were diagnosed with specific cancers that are job-related. It covered brain, bladder, kidney, non-Hodgkin's lymphoma and leukemia. What this legislation did for the profession of firefighting across Canada was startling.

Within two years, the provinces of Alberta, Saskatchewan, Nova Scotia, New Brunswick all passed similar legislation that were based on the Manitoba model. Earlier this spring, the Government of British Columbia has also announced that they are going to adopt similar legislation to the Manitoba model. In each of these provinces, the legislation was passed with unanimous all-party support. That is something all of you can be very proud of because it started here.

In Winnipeg, the result was amazing. Again, in just under two years, 17 Winnipeg firefighters sadly received WCB benefits for occupational cancer. Unfortunately, many of these firefighters succumbed to their diseases and have given the ultimate sacrifice for their chosen profession. That is 17 firefighter claims accepted by WCB in two years when prior to the 2002 legislation, not one single firefighter in the 125-year history of our department had ever been covered for occupational cancer. That is something that all Manitobans can be very proud of, of what has happened in the last few years.

Collectively, professional firefighters in Thompson, Brandon, Portage la Prairie, Pinawa and Winnipeg are charged with providing emergency services of all kinds to more than 75 percent of the population of Manitoba. Unfortunately, cancer and heart disease are common to all of these firefighters.

* (21:10)

A fire in Winnipeg produces the same deadly toxins as it does in Thompson or Toronto. We have seen the tremendous cost of filing these claims that the Winnipeg firefighters have incurred over the years. Everything from legal costs, to scientific research, to photocopying adds up to tens of thousands of dollars. To small centres and small fire departments such as Thompson, Portage la Prairie,

these costs are prohibitively expensive. This is especially true when our experience was all claims were routinely denied prior to 2002. Presumptive legislation of this nature is the only way to provide adequate recognition and compensation for the sacrifice our families have to deal with in the face of these terrible diseases.

As great as the 2002 legislation is, it is just the tip of the iceberg when it comes to the dangers of occupational diseases in firefighters. The No. 1 killer of firefighters on the fire scene or soon after is heart injury. Thirty-five percent of all line-of-duty deaths in North America to firefighters are due to heart injury.

With tragic irony, we will be burying one of our brothers tomorrow. Brother Bruce Kitching suffered a heart injury only four hours after his shift ended. It is also important to note that across North America, because we monitor this, within our union there were three other line-of-duty deaths within 24 hours this weekend. All of those deaths were a result of heart injury at a fire scene.

The leading causes of cancer death in firefighters are not brain, bladder, kidney, non-Hodgkin's lymphoma or leukemia, but are lung and colon cancer that will be covered by this bill. In fact, the leading cause of forced early retirement of firefighters due to occupational injury is lung cancer.

I will not spend all of my time here discussing the scientific evidence that supports this legislation, but I would like to discuss just a few points. Studies show that firefighters have anywhere upwards of two to five times a greater risk of getting these occupational diseases than the general population. Studies not only show that firefighters get these occupational diseases at a greater rate than the general population, but they also get these diseases much earlier in life than the general population. In some cases, it is upwards of 10 to 15 years earlier than the general population on the average.

You have already heard from the brave Schedler family, and you will also be hearing from two other widows of firefighters who have recently died as a result of occupational diseases. In all three of these cases, the firefighters were approximately 50 years of age or younger at the time of their death. Bruce Kitching was only 47 when he had his heart attack. Just to note, there is one other widow here that is

showing support for us here today. She will not be speaking, but her name is Lillian and she is in the back. I just wanted to mention her name because she has been a tremendous support for all of us through this as well.

The frightening thing about the statistics I have just given is that as studies become more complex and studies become more exact, we see that the present statistics are probably understated. They are understated because they fail to take into account the healthy worker effect. When firefighters are hired, they are in the top 10 percentile for physical fitness. They have to go through strict physical examination and a test to ensure their fitness. Yet studies show that, within five years of becoming a professional firefighter, they can have two or more times the likelihood of many of the occupational diseases as the general population.

Within my presentation I have handed out, I go into the reasons why heart injury is such a killer. I do not believe I need to go into this today in detail because many of you have already heard this in various caucuses because we have presented these studies. I believe it is not even a debate anymore whether occupational disease is connected to firefighters. I think we all agree it is, and it is backed up by a whole room of scientific evidence that I have presented to many of you.

I would like to close with the following comment. When we fight a fire, we do anything that we can to make that rescue or put out that fire. When we do this in whatever environment we are presented with, unfortunately that is what kills us.

Again, I would like to thank all of you for the work you have done. This is a real legacy of your government that is going forward, and all of you should be very proud. We will be here when this bill is passed, and we will be here with probably over 15 other presidents from across Canada of firefighters that are here because we believe this is going to be a tremendous day for firefighters not only in Manitoba but in Canada. Thank you.

Madam Chairperson: Questions?

Mr. Cullen: Mr. Forrest, I appreciate your presentation tonight. I know I have certainly been involved in the fire service myself and know what it is to lose part of the family so I appreciate your

comments tonight. Certainly, on behalf of our side, we appreciate everyone coming out tonight and providing that backdrop for your family as well. Thank you.

Mr. Lamoureux: I just want to echo the member from Turtle Mountain and note the minister's comments. You know, it is not too often in which you get such unanimous support from the Legislative Chamber. It was really encouraging to see the firefighters out when the bill was actually introduced. Obviously, you have the support of every member of the Manitoba Legislature and we just applaud the efforts of your organization and the firefighters in making very sound arguments and presentation. Thank you.

Ms. Allan: Alex, I would like to thank you very much for your presentation and I would like to thank you for all the work that you have done on behalf of firefighters who have been injured and who have died because of occupational disease.

I would also like to thank your organization for the work, the effort and the money that you have spent in collecting the scientific evidence. Because of that research and because of that scientific evidence, it has made our job that much easier as policy makers and we really appreciate the work that you have done.

I just wanted to ask you one question. The Association of Manitoba Municipalities made some comments in regard to some of the provisions outside of the presumptive legislation in regard to the removal of the cap and also the ability to top-up. These are provisions that are in the bill and that is, I believe, one reason why they are not in favour of splitting the bill. I was just wondering if you would mind commenting on that.

Mr. Forrest: Right, you are 100 percent correct. We are not in favour of splitting the bill either. Many of those other sections of Bill 25 will have a tremendous impact upon firefighters. When firefighters come forward and they are diagnosed with occupational cancer, they are usually in the later part of their career. Their salaries far exceed what the cap is and the top-up is an important provision to ensure that these firefighters, when the firefighter dies, their families will not have to suffer any financial liability. In some cases, without the other sections of Bill 25, even with the passing of this presumptive legislation, they would be financially impacted tremendously.

Madam Chairperson: Thank you, Mr. Forrest.

Debbie Woodman, private citizen. You can proceed Mrs. Woodman.

Ms. Debbie Woodman (Private Citizen): Good evening. My name is Deb Woodman. My husband, Jim, was a firefighter with the city of Winnipeg for over 28 years. He was promoted to captain on January 11, 2004, and retired on March 6, 2004. He died just over a year ago at the age of 51 on April 22, 2004, from colon cancer. There—excuse me.

Madam Chairperson: Ms. Woodman, there is Kleenex there if you need, and there is water there if you need it. If you need a moment, you can take a moment.

Ms. Woodman: Okay. There is no family history of colon cancer in Jim's family and Jim was a non-smoker. I do not know if any of you have ever lost a spouse, but it has been the most painful experience I have ever had. They say that you only grow with pain, but I feel that I have experienced enough pain in my lifetime and then some.

Jim was the most incredible individual with an infectious smile and a great sense of humour. He gave of himself freely to help anyone who needed a helping hand. He wanted to make a difference in this world and felt it was necessary to make a difference by getting involved. He was president of Waverly Heights Community Club, a Beaver leader, he coached hockey and baseball, was partner in a restaurant, ran for City Council and for MLA in our area, all the while working at the fire hall and raising a family.

* (21:20)

Jim was so proud to be a firefighter. He put his life on the line everyday when he went to work. He had a few close calls, more than once collapsing coming out of a burning building because he could not find his way out because of the smoke and because he had run out of oxygen. He was exposed to various hazards throughout his 28 years on the job. He attended all kinds of fires, and, of course, was exposed to many toxins. He would often come home smelling of smoke.

Jim shared some of these experiences with me, but I am sure he never told me all the close calls as

he knew that we worried about him. Jim was well respected on the job by his superiors and peers. Jim was awarded a lifesaving award in November 2002 for rescuing some young boys who had a homemade raft out on a man-made lake. He did not think it was a big deal. He was only doing his job. I had to convince him to go and accept the award as it was a big deal for those boys. He saved their lives. He was very humble about accepting it.

When everyone else is running out of a burning building, it is our husbands and fathers who are running in to save someone's life or property. Jim started not to feel well early in 2003, and went to our family doctor to find out why he was feeling so tired. Blood tests revealed that he was anemic. Our doctor sent him for further testing to discover why he was so anemic. After many different tests, he was diagnosed with colon cancer on June 19, 2003.

Again, there is no history of colon cancer in Jim's family. Our doctor estimated that Jim probably had the cancer for about five years before he was diagnosed. He was scheduled for surgery at the end of June 2003. Jim was a very private person and did not want people to feel sorry for him. He was a very proud man. He was very concerned about the surgery and what the outcome would be. He was so worried about the outcome of the surgery, he swore me to secrecy. I could not even tell our two older children who were living out of town or his own siblings. The surgery went okay, but the cancer had spread to four out of sixteen of his lymph nodes and the oncologist recommended that he undergo six months of chemotherapy.

I went with Jim to his first chemo treatment. They offered him a popsicle to help with the treatment. He normally loved popsicles, but then in the future associated them with his chemo treatments. He did not know what to expect, but felt nauseous and very tired. He had to have treatments for one week straight and then three weeks off. He began to dread each treatment that came, but still tried to have a positive outlook. He often had to have the little triangle pills, as he put it, to help control the nausea. They were the really strong ones and were rationed. The nurses tried to install a shunt so as not to have to poke him every day with a needle for his treatment, but that did not work. So he continually had bruises all over his arms and hands from the nurses trying to find a good vein; yet, he persevered and finished his six months of chemotherapy treatment in December 2003.

Jim again did not feel well and sought further medical treatment. After more tests, it was discovered that the cancer had spread to his abdominal area. We spent several hours in the emergency departments of the Victoria and St. Boniface hospitals. His breathing became so laboured that it was necessary to drain four litres of fluid off his abdomen, and they installed a pick to start his next chemo treatment.

Unfortunately, Jim was so ill the next day the oncologist advised against starting the chemo treatment. Further complications occurred. Jim was admitted to the hospital as fluid had built up in his lungs and had to be drained. At the same time, another chemotherapy treatment was started. Jim had tubes everywhere. He was on IV; he had a tube draining in his lung and he had to have a temporary line installed in his jugular to facilitate the chemo treatment.

He was released from the hospital after this treatment. That was Monday noon. Tuesday morning we were back at the emergency department. Jim was having a great deal of trouble breathing. After testing, they discovered that Jim had developed a blood clot in his lung. I literally lived at the hospital, sometimes sleeping in a chair, sometimes on the floor beside his bed. Our two older children live in Calgary and Vancouver, and they made four trips home during Jim's illness. The doctors tried to dissolve the clot, but were unable to do so. The medication was not working. The clot moved from his lung into his heart and Jim succumbed to his death two days after being re-admitted to the hospital. How could this happen? We were in a complete state of shock.

Jim died only 10 months after his initial diagnosis. How has Jim's death affected our lives? I lost my best friend, my lover, my soulmate. Our children were ages 30, 29 and 17 at the time of Jim's death. None of our children are as yet married. Our daughter, Vanessa, will never have her dad walk down the aisle with her. She has been completely devastated by his death. She would talk to her dad two or three times a day for business advice. Our son James is still trying to come to terms with his death. Jim was not able to be there to watch our youngest son Cole graduate in June of last year. There were many tears shed by myself and other parents as our son accepted his high school diploma in honour of his dad. Jim missed his 18th birthday in October,

Cole was so looking forward to learning how to drive a car that they had restored together. Jim will never see his grandchildren.

These are very significant life events that our children have missed having their dad for, not to mention the life lessons that he continually taught them. He was not just a father, he was their mentor, their mechanic, their carpenter, their coach, but most of all, their best friend.

Jim paid the ultimate price for the citizens of Winnipeg. He gave his life. His cancer was job-related, and, yet, when he filed a claim with workman's compensation they denied his claim. He believed that workman's compensation let him down by not protecting him or his family. How do you think he felt when he was dying of cancer? He gave over 28 years, over half of his life, to protect the property and the citizens of Winnipeg only to have his claim denied.

Had Jim been covered by workman's compensation, he would not have had to make the decision to terminate his employment for financial reasons. Jim knew he was dying and wanted to make sure that his family was protected. His No. 1 priority was always his family.

I have spent the last year trying to resolve several issues with Jim's estate and his life insurance policy. Every day I wake up with the same issues facing me. I did not choose to be a widow or a single parent. I have barely kept my sanity at times. The pain and loneliness is overwhelming. At times life does not seem worth living. Grieving is a horrendous journey. Life now is full of uncertainty; at times, I feel disoriented, fearful and vulnerable. I would give anything just to have him walk through that door once more to see that big smile on his face and to receive one of his warm hugs.

Jim and I were so looking forward to his retirement with the opportunity to spend more time together, perhaps to do some travelling. Sadly, it was not to be. Our dreams are gone. This legislation is so important. It is crucial that firefighters know that they and their families are protected just as they protect the property and lives of the citizens of Winnipeg. Compensation will ease the financial burden, not knowing what the future is going to bring.

Education was so important to Jim. It will help support Cole to further his secondary education. Our

family income has been more than cut in half. Jim died in the line of duty and it is important that he be duly recognized by the Province and City for giving up his life.

Our 18-year-old son wanted me to say a few words on his behalf.

"I never thought that I would be going through this at such a young age. I was only 17 when my dad died. I am learning to deal with his death day by day. It is hard for my friends to relate as they all still have their dads. My dad was such a determined, hardworking individual. The thing that still amazes me is how he would give up his life for anyone. There are not tons of people in this world that would take that risk every day, but my dad did and he died because of his colon cancer. He never gave up even when he was sick. He was a real trouper and a guy who always will be remembered in my heart as my hero. He was an amazing father and there is no one that can replace him. I hope that this law gets passed so kids and families like mine do not have to go through all this pain. It could make their lives easier with this help."

I want to thank the committee for the opportunity to listen to our thoughts. Alex Forrest has told me that we have had support and are receiving support from all political parties in this matter. It would be wonderful if the passing of Bill 25 could be expedited to ensure our loved ones did not die in vain. We do not want other families to have to endure what we have gone through. Thank you.

Madam Chairperson: Thank you very much. Are there questions for the presenter?

Mr. Lamoureux: Deb, I just wanted to give you my personal condolences. I knew Jim, actually, since 1994-95. As an individual, he reached out in many different ways and, I think, in one sense, he is the ideal poster for a fireman. I just wanted to give my personal condolences to you and the family.

Ms. Woodman: Thank you.

* (21:30)

Ms. Allan: Debbie, I would like to thank you very much for being here tonight and for sharing your presentation with us. You obviously lost a very

special person. I would like to thank you for being with us when we announced the legislation. Your advocacy is very, very important. Thank you.

Ms. Woodman: Thank you.

Madam Chairperson: Thank you very much, Mrs. Woodman.

Ms. Woodman: Could I get my pictures back?

Madam Chairperson: Your pictures are coming back, and thank you for bringing them.

Brenda McAdam, private citizen. You can proceed, Mrs. McAdam.

Ms. Brenda McAdam (Private Citizen): Hi. I am Brenda McAdam, widow of a city of Winnipeg firefighter, Lieutenant Douglas McAdam. Doug was 48 years old when he died from cancer on December 19, 2003.

How does one convey the value, the worth, the loss of a loved one? Words will never give justice to the feelings our family has and is experiencing. Our family has been walking through grief one day at a time for the past 17 months. Some days, weeks, are better than others. Unfortunately, many families experience the loss of a loved one, whether it be a husband, wife, mother, father, brother, sister, et cetera. The pain is real, at times surreal. While we know that we are not unique, we feel our pain is compounded by the fact that my husband, Doug McAdam, father of our three daughters, gave his life for his job, then to be told by workmen's comp, and I quote, that they "have concluded that his cancer is not an occupational disease caused by firefighting."

I will say to you that the day Doug's claim was denied was probably one of the most emotional days that I have ever experienced. I felt like I was being told that my husband's life did not count, that he had died in vain, yet I know that not to be the truth.

Permit me to give you a glimpse of this man, Doug McAdam, who died as a result of doing what he loved. Just like many little boys, Doug wanted to be a fireman. As he grew, that dream did not fade; it became his only dream. After graduating high school, Doug hounded the fire department in hopes of being able to join before the required age of 21. That did not occur. After Doug achieved his dream

of being accepted into the fire department, he sought to be the best he could be at all times. Even though firefighter shifts allow them time to pursue a second career, Doug never did. He only wanted to be a firefighter. He looked forward to becoming a captain one day. He enjoyed all aspects of firefighting.

Doug took great pride in his job, but at the same time never boasting about it. He loved showing off the fire hall and the apparatus to relatives, friends and especially his girls. As with most firefighters, Doug viewed the everyday risks as part of his job, not something to brag about. Doug did not talk about the things that we, as the public, view as heroic, even down to the time that he reached over and pulled his partner to safety as the roof gave away from underneath him. The firefighter's wife reminded me that her husband was alive because of Doug.

Doug wanted to be as physically fit as he could. He worked out both at home and work, as well as often riding his bike or walking to work. He was a healthy, active firefighter who was a non-smoker with no family history of cancer, which is rare in itself, and as already stated, had no other job. He had no predisposing factors to cancer other than the fact that he was a firefighter for 26 and a half years.

Our life was a whirlwind once we found out in September 2003 that Doug had cancer. It was 15 weeks from diagnosis till his passing, barely time to catch your breath. Doug entered hospital looking like a healthy individual and went home 25 days later on palliative care. Of the 15 weeks, Doug had three stays in the hospital for a total of 16 weeks. To describe how our family felt would be next to impossible. We were often numb with disbelief and trying to make life for Doug as comfortable as possible. We knew that Doug was giving the ultimate sacrifice: his life. We knew that his chosen profession that he loved dearly had cost him his life.

Our daughters were 18, 15 and 13 at the time of Doug's passing. That hole that has been left in their lives as well as mine is more than can be put into words. There are daily reminders that my life partner is gone. I often think of all the things that Doug is missing. As each milestone occurs, we will be reminded of his absence. Doug will not be here to see the younger two graduate high school. He is not here to experience first-time drivers, new boyfriends, sports achievements, to console heartaches and encourage each one as they pursue their chosen

careers. Each girl has commented or lamented on the fact that their dad would not be there to walk them down the aisle, or he will not be present to spoil his grandchildren.

When Doug was diagnosed, it appeared that we would not be eligible for workmen's compensation benefit due to the unknown primary site upon diagnosis. We had to investigate and see what would be the best way for our family to be provided for financially. Early retirement was the best option, with Doug dying five days after his retirement date. By the grace of God, Doug lived to his retirement date. If he had not, I as the widow would have received half the amount that I now receive. We are very grateful for the pension that we receive, but, at the same time, we are very aware that our income from Doug has been decreased by more than half of what it was when he was alive.

Upon Doug's death, I requested an autopsy hoping to locate the primary tumour and thus complete our workmen's compensation claim. The final report stated that they were unable to locate the primary tumour; however, it was most likely located in the lungs. The report stated that Doug had widely metastatic cancer with heaviest involvement in the lungs, kidney and brain. The cancer was also present in his liver, spine and lymph nodes. With the addition of lung cancer, colorectal cancer and heart disease, it is apparent that Doug had cancer in three of the areas covered by workmen's compensation, with lung most likely being the primary. While no amount of money can bring Doug back or ease the pain, it would go a long way to helping out in the future as I prepare to put three girls through school and contribute to three weddings. And if you knew my middle daughter, I need all the money I can tap.

At this time, as I move into the second year of being a widow, I am so very aware that there are many unknowns ahead. It would be difficult for me to even say the full ramifications of the years ahead. I am not even able to imagine or express what I will feel as our family comes to each new experience or how I will feel as I experience the empty nest syndrome alone. I do know that I want to see proper recognition for Doug's sacrifice and the other firefighters who have selflessly given of their lives for their community. It is extremely painful to go through this loss, and it angers me to know that Doug was honoured for his sacrifice by the International

Association of Fire Fighters, but be denied that same recognition by the very people that he served.

I would like to thank you for taking this time to listen to me as I shared part of my heart and pain with you. I understand from Alex Forrest that we have support from all the political parties, and for that I thank you. I would encourage you to pass this legislation as quickly as humanly possible. With these additions we could spare other families from having to walk the same journey that my family has. Thank you.

Madam Chairperson: Thank you very much, Mrs. McAdam. Does the committee have any questions for Mrs. McAdam?

Ms. Allan: Brenda, I just would like to thank you very much for being here with us again this evening and for sharing your story with us, and I think you said it best in your presentation that firefighters have selflessly given of their lives for their community. That is one of the reasons why this legislation is very important. So thank you very much for being here with us this evening.

Madam Chairperson: Thank you, Mrs. McAdam.

Ms. Anne Savignac, private citizen. One more time, calling Ms. Savignac.

Ms. Anne Savignac (Private Citizen): I will be there as soon as I can.

Madam Chairperson: Oh, I am sorry. I could not see you at the back. Take your time. That is fine. If you would like to sit, we can have a chair brought up for you as well. Thank you.

If you wish we could actually have the podium moved over. No? Okay.

Ms. Savignac: I have learned to be slow.

Madam Chairperson: That is okay. So am I.

Ms. Savignac: Hello.

Madam Chairperson: I will just recognize you. Ms. Savignac, please proceed.

* (21:40)

Ms. Savignac: Hello. My name is Anne Savignac. I do not like the WCB. In fact, I think they are

inherently evil. I did not always believe this. I had been one of the trusting workers who believed we need not concern ourselves with the stresses of suing our employer and going to court as we would be well cared for by this provincial-government-regulated Crown corporation should we ever find ourselves in need of this important safety net.

I had been a volunteer firefighter with the Rural Municipality and Town of Birtle Fire Department since 1998, as well as a volunteer ambulance attendant shortly thereafter. In June 2000, while attending a regular practice, I fell from a ladder, a distance of about 6 to 8 feet. I landed primarily on my right foot and sustained a severely comminuted fracture of my right calcaneous, burst and shattered my heel bone.

I underwent surgery, but my post-operative course was complicated by infection that required two further surgeries and a lengthy course of intravenous antibiotic treatment with gentamicin and vancomycin. The result of these events is a markedly deformed heel with an associated degeneration of the surrounding bones and ongoing heel pain. I use elbow crutches, but at times crawl to get around.

Since the injury, I experience continuous deep, aching pain that is worse on physical stress: walking, standing, exertion. Opioid treatment taken in the past has not controlled the pain. In fact, I also had to undergo an abdominal surgery in 2002 as a result of the complications suffered due to painkiller medication.

This accident has made me incapable of accepting any position for which I was trained either as a Power Engineer Third Class, Level 1 firefighter or ambulance attendant.

As I was a Level 1 firefighter at the time of the accident and was not earning a wage, I was told that according to the regulations of WCB I am not entitled to funds for retraining or further education in any other field that could accommodate my current physical limitations. I feel this policy does not take into account nor reflect the previous investments in training and education funded by the worker.

On Tuesday, October 8–oh, I did not put the year, I am sorry—that would be 2002, my WCB case manager contacted me to say that the time had come to the point that I should resign myself to move to a larger city to find work. Just as an aside, Birtle is

about four hours north and west of here. It is about a population of 720. WCB would give me three months in which to sell my home for this move. I understand that all the moving expenses, including the costs incurred during a house search and any legal fees and/or agency fees of selling, buying a house would be paid for by WCB.

Although generous, this is really unacceptable. Houses in small communities have gone unsold for more than two years. There is no market, just as there are few jobs available. For the same type of home in Birtle, homes in Brandon and Winnipeg cost many, many tens of thousands of dollars more and are unaffordable. We moved to a small community for the lifestyle and to allow my children to experience the neighbourliness of small towns, and do not wish to move. Besides our home, we had a small acreage we were slowly developing for retirement.

The WCB worker stated that if we did not accept this offer of help for a move out of Birtle, my monthly modest WCB benefits would be immediately cut off. From a letter dated March 1, 2003, "According to this policy (40.20.40), a worker is protected to stay in their community if they so choose providing they have an attachment such as long-term ties to the community."

Please be aware that I had been in my chosen community for about two years at the time of the incident and was involved in Communities in Bloom, the fire department, Birtle United Church activities, Birtle ambulance, and the Birtle Collegiate Institute, among others.

"Anne does not meet the criteria." To continue, "we feel, therefore, it is reasonable to ask her to relocate to a larger labour market to secure employment. We are not forcing Anne to relocate, but have advised her that if she chooses not to, her benefits would be reduced upon her ability to earn an income in a larger labour market."

Not only do I think this is unjust to me and can be compared to a form of blackmail, I feel it has implications for any other workers, wage earners, or volunteers, who, if they have tried to accommodate WCB in seeking employment and are not successful in their attempts in their own community, must move to a larger community not of their choosing.

I feel this has the potential to destroy small communities that are fighting to survive, requiring workers to leave their community for larger urban communities. The tax base will diminish, and the small shop owners who depend on local commerce to survive will also suffer and may be the last straw for their survival.

I have spoken to the executive assistant for Workers Compensation, to the Honourable Becky Barrett; I know she is not here anymore, Minister of Labour of Immigration, this was a long time ago, and Melissa Churchill, I know she is not here anymore, assured me that the WCB are within their rights and are following their guidelines.

I make this presentation to you, the committee, to assist me in my quest to help others stay in the community of their choice, and in rectifying what I consider to be a threat to small communities. I believe this policy only conveniences the WCB employees who would not have to travel as far to visit their charges. If this policy was well known, I believe all of the small communities who rely on volunteers for emergency workers would find the volunteer base diminish or disappear entirely.

I myself have been warning farmers and villagers of the possible negative effects on their lives should they become injured on the job while working as a volunteer emergency worker. Please remember that there has already been an item in the news not long ago about the difficulty of recruiting enough people to handle safely the emergency calls.

Another item I feel needs improvement is the policy 44.120.30, Support for Daily Living. This policy allows injured workers up to six months of financial assistance to a maximum rate. From a letter authored by John Gray, review officer, dated December 6, 2004, whether after six months the injured worker is capable of performing the activities of daily living is not germane. Entitlement ends at that time. The policy allows for a provision of the allowance beyond six months in "unique circumstances," but it is considered that the fact that the worker cannot perform the activities do not meet this test. If the policy were intended to provide such assistance for as long as the worker could not perform the activities, it would have stated that. It most emphatically does not. I contend it most emphatically should.

Now that I am in Winnipeg, I have lost the support of my friends, neighbours and family members from the small community I used to belong to. I do not know whether any of you are cognizant of the warmth and friendliness in a small town, of the willing helping hand—

Madam Chairperson: You have one minute remaining.

Ms. Savignac: Say again? Sorry, I will speak quickly. One is extended in such a location is compared to the coldness and isolation in city life where I have found most people do not even know their next door neighbour's name. There is also no co-op with whom I might call to place a food order by phone and have it delivered to my door. I cannot mow the lawn nor clear the snow from the walk in one undertaking. I believe my children may not be made to take on the role of partner, primary caregiver at this age. They must also be given the chance to develop their own talents with participation in after-school activities, cadets, guides, scouts, a part-time job, other community volunteer activities.

Finally, I will address the attitude of the WCB as reflected by its policies and some employees. I, a legitimately injured worker, am treated as though I am lying or being deceitful. In short, faking it. In October of 2002, I was mandated to work.

Madam Chairperson: Ms. Savignac, you have 15 seconds left.

* (21:50)

Ms. Savignac: I am speaking as quickly as I can, yes, Madam.

Hon. Theresa Oswald (Minister responsible for Healthy Living): Madam Chair, may I recommend that Ms. Savignac finish her statement and that the rest of her report go into the record and we move to questions, if that is appropriate?

Madam Chairperson: Is that agreed by the committee? [Agreed]

Ms. Savignac: I am sorry I did not understand that, Ma'am.

Madam Chairperson: You can finish the sentence that you are on so you are within the fair time, but

we will ensure that your entire report goes into our recorded record so you are not cut off there.

Ms. Savignac: *I did my best, as I always do, and the first day went fairly well. The second day, things were more difficult as this increase in activity caused an increase in pain. As the week progressed, I was unable to properly care for and provide meals for my children, ages 12 and 15 at the time. I spoke with my case manager about this, but was told I had no entitlement to any assistance. As it turned out, on the last day of my work placement, four WCB employees came to my workplace at the Birdtail Sioux Band office and told me their doctor agreed with me that I really ought not to be working.*

Fast forward to the present and I find the same attitudes from the current case manager. Please be aware that I have been told, on at least three separate occasions, by two WCB employees, that WCB is only concerned about its claimants between the hours of nine and five, that they have neither concern nor care about what happens to the worker or how much difficulty a worker might be experiencing outside work hours.

It takes me the better part of a day to accomplish the little house- and/or yard work I do accomplish. For example, my daughter can do, in three hours, what it takes me two days to complete. *On my knees, I can only mow the perimeter of my yard before I must stop for the day from the pain. Even so, this takes an inordinate amount of time.*

In conclusion, I sincerely hope my presentation to you will assist the work of this committee in injecting compassion and humanity into the policies and practices of the WCB.

Madam Chairperson: Thank you very much, Ms. Savignac. Does anybody have any questions for Ms. Savignac? Seeing no questions, we thank you so much for coming and presenting to us.

Warren Dowhan. Is Warren Dowhan here? One more time for Warren Dowhan. Seeing that Mr. Dowhan is not here, his name will be dropped to the bottom of the list.

Robert Smith. Mr. Smith did you have a written presentation you wanted to circulate?

Mr. Robert Smith (Private Citizen): No, I will just read mine.

Madam Chairperson: That is great. You can proceed Mr. Smith.

Mr. Smith: Hi, my name is Robert Smith, and I would like to address some of the issues with the light duty program that the Compensation Board has with some of the companies in this province.

I was injured in March 2000 when I slipped on a piece of meat at my place of work. The next day I could hardly get out of bed and went to my doctor who diagnosed me with a lower back injury, which later turned out to be three bulging discs. The doctor recommended physiotherapy and to stay at home.

The Compensation Board said I was capable of light duties and that I had to go back to work and was cut off compensation. At this time, there was a nurse employed at my company, and I was given a job in her office sorting files where I could get up and go for a walk or go lay down on a bench as needed. A short while later, due to downsizing, the nurse was let go and the health and safety officer took over her duties. I was immediately put back in the plant where I was to count stock in the mechanic shop, where I had to climb stepladders to get to the top shelves, crouch down for bottom ones which was beyond my restrictions and could not do.

When I refused to do this job, I was called in to see the health and safety officer and was told in no uncertain terms that I was just a lazy so-and-so, and if I did not do them, I could go home and stay there. Compensation took his word that I just did not want to work and cut me off. I appealed and won. I was again sent back to work with light duties which were beyond my restrictions, which were not only set by my doctor, but also by the compensation doctors. Again, I could not do this job without a great deal of pain and refused to do it and was cut off compensation.

Again I appealed and won. A couple of months later, they again told me they had light duties for me and, again, I felt compelled to try this job as I have a family to look after, and I have a wife and two young children that I have to support. This job consisted of pushing and pulling empty racks that hung from rails with steel wheels. Some of these racks weighed up to and over 300 pounds, and when the wheels were rusted stuck, it was like pushing a stalled car in the snow by yourself. This was a tiring and hard enough

job for someone who was healthy. Again, I could not do this and was cut off and, again, won on appeal.

I do not believe the Compensation Board has any idea of jobs that are suitable for the injuries that happen. After the last appeal, they recommended that I be retrained under the preventive Vocational Rehabilitation program even though the appeal board recommended to contact my employer and find light duties that were suitable. The Compensation Board went ahead anyway and put me in the program. They drew up a contract with me that said they would retrain me, provide me with certain things such as clothing for office work, a chair to sit in, ergonomically correct keyboard and wage loss up until December 29, 2003, which I never received.

I failed one of my courses and had to retake it in February 2004 till July 2004 to get the certification, or the course was useless. The Compensation then said they ran out of money for me in October 2003. On October 23, 2003, I was cut off and told that I was on my own with no job, no money, no certificate for the course. I did complete this course and have tried to find a job in this new occupation, but I am 56 years old and believe that my age and lack of experience in any office environment hinders my chance of securing employment at this stage in my life.

Since my injury, my back is in constant pain. I believe this is due to all the times I was compelled to do jobs I could not do. Also, carrying books and a laptop around all day at school did not help at all. I had been working since I was 15 years old and I am now 56. This is the only major accident I have had in all this time and cannot understand why I am in this position now. I have been told that if I go back to physically demanding work and reinjure my back, I would not be covered at all.

My situation is not the only one. I have seen people with casts on their legs holding a crutch in one hand and a broom in the other. I have seen people with carpal tunnel syndrome in both hands lifting ten-pound hams in each hand off the table and on to racks all night long. I have seen people with broken arms holding up flags on highways. Again, on highways, I have seen someone with a broken leg sitting in a chair holding a flag. If a car were to come along out of control, where would that person go?

When I was pushing racks as light duty, I had one fall off a rail and hit me because I could not

move out of the way in time. I believe that had I been left alone to heal and not forced to do these jobs I was not capable of, I would now still have my job, and family would be secure. As it is, I have no job, no security for my family, and I feel that my situation is hopeless. My savings are gone. I have been out of work for going on five years, and on welfare.

I think that the Compensation Board should have some kind of system in place to make sure that there are the right kind of duties for the injuries or people like myself will continue to be placed in light-duty jobs that hinder their injury from healing, and not only cause more pain and suffering for the injured person, but in the long run costs more money for the board and benefits no one but the company, as they were reimbursed by the Compensation Board by 50 percent if you are on light duties.

Up until this time, there has not been one doctor that has said my back has healed. I believe in the light-duty program as it could be, and should benefit everyone, but something should be there to check out that the light duties have to be for the injury that is caused.

Also, I would like to say after telling my story, it seems very minor compared to the stories I have heard from the firefighters and their families, and that it is important for all employees and their families to be treated fairly. For it is the working men and women who are building this country and making rich companies richer while being left to fend for themselves when they are injured or catch work-related illnesses. Thank you for your time.

Madam Chairperson: Thank you very much. Does the committee have any questions? Seeing no questions, we thank you very much for your presentation.

Dave Gledhill. Mr. Gledhill? Mr. Gledhill is not here, so he will be dropped to the bottom of the list.

Shannon Martin, from the Canadian Federation of Independent Business. You can proceed, Mr. Martin, whenever you are ready.

Mr. Shannon Martin (Director of Provincial Affairs, Canadian Federation of Independent Business): Thank you very much, committee members, for this opportunity tonight to be part of the

democratic process. Just as a brief background as a former staffer at the Legislature, I have had the opportunity to sit in many committees on the outside, so this is actually quite an exciting opportunity for me to actually present to a committee as opposed to sitting on the bystanders and actually taking part, like I said, in the democratic process. So I thank the committee for this opportunity.

For a bit of background, CFIB, the Canadian Federation of Independent Business, we are a non-partisan, not-for-profit political action organization who represents Manitoba's small- and medium-size business community. We have 4800 members in the province of Manitoba representing every industry that this province has.

* (22:00)

As noted in the most recent provincial budget, over 90 percent of all businesses in this province employ less than 50 people, and approximately 50 percent of all businesses employ less than five people. CFIB exists to promote and enhance the entrepreneurial spirit that exists within Manitoba and to make sure that roadblocks put forward by government are eliminated and reduced. By way of background, and I know some other organizations have made mention to it, but Bill 25 represents another step in what the business community sees as a pro-union bias by this government. That is most unfortunate. Currently, Manitoba, among our members, has the second-highest concern over labour legislation. In fact, labour legislation concern by our members has more than doubled in the last five years. It is eclipsed only by the province of Saskatchewan. Obviously, this began with Bill 44, continuing with the floodway, and I am here tonight to speak to what we see as a continuation of that, and that is Bill 25.

Seventy-six percent of our members indicated to us in our survey that they believe this current administration is biased towards the unions, and that is unfortunate because those perceptions do affect business decisions. While it is very hard to measure perceptions, they are a reality and they affect businesses in terms of expansion, relocation and hiring.

Specifically, in relation to Bill 25, the top concern that CFIB has is the expansion of coverage. Previously, the board had the authority to include additional industries. This authority has now been eliminated with Bill 25. Now Cabinet and the

minister will hold exclusive authority as to which industries are excluded, a reversal of onus. This amendment was not one of the unanimous recommendations put forward by the committee. All industries now are in, unless specifically stated as out by government.

When CFIB asked its members, in preparation for this report, whether or not the government should extend compulsory WC coverage to all workplaces in the province, 61 percent said no and 27 percent said yes. In CFIB's view, this amendment represents an unwarranted power grab by the government and violates the spirit intent of the unanimous recommendations.

On the issue of governance, while CFIB is supportive of those amendments contained in Bill 25 related to the enhancement of accountability and transparency within WCB, it is important to note that in October 2004, the Auditor General of this province initiated an investigation into WCB related specifically to issues of finance, human resources and governance.

With the Auditor's report still pending, CFIB is concerned that the Auditor's recommendations will require further amendments to the legislation and may not occur in a timely manner. Had the government waited until later this year, I would suggest the fall, Bill 25 could have reflected and acted upon the Auditor's pending recommendations. As well, CFIB has concerns specifically with section 69(3) of the act concerning program audits, again a unanimous recommendation from the committee requiring the appointment of an independent auditor to conduct a value-for-money audit of WCB every five years. However, according to the legislation, it is up to the minister as having sole authority to determine which program is to be reviewed. Again, this situation, in our opinion, fails to ensure transparency, and CFIB recommends that this authority be provided to the board of WCB which has employer representation.

As well, on the issue of cherry-picking, again the government likes to point out that they are following unanimous recommendations of the committee. However, the funding of agencies and programs was one of those recommendations that the government unfortunately has ignored. CFIB has consistently argued that WCB levies should be used solely to fund the compensation of injured claimants and not

the bureaucracy within a particular government department. The funding allocation of the Workplace Safety and Health branch and the office of the Minister of Labour and Immigration and its operating department, the Worker Advisory Committee, is just one more example of governments using WCB monies to fund what should be government-run programs.

Recommendation No. 4 from the review committee states that the act should be amended so that the costs of enforcement, as currently undertaken, be borne by the general revenues of the province. The recommendation goes on to say that accountability must be part of all funding arrangements. The mandates of other agencies should be funded elsewhere. The committee estimated savings to WCB of approximately \$5 million as a result of this recommendation. CFIB is concerned that Bill 25 makes no mention of this recommendation.

Once again, although it has been mentioned before, I think it is important to note that WCB is 100 percent employer funded.

As well, another concern that CFIB has in relation to Bill 25 is the issue of wage replacement after two years. Currently, after two years, wage replacement is reduced to 80 percent. This amendment, this bill, changes that part of the current legislation. CFIB recommends the wage-loss benefits remain at the existing level. Our survey results indicate that while 30 percent of employers feel benefits should be reduced below 90 percent of net income for the first year, 60 percent state that benefits should remain the same and only 2 percent would like to see an increase. Just over half, 54 percent, of employers stated that injured workers should receive 80 percent of net income after 24 months and 27 percent felt that benefits should be reduced.

Maintaining the existing 90% and 80% wage-loss replacement ensures workers receive guaranteed income during their recovery period without any consideration of contributory negligence and provides workers with an incentive to return to work as soon as possible.

Another key concern of CFIB is the removing of the limit on insurable income. In conversations with government, the idea behind Bill 25 was to move the legislation within the mainstream of the rest of

Canada. Unfortunately, the removing of the limit on insurable income makes Manitoba out of step with the other jurisdictions in the country. CFIB is strongly opposed to this amendment and the estimated \$1 million cost. The existence of a cap is currently consistent with all other provincial jurisdictions which is adjusted annually to reflect that particular jurisdiction's economic growth during the previous 12 months. Through CFIB surveys, nearly three-quarters of small business owners stated that the limit on income replacement should remain at the current level regardless of whether the worker's normal income is higher.

Manitoba's current limit on insurable income is well within the average provided by other jurisdictions. CFIB is concerned about the precedent Manitoba will set by removing this limit, thereby, putting pressure on other jurisdictions to follow suit. The removal of the limit on insurable income may also result in a significant disincentive for an employee to return to work. Finally, CFIB is concerned about the impact this recommendation will have on industries that pay higher-than-average wages.

The expansion of coverage to volunteers and work-experience employees is something that we simply cannot agree with. If the government believes that the expansion of coverage to these sectors would improve workplace safety and health, I think it is incumbent upon government to show those industries just that. Any expansion should be considered on a voluntary basis. WCB provides services to workers and only those who have an employee-employer relationship should be covered, charged premiums and receive benefits. In many instances, work experience employees and volunteers do not receive a salary making the determination—

Madam Chairperson: You have one minute, Mr. Martin.

Mr. Martin: —of an appropriate benefit rate problematic. CFIB would consider the further development of self financing and optional insurance programs to cover individuals engaged in work experience programs.

Not to suggest that I am here simply to criticize the government on Bill 25, there are some positives contained within the legislation. The extension of employer liability protection to be extended to

directors of corporations who are employers is something that CFIB has consistently lobbied for. We endorse this amendment, and we believe that the removal of this loophole will result in positive benefits for directors. Our survey data showed that 73 percent of our members would like to see this loophole closed, and we congratulate the government for doing just that. As noted in the report, exposing directors of corporate employers to lawsuits is contrary to the spirit of a historic compromise.

Madam Chairperson: Thank you. If I could just get you to do your concluding remarks, please.

Mr. Martin: Not a problem.

In conclusion, with Manitoba's WCB rates currently the lowest in the country, we believe that WCB rates present to the employment and business community one of the few economic advantages that we have in the province of Manitoba. It is CFIB's concern that Bill 25 and the costs contained therein may result in an eroding of this benefit.

Madam Chairperson: Thank you, Mr. Martin.

Mr. Martin: Thank you.

Mr. Cullen: Thank you, Mr. Martin, for your comments. You certainly bring forward a number of issues from the Manitoba business community. You put forward quite a few recommendations, too.

* (22:10)

I would be interested in hearing probably your No. 1 recommendation for changes to this particular bill, and then just a general comment in terms of how you see the economics working on this bill in Manitoba. Do you see it having a significant impact on the economics of Manitoba?

Mr. Martin: The No. 1 recommendation we would have is the change of the reversal of the onus. We do not believe that the authority to decide who is in WCB should rest with the government of the day. So directly that would be it.

In terms of the economic impact, again, while the recommendations are generally costed out, to be honest, we have some concerns about the costing out of those recommendations and the validity of those, because to be honest some of those are simply

educated guesses. There is no denying that there is a significant cost in the tens of millions of dollars to implement this legislation at a minimum. There is only one place that WCB receives its revenue and that is from employer premiums.

An Honourable Member: Investment of premiums?

Mr. Martin: And as noted by the minister, investments when they are doing well.

Mr. Lamoureux: Shannon, I am going to make the assumption that your organization does not have any objections in terms of what is being done in terms of the firefighters here with this legislation. Having said that, if this legislation would have included all of the recommendations or reflected the recommendations of the advisory group that brought forward the hundred recommendations, would your organization have supported the passage of this particular bill?

Mr. Martin: The short answer is no. The inclusion of the firefighter component in the legislation, and credit to the NDP government, is simply very good political maneuvering putting in mom and apple pie components in the legislation that reflects that, when individuals speak against the legislation, they are speaking against firefighters, and that is simply not the case. I am simply here to represent the interests of those individuals who are members of CFIB, small, medium-sized businesses, and we have concerns even with some of the recommendations that were put forward by the committee.

Ms. Allan: Shannon, thank you very much for being here this evening. I always appreciate the opportunity to meet with you and Dan Kelly when he is in town. We always have lively dialogue and discussion.

I just wanted to talk a little bit about the issue that you raised in regard to coverage and your concern around that particular area. We have made it very clear to the Manitoba Business Council, in fact, we did so again this morning in a meeting with Bill Gardner, that we would consult in regard to the regulation that will be passed at exactly the same time as this bill, that the exclusions we will work with them in regard to making sure that they reflect the status quo now.

I also heard you talk about the concerns in regard to the costing that was done around some of

the recommendations, and we made a commitment to the Manitoba Business Employers that we would have the WCB aggressively monitor those recommendations to make sure that we know for sure exactly how they are going to affect the WCB financially and employers in the long run. We agree with you that we want to make sure we maintain our competitive advantage in this area because we do have the lowest rates in Canada, and that is certainly something we want to make sure we maintain. So thank you very much for your presentation.

Mr. Martin: Again, I thank the committee for their time. I thank the minister for her comments. I have had the opportunity to meet with Minister Allan on a number of occasions. She has always been very accommodating. I gained a great deal of respect for the minister, and, as she indicated, our conversations can be lively at times but I think overall we are both very well served by them. So thank you.

Madam Chairperson: Thank you, Mr. Martin.

Brian Ardern, President—

Point of Order

An Honourable Member: Point of order, Madam Chairperson.

Madam Chairperson: Yes. I am sorry.

Mr. Loewen: Just to clarify, because the minister indicated that she met this morning with the Manitoba Business Council. I just for the record want to make sure that it is not the Business Council of Manitoba that she is referring to, but the Employers Council.

Ms. Allan: Thank you very much for that clarification. It was MEC.

Madam Chairperson: There is no point of order. It is a dispute over the facts.

Madam Chairperson: Brian Ardern, President of the Manitoba Teachers' Society.

Ms. Allan: Sorry, clarification. Actually, there was a representative there from the Business Council as well, so I actually met with both organizations.

Madam Chairperson: Brian Ardern, President of the Manitoba Teachers' Society. Thank you, Mr. Ardern.

Mr. Brian Ardern (President, Manitoba Teachers' Society): I feel like I am running laps.

Madam Chairperson: That is okay. Some of us would like to get up and run laps. Whenever you are ready you can proceed.

Mr. Ardern: Thank you for the opportunity to be here. The Manitoba Teachers' Society represents 14 000 public school teachers in our province. Currently, Manitoba teachers are not covered by The Workers Compensation Act, although several school divisions have voluntarily enrolled some of their teachers, mostly in the vocational area. We believe, as provided in Bill 25, that every employee in Manitoba should be covered by workers compensation.

Part of our mission as an organization is to safeguard the welfare of teachers in Manitoba. Thankfully for the public school teachers of Manitoba, physical injuries at work are few. Our staff recalls only a handful over the last 10 years. However, stress-related illnesses are prevalent and are increasing every year. That is why we are asking you to amend this bill and remove the restrictions on stress-related claims.

It has been more than 40 years since teachers were covered by workers compensation. As a result of an agreement between the Manitoba Teachers' Society and the Manitoba Association of School Trustees, an Order-in-Council made membership of school employees voluntary.

Coverage of teachers by workers compensation varies across Canada, but only Manitoba allows school boards to choose whom they will cover. The Manitoba Teachers' Society insures and administers a disability benefits plan on behalf of our members. Our members pay an annual premium for this insurance of 2.3 percent of their gross salary. Our employers, the school divisions, contribute nothing. Currently, because teachers are not covered by workers compensation, they can sue their school division if they are injured on the job.

It is our understanding that in 1992 restrictions were placed on stress-related claims under WCB. While work-related physical injuries are rare for

teachers, as I have already stated stress-related claims are increasing, and a quote from the *Teaching Elementary Physical Education* journal provides an idea of the job the teachers do. "If a doctor, lawyer or dentist had 30 people in his or her office at one time, all of whom had different needs and some of whom did not want to be there and were causing trouble, and the doctor or lawyer without assistance had to treat them all with professional excellence for 10 months, then he or she might have some conception of what a classroom teacher's job is like."

Stress manifests itself in a variety of ways with our members, not only psychologically, but physically as well. As of August 2004, 44 percent of the claims made to our disability plan were of a non-physical nature. The vast majority of non-physical claims by our members cannot be tied to a specific incident. They usually come about as a result of a build-up of stressors.

As workers compensation benefits are currently structured, psychological claims require a single traumatic event to be proven. In Manitoba schools, psychological injury as a result of a single traumatic event rarely happens. Instead, it is an accumulation of events and stressors that result in claims.

MTS employs four full-time counsellors to assist our members with psychological issues. Our counsellors find that teacher burnout is a growing problem. It affects our best and brightest teachers. It happens to individuals who are passionate and dedicated about the work they do, the type of teachers that always give 110 percent.

Competent teachers are often assigned the most difficult classes or students year after year. Combined with life events, stresses accumulate. Teachers are often bewildered that a seemingly insignificant event becomes the last straw. After years of digging deeper into their reserves, they find nothing there. They are an empty shell. They are burnt out.

Currently, our counsellors and our disability plan help these teachers. Our employers contribute nothing to our effort to help teachers under the current system. School divisions, in fact, have no incentive to mitigate the stresses endured by teachers.

Each year we conduct an independent telephone survey of about 800 teachers and ask them what their

biggest concerns are. Last fall the three biggest results were class size, noted by 18 percent; student behaviour and discipline problems, noted by 13 percent; and too many demands and job stress, noted by 11 percent. That makes up nearly 43 percent of our membership, and those are all stress related.

* (22:20)

In my role as president, I have talked to many teachers with large classes and with four or more special-needs students who I would suggest to you are experiencing a large degree of stress in their working lives. It is regrettable that more than 10 percent of our members say that job stress is their top concern, but I would venture to say that those teachers who cite class and student behaviour as their primary concerns are also experiencing a considerable amount of stress.

Forgive me for repeating this again, but in many cases our employers make no attempt to ease these stresses and contribute nothing to our insurance plan that supports these teachers when they can no longer do their job. In fact, the efforts of school divisions are often contrary to our own. They frequently push teachers on to disability where they have no responsibility for them. That is why we believe the restrictions on stress-related claims must be removed from The Workers Compensation Act.

Manitoba teachers believe that our schools are safe. However, incidents such as those that occurred at Columbine High School or in Taber, Alberta, could have an enormous impact. Currently, if a catastrophic event occurred related to school activities, the school division would absorb the initial sick leave and the school division, along with other responsible parties, would be subject to legal action related to the injuries that occurred. Our disability benefits plan would absorb the costs related to the disabilities that occurred, and would look to employers and others for compensation.

Since workers compensation does not apply to teachers in Manitoba, both school boards and our disability plan are highly exposed should this kind of tragedy occur in a school. By including teachers under the provincial workers compensation, our employers and others could be protected from legal action for workplace injuries.

In conclusion, proportionally Manitoba's Workers Compensation Act covers the fewest

number of employees of any Canadian province. We believe that Manitoba's plan should be expanded to cover more workers. The Manitoba Teachers' Society's Disability Benefits Plan covers teachers 24 hours a day, 7 days a week, including claims for stress-related illness. Under the current scheme, our disability plan would remain first payer for work-related claims. However, once Bill 25 is passed, we would work with Workers Compensation Board and with our employers to examine the appropriate coverage for Manitoba teachers.

I would like to thank you for the opportunity to be here tonight and to address the concerns of the teachers of Manitoba. Thank you.

Madam Chairperson: Thank you, Mr. Ardern. Does the committee have questions?

Mr. Loewen: Well, thank you for your presentation, Mr. Ardern. With regard to the proposal you are talking about here, have you done any costing?

Mr. Ardern: No. One of the difficulties is that there would have to be some figuring into the cost of teachers as opposed to other professions, and we do not have those figures.

Mr. Loewen: Just in terms of going forward with that, would you consider the 2.3 percent of salary that teachers already pay if Workers Compensation were to take over providing the benefits that the 2.3 percent of salary covers now? Would that be contributed back to the school board to cover the cost of workers compensation payments?

Mr. Ardern: I beg your pardon. That 2.3 percent is coming out of teachers' pockets to pay for their insurance. If boards were to negotiate something, I guess that could come to the table, but right now teachers pay that 2.3 percent out of their salaries, and that is nontaxable dollars as well. That is a huge cost.

Mr. Loewen: I appreciate that. I am just wondering if under, sort of what you are talking about, all the teachers would move to under Workers Compensation and would not be required to have the comprehensive disability and that 2.3 percent was either eliminated or reduced, I mean, if the division just picked it up, it would be an automatic 2.3, or maybe somewhat less, pay increase. Are you proposing that that is how it would be handled? I

guess what you are telling me is that is something you would want to take to the bargaining table.

Mr. Ardern: It would seem to me.

Mr. Loewen: Thank you.

Mr. Ardern: On that issue—

Madam Chairperson: Mr. Schellenberg. Just a minute. Did you want to finish, Mr. Ardern?

Mr. Ardern: I would like to add, one of our primary concerns is that, aside from the sick leave teachers are entitled to under their collective agreements, our employers are not on the hook for anything. We pay the full cost, the full freight, for all of this, including the counselling service which runs at MTS to several hundred thousand dollars a year, plus what teachers are paying on their gross salaries. The costs that we are incurring alone, all by ourselves, are quite large.

Mr. Harry Schellenberg (Rossmere): I appreciate your presentation. You are the fourth presenter that talks about teachers' stress. Do you know how many teachers are on stress leave in Manitoba?

Mr. Ardern: Currently—

Madam Chairperson: Mr. Ardern.

Mr. Ardern: Man, one of these years I am going to remember to wait. I apologize. Currently, I believe the number is between 600 and 700. We have a major concern in that the numbers continue to grow. They are rising at rates of 6 or 7 or 8 percent a year or more, and it has placed huge stress on our disability plan.

Mr. Loewen: The disability plan that you refer to for the insurance for the 2.3 percent, is that a self-funded plan? I am not sure if there is a carrier that covers that or if it is self-funded through the Teachers' Society. Could you give me a little more background on that?

Mr. Ardern: It is self-funded.

Madam Chairperson: Seeing no other—

Mr. Loewen: Just quickly, is that in deficit—

Madam Chairperson: Could you bring the mike a little closer, Mr. Loewen, sorry?

Mr. Loewen: Sorry?

Madam Chairperson: Could you bring the mike a little closer?

Mr. Loewen: With regard to that plan right now, is it in a surplus position, a deficit position?

Mr. Ardern: The plan had a serious shortfall. As of August 2002, it had about a \$30-million shortfall. The society has taken steps to pay that deficit down. As of August of 2004, it was down to about \$12 million. We are hopeful that as of the next valuation—the numbers will start getting prepared now—that it could be significantly lower than even that.

So the short answer to your question is, yes, it is in an unfunded situation right now. It is miles and miles ahead of where it was a couple of years ago, and we expect that unfunded liability to be gone very shortly.

Madam Chairperson: Mr. Schellenberg, for a very quick question.

Mr. Schellenberg: Do you have any strategy to reduce the teacher stress in the classroom?

Madam Chairperson: Mr. Ardern, quickly.

Mr. Ardern: We deal with that on a number of different fronts. One of the things that we try to do is we try to take items to the bargaining table to talk about workloads and things like that. The disability plan that we have has also introduced some early intervention programs trying to work through that way. We have also been involved with government's work on Safe Schools. So we approach that problem from a variety of ways. It is an extraordinarily difficult one.

Ms. Allan: I would just like to say thank you very much, Brian, for taking time to come to the committee hearing tonight and make your presentation on behalf of the Manitoba Teachers' Society. Thank you very much.

Madam Chairperson: Dianne Zuk, President of the Pembina Trails Teachers' Association. Did you have

copies you wanted the clerk to distribute? You can proceed, Ms. Zuk, whenever you are ready.

Ms. Dianne Zuk (President, Pembina Trails Teachers' Association): I am a little on the short side, so I am just going to move to the side.

Good evening. My name is Dianne Zuk, and I represent over 1000 teachers employed by the Pembina Trails School Division. It is my opinion, based on experience in my position as president, that teachers should be covered by Workers Compensation. As well, I encourage you to amend Bill 25 and remove restrictions on stress-related claims.

I have been president for five years, and stress-related illnesses and concerns have been on the increase over this period of time. Teaching is a wonderful profession with many rewards, but it is also a very stressful job. There are many reasons for this, but as one of my members stated, too much to do in too little time. Teachers are responsible for the well-being and education of children which can include classes of 31. Now, to class size add class composition, which can include students with numerous exceptionalities from autistic children to the gifted. Add into that mix, students who have been identified as having an emotional and/or behavioural problem, and you can see that things can get very busy. Class management and organization come into play.

* (22:30)

Think about providing appropriate education for this range of students and the differing needs of each child, but this is not the end as teachers are continuously learning and adapting their teaching methods. There are new curricula, changes in assessment tools and reporting, new educational research that impacts on best pedagogical practices, policies, professional development and the introduction of new technology.

But this picture is not finished yet. There are other stressors. There is the need to plan and prepare lessons, participate in the individual education plan process, work with teaching assistants, team meetings and conferences with parents, all the while participating in the life of the school, voluntarily doing such things as serving on committees, coaching, organizing clubs for students and going on field trips. Then, to complete the picture, are the

expectations of administration, parents and society in general that add to the stress of teachers.

Teachers always feel that they are on display, on stage, so to speak, and that frequently they have no autonomy over their working lives. However, given all this, teachers continue to teach and care for their students. In fact, it is the factors described above, coupled with the high expectations teachers have of themselves, that cause stress-related problems.

I have counselled many teachers who were at the near-burnout stage. Frequently, they are hesitant to take any action. Sometimes it is because of the dedication to their students or sometimes because they just cannot afford to take time to get better.

The Manitoba Teachers' Society does have counsellors who can assist teachers, and the number of times I have referred a teacher to this program has dramatically increased. PTTA members do have access to the MTS Disability Benefits Plan and I can say that, again, the number of teachers who have made an application for a non-physical claim is growing steadily. One thing to note is that the members of my association pay a monthly premium for this coverage. The school division does not contribute to this plan.

As president of a local association, I am acutely aware of this growing problem. Besides the personal contact I have had with teachers, this concern about stress is prevalent. We conducted a PD Needs Assessment Survey last year and the No. 2 item was dealing with stress. The No. 1 concern was safety and working with students with severe behaviour problems. In a few incidences, teachers are fearful due to violent behaviour, and, in fact, the cases where teachers have been hurt are rising. This alone is a source of stress for some of my members.

In addition to my role as an association president, I have had much experience as a resource/special education teacher. I have been involved in working with teachers and giving support to educators for many years. I have seen first-hand the impact of ongoing stress on teachers, both young and old, as the demands on them increase.

In conclusion, I hope that, although brief, I have presented a clearer picture of the stress on teachers in the year 2005. I encourage you to consider expanding the compensation plan to cover more

workers and to include stress-related illness. Once this has been accomplished, I trust that the Workers Compensation Board will work with the Manitoba Teachers' Society and school divisions to look at appropriate coverage for teachers. Thank you for this opportunity to address you.

Madam Chairperson: Thank you, Ms. Zuk.

Mr. Loewen: Thank you for your presentation, Dianne.

Just a brief question here that I am not sure if you have done any, if there is any research done on it or not. Just to set the stage, I represent Richmond West and Whyte Ridge and Linden Ridge, all new communities where schools, as I am sure you are aware, are bursting at the seams. Most of those schools in those communities have already added temporary classrooms to them which puts a lot of stress on the other facilities within the class. HGI, for example, I do not think there is a class there that is under 30. There may be one or two, but the norm is over 30.

I am just wondering, and I know composition makes up part of it, but I am just wondering if you have seen an increase in stress-related, I guess, incidence in schools where class sizes tend to be relatively large.

Ms. Zuk: I think that is one of the factors, obviously, class size; it does not matter where the school is in the division, is class size and class composition.

Madam Chairperson: Seeing no-oh, Mr. Schellenberg.

Mr. Schellenberg: I appreciate and support what you say, and what you say really confirms what I hear from teachers. I meet a lot of teachers and they say very much what your presentation here says tonight. I keep telling more people about this story of teacher stress. *[interjection]*

Madam Chairperson: Excuse me. Ms. Zuk?

Ms. Zuk: I will do so.

Madam Chairperson: Okay. Thank you.

Ms. Zuk: I want to reiterate that teachers love their jobs and really care about their students, but that stress is building.

Madam Chairperson: Thank you very much for your presentation. Seeing no other questions. Thank you.

Ken Haines, private citizen. Once again, calling Ken Haines, private citizen.

Kathy Coulombe.

Ms. Kathy Coulombe (Private Citizen): Hello. Does this move? No?

Madam Chairperson: The Clerk will come help you.

Ms. Coulombe: I have got a cold, so my throat is—thanks.

Madam Chairperson: Just before you proceed. How do you say your name properly?

Ms. Coulombe: Kathy Coulombe.

Madam Chairperson: Thank you. Ms. Coulombe, please proceed whenever you are ready. Did you have presentation handouts you wanted to distribute?

Ms. Coulombe: No, I did not.

Madam Chairperson: Okay. That is great.

Ms. Coulombe: Hi, my name is Kathy Coulombe. I have a cold, sorry.

I have worked for Westfair in a Superstore on St. Anne's and Fermor for the last 23 years as a cashier. I have had some injuries over the years at work: back, right hand surgery, shoulder; as well as minor injuries that have come with the job. Now, two weeks ago I have had surgery on my left arm for tendon release. I hurt myself at work reaching too far, and the heavy product stuck to the counter and pulled all the muscles and tendons in my left arm. I have gone through a great deal of stress, pain and suffering due to the injuries at work which I will explain not only for my employer, compensation, my fellow employees, my supervisor, as well as customers.

I have been on light duties for 11 months before my surgery. The light duties include price checking, standing doing President's Choice MasterCard, cleaning checkouts, helping people find things, just

to name a few. Every day it would and could change: price checking, checking prices for customers, replacing damaged or broken items and put aways, the items that are broken and left behind. I could only use my right arm. I could not use my left arm at all. Due to previous injury to my right arm, it would get tired and did not have a lot of strength. It was difficult, but I tried my best. All the other price checkers are on rollerblades which are a lot faster than walking.

I asked my employer not to put me till closing because that is when all the items are left behind and damages have to be done. The answer was no. My fellow cashiers did not believe my injury because they could not see it. I walk like everybody else and did not have any outside signs. I have had customers say to me, "Well, you should not be here if you cannot cash." Some days you would be running getting price checks for five hours straight, and on other days it was slower. Some days I could barely walk to my car my legs were so sore and pained. When I talked to compensation about it, they just said ask your employer for more breaks than one 15-minute break on a 5-hour shift. They just laughed at me.

Cleaning checkouts, which consists of washing and polishing checkouts for five hours straight, I told them I could not do that due to my right arm injury from years ago that I live with every day. I told them that I had a hard time cleaning my house for years. I have to stop all the time and rest my arm due to the strain.

* (22:40)

Mr. Vice-Chairperson in the Chair

The night shifts sometimes start at 4 a.m. and end at 9 a.m. I told them I have children that I have to get off to school, and my husband works shift work. They said, "You work any times so you have to do it." I say, "Cashier's shifts do not start till 9 a.m. usually." They said my doctor's note does not say I could not wash checkouts for five hours with my right arm. I said, "What about the letter you made me get from my doctor that says all my injuries?" They said that is not acceptable. Then I found out my doctor was on holidays for two weeks. They said if I did not have a doctor's note by Monday, and this was on a Friday night and I had to work Saturday, that I would have to do the shift. I talked to compensation

about it, and they said that they would send a letter, but it was not good enough, and I would have to go to a walk-in clinic to see another doctor. I ended up, after all the stress, working two cleaning shifts.

Going to physio for the first time, and him telling me my right arm was so swollen and hot that it is not in good shape, I said, "I know, but I do not know what to do. Nobody believes me." He wrote a letter to my doctor explaining his findings. I went to a walk-in clinic, paid for a doctor's form to do the full workup. He wrote me a note saying no cleaning duties for two weeks until I could see my doctor.

Then compensation wanted to know who was my doctor, the one at the walk-in clinic or the other doctor. They said, "We do not need these doctors' notes. We are not asking for them. Your employer is, so they should pay for them." I said, "They have never paid for one doctor's note in the last 20 years." They said, "I shall find out for you and send it to them." They sent me a cheque from head office from the company. After that, all my doctors' notes together, it took me six months to get my money back from them due to the company saying, "We do not know who pays for them. We will have to check with head office."

I think what we need to change about workman's compensation is taking power back from the employer and giving it to the employee where it was when workman's compensation was first started. The system is not user-friendly anymore, and it is intimidating because people are afraid to make a claim. Then when they do, they are denied. They are afraid to appeal. It does not look out for the needs of people anymore.

CPP should automatically be taken off my cheque because I do not really understand all that and why should I. If I was a year older, I would get less on my paycheque. As far as that is concerned that is discrimination, and I have just as many bills now as I will have in a year, so it would be an undue hardship.

Duties to accommodate. It needs to change so that it is more in favour of the employee. They want whole doctors' files, for what, because of what they have gone through for the last 20 years. Other employees see what I went through and do not want to go through that themselves. At my workplace,

there are girls who have braces on their arms that workman's compensation has denied their claim.

Madam Chairperson in the Chair

At our store, we have four express-only checkouts which is 12 items or less, and we have at least six cashiers that work express-only. Some have been denied by workman's compensation, but Westfair accommodates them by letting them work express-only because they have a doctor's note. Some girls have asked to go to customer service, but they have been denied. We have also asked to go to new stores because there are better checkouts to work on. We are also denied. They really do not have light duties and when you are on them they put a lot of pressure on you. They watch you all the time because you are top rate and you are not doing your regular job so they hassle you all the time.

I would like to finish by saying workman's compensation did not deny my claim this time because I had a great doctor, physiotherapist and workman's compensation adjudicator that actually took the time, believed me and worked with me. But I think workman's compensation could have done more to deal with my employer, especially my supervisor. That is what I mean by taking the power back from the employer, and not always believing them when they know this is the kind of job that has recognized injuries that the doctor knows about, and they need to ask the specialists. What about the other cashiers that are not covered by workman's compensation. I believe the law has to protect them too. Nobody wants to be hurt at work and should not be punished for it or feel less than a person.

Madam Chairperson: Thank you very much for your presentation. Are there any questions for the presenter? Seeing no questions, we thank you.

Calling Bobbie Milles. One more time, calling Bobbie Milles. Seeing Bobbie is not present, we will have this individual dropped to the bottom of the list.

Calling Dave Hansen. One more time for Dave Hansen.

Calling Heidi Eigenkind.

Ms. Heidi Eigenkind (Private Citizen): Hello.

Madam Chairperson: Ms. Eigenkind, do you have a written presentation you wanted to circulate?

Ms. Eigenkind: No, I do not.

Madam Chairperson: Okay, whenever you are ready, you can proceed.

Ms. Eigenkind: I would like to thank the committee for this opportunity to speak to them. It has been a *déjà vu* for me tonight because I used to be a teacher in another life, in the seventies and eighties. I actually left in part because of the stress of extremely large class sizes as a high school English teacher. So the marking and prep for that was just unbelievable.

Since the time I left teaching and focussed more on my own creativity, I have had a number of alternative jobs. I am currently working, soon to be for my ninth year, in a call centre industry. For most of that time I have been doing inbound work, consumer affairs calling. I have currently, through a series of unfortunate incidents, found myself in outbound work again with the same company. The company does not have workers compensation, something we did not know as its employees until we were unionized recently.

I would like to speak about the call centre industry because it is often perceived as one, upscale technology and, two, as rather benign in its effects on the workers. None of these are true.

I am a first-generation Canadian, and my parents and my grandmother worked in factories. My grandmother worked in the sewing factories of Winnipeg until she retired. I am in a technological sewing factory. It may be computers, but it is much the same as women she worked with who were doing piecework per hour.

The industry itself presents a very benign facade. It talks about the technology and the training it provides its employees. None of this is really true. It is very down and dirty work, even in the most exceptional of its niches, and until recently I was in one of those quite protected niches. It was inbound calling, consumer, not advocacy but mediation calling. It was very complex, non-scripted, but the effects of this type of work are like factory work effects.

There are studies now coming out that talk about the effect on the voice. You are talking into a headset and therefore you are not using your full vocal range. I have worked with people who, and I am part-time

because I am a visual artist and writer and I use this to attempt to address my daily living bills. I have watched full-time and part-time workers get hoarse voices, lose hearing, become very loud.

When I move into a carrel and I see there is a Plantronics box that you use to regulate the amount of volume coming into your headset, it goes from 0 to 10, 10 being the highest. A lot of these workers use from between 6 and 8 on that box to hear incoming calls. There are two things that happen to your hearing. You can either lose hearing in various ranges because of all the noises coming in, the answering machines, the faxes, the yelling at you. I was part of an intense recall for the campaign I worked for in the States that was highly publicized, very volatile, and the American public is quite litigious. We were screamed at for at least a year and called names. Our hearing, of course, as a result, was quite affected. The other thing that can happen to your ears is that you become hypersensitive to noise, and I find that is, in fact, what is happening to me. Therefore my Plantronics box is always down to between 1 and 3, because noises are becoming quite difficult to handle.

The voice thing I actually ended up dealing with. I had to go to Health Sciences, the voice disorder clinic, because I was clenching my throat during that time of great stress when our call volume on the campaign I worked on, I think it was six to ten times our regular call volume with the same people, and again highly volatile calls. We had to mediate with these people and make official files on them. So you have this being with you from between 10 to 45 minutes, sometimes over an hour on a call. My vocal cords started being affected. I think because I was a poet and a presenter in a previous life, I could understand this was happening much more quickly.

* (22:50)

I was told I was very lucky I had noticed it. This was two years after I had noticed it that I got assistance. Other people I work with do not even notice it. If you are there for eight hours every day, you do not even notice the difference in your voice.

There is a lot of repetitive stress injury with the keyboarding. There is eye strain with computer screens. It is very much like piecework because, if you are on an outbound campaign, you are on a dialer and the company sets the rate of the dialer. So,

if they have a lot of records to go through, your dialer is hitting you with the next call before you finish dispositioning the last one. If there are not as many records, it is a more bearable rate of calling.

So this is anything but a humane industry. There is also physical limitation in your workplace. There are not many instances in which you can get up and actually move your body. You are literally tethered to your computer, and your physical space only changes when you can actually go on break. So it is an industry that has, as all jobs do, certain effects on the body.

There are also effects, and I think there are studies in Europe being done now, on the psychic effects or emotional effects of this type of industry. It is, in a way, a very intimate way to talk to a person. Their voice goes directly into your ear canal. You have to maintain a tone. For six years on this campaign that I was in on Consumer Affairs, you have to maintain a tone of neutrality. Therefore, the emotional energy to do that on a daily basis is quite a bit.

You are also monitored at any time or all times and sometimes quite stringently monitored, which was never a problem for myself, but certainly becomes a problem with other people who actually cannot control their voices much and start showing some sort of stress in the call. I am not talking about people who are inappropriate or who are difficult workers. I am talking about any sort of forum that you are actually beginning to feel with the person on the other end of the call is giving you. So the idea of emotional stress in this job is also quite strong. I think there is a phrase now called "emotional armouring" in the service industries, and certainly in the call centre industries, emotional armouring is what you have to put on every single day for every single minute of your shift.

So I would strongly suggest that workers compensation be mandatory for all businesses. It is very difficult, I think, for workers to depend on the mercy and grace of their employers. Those employers are focussed on maximizing profits, and in this industry we are seeing, as one person who is no longer with the company I work for said a couple of years ago, "Remember, you are all widgets," and we are. We are perceived as an industry that is highly mobile, but because of the changing workforce or the nature of the changing workforce in Manitoba, there

are more call centres and more of us are doing this for longer periods of time.

There are people who have now been in this industry over a decade, and they are facing a lot of difficult decisions because they cannot get a living wage or close to a living wage if they leave. They have, if they are lucky, some medical benefits that they do not want to leave should they feel that they could no longer do the work they are currently doing, and again the industry perceives us as disposable. It is being sold as an industry that people move in and out of. That is no longer the case. So I would strongly recommend that all businesses and companies have workers compensation, but certainly that the focus be put on places such as the call centre industry that presents itself in a way that is very misleading to both the public and to government. Thank you.

Madam Chairperson: Thank you very much. Does the committee have questions for the presenter?

Ms. Allan: I want to thank you for your presentation tonight. I found some of the information that you shared with us very, very interesting. It is quite interesting to understand the actual duties of somebody who works in a call centre, because obviously that is one of the emerging industries in Manitoba. I also want to thank you for sharing the information because I have two young children that work in call centres, and now I understand why they totally tune me out all the time. So thank you.

Madam Chairperson: Mrs. Eigenkind, have anything you wanted to add?

Ms. Eigenkind: Yes, I mean, I would like to say that there is something I forgot to add. I actually worked out I have been in this outbound capacity now for just over a month. I started in outbound; I should have known this, but the averages, for instance, of the calls you take in a four-hour shift, you average 35 calls an hour, 131 calls in a shift. Over eight hours, that is an average of 246 calls that I am taking, 30 calls an hour. Those statistics are quite mind-boggling and probably do contribute to your children tuning you out because they have to tune so much out for so long.

Madam Chairperson: Thank you very much for your presentation.

Darlene Kernot. You can proceed whenever you are ready. This is a written submission coming around.

Ms. Darlene Kernot (Private Citizen): Yes.

Madam Chairperson: Okay, great. Thank you. Proceed, Ms. Kernot.

Ms. Kernot: Hello, my name is Darlene Kernot and I am telling the story of my loss.

I met the love of my life and soul mate in Calgary, September '94. It was love at first sight. By June of 1995, he left his family, friends and a job of 26 years to move here to Winnipeg to start a new life with me. He had no problems finding a job. By summer of '97, he decided to find employment in the trucking industry. He took the course with Professional Transport Driver Training School and started to drive for one of the major firms here in Winnipeg.

At the time of his death, having only worked for 26 months, he had logged over 85 000 miles. Dan was home for his birthday the weekend of January 2000 where we celebrated his 41st birthday, which would be his last.

He left home on January 19 to do his job. Dan called me every night, but on Friday, January 28 he had called me three times. He never made it home. He died at the age of 41 years and 11 days old while he was in the sleeping berth, as the industry calls it, sleeping or downtime. He died of a heart attack.

WCB would not cover me or the claim for accidental death or dying on the job. This is very sad. Was he not doing his job? He was sleeping. Well, I am sorry, he might have been sleeping, but not at home in his bed. He was doing his job. He was away from home, not with me. If someone is doing their job, whether it be on the road, in an office or in a warehouse, if they are in the employment of a company, the company or WCB should be held responsible.

Thank you very much for listening to me.

Madam Chairperson: Thank you, Ms. Kernot. Does the committee have questions for the presenter?

Ms. Allan: Darlene, I would like to thank you very much for being here this evening and sharing your story with us and for making your presentation.

Ms. Kernot: Thank you very much.

Ms. Allan: Thank you.

Madam Chairperson: The committee calls Dorothy Wigmore. Is Dorothy Wigmore here? Did you have a written submission you wanted to circulate?

Ms. Dorothy Wigmore (Private Citizen): No, I would like to submit something afterwards, if that is okay.

Madam Chairperson: Okay, Ms. Wigmore, you can proceed whenever you are ready.

Ms. Wigmore: I just want to say thank you for letting me speak. I am here as a private individual, but I happen to be an occupational health professional. I am trained as something called an occupational hygienist, and as well as knowing a little bit about ergonomics, have a degree in that.

In my study of ergonomics, I actually specialized in the study of work organization which is what the hazard that some people call stress, is known as at the University of Massachusetts Lowell in Boston. There I studied with a man called Dr. Robert Karasick, who is quite well known for his theory of occupational stress. I am here mostly wearing my sort of professional public health hat, but I am also here as someone who has been, and continues to be, an injured worker and has had some experience with the workers compensation system. I am also quite overloaded these days, not quite stressed out, and so I am relying on notes I have made in a previous presentation to the review committee itself. I am happy to prepare something, finish doing stuff later.

* (23:00)

The other thing is that I am also on the Social Planning Council of Winnipeg's Wellbeing in the Workplace Committee. It is one of the attempts by the Social Planning Council to try and take on this well-recognized problem at work and, in particular, to look at some of the causes and develop practical, best practices for dealing with workplace stress.

I wanted to make a couple of points. One is, in my job as an occupational hygienist, I worked for the

Workplace Safety and Health division here in Manitoba for approximately four years, I guess it was. In the course of doing that, I worked around, helped develop a variety of legislation. I have always been really quite taken aback or befuddled, I guess, by the disconnect between The Workers Compensation Act and The Workplace Safety and Health Act.

In my most recent reincarnation in the city as a trainer, I put together a two-day course for the Winnipeg Regional Health Authority for their joint Health and Safety committees. It was just really reinforced for me again that The Workplace Safety and Health Act is very good, both in defining health as being sound of mind, body and spirit and in recognizing the need for preventing all the hazards that people can run into at work including things that cause stress.

On the other hand, The Workers Compensation Act, which is supposed to cover people when, as I always thought, you get sick or hurt at work, particularly ignores the issue of stress and what stressors do to people and seems to be leaving employers with responsibilities to deal with it under The Workplace Safety and Health Act, but no compensation for workers who may be affected when the employers are not doing what they are supposed to.

So I just wanted to sort of remind people here, and we have heard tonight from people who have experienced stress in a variety of jobs, whether it is teaching or call centres, the ones in particular I heard of. I can say yes, it is quite well known that jobs like this are stressful. There are studies that have been around for as long as I have been doing health and safety work, which is more than 25 years, about this. In fact, there have been a variety of theories developed. The one that many people use these days that accounts for why people get stressed out may not be quite what you expect to hear, but it does explain a lot about why it is call centre workers and teachers and truck drivers who have heart attacks that are the people that really get stressed out. That is because if you have a high workload, very little say or control over what you do and very little support, the demand, control, support or job strain approach to occupational stress says that is what does it to us. In fact, this theory has been connected with a wide range of effects including heart attacks, with musculoskeletal disorders, the aches and pains that account for the largest percentage of compensable or

cases which the Compensation Board actually recognizes and compensates, as well as depression, absenteeism and a variety of other things.

There are other theories that get at ideas of justice and respect in the workplace being issues that lead to people being stressed out. There are studies done not just in other parts of the world but even Statistics Canada in 2003 did a study about the sources of workplace stress, talked about and discovered, not surprisingly, that people who have too many demands or hours, in particular, are really at risk of being stressed out. Those stressors are very real.

I have something that I use—and I am happy to leave this with the committee—in a workshop I do where it looks at what the short-term effects and what the long-term effects are of stress. The list is quite long, and it covers both physical effects, behavioural and psychological ones.

In particular, as an ergonomist, what concerns me is that Stats Canada, like many other studies, found that so-called stress, or really stressors, increase the risk of these strains and sprains that accounted for more than half the claims that the Compensation Board here accepted in 2003. In fact, they have this nice little graphic that shows that, when you are not at all stressed or work is not too difficult, you are less likely to get aches and pains than when you are extremely stressed out.

There are, as I have said elsewhere, and I keep on telling people in the classes that I do, "No, you are not crazy when you try to describe where your aches and pains show up and where your stress shows up." In fact, it is very hard sometimes to distinguish, particularly in the neck, shoulders and lower back, and, again, very common areas for people to have aches and pains, the difference between what is a stressor, what is caused by stress, and what is caused by the physical factors that one might consider that are behind musculoskeletal disorders.

In fact, more and more studies are saying that stress sets us up for the aches and pains in our neck, shoulder and lower back, that stress at work set us up for depression according to a study in Saskatchewan last year. So there are a lot of reasons why the Compensation Board and the compensation act ought to be recognizing that this very real workplace hazard has an effect on people.

I just want to briefly list some of the things that the World Health Organization has said that work-related, long-term stresses are thought to affect organizations by increasing absenteeism, decreasing commitment to work, increasing staff turnover, impairing performance and productivity, increasing unsafe working practices and so-called accident rates, increasing complaints from clients and customers, adversely affecting staff recruitment, increasing liability to legal claims and actions by stressed workers and damaging the organization's image both among its workers and externally. The Canadian Mental Health Association has estimated that the annual cost of work time lost in Canada is at least \$12 billion in terms of stress.

Madam Chairperson: You have one minute.

Ms. Wigmore: So the last thing that I just want to point out is that there are some jurisdictions and some places where people are finally starting to pay some attention and realize that an ounce of prevention is worth a pound of cure. In Québec, there is some recognition for longer term and not just acute occupational stress and, in fact, the Global Business and Economic Roundtable on Addiction and Mental Health as well as another national business organization have, as recently as in April, announced that they are going to be funding studies to get to look at what is happening with workplace stress. In fact, as Bill Wilkerson, who is the Chief Executive Officer of the Business and Economic Roundtable said, "One of the goals is to eliminate the most egregious forms of chronic job stress at the source."

Madam Chairperson: If you could make your concluding remarks.

Ms. Wigmore: I would urge the committee here to re-examine the proposals before them about the compensation act. I heartily support including all workers under that, but I urge you to reconsider the review committee's recommendation that says that occupational stress should not be recognized. It will not go away just because people decide that they should not.

Madam Chairperson: Thank you, Ms. Wigmore. Does the committee have any questions for the presenter? Seeing no questions, we thank you very much.

The committee calls Michelle Proulx. One more time for Michelle Proulx.

* (23:10)

Jim Carr, from the Business Council of Manitoba. One more time for Jim Carr.

Ron Nash, private citizen. You may proceed, Mr. Nash, whenever you are ready.

Mr. Ronald J. Nash (Private Citizen): Thank you, Madam Chairman, Madam Minister and ladies and gentlemen of the committee. I appreciate the opportunity to spend the last several hours with you listening to some interesting presentations and very informative presentations. I have to tell you that this was much more interesting period of several hours than the seven hours I spent at Victoria Hospital emergency room back on December 3, following an injury in a fall down the stairs, so perhaps a presentation like this might be appropriate in more public places to entertain us while we await medical treatment.

I was really interested in the minister's comment to the representative from the Canadian Federation of Independent Business that following meetings she is going to make sure there is aggressive monitoring of the Workers Compensation Board for the results and the impact on the board and on business. This relates very directly to my presentation and several others, which is that this committee and this Legislature have a responsibility to do more than simply listen.

The minister made a comment to one of the presenters from the Firefighters Association in thanking them for doing a lot of the groundwork that made the changes and the amendments possible. This is excellent because the firefighters, as one of the presenters indicated, belong to an international brotherhood and a very powerful organized workforce. They have been denied what is now recognized by this government and this committee unanimously, they have been denied for many years what you are now recognizing and acknowledging. So, on behalf of many of the people who presented here, I want to thank you for listening because I observed these people making their presentations and it is very, very encouraging that they do not speak only believing that they are being witnessed by the members of the committee, they actually believe they are being heard, and I believe they are being heard.

The issue now is what you as individuals are going to do. You have more to do than I believe you

think you are capable of doing. You are capable of amending this act in more than dramatic ways. I will now deal directly with my presentation because my remarks deal with process.

I am 55 years old. I have been employed as a salesman in a non-union environment since I left an organized workforce at Canada Packers when the closure there took place a number of years ago. I have had some brief conversations with several people here who have been injured in the food processing industry. What is interesting is that while your amendments are intended, and many people made presentations with the intention that they would be included, whether they be teachers or other people, that they would be included. I appreciate that you recognize that being included does not mean that you get a benefit, even when you are approved by the Workers Compensation Board to receive a benefit.

I hope that you recognize that your unanimous support for the firefighters is not going to be enough. The fact that they are entitled to a benefit does not mean they are going to get one, and that brings me back to the minister's comments about aggressive monitoring. I hope you all take and deserve all of the kudos that you got from the firefighters, but, again, your job is not finished. As public representatives, you do have a responsibility to make sure that the organization that your legislation creates does, in fact, provide a fair process for people, and especially for people who have actually been accepted by the Workers Compensation Board as being entitled to a benefit, and that brings me to me.

Now, at this late hour, I am going to do something someone has not done. I hope I am going to entertain you, but I hope you are going to pay attention and listen to the intent that is included in these remarks, entitled "How to help the Injured!"

"T'was the week before Christmas / At the WCB/ Its creatures were thinking / It's all about We, we, weeeeeeeeeee!"—meaning them.

"The year end is coming"—this happened in December, of course—"We need some good stats."

Got to have those economic advantages, the Manitoba advantage of the lowest WCB rates, very important. So we need some good stats.

"Let's cut off some workers / Make em door mats.

They have already got a benefit, but we are going to deal with that because we do not really like paying the money.

"The injured are hung / By the fire . . . who cares/ The Minister's not watching"—I have got a letter from your department that tells me that.

"The Leg . . . "—all of you—"rarely there.

"We'll bend 'em and break 'em / There aren't any rules / We can do what we want / It's fun to be cruel."

Listen to the people who have spoken to you tonight.

"We shut down your files / Toss you into appeal/ Who can believe it / You know that it's real."

It is too good to be real if you are a WCB adjudicator-administrator.

"So what if you're injured / We are the wise guys/ Mistakes maybe happen / They're covered with lies.

"So come stand by the chimney / We're all blowing smoke / Good will to all men / You know that's a joke.

"Come stand by the chimney / We're all blowin' smoke / We do what we want / That's all that she wrote."

Now, in my case, I had a motor vehicle accident on October 29, '04, while I was working. I made my claim with MPIC because the other driver was 100 percent responsible. She ran a red light while she was reading a map. I continued working, reported my accident and did not miss a moment of work. On December 3, my knee fell apart and I fell down a flight of stairs. On December 20, with no prior contact with the Workers Compensation Board, except when I filed my claim, I received at 4:30 p.m. an order to return to work before my file was accepted by the board, and my file shows that. Process, process, process.

The plant was shut from December 23 to the 4th, and I was terminated from my job and my benefits on January 6.

I have included for your consideration some suggestions. One of them is that the act should

clearly state that the WCB must notify injured workers in writing when orders to return are issued, and I have asked you to compare that request with an existing provision, 81(7), when you are notifying employers of assessments.

There are over 20 documented referrals in the act right now that state that information must be passed on in writing. What the Workers Compensation Board does, tried to do to me and has done to many other people, is they issue verbal orders without documentation. My file clearly shows they did that. My file is very short, and it is very, very clear. That is something you can change by putting it into the act. I ask you to read the other suggestions and to act on them. Thank you very much.

Madam Chairperson: You have one minute remaining.

Mr. Nash: Thank you very much.

Madam Chairperson: Okay, thank you. Are there questions from the committee for the presenter? Seeing no questions, we thank you very much for your presentation.

Mr. Nash: Good, thank you very much.

* (23:20)

Madam Chairperson: Calling Ruth Ann Furgala, from the Manitoba Association of School Trustees. You can proceed, Ms. Furgala.

Ms. Ruth Ann Furgala (President, Manitoba Association of School Trustees): Thank you, Madam Chair. Good evening, everyone.

The Manitoba Association of School Trustees, or MAST, is a voluntary organization of 38 public school boards. Collectively, these divisions are major employers across the province with more than 12 000 full-time-equivalent teaching positions and an estimated 7500 full and part-time support positions in the public education sector.

MAST is generally supportive of the submission which will be made by the Manitoba Employers Council to the review committee and appreciates the opportunity to make its own submission that both highlights some of the key provisions of the Manitoba Employers Council submission and

emphasizes the concern school boards would have relative to the expansion of coverage.

The Workers Compensation Act does not cover school boards as employers. However, many of the school boards voluntarily cover certain employees working in occupations contemplated in the act, such as trades, custodial and maintenance jobs. Clerical and paraprofessional staff in some divisions are also covered. Teachers, with the sole exception of those assigned to industrial arts programs such as woodworking and mechanics, are generally not covered.

The total teaching payroll in Manitoba school divisions is approximately \$687 million. Estimating workers compensation rates at 33 cents to 50 cents per \$100 of payroll, inclusion of teachers under The Workers Compensation Act could potentially cost school boards an estimated \$2.3 million to \$3.4 million annually.

The average rate for school division employees presently covered by the Workers Compensation Board is \$1.16 per \$100 per payroll. Our survey of member school boards indicates rates which range from as low as 68 cents to as high as \$8.33. The majority of school divisions cover one or more categories of employment, although some divisions have no coverage in place. The Winnipeg School Division, the largest in the province, currently pays \$736,000 in Workers Compensation Board premiums each year.

Analyzing school divisions and workers compensation, MAST would conclude the following: (a) there are still a significant number of school division support positions not covered by workers compensation; (b) the Workers Compensation Board rates for support positions are likely to be considered higher than those for teachers; and (c) the cost of including all support workers would be in addition to the annual estimated \$2.3 million to \$3.4 million to cover teachers.

These cost estimates to extend Workers Compensation Board coverage to all school division support personnel as well as teachers are based upon existing legislation, which does not include an expanded definition of disability to include stress-related injuries, as contemplated in submissions of various unions to this committee. Any expanded definition of disability will result in considerably

higher premiums for all employee groups. The value and corresponding cost of such a change is evidenced by the importance placed upon it by the Manitoba Teachers' Society, which is on record as stating that, absent any such change, public school teachers would not want to be covered under The Workers Compensation Act.

In Manitoba, school boards must go to the local taxpayer for any and all expenditures beyond the funding provided by the provincial government. In the current economic context, ratepayers have little tolerance for any increase in property taxation, whether municipal or school division. School boards face enormous financial challenge, especially where changes to provincial policies and/or legislation could result in major expenditure increases beyond school divisions' control. MAST urges the review committee to consider carefully the financial implications for school boards and for taxpayers of any change to the scope and substance of The Workers Compensation Act.

In summary, expansion of coverage must be carefully examined and be in the best interests of the employers and the employees involved. School boards oppose the automatic inclusion of all employees other than those occupational groups specifically excluded under the regulation. The current definition of disability as provided in The Workers Compensation Act should be retained. The workers compensation system must be accountable to employers as well as to stakeholders. There should be no change in legislation without a thorough and accurate cost analysis. Any changes to The Workers Compensation Act should be cost neutral. Thank you very much.

Madam Chairperson: Thank you very much for your presentation. Does the committee have questions for Ms. Furgala?

Ms. Allan: Ruth Ann, I would just like to thank you very much for coming this evening and staying until this late hour to make a presentation on behalf of MAST. Thank you.

Ms. Furgala: Thank you very much. We appreciated the opportunity.

Madam Chairperson: Thank you very much, Ms. Furgala.

Ms. Furgala: Thank you.

Madam Chairperson: Calling David Sauer and Ellen Olfert from the SAFE Workers of Tomorrow.

Mr. Dave Sauer (SAFE Workers of Tomorrow): Dave Sauer.

Madam Chairperson: I am sorry, one more time.

Mr. Sauer: Sauer.

Madam Chairperson: Is your other presenter here as well?

Mr. Sauer: No, she is actually ill at the moment.

Madam Chairperson: Okay. So it is yourself, David Sauer, SAFE Workers of Tomorrow.

Mr. Sauer: Yes.

Madam Chairperson: Okay, you can proceed whenever you are ready, Mr. Sauer.

Mr. Sauer: Okay. I am Dave Sauer with SAFE Workers of Tomorrow. I will start off by just explaining what the organization that I work for actually does.

We are a non-profit charitable organization that goes to schools around the province, everywhere in the province, as far north as Churchill, as far south as Glenella, Flin Flon, Falcon Lake, all over. We go everywhere. We do free-of-charge presentations for high school students, any other kind of students as well, regarding workplace health and safety. Our mandate is health and safety because of the high rate of injury among young workers in the province, roughly about one-third of young workers get hurt on the job, so it is very high in the province.

We usually do a presentation, time permitting of course, depending on the classroom. We will talk about workplace hazards, chemical hazards, physical hazards, biological hazards, ergonomic hazards. Actually, on that topic, everything I do with my presentation is halfway through, students are usually sitting for quite a while so I say, "Well, get up, take a stretch so you do not get an ergonomic injury." Maybe I would encourage you all to maybe get up and take a quick stretch break for your ergonomic benefit. So, if you want, please get up and take a stretch. I also cover psychosocial hazards, so any stress also is something that I talk to them about.

We also will cover workers rights: What are their rights, health and safety rights, and so forth? We also talk about workers compensation, and I guess that is where I will start with my presentation.

Manitoba has a terrible record of workplace injury and death in Canada. According to the Workers Compensation Board, 40 000 Manitobans were injured on the job in 2003. I say what good is that statistic, though, when it only represents 70 percent of the workers in Manitoba. What about the other 30 percent? Do they not get injured? What recourse do they have if they are injured? These are some of the questions we have to ask ourselves about our compensation system.

I have the privilege through my employment to speak to hundreds of students. I have had over 280 hours in the classroom since I started the job in August. Through my employment and my volunteer activities, I speak to thousands of young people. When speaking, as I said, we talk about workers compensation. Students are dumbfounded when they discover that the system set up to help injured workers will only help you if you are fortunate enough to be working in an industry listed in the act. It creates a lot of debate among the students as to which industries are covered. They are basically playing a game of Russian roulette when they go to apply for jobs. They are even more dumbfounded when they discover that the list has not been updated since 1917, and I say dumbfounded because there are a lot of four-letter words that they use when they hear about that that I cannot actually say here.

While doing a presentation in a high school in Winnipeg, I began discussing percentages of your wages covered should you get injured. A student then asked me what happens if someone is only making minimum wage and gets injured. Are they then subject to wages lower than the minimum wage, having been only on the job for a few months, or even a few days, excuse me? I never encountered a question like that before. I informed the student I was not actually fully aware of the answer, but I assumed that no one should fall below minimum wage if they are hurt on the job. I later discovered I was mistaken.

* (23:30)

My employment also allows me to meet with many rural students. These students are exposed to

an industry which has a disproportionately high number of injuries, farming. Knowing that farming is not covered by compensation, I ask a typical classroom in rural Manitoba three questions: How many people here work in agriculture? How many people know someone who has been seriously hurt in a farming accident? How many people know someone who has received compensation for those injuries?

The first question you usually put about two thirds of the hands in the air. The second question will usually put all the hands in the air. The final question will leave all hands down. Once, while doing a presentation in Birtle, I told a classroom that agriculture is not covered by WCB. I was promptly interrupted by a student. He rose slightly, he showed me his arm; it had a cast on it and he said, "Yeah, no kidding." He then proceeded to tell me of the pain he experiences and the days of work he was missing, unpaid.

A student in Brandon also conveyed to me that at one time his uncle had been seriously hurt in a workplace incident. He told me of how, while his uncle was a hardworking man, the company he worked for chose not to keep him on hand because he had been off the job too long due to his injury. He looked at me for an explanation to the situation, and asked me if the company was justified with its actions. Is it written in our laws? I had no choice but to tell him the truth. The truth being workers can lose their employment if they are too injured to return to work.

While every presentation is a new learning experience for both the students and myself, I am learning some very disturbing things about the present compensation system. With what I know now, and with what I convey to students, my opinion of the present compensation system is not very good. When I tell students about the actual numbers of industries covered, the percentage of wages covered. The possibility of earning wages below minimum wage, and the prospect that there exists the possibility that they may not be employed after they have healed, most of them have the opinion that the system does not work. Often, they harbour the opinion that it is just not worth the effort to apply for compensation that they are entitled to. This is not what we should be telling the workers of tomorrow.

What I am seeing through my job is how the present compensation system has failed. I am seeing

this firsthand. These are not statistics that I am getting. This is what I am getting directly from students. Should I still be doing presentations in 10 years? I would find it very hard to demonstrate the credibility of a system whose coverage has not been updated in nearly a century. If the current system remains untouched, perhaps the coverage rate will drop to 50 percent, and we can then again find ourselves in a situation where the legal system is bogged down with employees suing their employers, or attempting to, and nobody getting compensation in the end.

I heard a quote once that said, "Justice is what everyone is due, but never gets." Yet it is with strong conviction that I ask this Legislature, this committee to pass Bill 25 and allow compensation to be a benefit and not a burden to those who are hurt fuelling our economy. Justice for workers is long overdue in this area.

Madam Chairperson: Thank you very much, Mr. Sauer. Does the committee have questions for Mr. Sauer?

Ms. Allan: Well, I would just like to thank you very much, Dave, for your presentation this evening. I would also like to thank you for the work that you do with SAFE Workers of Tomorrow. It is just an incredible organization and I agree with you totally that too many young people are getting hurt, and the work that this organization does helps to prevent the number of young workers getting hurt. So thank you very much for being with us this evening into this late hour.

Mr. Sauer: You are more than welcome.

Madam Chairperson: Thank you and please continue to do the great work you do.

Dave Angus from the Winnipeg Chamber of Commerce. One more time for Dave Angus from the Winnipeg Chamber of Commerce.

Bob Dolyniuk from the Manitoba Trucking Association. Thank you, Mr. Dolyniuk, for waiting till this hour to present. Whenever you are ready, you can proceed.

Mr. Bob Dolyniuk (General Manager, Manitoba Trucking Association): Madam Chair, Minister, committee, to start off with, I would just give you a brief overview of our industry and what we are about

these days. Then I will go into the actual proposed act.

The Manitoba Trucking Association is an industry association representing truck transportation companies in Manitoba. Our industry generates about \$1.2 billion of Manitoba's GDP on an annual basis, and directly and indirectly employs approximately 33 000 Manitobans, expending about \$655 million in salaries and benefits on an annual basis.

Manitoba is home to approximately 12 of Canada's largest trucking companies, of which two are amongst the largest 10 in our country. From 1993 to 2004, Manitoba's trade with the U.S. has increased from 6.1 to \$15.8 billion. Approximately 80 percent of Manitoba's merchandise trade with the U.S. is shipped by truck. This translates to over 350 000 trucks crossing the Manitoba-U.S. border on an annual basis.

The trucking industry plays a vital and vibrant role in the economies of Manitoba and Canada. Our industry is not only the dominant mode of freight transportation in Manitoba, Canada and North America. It is also a major generator of economic activity within Manitoba. To put this into better perspective, 90 percent of all consumer products and food stuffs in Canada are shipped by truck, and 95 percent of goods moved within Manitoba depend on trucks.

While Manitoba has enjoyed a prominent place in the Canadian trucking industry, it should be noted that in 1994 Manitoba was home to 5.1 percent of the Canadian commercial driver population, and in 2002 Manitoba represented only 4.1 percent, which indicates a 20% reduction.

The Manitoba trucking industry competes with trucking companies based in all other provinces throughout Canada. As such, it is imperative to our Manitoba-based industry that it has the opportunity to operate in a balanced and competitive environment. While a Manitoba-based industry provides services throughout North America, these same companies do not have to be headquartered in Manitoba, nor do they have to hire Manitobans to provide their services. It is, therefore, critically important that Manitoba foster an environment that encourages the establishment and preservation of companies in our province and the continued

employment of Manitobans. It is within this context that we wish to provide our comments and recommendations to committee regarding three of the proposed amendments.

The first is section 46, Limitation re maximum annual earnings. This section of the proposed act would remove the limit of insurable earnings. To the best of our knowledge, this would place Manitoba in discord with the other provinces. It would also place our Manitoba-based industry at a very distinct disadvantage to our competitors based in other provinces, as Manitoba would be the only province to adopt such a measure.

While it is currently challenging to present a business case that would support the notion that Manitoba is the preferable location to maintain a trucking company's headquarters and to employ Manitobans rather than other locations such as Alberta, this proposed amendment would only exacerbate this challenge. In actual fact, the proposed amendment could be considered another incentive for these companies to relocate. Additionally, this proposed amendment would act as a disincentive to those employers in our industry who might contemplate the establishment of their headquarters in Manitoba or to employing Manitobans. This would impact negatively and be contrary to the vision of growing our province and our workforce.

The Manitoba Advantage Web site boasts, "Manitoba's competitive business environment and economic success has been built upon a unique combination of factors we call the Manitoba Advantage." According to this Web site, this combination includes the extremely favourable business cost environment. Most certainly, this proposal will work contrary to the apparent objectives of the Manitoba Advantage, and we strongly recommend that this proposed amendment not be implemented.

Next is section 39, Payment of wages by employer for first 14 days. This section of the proposed act would create an additional administrative burden for the staff of the WCB and for employers. While we see little benefit in this proposed amendment, it would appear that it is fraught with challenges. In situations where the 14-day period has expired and after that date a claim is denied by the WCB, the employer would then be faced with attempting to recover the wages paid for those 14 days.

Existing regulations prohibit employers from making any deductions from employees without the expressed written consent of the employee for each specific deduction. Without such consent, the employer cannot legally recover such monies. While the proposed amendment indicated that the WCB make regulations respecting recovery of any overpayment to the worker, we question if the WCB has the authority to contravene existing federal and provincial regulations. We strongly recommend that this proposed amendment not be implemented.

* (23:40)

The last section we will comment on is section 49.3, Obligation to Re-employ. This section proposes the absolute requirement of the employer to re-employ. The Manitoba Trucking Association acknowledges the importance of return-to-work programs and policies. We further understand and acknowledge that the existing experience rating system is a significant incentive for employers to return their workers to the workplace as expeditiously as possible.

However, to require employers to modify the work or workplace is an unreasonable expectation. Employers must be the final authority in determining how their companies will be run, the content of job descriptions and required skill sets. While this section speaks to the matter of undue hardship that has not yet been defined and could very well be subject to various interpretations, we also note that this section is silent on the issue of alternate training which can be an appropriate and effective method in returning workers to work.

Finally, it is our belief that The Human Rights Act adequately addresses the employers' duty to accommodate. We recommend that this proposed amendment be given further consideration with the intent to address these concerns.

In closing, we trust this committee will give our concerns serious consideration, and we are hopeful it will be inspired to adopt our recommendations. Thank you.

Madam Chairperson: Thank you very much, Mr. Dolyniuk. Does the committee have questions?

Ms. Allan: Thank you very much, Mr. Dolyniuk, for your presentation. I just wanted to make a couple of

comments. In regard to the employers' requirement to pay for up to the 14 days, this is an enabling provision that will be considered after substantial consultation with workers and employers. We know there are various issues that will require review, so I just wanted to make sure you realized that the WCB will be consulting with stakeholders before we make any regulations in this area.

I also just wanted to comment on the re-employment obligation. We understand that this will take some time to implement, and the WCB will be consulting, once again, with workers and employers about best practices. We do believe that training and assistance to workplaces will be necessary to transition workplaces effectively to meet these new obligations. So I just wanted to thank you very much for your presentation this evening, and for staying with us to the wee hours of the morning.

Mr. Dolyniuk: It was my pleasure, Minister. I did not have anything else to do this evening.

Madam Chairperson: Just a moment.

Mr. Loewen: Thank you, Bob, for your presentation. Just with regard to your comments on section 46 of the act, have you had an opportunity to put either hard numbers or percentages into how much this might increase cost to the industry? I am just trying to really get a feel for whether it is in your view a significant cost or a minor cost.

Mr. Dolyniuk: I guess, with the challenge of the demographics of our community and our province, our country, a shortage of workforce, we have seen in our industry over the last say three to five years a continual increase in wage levels; you know, drivers as an example. Our industry is very labour intensive. Drivers are the main component of our workforce. Nationally, they represent about 280 000 Canadians. In Manitoba, I would suggest, the for-hire industry, we are talking about 14 000. So, if we are talking those numbers with wages that are now, the average used to be in the thirties, I would say the lower-income people are now in the forties. The higher-wage earners are \$60,000–\$70,000 a year.

Given that situation or demographics, we already have companies that are hiring people in other provinces because they do not have the people here or it is more economical, shall I say, for them to do it in other provinces. Our concern as an industry

association would be that this sort of activity may direct those companies to look at hiring in those other jurisdictions on a more frequent basis, rather than hiring here in Manitoba.

Dollar figure, based on the fact that we are looking at everything from a starting salary of roughly \$35,000 a year to somebody that can be making \$70,000-plus a year, that would be very difficult to try and put an estimate on.

Mr. Loewen: Well, thank you. I find it particularly disconcerting that the drop in terms of the percentage of the commercial driver population in Manitoba from 5.1 percent to 4.1 percent. It is certainly a significant reduction in Manitoba's, I guess, ability to be one of the primary spots for the trucking industry in the country.

Can you give the committee some indication of what has caused that? In the view of your association, does it have some relationship to a lack of competitiveness within the provincial jurisdiction in terms of costs of business, both from a taxation point as well from a regulation point? In other words, are we in Manitoba discouraging the business from growing here?

Madam Chairperson: Mr. Dolyniuk, you have about 30 seconds.

Mr. Dolyniuk: As I said earlier, we are witnessing many of the larger companies hiring people in provinces such as Ontario and Alberta rather than in Winnipeg, and those numbers from our survey of our members, what those numbers are showing us is that there is more of a habit of hiring in those locations, more so than in Manitoba. Part of that will be certainly the cost of doing business, would be indicative of some of that decision making.

Madam Chairperson: Thank you very much, Mr. Dolyniuk, for your presentation and for staying this late.

Mr. Lamoureux: Can I just ask, maybe, because if we just take a look—

Madam Chairperson: Well, I was just going to do that.

Mr. Lamoureux: Okay.

Madam Chairperson: Probably. I bet I might be answering your question. We will give it a try. Okay. If I am not, you can raise your question.

We are approaching the hour of twelve midnight. As I indicated earlier, our rules indicate that we cannot sit past that hour without the unanimous consent of the committee. I would also advise the committee that our Committee Clerk did phone and advise all the presenters this afternoon of the potential of a second meeting Monday evening. Given this, what is the will of the committee?

Mr. Loewen: I am not sure how many presenters are left here tonight to present. If there are only one or two, I would not mind if the committee sat a little bit past midnight, but I think we should leave ourselves open to hearing more presentations on Monday. We are scheduled to sit Monday evening as well. I think there are probably some people in the audience that have been here a long time, and I hate to see them sent away just because it might take us five or ten minutes over the time. So perhaps we could ask the Chair or the Clerks to canvass and see how many presenters we have left in the room, and maybe we can make a better, more informed decision.

Madam Chairperson: Yes. Is that the will of the committee, agree that we will canvass?

Mrs. Bonnie Mitchelson (River East): Mr. Loewen has made a good suggestion. I would like to know, I would hate to have six or seven people sitting here with no indication. I mean, I am certainly not prepared to stay until one o'clock, but if it is a few minutes over, I think we would all be prepared to stay. So let us not give anyone any false hope that they are going to be heard if the presentations are not going to end until one o'clock.

Madam Chairperson: Okay. Just a moment.

Mr. Lamoureux: That was the question. So four would be good.

Ms. Allan: There are four presenters. I know that I had spoken to Mr. Gardner, and I know that Mr. Gardner and Mr. Copen are prepared to collaborate on their comments and make their presentation short so that we can get them done this evening. So I would suggest that we do that.

Madam Chairperson: So I am just looking for the will of the committee, and, if I could paraphrase sort

of what I may be hearing here, I guess what I am hearing is that, provided that the committee is relatively short in terms of its duration, we are willing to stay beyond midnight and hear the additional four presentations that are here. Does that accurately reflect, given that as long as we do not sort of go beyond probably quarter to one or something like that, would that accurately reflect your feelings, Mrs. Mitchelson?

Mr. Loewen: Well, I think that, if we can ask the presenters to be relatively brief, maybe we could agree to go to about 20 after 12 and then re-examine there.

Madam Chairperson: Is that the will of the committee that we will go to 20 after 12 and then re-examine at that point? *[Agreed]*

The other thing I just wanted to get unanimous consent from the committee is that we will not go back to second calling of those individuals who have not appeared tonight, that we will do the second calling of those individuals on Monday evening when we sit again. Is that agreed? *[Agreed]*

I will continue to read through this list, and as I do find somebody who is here, if you could just come forward.

Terrence Turner, private citizen. Neil Curry, Canadian Manufacturers and Exporters.

David Markham, Mining Association of Manitoba.

Thank you, Mr. Markham, for waiting this long. You can proceed whenever you are ready, and the clerk will distribute any information you have prepared.

Mr. David Markham (Executive Vice-President, Mining Association of Manitoba Inc.): Good evening, and thanks for the flexibility tonight. My name is David Markham, and I am executive director of the Mining Association of Manitoba. Our association represents all operating mines in the province as well as most firms engaged in mineral exploration in the province. Our industry provides direct employment to roughly 3800 Manitobans and supports a broad supply chain of engineers, geoscientists, suppliers and contractors that totals approximately 10 000 people. In addition,

Manitoba's mining sector provides the highest average industrial wage of any other industry sector in the province.

I would also like to say at the outset that our industry prides itself on its safety record. Statistics provided in the WCB's 2004 annual report indicate that time-loss injuries in the mining sector have declined consistently since the year 2000. Regarding the frequency of injury claims by industry sector, the mining industry provides a safer work environment than the transportation, health care, manufacturing and construction sectors. This record is a result of a concerted effort between operating mines, contractors and their employees placing a clear emphasis on maintaining safe workplace conditions through the promotion of a workplace culture that strongly promotes safety. I would add that the minister's own Workplace Safety and Health division has been a substantial contributor to this ethic.

Unfortunately, our association opposed Bill 25, specifically the proposal contained in the bill that removes the cap on insurable income. Currently, a worker's insurable earnings are limited to \$58,260, and our industry supports some form of limitation to the level of compensation to be paid out for injuries in our sector. The removal of the cap on insurable income will add significant additional costs to firms in the mining sector.

I will just elaborate on our specific concerns with this provision. First of all, the provision would further isolate Manitoba as a high-cost jurisdiction for mining. Employers in the mining sector are already faced with costs that are unique to Manitoba, such as the payroll tax, that affect our industry's competitiveness. If the cap on insurable income was to be removed, Manitoba would be the only jurisdiction to have enacted this measure and would be a detriment to the establishment of new mining operations in Manitoba.

We are also very concerned that the WCB has underestimated the cost to employers. In the report of the Legislative Review Committee on The Workers Compensation Act, the WCB estimates that the removal of a cap would cost employers \$1 million per year with 30 percent of those additional costs to be borne by the mining industry.

Between the time that Bill 25 was introduced in the Legislature and today, our members have had the

opportunity to discuss with the WCB the actual costs to their operation of this particular piece of legislation. If the removal of the cap was applied to our members' 2005 payrolls, this would add almost \$500,000 in new premium assessment costs, this being primarily to the two major mining companies operating in Manitoba. Hence, an industry that has made substantial progress in workplace safety is now being assessed an annual penalty of approximately half a million dollars.

The above charges do not incorporate any further increases to our members' costs than may accrue due to increases in the duration of WCB claims as a result of there being less incentive for employees to return to work in a timely fashion due to the removal of the cap.

We would call on the minister to guarantee that the projection of \$1 million, in total cost to employers that was included in the report of the WCB review committee, and that the president and CEO of the WCB signed his name to, will be strictly adhered to. We believe that the provision would provide a further deterrent to the creation of high wage employment in the province of Manitoba.

The Institute of Chartered Accountants of Manitoba, in its most recent MB Check-Up report, has indicated that since 1998 the number of jobs in higher-paying goods production sector declined by 3.4 percent. This has taken place in spite of the fact that the government has stated its desire to create high-wage positions in the Manitoba workforce. Removal of the cap on insurable income will present a deterrent to employers who are considering such positions to current or perspective employees.

With specific regard to the mining industry, it presents a substantial disadvantage as our member firms try to compete with industries in neighbouring provinces in their recruitment efforts for skilled personnel that they need.

Finally, we believe this provision detracts from workplace safety. Rather than allowing firms to invest in additional workplace safety programs, the minister has chosen to pursue what can only be termed as a money grab for the WCB that will have no tangible effect in improving workplace safety and health.

We have proposed, both during the public consultations held last year and to the minister as recently as today, alternatives to the outright removal

of the cap. The government could raise the cap to a higher limit and our industry would be prepared to review, on an annual basis, along with officials from government and labour, an appropriate determination of the cap. Alternatively, if the government insists on removing the cap, the government should consider eliminating the cap incrementally over a five-year period so that the economic effects of this policy to Manitoba businesses can be determined prior to its final elimination.

I thank the committee for its consideration of this matter.

Madam Chairperson: Thank you very much, Mr. Markham. Does the committee have questions?

Mr. Loewen: Thank you for the presentation. Certainly disturbing, once again, to see that industry in Manitoba is going to be put at a distinct disadvantage in terms of a lack of competitiveness.

I am just wondering, the minister has chosen not to enact a recommendation that the government fund workplace health and safety, leaving that requirement with Workers Compensation and, therefore, with employers to fund. Would it interest your association at all to enter into discussions about how the government could, perhaps, over the course of time, take over the funding of workplace health and safety to avoid any possible increases in premiums that may result from some of these other proposals?

Mr. Markham: Well, I can say that we are very supportive of the government's provision of the Workplace Safety and Health branch. We are very supportive of the personnel, and we feel that we have a very good working relationship. Obviously, we are very interested in government cost containment, and we think that is certainly something to be considered. However, we do appreciate the role that Workplace Safety and Health branch has played in really assisting our industry in creating very safe workplaces.

Madam Chairperson: Thank you very much. Seeing no other questions, we appreciate your presentation and you staying this late.

Mr. Markham: Thank you.

Madam Chairperson: Patrick Campbell, private citizen. Mr. Campbell, did you want to distribute anything?

Mr. Patrick Campbell (Private Citizen): No.

Madam Chairperson: Okay, whenever you are ready, you can proceed. Thank you.

Mr. Campbell: Thank you for this opportunity to come and speak on what I consider to be a very important issue. I would just like to present some of my experiences I have had in working in the heavy construction industry in Manitoba, some of the people I have met in the heavy construction industry, and what I feel may be the implications of the current WCB Act in that industry, as well as some of the future implications of the proposed changes to the act.

* (00:00)

Myself, I took employment as a construction labourer in order to avoid the millstone of student loans while going through university. I thought I would just take a moment to outline some of the work that falls into the job description of the construction labourer. That is not limited to but including just the manual hauling of timbers, sections of scaffolding, shovelling of cement, jack hammering, and the use of vibratory equipment. This is about six days a week, 10 to 12 hours a day. The physical toll that it takes on your body at the end of the day is quite something. I still recall the first month into each summer. You would wake up in the morning, and you would literally have to open up your hands with the other one because your fingers would be so tight from the day before.

I would only work at this about four months a year going through university. You know, by the end of the summer, my back was hurting so much, though my hands did not bother me anymore. As I said, I only did it four months a year, and I can assure you I needed the full eight months to recover for the next summer to head back into it. So I personally have the utmost respect for all the individuals that take on this type of work as their career. I mean, it dumbfounds me to believe that they can do this on a 12-month basis, but it is these individuals that have built the buildings like the one we are in tonight, that have built the MTC Centre. Many of these labourers that I have worked alongside have never even completed high school.

In the heavy construction industry this is not a negative impact on your employment opportunity.

This is one of the last bastions in our society where you can earn a living wage and not have a high school education. Oftentimes English is their second language, but they are able in this industry, through sweat and lots of times blood, to earn a wage and to support a family. I think this living wage comes at an incredible cost, physical strain, and the physical strains eventually take their toll on even the hardest of people. The cost of the living wage comes in the form of oftentimes very serious injuries. It seems it is oftentimes the least educated people who are involved in the industries with the highest rate of severe accidents. This is where my concerns related to the WCB come in because it is the people with the little education, and possibly English as a second language, that then have to navigate through the WCB, which has become oftentimes a confrontational system, a very legalistic system.

I think more emphasis has to be put on the employee assistance aspect of WCB, but I am certainly pleased to see that the bill purports the elimination of the reduction of benefits after two years, because under the current system the way I see it is it is punishing the people who get the most severe injuries. It is the people with the most severe injuries that generally have the claims that go to the three, the four years, and they are the ones getting their benefits reduced.

I would also like to say that I am pleased to see that there is the elimination of the reduction of the benefits, after 45 years of age, I believe. In the construction industry, you know that even the sturdiest of person, I mean that type of work year after year after year will end up taking a toll on your body. If you are lucky, it will happen after 45. Lots of times it happens earlier. One individual that I worked with by the name of Frank was a bricklayer for 28 years. As you can imagine, he was built like a brick you know what, but eventually after 28 years of laying bricks his rotator cuff gave out on him. He had to go onto WCB. Because of his age and because of the length of the claim, both of things ended up eroding away the already minimal WCB benefits compared to his wage he was earning as a journeyman bricklayer.

Now, Frank, in an effort to kind of lessen the financial blow of being on WCB at the reduced benefits, put his Jeep up for sale, and two gentlemen came by to have a look at the Jeep. Frank showed them around the Jeep, lifted up the hood for them,

but they did not end up buying the Jeep. It was not necessarily because the Jeep was in bad shape, but it was because these two individuals were not there to buy the Jeep. These two individuals were working for the WCB, and they were using hidden cameras. They filmed Frank lifting up the hood of his Jeep, which he had to sell because he could not afford it. The WCB filmed him for seven days, and all they could find him doing was lifting up the hood of his Jeep. They never found him mowing his lawn because for three years he was not able to mow his lawn.

You have to understand the emotional and psychological impact that an injury has to a person who basically only relies on their physical well-being to provide for their family. Frank ended up spending about \$3,000 on a lawyer, but eventually gave up.

I think Frank's story just kind of comes into my closing comments, and it is on the historic compromise. We have heard a lot about it this evening. The first time it was explained to me, it was by a gentleman who said, "You know, the employees gave up their right to sue the employer for the WCB, and the joke's on the employer because, you know, the employees didn't have the money to sue 'em anyways." The way I see it, it has become pretty evident to me that the joke is on the worker because they gave up the right to sue an employer, with lawyers they could not afford, for a system that now requires you to have a lawyer to get through because it is so complicated, a lawyer you cannot afford.

Unlike the gentleman from the trucking industry, I had a lot of things I wanted to do tonight, so I hope it was not for naught. I want to thank you for your time.

Madam Chairperson: Thank you very much, Mr. Campbell, and thank you for staying late to tell us your story and Frank's story. Do the committee members have any questions for the presenter? No. Thank you.

Mr. Campbell: Thank you.

Madam Chairperson: Scott McLaren, from the Canadian Auto Workers. Cliff Anderson has informed the Clerk that he is leaving and he will return on Monday.

John Jacobs, private citizen.

Allan Payne, private citizen.

Ed Falardeau from CN Railway.

Bill Gardner, from the Manitoba Employers Council. Mr. Gardner, just for information, you are also presenting with someone else?

Mr. Gardner: Yes, Stephen Copen is presenting on behalf of the Employers Task Force. To expedite the proceedings, we are going to try to do a tag team, if that is all right.

Madam Chairperson: Is there leave from the committee to have the two presentations joined together? *[Agreed]*

Is there agreement from the committee to go past 12:20, if that is necessary? Yes.

Please proceed, Mr. Gardner and Mr. Copen.

Mr. Gardner: Thank you. I think I can accurately say, good morning, ladies and gentlemen.

I am the chair of the Manitoba Employers Council, and for those of you who do not know, the MEC is a coalition of employer associations and large employers in Manitoba. Collectively, our member associations represent thousands of employers in Manitoba, who, in turn, employ tens of thousands of employees.

* (00:10)

I am very pleased to be here. It is always a pleasure to attend at standing committee, although I miss Sid Green, but I will try to struggle along. I have been very interested throughout this evening to listen to the presentations. I listened with particular interest to the very able presentation of my opposite number, Ms. Darlene Dziewit, on behalf of the Manitoba Federation of Labour. I noted in her submission as she went through a very long list and praised Bill 25 for the number of improvements that it proposes to make to injured workers. Indeed, it is a very extensive list: removal of the cap on earnings, elimination of the reduction from 90 percent to 80 percent, elimination of the 2 percent per year after 45, pay on first day of injury, establishment of a floor, if you will, for those workers earning minimum wage, to name just a few.

It is important to keep in mind that with improved benefits there is usually a corresponding

increased cost. That increased cost is usually borne by employers. In the private sector, a dollar spent on increased compensation costs is a dollar that cannot be spent covering overhead, paying improved wages and benefits, reinvesting in the enterprise or paying dividends to shareholders who will thereby be induced to inject equity capital. In the public sector, like health, a dollar on increased workers compensation costs is a dollar that cannot employ nurse, help buy an MRI, or reduce a waiting list.

So there are always competing interests. The challenge in workers compensation legislation and the legislators who address it is how do you reconcile these legitimate but competing interests. How do you strike a balance which takes into account and gives due weight to each of these factors? We submit that the way to do that is exactly what was done in this case. What you do is you get a group of experienced and able representatives of labour, employers, the public interest, you get a chairman, and have them conduct extensive hearings throughout the province for a period of almost three months. Then you send them away in a room for the next five months to debate the issues. If you are lucky, you get them to agree.

In fact, that is exactly what happened here. What we had was a unanimous consensus and a recommendation which was supported by all four members of that review committee. I was pleased to see Pete Walker here, who is one of the architects of that report, and I applaud him and his fellow committee members, Chris Lorenc, Susan Rogers and chairman Wally Fox-Decent, for achieving the near impossible, taking very, very divergent interests and positions and melding them into something which achieves perhaps the next most historic compromise since the Meredith report.

What I urge the committee and the Legislature to keep in mind is that the balance that they achieved and the equilibrium which is represented by the consensus report is very delicate. It has many different aspects to it which address concerns and objectives from a variety of stakeholders. Certainly, there is much good in there for all of the different stakeholders. There are the improved benefits; there is approval of the principle of expedited treatment and rapid return to wellness and work. There are improved provisions regarding governance and oversight, and you cannot let this moment go by without mentioning that the investment history of the

board over the last four years is laudable, extremely so. In fact, I wish they had had my RRSP.

Also, there is the principle of costing of these provisions, and we urge the government and the board to make sure that those cost estimates are adhered to, that they are meaningful, and that they are watched because the cost estimates are an integral part of the consensus report. But what you are left with is something that is analogous to a collective agreement. In fact, that is very much what happened in terms of the committee taking all of these competing views and putting them together in something which gave and took. Like a collective agreement, no one got everything that they wanted. Everyone gave up some things. There was compromise.

What came out in the consensus report, particularly, things that were not recommended are as important and as much a part of that balance as those things that were. My fundamental point to you tonight is this: Respect the balance and the equilibrium that was achieved in the consensus report by implementing those things that were recommended and not doing anything that was not recommended.

Those conclude my remarks. I will take questions if you like before I turn the mike over to my colleague, Mr. Copen, to deal with specifics.

Madam Chairperson: As a joint presentation, it is best if you turn it over to Mr. Copen.

Mr. Stephen Copen (Employers Task Force on Safety and Compensation): It gives me great pleasure—and I hope I do this without too many flubs—to present the Manitoba Employers Council and the Employers Task Force on Safety and Compensation's report.

The Manitoba Employers Council, through its subcommittee of the Employers Task on Safety and Compensation, ETF, has reviewed the proposed changes to The Workers Compensation Act, and offers the following comments.

Madam Chairperson: Sorry to interrupt you. I just need to make sure that you understand that you only have two minutes for your part of the presentation because that is what our committee agreed to unless the committee—did you want to—sorry, Mr. Loewen, did you want it to go?

Mr. Loewen: Yes, Madam Chair, I would ask you to give the presenters leave.

Madam Chairperson: Give you that leave? Is there leave? Agreed? *[Agreed]* That is fine.

Then you can proceed. Your presentation can be longer.

Mr. Copen: Thank you very much. I will try and do it as quickly as I can.

The Workers Compensation Act Legislative Review Committee submitted 100 consensus-based recommendations to Minister Nancy Allan that were considered to be a reasonable compromise in achieving a balance among employers, labour and injured workers, the consensus report.

MEC submitted that the government should respect the compromise and balance achieved in the report and requested the government to develop legislation that reflected the intent of the recommendations without changing the equilibrium of them.

In MEC's March 3, 2005, correspondence to the minister, 22 of the 100 recommendations were identified as policy directives that were outside the parameters of The Workers Compensation Act. Accordingly, MEC pointed out that any policy development by the WCB board of directors must fall within the statutory authority of the act.

MEC/ETF examined the legislative line by line and has identified the following areas of concern.

Recommendation 4. Costs of Workplace Safety and Health Division should be borne by the Province.

It is noted this recommendation and the estimated \$5-million cost saving which would be realized by employers as a result have not been accepted by the government. It is submitted, therefore, that the cost of expansion of coverage should correspondingly be reduced in order to maintain the balance achieved by the consensus report.

Section 2 and 2.1, expansion of coverage, MEC/ETF submits it is important that the WCB retain its current decision-making role with respect to

expansion of coverage and that the government follow the recommendations of the WCB on this matter.

Accordingly, MEC/ETF urges the government not to repeal sections 92 and 93 of The Workers Compensation Act.

Further, MEC/ETF looks to the government to commit to abide by the principles of voluntary inclusion of low-risk industries as recommended in the consensus report.

* (00:20)

Section 46(1), Limitation re maximum annual earnings. It is noted that the removal of the cap on earnings, if enacted, will mean that Manitoba is the only jurisdiction not to have a cap on earnings in its workers compensation act. In fact, most other insurance schemes such as MPIC have a cap on earnings. However, MEC/ETF recognizes the consensus report recommended a removal of the cap which presently exists and gave a cost estimate of \$1 million per year.

MEC/ETF expects that WCB will adhere to the cost estimate but also recommends that the removal of a cap be phased in gradually in order to reduce its impact on employers in high-paying industries. This would have the effect of honouring the recommendation of the consensus report while allowing high-paying employers to adjust to these increased costs, which present the risk of creating competitive disadvantage for high-paying Manitoba industries. Finally, MEC/ETF recommends that the WCB monitor carefully the impact of this provision on the mining sector and other high-paying industries.

Section 39(6), Earnings at or below the minimum: The MEC/ETF notes that the elimination of the 10% reduction in net earnings carries the risk of removing the incentive on workers earning minimum wage to return to work. It will be important for the WCB to manage these compensation claims carefully to ensure that the length of time on compensation is not dragged out, which if allowed to occur would have harmful effects not only on employers, but also on injured workers.

Section 49(3), Obligation to re-employ: MEC/ETF supports this amendment which reflects a

recommendation of the consensus report. However, it is important to ensure this amendment does not conflict with existing WCB policy not to return an injured worker to a situation where a substantial risk of re-injury exists.

Section 39.2(1), Payment of wages by employer for the first 14 days: MEC/ETF supports this amendment which reflects a recommendation from the consensus report. However, there needs to be a mechanism to deal effectively with the recovery of overpayments. This is especially vital for small business.

Section 67(4.1): MEC/ETF notes that the WCB must refer a matter to a panel if requested by an employee. However, if the request is from an employer, the board may refer the matter to a panel. MEC/ETF requests that there be equality between workers and employers in terms of the right to request a matter be referred to a panel.

Section 69(3), Program audit: MEC/ETF notes that Bill 25 provides for an audit of selected provisions of The Workers Compensation Act. In our view, this was not what the review committee had in mind when in recommendation 73, it was stated, "The act should be amended to require the government of Manitoba to appoint an independent auditor to conduct a value for money audit of the WCB every five years." Such an audit is essential to determine that stakeholders are receiving good value from the WCB and to deal with any deficiencies on a reasonably timely basis. MEC/ETF urges the government to give full effect to the recommendation of the review committee.

Statistics: Given the sweeping nature of the changes proposed in Bill 25, it is essential that WCB monitor carefully the effect of these changes, especially with respect to the cost to employers and the effectiveness of initiatives regarding injury reduction and return to health and work. MEC/ETF urges the WCB to continue to improve the statistical reports in terms of accuracy, amount and variety of information and availability to stakeholders.

Other amendments: MEC/ETF anticipates that with the passage of Bill 25, it will not be necessary to make further substantive changes to the WCB Act for some time. However, any further changes must also be in accordance with the spirit and intent of the consensus report and must maintain the balance achieved by the members of the review committee.

Board regulation: MEC/ETF notes that a regulation is contemplated which will capture the status quo regarding coverage. It is important to avoid inadvertent inclusion of industries which are not currently excluded. Therefore, MEC/ETF requests the Government of Manitoba to work in a consultative manner with stakeholders regarding the development of this regulation.

All of which is respectfully submitted.

Madam Chairperson: Thank you very much for your presentations. To the committee members, if you could just outline which individual you want the question to go to in your question, that would help.

Mr. Loewen: Either one of you can feel free to answer this question. We have heard from other presenters tonight, it has been referred to, the act, as cherry-picking the recommendations. I would just be curious on your view, if you would like to express it, whether the bill is in fact going to upset the delicate balance that was created through the recommendations that came forward with regard to the report.

Mr. Gardner: Thank you, Madam Chairperson and Mr. Loewen. If the cost estimates are adhered to, overall we think that Bill 25 does a reasonable job of respecting the recommendations of the consensus report, which we support. Our primary message is respect what was recommended. We have pointed out, of course, the areas where we think that the legislation has not quite come up to that standard.

Mr. Loewen: Thank you.

Ms. Allan: I just wanted to thank you, Bill, very much for hanging in there with us this evening and staying to make your presentation. I know that you appreciate the fact that you will not have to come back on Monday night. I do want to say, though, how much I have enjoyed working with you since I have become minister. It has just been a pleasure. We have always had incredible, respectful dialogue in regard to what is best for workers and employers. I really appreciate that opportunity to work with you.

Steven, thank you very much for appearing this evening and for staying and hanging in with us. It is always a pleasure.

Madam Chairperson: Thank you, both.

My next person listed here is Jim Baker from the Manitoba Hotel Association.

Stan Letwyn, private citizen.

Kris Arnason, private citizen, and Brian Inglis [phonetic], private citizen.

That, I believe, completes the list that I have before me. There is nobody else, I do not think, who is here who has not been listed here.

Mr. Loewen: Madam Chair, I move that committee adjourn until 6:30 Monday night.

Madam Chairperson: Is it the will of the committee to adjourn until 6:30 Monday night? *[Agreed]*

Thank you very much for your hard work. Committee rise.

COMMITTEE ROSE AT: 12:27 a.m.

**WRITTEN SUBMISSIONS PRESENTED
BUT NOT READ**

Re: Bill 25

The Manitoba Nurses' Union appreciates the opportunity to present our comments on Bill 25 and commends the government for their response to the recommendations of the Review Committee. The Manitoba Nurses' Union believes the majority of the proposed amendments to The Workers Compensation Act will benefit nurses.

The Manitoba Nurses' Union represented 11,000 nurses who work in a variety of health care settings across Manitoba, which include acute care, community and long-term care. Our members represent the overwhelming majority (97%) of unionized nurses in the province. Membership includes Registered Nurses, Licensed Practical Nurses, Registered Psychiatric Nurses and Operating Room Technicians.

Outlined below are brief comments on a few of the proposed changes to the Act that will impact positively on our members. The remainder of this presentation will highlight concern the Manitoba Nurses' Union has regarding the shortfalls in Bill 25.

A few of the changes that will positively impact on our members are:

- Repealing the award reductions for workers over the age of 45:

Reductions made solely on the basis of age were arbitrary and discriminatory. The nursing profession is a greying workforce and a significant percentage of our members are 45 years old and older.

- Workers will be paid for the day of the injury by the employer: Many of our members were expected to utilize their income protection for the day of their injury.

- Changes to the collateral benefits section:

1) By increasing the collateral benefit ceiling amount from 90% of the worker's actual loss of earning capacity to 100%, a worker is better able to mitigate the financial loss incurred as a result of a workplace injury.

2) The repealing of subsections 41 (5), (6) and (7), language that pertains to workers covered by collective agreements, returns benefits to the worker that the previous government had stripped.

3) Removal of the maximum earnings cap is a positive step, given that so many nurses are at the top of their wage scale. However, restricting the timeframe to between December 31, 1991 and the day the Bill will be enacted will ensure that claimants will continue to suffer financially. This amendment must apply to all current and active claims regardless of the accident date.

As stated earlier, many of the proposed changes to the Workers Compensation Act provide improvements to our members. The Manitoba Nurses' Union fully supports inclusion of The Obligation to Re-employ and the Duty to Accommodate within the Act. However, it is our belief that portions of Section 49 are in and of themselves discriminatory. Specifically:

S.49.3(1)(b) who on the day of the accident, had been employed by the employer for at least 12 continuous months on a full-time or regular part-time basis.

S.49.3(2)(b) an employer who employs fewer than 25 full-time or regular part-time workers, as determined by the board;

It is the Union's belief that the exclusion of employees who fall within the group of workers denied the right to return to a work program by these

statements is discriminatory in nature and in conflict with the Manitoba Human Rights Code, specifically Part II, which states:

14(12) No reduction of wages etc.

An employer shall not, in order to comply with this section, a) terminate the employment or occupation of any person; or b) reduce the wage level or diminish any other benefit available to any person in an employment or occupation; or c) change the customs, practices and conditions of an employment or occupation to the detriment of any person; if the person accepted the employment or occupation, the wage level or other benefit, or the customs, practices and conditions in good faith.

"Employment or occupation" defined 14(13)

In this section, "employment or occupation" includes a) work that is actual or potential, full-time or part-time, permanent, seasonal or casual, and paid or unpaid; and b) work performed for another person under a contract either with the worker or with another person respecting the worker's services.

Current jurisprudence on the duty to accommodate supports the principle that every employer has a duty to accommodate an employee whose special needs are based on any characteristic specified in the Human Rights Code, up to undue hardship. Undue hardship must be determined on an individual basis based on a non-exhaustive list of factors cited in a landmark Supreme Court ruling, *Central Alberta Dairy Pool v. Alberta (Human Rights Commission)*, (1990) 2 S.C.R. 489. They include:

- Financial cost to the employer
- Disruption of a collective agreement
- Problems with employee morale
- Interchangeability of the work force and facilities
- Size of the employer's operations
- Safety risk to the employee or to others

In *Central Okanagan School District No. 23 v. Renaud* (1992) 2 S.C.R. 970, the Supreme Court supported *Dairy Pool* and further clarified that "some hardship is acceptable." While common sense would dictate that the smaller the operation, the more quickly the test of undue hardship may be met, it is the Manitoba Nurses' Union's position that it is not in keeping with these rulings that the government legislate a specific measurement of undue hardship that would unfairly exclude workers who may

otherwise have access to meaningful employment in the workplace where they were injured.

It is our position that when a person accepts employment, as defined by the Human Rights Code, in good faith, the employer must bear the obligation to return-to-work and accommodate up to undue hardship, as determined by the application of the above cited cases, on an individual basis.

The Manitoba Nurses' Union is also disappointed that two issues that impact nurses on a daily bases were not addressed in Bill 25: the threat of occupational disease and workplace-induced stress.

Nurses are exposed in the workplace to virulent and deadly biohazards, blood-borne pathogens, asbestos and workplace chemicals which include sterilization liquids and chemotherapy drugs. These workplace hazards may have varying time delays from exposure to the onset of illness. The Act needs to recognize and acknowledge delayed occupational injuries and hazards.

In addition, the amendments do nothing to address the inequality that workers have to prove their illness was caused by exposure in the workplace. The illness is required to meet the "dominant cause" test to determine if the claim is compensable. The dominant cause test suggests that a higher burden of proof is required to determine if the illness is an occupational disease. Access to evolving research on the link between work and the disease may be overlooked due to lacking the knowledge of the medical causes and origins of the disease. The Manitoba Nurses' Union strongly supports recommendations to create an Occupational Disease Panel and a special department to research and advise on occupational disease. Through the establishment of an Occupational Disease Panel developing research and new evidence would be reviewed, requiring a review of the dominant cause model.

The second issue is that the Manitoba Nurses' Union would like to highlight as an area of concern is the continued exclusion of workplace-induced stress as an occupational disease from the Act. Workplace-induced stress is of considerable concern to our members. Factors that characterize workplace stress for nurses are heavy workloads, inadequate staffing levels to cover sick time, an extensive use of overtime and a lack of support from management.

In the 1990s, health care restructuring was a popular strategy designed to increase productivity and minimize operating costs while maintaining quality of patient care. Numerous studies have shown that these strategies have had extremely negative effects on nursing work environments. Researchers suggest that job stress in post-downsizing work environments is the result of understaffing and higher workloads and that these conditions may have a negative impact on the health of nurses. Research has linked job stress resulting from lack of job control and resources to various mental health outcomes, such as burnout and depression.

Research of job stress in the profession of nursing has revealed that workplace-induced stress has been associated with an increase in emotional exhaustion, lower vitality, poor mental health, less freedom from pain, increased risks of both physical and emotional injury and increased incidence of missed shifts due to illness. In addition, stressful job conditions can lead to increased voluntary turnover, work-related injuries and substance abuse.

Concern continues to mount with the substantial increase in nurses off work due to workplace-induced stress. By continuing to exclude chronic stress from The Workers Compensation Act, nurses, in a effort to cope with excessive workplace-induced stress utilize income protection or cancel shifts. Organizations such as the Healthcare Employees Benefit Plan (HEBP), Disability and Rehabilitation and the Employee Assistance Program have expressed concern that workplace-induced stress and burnout may in fact be contributing to the many hours of lost time injury. The Manitoba Nurses' Union requests the removal of restrictions on stress-related claims and recognize work-induced stress as a compensable occupational disease.

The Workers Compensation Amendment Act is an important piece of legislation. The Legislative Review Committee on the Workers Compensation Act should be commended for the numerous recommendations that were put forward. Through the public consultation process, the committee was presented with issues and concerns of workers throughout the province, sending a clear message to government that The Workers Compensation Act was outdated and out of touch with the continually evolving workplace.

The government should be congratulated for accepting so many of the recommendations that will undoubtedly benefit workers throughout the province, and it is hoped that the concerns put forth by the Manitoba Nurses' Union will be addressed.

Manitoba Nurses' Union

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Re: Bill 25

Garden Valley School Division is a public school division located in south central Manitoba which employs over 400 workers including teaching staff as well as support workers.

Garden Valley supports the continued exclusion of school boards from mandatory participation in the Workers Compensation Program and the position of The Manitoba Association of School Boards (MAST) as articulated in its submission to the Legislative Review Committee.

Garden Valley is committed to its employees during periods of time off the job due to illness or injury. Although currently, Garden Valley does not provide Workers Compensation coverage to its employees under Part 5 of The Workers Compensation Act Regulation 544/88 R, appropriate coverage is available to employees through an accumulating Sick Leave Program as well as a Long Term Disability plan for both teachers and support workers.

It is felt that the combination of these two benefit programs provide appropriate and adequate coverage for all employees for those times when they are not able to work due to illness or injury.

The potential inclusion of school boards as employers under the Workers Compensation Act would have a significant financial impact on Garden Valley as follows:

2005/06	Salary Budget	Estimated Workers Compensation Premiums		
		0.33 per \$100	0.50 per \$100	1.16 per \$100
Teachers	12,659,000	41,775	63,295	146,844
Support Staff	4,006,900	13,223	20,035	46,480
Total	16,665,900	54,997	83,330	193,324

The Board of Trustees in Garden Valley does not oppose the changes proposed to The Workers Compensation Act and would like to reaffirm its position on the continued exclusion of school boards from mandatory participation.

As always, the opportunity to provide this information to the Legislative Review Committee is greatly appreciated.

Hilda Froese
Chair, Garden Valley School Division Board of Trustees

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Re: Bill 25

My name is Lisa Steffler, and I am not here speaking in regards to a direct claim, but as a wife who endured stress during my husband's claim. I feel it is very important to share my story, even though I have not directly dealt with Workers Compensation but was on the sidelines looking in.

My husband experienced a work-related accident in January of 2003. At the initial assessment we were told that John had maybe torn his rotator cuff. John was referred to a specialist by the name of Dr. le Roux in Brandon, and John received injections into his shoulder and then was referred to Winnipeg in which they performed a CT scan. We were not informed of the results; however John was scheduled into surgery to shave the bone on his shoulder. John then received physiotherapy, and the following February, during physio, John was experiencing more pain in his shoulder. Another schedule was set for Dr. le Roux, in which he could not find anything wrong, so two MRIs were set, one in Brandon, and the other in Winnipeg in which they both came back fine. John also had x-rays and again these results came back fine. John, who was still in pain, was then referred to Dr. MacDonald in Winnipeg.

John received a phone call from Worker's Compensation informing him that he would not be able to get in to see Dr. MacDonald for at least 10 months, so would we be interested in seeing their orthopedic surgeon. Since my husband was getting anxious to get back to work and feel better, he immediately agreed. The appointment was September 7th, 2004 and the doctor was Dr. Arnot. Our initial meeting with Dr. Arnot was a terrible experience. Not only did he ignore me in any

conversation, but he also blatantly called my husband a liar, saying that it was not his job to tell John how to deal with pain. I felt horrible sitting there as I could see the pain in my husband, and felt helpless. We left the appointment in total shock, not understanding what had just happened.

At this point, the stress was starting to kick in, watching my husband day to day experiencing constant pain and not being able to help him, I was now having to take time off work to accompany him on this appointment, and John was starting to get frustrated which he was now taking out on us.

We received a letter in October stating that because of Dr. Arnot's "personal" opinion, not "medical" opinion there was no reason for him not to return to work as his recovery time was sufficient. John contacted his case worker telling her that he was still experiencing pain and wanted a second opinion, such as Dr. MacDonald. John was told he could acquire a second opinion but it would not be on WCB's bill. So as of October 1st, 2004 John was no longer on WCB, to which John had to go onto Unemployment sick benefits which we did not receive for 4 weeks after that.

In the beginning of November we received a call from Dr. MacDonald's office stating he had an appointment November 9th, so we went as John was still experiencing pain. Dr. MacDonald performed an x-ray and again nothing showed up. Dr. MacDonald then stated that nothing could be done surgically, however he offered to go back in to take a second look. Dr. MacDonald also told us that John should have been retrained prior to this.

January of 2005, John's sick benefits ran out and we got a call from Dr. MacDonald's office informing us that his surgery was set for February 7th. Surgery was performed and a torn tendon in John's shoulder was found, a slap repair was performed. Dr. MacDonald told us that it was so deep, it did not show up on the MRI, CT scan or x-ray.

In the end of April we finally won our claim and John was awarded back pay and is on WCB again.

On April 23rd I was diagnosed with Bells Palsy, a stress-induced medical condition, in which the side of your face becomes paralyzed. This required me to take two weeks off of work to rest. I have also been placed on anti-anxiety medication, because since

everything has calmed down the doctor feels my stress has caught up with me. During this whole ordeal, I have experienced many different feelings, one shock and uncertainty when John first had his accident, to confidence as I felt WCB was there for us at the start, to totally disbelief when leaving Dr. Arnot's office, to guilt for not being able to help my husband, and finally anxiety as I was the financial provider for the last three months of this ordeal. Not only did this all affect me personally, but affected John and my relationship, which our three children have unfortunately had to deal with as well. Workers Compensation is there for assistance when you need it for a specified time and then that is it. My husband is not a liar, nor would he ever try to work the system. My husband wants to do the thing he loves, and that is being a mechanic. He misses his job, his co-workers, and not being in pain constantly. I feel that if John would not have been dismissed as a liar at the start and more investigation on WCB's part would have been done, we would have experienced a different story. Now I am blessed with feeling the uncertainty again as we do not know if John will heal fully because of the time that has passed. I only hope that no one else will have to experience what we have experienced, and I pray that my husband will be able to return to the work he loves.

Thank you.

Lisa Steffler

Re: Bill 25

My name is John Steffler, and I am here speaking in regards to my claim experience.

I experienced a work-related accident in January of 2003. At the initial assessment I was told that I had maybe torn my rotator cuff. I was referred to a specialist by the name of Dr. le Roux in Brandon, and received injections into my shoulder. I was then referred to Winnipeg in which they performed a CT scan. I was not informed of the results; however I was scheduled into surgery to shave the bone on my shoulder. I then received physiotherapy, and the following February during physio I was starting to experience more pain in my shoulder. Another schedule was set for Dr. le Roux, in which he could not find anything wrong, so two MRIs were set, one in Brandon, and the other in Winnipeg in which they both came back fine. I also had x-rays and again

these results came back fine. Since I was still in a lot of pain I was then referred to Dr. MacDonald in Winnipeg.

I received a phone call from Worker's Compensation informing me that I would not be able to get in to see Dr. MacDonald for at least 10 months, so would I be interested in seeing their orthopedic surgeon. Of course, I said, as I was getting anxious to get back to work and honestly was tired of being in a lot of pain constantly. Picking up a cup of coffee was a chore, and I was not interested in popping pills for the rest of my life, so I immediately agreed. The appointment was September 7th, 2004 and the doctor was Dr. Arnot. Dr. Arnot basically called me a liar. He walked in, told me to put my arm in the air. When I did I guess I showed pain. He asked me what it felt like and I said my arm ripping out, and he said "How do you know that you haven't had that happened." He also told me it was not his job to tell me how to deal with pain. I thought, "This is unbelievable." I agreed to come to him so I didn't have to have Workers Compensation foot the bill for another 10 months if we can find out what is wrong with me and get it fixed. What I did not agree on is coming to see WCB's doctor and being called a liar. I understand that people work the system, but I was NOT lying. I was in A LOT of pain.

At this point, I was starting to get very frustrated. Not only was I sitting at home ALL day alone and in pain, but I couldn't do anything.

We received a letter in October stating that because of Dr. Arnot's "personal" opinion, not "medical" opinion there was no reason for me not to return to work as my recovery time was sufficient. I immediately contacted my case worker telling her that I was still experiencing pain and wanted a second opinion, such as Dr. MacDonald. I was then told I could acquire a second opinion but it would not be on WCB's bill. So as of October 1st, 2004 I was no longer on WCB, and I had to go on to Unemployment sick benefits which I did not receive for 4 weeks.

In the beginning of November I received a call from Dr. MacDonald's office letting me know that I had an appointment November 9th, and since my pain was getting worse, I definitely wanted to go. Dr. MacDonald performed an x-ray and again, nothing showed up. Dr. MacDonald then stated that nothing could be done surgically, however he offered to go back in to take a second look. I agreed to go

into surgery as I had nothing to lose, and again I was still in a lot of pain. Dr. MacDonald also told me that I should have been retrained prior to this.

January of 2005, my sick benefits ran out and I got a call from Dr. MacDonald's office informing us that his surgery was set for February 7th. Surgery was performed and a torn tendon was found in my shoulder, a slap repair was performed. Dr. MacDonald told me that it was so deep, that is why it did not show up on the MRI, CT scan or X-ray. I was so relieved as I was starting to think I was crazy.

In the meantime I had been in contact with the Workers Advisory Office to appeal their decision. They advised me to get more evidence about my injury. I thought "What? Isn't that what you are there for?" So that is why I also wanted to see Dr. MacDonald to get more evidence for the Advisory Board. I provided all the evidence to the advisory office which they faxed to the WCB. They then told me I had to wait for 4 weeks for Dr. Arnot to review it and he was on vacation. Since my wife was barely financially supporting us, and we could not wait another 4 weeks without income, I felt it was time to contact our MLA for assistance. I met with our MLA and told him my story. He reviewed my file, and said he would help me out.

In the end of April I finally won my appeal with the help of my MLA and I was also awarded back pay and I am now on WCB again.

In closing here are my recommendations:

- The Workers Advisory office should not be paid out of Workers Compensation Board's fund. They should be a totally anonymous entity;
- All claims should be innocent until proven guilty. Example: Don't assume that people are lying;
- MLAs should not have to be involved although appreciated;
- WCB should not be a stressful experience, as it is detrimental to the client;
- Stress should be a compensational injury;
- The worker should not take a pay drop after two years and after age 45 because it is not the worker's fault.

Thank you.

John Steffler

* * *

Re: Bill 25

By way of introduction, the St. James-Assiniboia School Division is comprised of 26 schools, delivering service to almost 10,000 students in Manitoba. Our division is firmly committed to supporting a safe, healthy and productive environment in which to work and learn.

As one of thirty-eight public school boards, we support the submission that will be made by the Manitoba Association of School Trustees (MAST) in this regard. Because of the implications of proposed amendments, we feel it is important to provide our own submission both to highlight some of the key areas of the MAST submission and to provide further detail with respect to our own situation.

We employ approximately 700 full-time equivalent teaching positions, and have almost 300 additional teaching positions on our substitute payroll. We currently pay premiums to the Workers Compensation Board of \$1.01 per \$100 of payroll for our non-teaching staff at a cost in 2004 of \$104,062. Using this rate, the additional cost of premiums for an estimated budget of \$40 million for our teaching payroll would exceed \$400,000.

In accordance with the *Public Schools Act*, we are currently funded to ensure that each teacher is entitled to accumulate 120 days of full pay in the event that they are disabled at work (or elsewhere). After that, if still unable to work, they are able to apply for coverage from a self-funded plan indefinitely. As a public sector organization, any additional operating costs need to be passed on to the local taxpayer unless there is a plan for this funding to be provided by the provincial government. We assume that the Review Committee will consider carefully the implications of this change.

Additionally, we have concerns regarding proposed changes to broaden definitions within the Act, including the definition of a "Health Care Provider." Of significant concern in this regard is the proposed expansion of the definition of disability by various unions to include stress-related injuries. It is our understanding that any expanded definition has proven unmanageable in other jurisdictions. Stress-related injuries are rarely attributable to one factor: namely, the employer; not to mention that the estimate of increased costs to our division would be

considerably higher and would result in higher premiums for all employee groups. As part of the employer community, we share concerns about broadening definitions within the Act, moving away from those that are directly related to the care of injured workers.

In summary, it is our submission that any expansion of coverage must be carefully examined and be to the benefit of both the workers and the employers involved. With this in mind, it must be considered that our division could not absorb the costs of the proposed expansion of coverage. Furthermore, we could not absorb the costs associated with an expanded definition of disability and firmly believe that the current definition of disability should be retained in order to ensure that the historic principles of the *Act* be upheld.

St. James-Assiniboia School Division

* * *

Re: Bill 25

Hello. My name is Charlene Bergen. I worked as a special needs teacher's aide when I injured my back. I have been on workers compensation since June of 2000.

I started physiotherapy immediately, thinking that it was a small problem which would resolve itself with special exercise, rest and anti-inflammatory medication. When the pain started to get worse my doctor and physiotherapist sent me for a CT scan. It showed that I had a herniated ruptured disc. My physiotherapist and doctor wanted me to see Dr. Birt, who is an orthopedic surgeon, immediately because of my increased leg pain. I finally saw Dr. Birt in November of 2000. In January 2001, MRI was done.

In March of 2001, WCB Dr. Minish spoke with my doctor, Dr. Marsh, who said surgery should be done as soon as possible. Dr. Minish agreed. July 2001, Dr. Chan, WCB medical advisor, writes to Dr. Birt stating that the WCB will agree to surgery and takes full responsibility for any costs.

I was not notified until the beginning of October by WCB about the surgery. When I was called, the worker asked me if I had scheduled my surgery yet. I then said I had not known about this, but would call

to set up an appointment with Dr. Birt. January 2002, I had back surgery.

Since my back surgery, my back locks up if I sit, stand or walk too long. I have severe pain constantly in my back, left leg numbness all the way down to my toes. I have fallen due to my leg. Dr. Birt found that there is scar tissue wrapped around the nerve root. He has constantly stated to WCB that I am unfit for any work.

I feel that, since my injury, I have tried to comply with everything that WCB has asked me to do. I have always been open and honest with all my case managers, doctors, physiotherapists, psychologists and anyone else that WCB has sent me to.

I had located some information about herniated ruptured disc and it said that surgery has the best results if it is done within six months of the injury, not one and a half years later. If you had a broken arm would you wait one and a half years before you had it set?

I walked with a limp and put all my pressure on my right leg. I now have some pain in my right sciatica. My right knee started to give me problems due to my walk, so my doctor sent me to see Dr. Birt who decided to do arthroscopic surgery on my knee. There was a tear in it. WCB did not agree with his decision that this was an indirect result of my back injury, so they would not cover the surgery.

Because they did not agree, WCB did not give me sufficient time to heal. They wanted me to go to the Foundations Learning Centre two weeks after my surgery. I had to take public transportation to and from home, thus resulting in more injury done to my knee.

WCB videotaped me in October, 2003. I am shown on the video walking with my cane. The video is 15 minutes long, out of a 48-hour span, and I am on it six minutes. For the most part they have taped me walking from the back. WCB says I show no pain or discomfort and don't know why I use a cane as I don't put much pressure on it. I cannot grimace or moan constantly. I am not running or swinging my cane in the air. Besides my jaw is clenched sometimes instead of moaning. My blood pressure and heart rate are elevated during the time when I am in pain. I also put enough pressure on my cane as needed. I use it due to whole leg numbness

and always have pressure on it. I was seen walking to the store or to my friend's daughter's school one or two times and now they feel I am qualified to go back to school or work full time. I am told to get exercise and then I am persecuted.

Again, I can only sit, stand and walk for about 40 minutes in total, then I need to lay down. WCB has me going to the Foundations Learning Centre four times per week. I take public transportation there and back. I don't last my whole sessions. I am shaking from the pain, my back is spasming and my left is numb. I am afraid I will not be able to make it home. What will happen then? How will I be able to go to Red River full time? I can no longer do anything by myself. For instance, my husband and daughter need to help me with laundry, grocery shopping, house cleaning. I take 200 Tylenol 3's in a month for the pain. I don't sleep well. I am up most nights due to the pain. I sleep one to two hours, then I am up three to four hours. I catnap during the day to function somewhat. I don't have good days, but maybe a good hour.

When speaking with WCB workers, they say my attitude changes when talking about them. I become agitated or upset. If I do get agitated or upset, it is because of the length of time it takes to get things done. I have done everything that they tell me to do. They don't listen to my surgeon and his reports on my condition because he is an advocate for his patients. Shouldn't he? WCB wants me to go to school to become a counsellor. The job pays \$340.00 gross per week. I was making \$451.00 gross per week. They are only going to compensate me \$138.00 bi-weekly. Where's the justice?

During my past five years on compensation, I have tried many different medications, such as amatriptolin, fentanyl patch, peracet, codeine, contin, vioxx and many more for the pain. I have also done acupuncture. None of these things have helped or I have had a bad reaction to them.

If I was not being completely truthful about how much pain I endure, don't you think that I would do it around my friends and family?

I can no longer travel long distances in the car with my family, like going to Saskatchewan, Brandon, Alberta or even to the lake unless I lay in the back seat. My husband needs to stop often so I can stand and walk for a few minutes. Sometimes it is better if my husband and daughter go without me.

I am depressed and crying all the time and I don't like to answer the phone when WCB calls. I am always nervous and worried about what is coming next.

If Revenue Canada considers me disabled, why doesn't WCB?

I feel that these changes need to be made to WCB. Workers Compensation awarded me a permanent impairment award. They said that I am only 9.8% impaired and gave me a \$1,060.00 cheque. Is a back and limb not worth more?

WCB needs to move in a more timely fashion so that people are not permanently impaired. For those that are, they need to accept the word of a surgeon and help the injured worker have quality of life.

WCB should not reduce an injured worker's pay after two years.

WCB should allow an injured worker to apply for disability without removing their pay from WCB.

WCB act should be amended so that when the WCB determines that a worker is unable to return to work due to medical, educational or other reasons, the worker should be able to get any future benefits in a lump-sum payment.

WCB also needs to have more compassion towards injured workers and what they are going through and to quit threatening to cut them off benefits.

Charlene Bergen

* * *

Re: Bill 25

June 2, 2005

The Steelworkers have recognized that Occupational Safety and Health of our members and workers in general to be a top priority of our organization. The legal obligation on the employer to provide a safe and healthy workplace for their employees was further defined with the recent passing of the Westray Bill into law which makes corporations, their directors and executives criminally liable for failing to prevent workers' deaths. The United Steelworkers worked for 17 years to get this Bill passed into law.

We are no less committed to ensure that reviews of WCB legislation and the subsequent amendments to that legislation preserve and enhance the protection of workers and the provision of benefits to injured and disabled workers in all jurisdictions across Canada. Too often these reviews are focused on reducing costs to the funding employers at the expense of workers who have suffered a workplace injury or occupational disease. Amendments that simply reduce benefits or the opportunity to qualify for benefits are often simple remedies that do not address very complex root causes of workplace injury and illness. I will comment on the recommendations proposed in Manitoba:

Occupational Disease and Musculoskeletal Injuries

One of the clearest developments in occupational health and safety over the last three decades has been the growing awareness of the extent to which work affects our health. In addition to more traditional occupational diseases such as silicosis, asbestosis, dermatitis and hearing loss, there is now considerable evidence linking worker-related exposures to cancer in a variety of sites, cardiovascular disease, respiratory disease, a wide range of musculoskeletal disorders and vibration-related disorders, for example. Stress at work, due to poor work organization, for example, is now clearly identified as a factor in the onset of cardiovascular diseases as significant and substantial as the contribution work makes to the onset of low back pain and repetitive stress injuries.

Despite this development, the Workers Compensation system has lagged far behind in effectively recognizing when these conditions are work-related and therefore has failed to provide compensation and other needed services to those who suffer from these conditions. Indeed, our experience has been that even with occupational diseases about which there can be no doubt that they are work related—diseases like silicosis and asbestosis—injured workers experience considerable difficulty getting their compensation claims recognized. The only real incentive which employers have to take steps to reduce work exposures that cause occupational disease is when they have to pay compensation for the victims of their failure to take action and when government is prepared to rigorously enforce exposure limits. By failing to adequately compensate occupational disease, the

workers compensation system forces the costs of suffering, health care, and family disruption onto individuals and society, contributing to increased health care and welfare costs.

There are four areas in particular that we believe that changes should be made to improve the adequacy of compensation in this area:

1. Where a worker makes a claim for certain well-known occupational diseases, the claim should be accepted presumptively when the worker is employed in an occupation known to cause the disease, or when he is exposed to known work causes. For example,
 - silicosis claims of foundry workers and miners, and of workers employed in jobs where silica is used;
 - asbestosis and mesothelioma claims of workers exposed to asbestos;
 - lung cancer of workers exposed to asbestos and hard rock miners.

These are just a few examples. Manitoba has adopted this approach when addressing certain occupational disease claims of firefighters. Both Ontario and British Columbia use schedules as a vehicle to improve compensation for occupational disease. It is critical that policies set out general criteria as well as provide guidance for individual adjudication of claims that do not fit the criteria.

2. Predominant cause should be removed from the legislation as a requirement for entitlement for occupational disease as contrary to Canadian law.

No other jurisdiction has adopted such restrictive rules for adjudication of occupational disease, rules which are contrary to principles of entitlement which apply to all other compensable conditions and contrary to those applied by the Supreme Court of Canada to claims of other persons for similar conditions. The test of entitlement to occupational disease supported by the Supreme Court of Canada and adopted by other Workers Compensation systems is "significant" or "material" contributing cause.

3. Bias and prejudice should be removed from the adjudication of musculoskeletal disorders, and replaced with guidelines informed by research and experience.

Despite the huge amount of scientific evidence showing how work causes musculoskeletal

disorders—through repetition, vibration, exertion, posture, et cetera, at what some see as relatively light weights—we continue to see claims of workers for repetitive strain injuries rejected on the basis of "personal characteristics." Most notorious of these are claims of women workers which are rejected because of the age of the person and her gender. It is not an isolated incident to have an adjudicator, who has very limited understanding of the work that the person does, attribute the onset of carpal tunnel syndrome to the onset of menopause. This type of spurious decision making has no place in the workers compensation system, and calls for an internal review to both identify the prevalence of these prejudices among adjudicators and to support appropriate policy and training efforts, advised by human rights experts, to eliminate them.

3. The decision of the Supreme Court of Canada in Martin and Lasseur should be applied to claims in Manitoba.

There are two areas where the case of Martin and Lasseur should apply to claims in Manitoba. Obviously, the first is with respect to those workers who suffer from chronic pain. More generally, however, the SCC decision stands for the proposition that all workers who have work-related injuries and disabilities should be treated equally, and that it is contrary to the Charter to either a) exclude entitlement for those injured workers because of the type of disability or work-related cause or to b) apply a policy or guideline rigidly, without considering the individual circumstances of the case.

The exclusion of injuries and illness cause by chronic stress at work is a clear violation of the principles described in the Martin and Lasseur case and should be addressed by this Committee.

The argument advanced by many consultants on behalf of employers, is that to include coverage would be contrary to the founding principles of workers compensation and that it would make the compensation system financially unsustainable. Both arguments are false and misleading. Occupational disease has always been included in workers compensation systems in Canada. Indeed, such arguments were presented to Judge Meredith in the first Committee on Workers Compensation in Canada and he rejected it for the obvious unfairness, especially the difficulty which workers would face trying to protect themselves from unseen hazards that

cause occupational disease. The second argument is even more misleading. The opposite is the case. It is providing entitlement to occupational disease claims that there is an incentive on employers to protect their employees.

This incentive has now become even more important with the advent of Bill C-45, amendments to the Criminal Code. Section 217.1 which imposes a duty of care on those whose direct work draws no distinction between safety and health hazards that cause death or bodily harm.

The argument to improve compensation for those workers who contract occupational diseases because of their work can be justified on these grounds:

- Fairness and equity among injured workers by eliminating discriminatory practices that treat those injured by accident differently from those made ill or disabled by disease
- To provide an incentive to employers to take steps to address health as well as safety concerns of their employees
- To reduce the costs of work-related disease being borne by public health care and social assistance.

Permanent Disability

Those workers who acquire a permanent disability because of their work suffer the greatest losses and discrimination under the workers compensation system. Amendments to the law in the 1990s drastically changed the entitlement to compensation which permanently disabled workers receive. Our experience has shown that this has had a profoundly negative effect on many permanently disabled workers.

Research both in Canada and the United States confirm that, over time, it is the permanently disabled who suffer the greatest financial losses and have the greatest likelihood to not retain employment. A study conducted in Ontario showed that, although 85% of permanently injured workers initially returned to work, within a relatively short period of time, 50% of them would become unemployed for extended periods of time.

Unfortunately, the WCB has not kept track of what has happened to permanently disabled workers.

We believe, based on our experience and the research that does exist, that many of these workers end up unemployed or underemployed because of their disability and, because of deeming, without adequate benefits. Very recent statistics in Ontario show that of those workers who were unable to return to their pre-accident employer, over 50% were unable to obtain employment even after receiving support from the Workplace Safety and Insurance Board. While the programs are different between Ontario and Manitoba, we believe that similar results exist for Manitoba workers.

This problem requires a two-pronged response. Firstly, injured workers should receive a permanent pension which more adequately represents the financial and other losses that they suffer. The second requires a mandatory requirement on employers to accommodate injured workers.

To insure that permanently disabled workers are adequately compensated, the WCB has to keep better track of what happens to them. The WCB must be required to regulatory survey a representative sample of permanently disabled workers to evaluate the adequacy of benefits and other services included in the Board's mandate. The stories of injustice and suffering that are presented to this Committee need to be acted upon.

Return to Work

No issues cause us more concern and controversy at this time than those related to an injured worker's return to work. Only in workplaces where we have been able to bargain joint return to work programs with union participation have we been able to bargain joint return to work programs with union participation have we been able to achieve the level of fairness and effectiveness needed. Unfortunately, the incentive on employers to bargain such programs is very weak as they can achieve significant reductions in their costs by manipulating the system through diversion, harassment, misrepresentation, and aggressively challenging claims.

The problems that injured workers face are varied and many and we know that the Review Committee has received many complaints about this. What we have heard includes:

- Injured workers being forced back to work too quickly

- Injured workers pressured to go on short term insurance as a quicker alternative to WCB
- So-called job offers that turn out to be inappropriate and unrealistic or too short term
- Unsafe and unhealthy working conditions are not changed when the injured worker is required to go back to work
- Treating physician's concerns are ignored or rejected
- Work restrictions are accommodated for only brief periods, and then the worker is pushed to do his regular job

Despite now ten years of active support of return to work by WCB, these complaints have not diminished and situations have not improved. Research shows that less than 50% of employers have programs to accommodate injured workers, and the quality of those programs that do exist is uneven. Studies of experience rating programs confirm widespread abuse through claims management. And studies of the return to work experiences of permanently disabled workers show that 50% or more of those who initially return to work subsequently lose their job. If an injured worker is unionized, she or he does have access to the grievance procedure and may seek the assistance of the human rights authority, but this leaves non-unionized workers vulnerable and puts an extra burden on unions to enforce what should be a responsibility of the WCB.

To address the problems that injured workers face, our union makes four major proposals:

- 1) There should be a legislative requirement on employers to accommodate injured workers in ongoing employment, based on Human Rights and international conventions such as the International Labour Organization.

(ILO)³ Vocational Rehabilitation and Employment (Disabled Persons) Convention Number 159 and Recommendation Number 168 adopted in 1983, and the United Nations Standard Rules on the Equalization for People with Disabilities especially Rule 7 on Employment adopted in 1993.

This requirement should be included in the Workers Compensation Act with responsibility given to the WCB to penalize an employer for failure to comply and to compel the employer to provide accommodations as required. This amendment should be co-ordinated with adoption of similar

programs for people with disabilities that are discriminated against when seeking employment and whose disabilities are not work related.

2) The WCB should adopt by regulation a consensus-based standard for disability management programs and require that employers adopt programs which comply with this standard. Compliance would be enforced through inspection and financial penalties for non-compliance and joint labour management committees mandated to address workers' participation in the program. There are two examples of such programs available. The National Institute for Disability Management and Research (NIDMAR), based in British Columbia, publishes a consensus-based Code of Practice on Disability Management. NIDMAR is a non-profit joint labour management initiative with support from major employers, unions, government and providers. The other example is provided by the ILO, which adopted a Code of Practice on Managing Disability in the Workplace in 2002.

What is critical to such a standard is that it is based on a consensus drawn from the evidence of research, good practice and experience.

3) The employer obligation to provide employment should be integrated with a proactive occupational health and safety program that identifies the hazards which cause the injury in the first place and which minimizes the risk of re-injury.

4) The WCB should routinely survey and provide to the Minister and the public information on the employment status of workers compensation claimants.

Employer Interference in the Claims Process

As indicated above, the failure to provide a clear regulatory framework within which return to work should take place has lead to widespread abuses by employers. These circumstances have been exacerbated by experience rating which encourages adversarial practices against workers as a means of reducing costs and obtaining rebates.

The WCB has to stop taking a blind eye to these abuses and embark on an aggressive approach to prevent them from happening.

Steps need to be taken by the WCB to reduce inappropriate employer interference in the claims

process, such as encouraging use of private insurance as an "easy alternative" or by making spurious objections to a worker's claim. Employer allegations need to be fully investigated before relied upon to deny or reduce a worker's claim.

WCB needs to enforce compliance with reporting requirements by employers, including accurate reporting of accident information and reporting on time, by investigating those employers who fail to comply and prosecuting those whose behaviour is consistently contrary to the legislated requirements. Where an investigation shows that the employer has given false or misleading information, penalties should be considered. Review of WCB policy 22.20 shows a clear bias on the part of the WCB to be concerned only with workers who make false and misleading claims, and totally ignores the activities of employers. Experience in other jurisdictions where employers have also been subject to investigations has demonstrated that the frequency and magnitude of employer abuses are much greater than those of workers.

Consideration should be given to developing appropriate financial incentives for employers to comply with recognized standards such as the Codes of Practice referred to above. Rebates and penalties should be based on performance in accordance with the standard and not claims controls. An example of a pilot project like this has recently been adopted by the BC Workers Compensation Board for a section of the forestry industry based on the NIDMAR Code of Practice and utilizing an independent audit.

Additional Funding Sources:

Only 70 per cent of Manitoba workers are covered by workers compensation. From the time workers compensation was established in Manitoba in the early twentieth century, the model has been to have the Act list those industries that are covered, even though a more logical approach would have been to list those industries that were excluded.

The simple solution is to have all workers covered.

Conclusions

Widely heralded at the turn of the century as a major step forward in protecting injured workers and reducing the adversarial relationship between employers and unions, workers compensation

systems have become overwhelmed in recent years by financial restrictions and a bias against injured workers. Balance needs to be reintroduced into the system, recognizing the needs which injured workers have and by examining the adequacy of the assistance that they receive. Workers compensation needs to provide comprehensive coverage of workers' return to work support. Injured workers should be treated fairly and protected against unfair manipulation, adversarial practices and discrimination by employers.

In the broader scheme of things, we need to revisit some of the larger ideas which Canada has had to protect its most vulnerable members and look seriously at moving forward on ideas such as universal disability insurance. In the name of cost savings, compensation systems have introduced many practices similar to what are found in private insurance where problems of workers are not addressed and instead are defined not to exist. This is a wrong-headed approach as it reinforces the impoverishment rather than recovery and justice.

We encourage members of the Standing Committee on Human Resources to give serious consideration to the concerns of injured workers and to approve these recommendations to improve the workers compensation system.

Stephen Hunt
Director, District 3
United Steelworkers

* * *

Re: Bill 25

In October 1994, I hurt myself when my husband and I were unloading a trailer load of beef that was approximately 70 lb. boxes. He would put them on the pallet and I would straighten the boxes, ensuring the bar code was facing outward. The boxes had to be a certain height and, I was on my tiptoes straightening a box when it came down and hit me on the head and back. I couldn't do my share of the driving back to Winnipeg. I was on compensation from that time until April 1995, when I returned to work.

I was still getting bad headaches and my back was sore, but I thought I was going to get better. My husband and I bought a new highway truck and called it "Linda's Dream". In the fall of 1995, we

picked up a pre-loaded trailer in Montréal and had to deliver it to Ottawa. Upon arriving in Ottawa, we found out the trailer was loaded wrong and our first drop was at the front. The customer was rude and started cursing because of the way the trailer was loaded. My husband and I had to lift the boxes over the other pallets and re-stack them on pallets, and then the customer would remove them with a forklift. My back was hurting very bad and my head was aching so bad I thought it would explode.

I informed Driver Services in Winnipeg, and when I got to Winnipeg, I went to see my doctor, and he put me off work. I was supposed to go back on compensation. Driver Services was given my doctor certificate for my injuries and our son-in-law was put in our truck at Trans-X expenses because he was a student driver.

All the forms were filled out and compensation said I didn't qualify. Compensation then sent an inspector to my home to take my statement. I did not qualify for long-term disability because of my previous compensation injury in 1994. Re-injury was compensation's responsibility, not long-term disability.

By this time, my husband left me and I tried to commit suicide because of the pain, compensation, bills and losing the truck. Do you really think we would have got a new truck if knew this was going to happen to me? To this day, I am unable to work. I have back pains, migraine headaches and deep depression. Most of the time, I think what is the point of living if you're called a liar and don't qualify for Workers Compensation, when your doctor's reports and your medical records prove that you were injured at work.

If there is one truly caring person in this room that is willing to listen and put themselves in the victim's shoes and feel their pain and desperation, please help me and others that have been treated so badly and that have been cheated out of their correct compensation benefits, by reviewing our medical files.

Please think hard what we, the injured worker, lost not being able to go back to work and support our families and ourselves. Please change this for us.

Thank you for listening to me and please make this right.

Linda Davies