



**LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES**

**12th Assembly**

**STANDING COMMITTEE ON AGENCIES, BOARDS AND COMMISSIONS**

**WORKERS' COMPENSATION BOARD REVIEW**

**TRANSCRIPT OF PROCEEDINGS**

**YELLOWKNIFE, NORTHWEST TERRITORIES**

**MAY 11 - 13, 1992**

NWT  
LA  
SCABC  
Wor  
1992





LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

STANDING COMMITTEE ON AGENCIES, BOARDS AND COMMISSIONS

WORKERS' COMPENSATION BOARD REVIEW

YELLOWKNIFE, NORTHWEST TERRITORIES

MAY 11 - 13, 1992

Chairman

Mr. Fred Koe

Deputy Chairman

Mr. Brian Lewis

Committee Members

Mr. Jim Antoine  
Mr. James Arvaluk  
Mr. Charles Dent  
Mrs. Marie-Jewell  
Mr. John Todd

Alternate Members

Mr. Ernie Bernhardt  
Ms. Rebecca Mike  
Mr. Richard Nerysoo

Legislative Assembly Staff

Mr. David Hamilton, Committee Clerk  
Mr. Alan Downe, Committee Researcher

Transcript

M C Editorial Services Ltd.  
P.O. Box 2624  
Yellowknife, NWT, X1A 2P9

Government Library  
Government of N.W.T.  
Laing # 1  
Yellowknife, N.W.T.  
X1A 2L9







**WORKERS' COMPENSATION BOARD REVIEW WITNESSES**

Hon. Dennis Patterson, Minister

Mr. Bryan Roberts, Chairman of the Board

Ms. Kathe Pagonis, Workers' Advisor

Mr. Jim Evoy, Appeals Tribunal and NWT Federation of Labour

Ms. Lynn Green, Appeals Tribunal

Mr. John Bayly, Counsel, Appeals Tribunal

Mr. Doug Willy, Echo Bay Mines

Mr. Ron Celej, Injured, Disabled and Discarded Workers

Mr. Roland Gravel, Injured, Disabled and Discarded Workers

Mr. Austin Page, Injured, Disabled and Discarded Workers

Mayor Pat McMahon, NWT Association of Municipalities

Mr. Don Yamkowy, NWT Chamber of Commerce

Mr. Fred Leonardis, Northern Employers' Council on Workers' Compensation

Mr. Joe Handley, Deputy Minister, Renewable Resource

Mr. Dick Bushey, NWT Construction Association

Ms. Donna Laing, NWT Construction Association

Ms. Dale Robinson, NWT Council for Disabled Persons

Mr. Darm Crook, Union of Northern Workers

Mr. Fern Denault, United Steelworkers of America

Ms. Mary King, Auto Body Shops

Mr. Dave Thompson, On Behalf of Injured Workers

Mr. Sam Gargan, On Behalf of Hunters and Trappers

**WORKERS' COMPENSATION BOARD REVIEW TELEPHONE WITNESSES**

Mr. Keith Coffin, Prince Edward Island

Mr. Vic Scoville, Nova Scotia

Mr. Joe Kubik, Saskatchewan

Mr. Ray Wonnick, Manitoba

Mr. Robert Brewer, Alberta

Mr. Paul Saftner, British Columbia

Mr. Steve Ouellette, British Columbia

Mrs. Sandy Laidlaw, British Columbia

Mr. Tommy Wright, Gwich'in Hunters' and Trappers' Association



## TABLE OF CONTENTS

	<u>Page</u>
Workers' Compensation Board	1-12,
- Minister and Chairman of the Board	98-104
WCB Workers' Advisor	12
WCB Appeals Tribunal	17
Echo Bay Mines Limited	25
Injured, Disabled and Discarded Workers	29
NWT Association of Municipalities	34
NWT Chamber of Commerce	39
Northern Employers' Council on Workers' Compensation	41
Department of Renewable Resources	48
NWT Construction Association	50
NWT Council for Disabled Persons	54
Telephone Witnesses	
- Mr. Keith Coffin	58
- Mr. Vic Scoville	60
- Mr. Joe Kubik	62
- Mr. Ray Wonnick	64
- Mr. Robert Brewer	66
- Mr. Paul Saftner	67
- Mr. Steve Ouellette	68
- Ms. Sandy Laidlaw	70
- Mr. Tommy Wright	86
Union of Northern Workers	71
United Steelworkers of America	78
Auto Body Shops	83
NWT Federation of Labour	88
Mr. Dave Thompson, On Behalf of Injured Workers	95
Mr. Sam Gargan, On Behalf of Hunters and Trappers	97



## STANDING COMMITTEE ON AGENCIES, BOARDS AND COMMISSIONS

## YELLOWKNIFE, NORTHWEST TERRITORIES

MAY 11, 1992

**Members Present**

Mr. Antoine, Mr. Arvaluk, Mr. Dent, Mr. Koe, Mr. Lewis, Mrs. Marie-Jewell, Mr. Todd

**Chairman's Opening Remarks**

**CHAIRMAN (Mr. Koe):** Good afternoon everyone. I would like to welcome you all to this public meeting of the standing committee on agencies, boards and commissions. My name is Fred Koe and I am chairman of the standing committee on agencies, boards and commissions. We have convened this public as a first session of a public review of the Northwest Territories Workers' Compensation Board.

I would like to make a few comments before we start, about the role of the standing committee and about the process that we will be using throughout this public review.

I would like to mention that ourselves, our staff, and I hope you people here today will join me for a moment reflection on what is happening in Nova Scotia. There has been a major tragedy in Plymouth, Nova Scotia and we are aware of what is going on, the search and rescue being undertaken. We hope that things work out for the ones that are still underground and our sympathies go with the families of the ones they have found. I think it is sad but I think it one of the things that miners in the industry are faced with. Our prayers go out to all those who are involved.

The standing committee on agencies, boards and commissions was established by the 12th Legislative Assembly for the purpose of inquiring, reviewing, and commenting upon the affairs of all agencies, boards or commissions to which the Legislative Assembly or a Minister of this government makes appointments to.

Our committee is made up of seven Members. One is not here right now. He is in transit right now from the Keewatin, but I will ask the Members here to introduce themselves.

**MR. LEWIS:** My name is Brian Lewis and I was a Member of this committee during the last Assembly.

**MR. ARVALUK:** I am James Arvaluk. I am the Member for Aivilik. This is my first term and the first time I am a Member of this committee.

**MR. DENT:** I am Charles Dent. I am the Member for Yellowknife Frame Lake.

**MRS. MARIE-JEWELL:** Jeannie Marie-Jewell, Member for Thebacha.

**MR. ANTOINE:** My name is Jim Antoine, I am the Member for Nahendeh.

**CHAIRMAN (Mr. Koe):** I am Fred Koe and I represent the constituency of Inuvik. Back in December of last year the standing committee tabled a work plan which indicated its intent to complete a review on a number of the agencies and boards under the mandate approved for us by the Legislative Assembly. One of the initiatives which we indicated in our work plan was a comprehensive review of the NWT Workers' Compensation Board.

This is the first stage in that process. Over the next three days we are going to be hearing the viewpoints of what we consider major stakeholders, clients, officials, of the Workers' Compensation Board and people who are involved with the Workers' Compensation Board. We will be listening closely to your comments about the boards organizational structure, its authorities which it derives from the Workers' Compensation Act; the various modes of accountability which must characterize public organizations of the 1990s. We will also be listening to worker and other members of the public's frustrations or compliments with respect to process through which workers deal with the compensation process and the follow-up of work place injuries.

Our purpose basically is to identify some of the concepts, concerns and suggestions for change that people will be recommending to us and we may wish in turn to make recommendations to the board through the Minister.

In undertaking this review the standing committee fully realizes that by design the Workers' Compensation Board is intended to be an independent and autonomous body running at arms length from the government. This indeed is one of the principles that has formed the fundamental basis of the system of workers' compensation in Canada. At the same time electors of the NWT put their trust in Members of the Legislative Assembly to ensure that public institutions are run efficiently, effectively, and there is some accountability and responsibility of the officers.

So throughout this public review I guess we are looking at something hopefully constructive; that something that will come out of sharing viewpoints from all people that are going to come forward. We are going to have presenters here, we are also going to have people phone in and we have some written submissions that we will take into consideration.

With those opening remarks I would like to start the formal session by welcoming the Minister responsible for the Workers' Compensation Board, Hon. Dennis Patterson, and I would also like to welcome the chairman of the Workers' Compensation Board, Bryan Roberts. Gentlemen, I take the microphones over to you.

**HON. DENNIS PATTERSON:** Thank you, Mr. Chairman. Also with me is Mr. Barney Dohm, chief operating officer for the Workers' Compensation Board. These gentlemen will be assisting me today if there are questions.

Before I begin my remarks, Mr. Chairman, which I will distribute to you, I would like to echo your remarks that this hearing is timely in a sense that since Saturday and late last night and early this morning I have been following the tragic events in Nova Scotia and I think that although these events are tragic, it does bring home to us the hazards of the work place and the importance of the Workers' Compensation scheme and the issues that we are going to be examining and your committee is going to be examining in the coming days.

I do want to say that I welcome this initiative on the part of your committee. I offer to extend my assistance wherever

possible in providing information and hopefully I will begin that today with this presentation and I know you will have the assistance of Mr. Roberts and his staff as well in getting information.

I am confident that your recommendations, based on the advice that you will get from citizens and other interested parties, will undoubtedly be helpful to myself and the Legislature in meeting our responsibilities and in assisting the board and its staff in discharging their duties as well.

I will ask that copies of my opening remarks will be circulated, including a number of appendices that I will be referring to, which I hope will be of assistance to the committee.

Mr. Chairman, I should perhaps also mention that an important person in the Workers' Compensation system, Ms. Kathe Pagonis, the workers' advisor, who I understand you will be hearing from later, is also here today.

#### Minister's Opening Remarks

Prior to 1953, compensation was administered by two ordinances: An Ordinance Respecting Employer's Liability and an Ordinance Respecting Compensation to Workmen for Injuries Sustained in the Course of their Employment. These ordinances were passed in 1908 and 1917 respectively.

In 1953 those ordinances were repealed with the introduction of the new Worker's Compensation Ordinance. The provisions of that ordinance were administered by the Department of Indian Affairs and Northern Resources and coverage by employers for their workers was obtained through the private insurance industry.

In October 1974 the GNWT passed the Workmen's Compensation Ordinance creating the establishment of a Workers' Compensation Board responsible for the administration of that act. Coverage by employers for the protection of their workers remained with the private insurance industry.

In 1977 the GNWT passed a new Workers' Compensation Ordinance, now called the Workers' Compensation Act, assuming responsibility for the workers' compensation system in the NWT, by establishing the formation of the accident fund from which employers obtain protection for their workers for accidents and industrial diseases that arise out of and during the course of employment. Aside from a few amendments, the contents of the act have remained essential unchanged since 1977.

The Workers' Compensation Act establishes the Workers' Compensation Board with exclusive jurisdiction as to how the act should be interpreted, including whether an injury or disease is employment related, whether benefits should be paid, whether an industry falls within the scope of the act, the amount of assessments to be paid by an employer, and any other matter required under the act. The act empowers the board to develop policies, practices and procedures. The board's authority is not bound by legal precedent or legal rules of evidence.

The decisions of the board are final and conclusive. However, a very important provision of the act allows the board to reconsider and change any of its decisions at any time the board of directors considers it advisable to do so.

As you know, the Workers' Compensation Board is accountable to the Legislative Assembly through the Minister responsible for the Workers' Compensation Act.

#### Basic Principles Of Workers' Compensation

The workers' compensation system is based on two main principles: collective liability on the part of employers; and compulsory insurance in a state fund known as the accident fund. Maybe we should call it a territorial fund instead of a state fund, Mr. Chairman.

A worker who is entitled to compensation may not take action against his or her employer or a fellow worker of that employer for an accident in the course of his/her employment. In return for giving up the right to take action against the employer, compensation is payable as a matter of right, regardless of negligence on the part of the employer, the worker or his or her fellow workers. Free medical aid, medical and vocational rehabilitation services are provided. All costs of compensation are raised by assessments on employers.

Industries are divided into groups according to the risks of accidents related to their industry. The industry is established according to the end product or services being provided and it is the employer's overall operations which determine the classification rather than the individual occupations of the workers.

The system is administered by an autonomous board with full and final authority to determine all matters arising in the administration of the act. These basic principles and the administration of the act are consistent with all other workers' compensation jurisdictions in Canada.

#### Board Structure And Organization

The Workers' Compensation Act establishes the board as a body corporate consisting of not more than seven members, one of whom is chairman appointed by the Minister responsible. And right now we have seven including the chairman.

The corporate board has three distinct and separate functions: it acts as the board of directors for the corporation; it is a quasi-judicial administrative tribunal replacing the courts in adjudicating workers' claims for compensation; and it is the trustee of the accident fund with legal responsibilities to the workers, employers and the Government of the NWT.

Reporting to the board of directors, the general manager and chief operating officer is responsible for the day-to-day administration of the board's programs and services. Reporting to the general manager and chief operating officer are nine positions: the managers of administrative services; claims services; rehabilitation services; financial services; safety education; information services; the personnel administrator; corporate auditor; and the policy and program analyst. Appendix A is a copy of the organization chart, Mr. Chairman.

#### Human Resource Services

The personnel administrator is responsible for the staffing process. Other responsibilities of the personnel administrator include: the provision of training services; the maintenance of the performance appraisal system; the drafting of position descriptions; and the classification of WCB positions.

#### Information Services

The information services division has a mission of providing information to the clients of the WCB in a timely and effective manner.

The information services division utilizes a variety of computer technologies to provide an integrated approach to information

processing. The main system is an IBM AS/400 mid-range computer.

The data are protected by transferring copies to magnetic tape and storing them outside the building on a daily basis. The hardware is protected by a maintenance agreement with IBM; there is also an agreement with a company outside the Territories to provide an alternative machine and terminal in the unlikely event this site were damaged or destroyed.

#### **Financial Services**

The role of the financial services division is to safeguard and control the assets of the Workers' Compensation Board. External advice is obtained as required on issues relating to funding assumptions and policy, investment management, custodial services for investments and actuarial evaluations. Appendix B is a copy of the board's funding policy.

The financial services divisions provides the structure to ensure that the information required for accounting and preparation of financial statements and reports is accurate and timely. Procedures are also in place to ensure the accurate reflection of assets and liabilities.

A key element in the responsibilities of the financial services division is the valuation of the future liabilities to be incurred by the WCB for existing claims. The present and future financial well-being of the WCB is dependent to a significant degree on the appropriateness of this valuation. The board has a consulting actuary verify the liability valuations annually.

As the liabilities of the board extend far into the future, a pool of funds is available for investment. Financial services, working with the investment committee of the board of directors, ensures that these monies re invested in accordance with the investment policy of the board. This will ensure that adequate funds will be available to cover all future liabilities associated with current or previous year accidents. Appendix C is a copy of the board's investment policy.

We do not have staff who are professionally qualified to act as investment managers. Consequently the board has contracted with four professional investment management firms to invest our funds in accordance with the investment policy. Further, the board has also engaged a trust company as custodian to undertake the actual transactions recommended by the investment counsellors and to safeguard the board's investments assets.

On an annual basis, using an in-house rate-setting program, the financial services division generates assessment rates for each sub-class of employer. Because of the complex nature of this process, we have our consulting actuary review the rates prior to submission to the board of directors for approval.

#### **Administrative Services**

The administrative services division is comprised of two departments: revenue services and administrative services. The division is managed by the manager of administrative services.

#### **Revenue Services**

The objective of revenue services is to maintain the accident fund at a level which will adequately provide for the effective administration of the Workers' Compensation Act. The primary tasks undertaken by revenue services are to: ensure that all employers are registered; levy and collect assessment premiums; issue clearances for contract payment; provide optional coverage as requested; assist in interpreting the act;

maintain the classification system.

The classification system for the assessment of employers is based on the principle of collective liability. Employers are divided into individual groups based on products produced and/or services provided. While the assessments paid by employers are pooled in a common fund called the accident fund, the board requires that each rate group be self-supporting. Copies of the 1992 information brochure on the classification of industries/provisional rates are enclosed as appendix D.

A junior assessor and three assessors report to the assessments supervisor. The junior assessor and each of the assessors have several hundred corporate clients for which they are responsible on a day-to-day basis. The assessments supervisor is responsible for classification decisions as well as the consistent application of the Workers' Compensation Act and policies. All new employer accounts are initiated and updated by the assessments registrar. The assessments collector focuses on the timely collection of outstanding assessments.

#### **Administrative Services**

This section is responsible for the provision of facilities management and administrative support services. The primary responsibilities of this division are to: provide reception and communication services; handle filing and record keeping; offer French language services to all clients; provide desktop publishing; provide purchasing and facility management services; handle centralized word processing.

Records management and filing are handled by two records clerks. Purchasing and facility management are the responsibility of the administrative clerk. Both the bilingual word processing and desktop publishing positions provide support to the entire organization. A receptionist/switchboard operator provides client reception as well as telephone communication services.

#### **Audit Services**

The audit services division is responsible for both internal, operational, and external, employer payroll auditing. Internal auditing is a review of operating activities within the Workers' Compensation Board to monitor compliance with policies and procedures.

Payroll/assessment auditing is a review of employer payroll records and operations to ensure accurate assessment and compliance with the Workers' Compensation Act and proper assessment.

#### **Safety Education**

The safety education division of the Workers' Compensation Board was established in November 1991. The mandate of this division is to offer safety education courses to workers and employers. The WCB safety education division is also committed to educating young people about potential hazards to their safety and health before they enter the work force. This gives us the opportunity to reach the future workers in the NWT before they develop unsafe work habits. Hopefully, Courses are being developed on an ongoing basis.

#### **Claims Services**

The purposes of the claims services division is to provide financial assistance to workers who are injured in work-related accidents and who have suffered a loss of their earning capacity. The board covers the cost associated with providing the necessary medical treatment to ensure the optimum level

of recovery so that the worker may return to the work force.

Each worker's claim is administered by a claims adjudicator. All the adjudicator use the same criteria for ruling on the initial acceptance of a claim. This system is known as the five point check system and has the following five components:

- 1) A worker;
- 2) An employer;
- 3) Personal injury by accident arising out of an during the course of employment;
- 4) Proof of accident;
- 5) Compatibility of diagnosis to accident or disablement history.

Once a claim is established, the adjudicator will pay the costs of the claim. Costs include daily time loss benefits, medical aid, transportation, prescriptions and, in some cases, partial time loss benefits. The adjudicator will administer the claim until the worker is either medically fit to return to some type of employment or until the worker is assigned a rehabilitation counsellor in the case of serious permanent physical impairment.

#### Rehabilitation Services

The board started a rehabilitation program in January 1991. Some of the services available through this program include the provision of medical and vocational assessments, job placement assistance, counselling and retraining, where required. This help is available to injured workers who are unable to return to work within 90 days of the accident. For the seriously injured, immediate services are provided within days of the accident.

To be eligible for assistance, a worker must have an approved WCB claim and be likely to encounter difficulty returning to work because of diminished physical capacity. Preventive rehabilitation services are available to workers whose employment could cause a recurrence or aggravation of a compensable condition.

To the extent possible, the board's mandate is to help the worker restore loss of earnings, maximize physical conditioning and maintain the lifestyle to which he or she was accustomed prior to the injury.

The injured worker is provided with a rehabilitation allowance equivalent to his or her compensation rate for the period of time it takes to complete the rehabilitation program. There are additional allowances available to the workers in support of their rehabilitation; these include: the purchase of tools, cost of work place modification, relocation expenses, vehicle and home modifications.

If the worker is left with a disability as a result of the accident, he or she is eligible for a disability pension award. This will be determined when the worker's medical condition stabilizes. The pension award compensates for remaining disability resulting from the work-related injury. Once a person's impairment is determined, the file is transferred to the extended benefits adjudicator who determines the benefits payable. The extended benefits adjudicator provides ongoing management and approval of future medical treatment and costs after the pension is established for the worker.

#### Initiatives Undertake By The Board

In 1989 an independent review panel was appointed by the Minister responsible for Workers' Compensation - that was Ms. Cournoyea at the time. A copy of the review panel report is enclosed as appendix F. Also enclosed as appendix G are the actions taken by the Workers' Compensation Board in

response to the panel's recommendations.

In addition to addressing many of the concerns raised by the review panel, numerous changes beneficial to our clients have been implemented since early 1989. Some of the initiatives undertaken are:

A comprehensive client service audit, a copy of this report is enclosed as Appendix E, the purple document; the development and documentation of board policies, including an adjudication manual that will be available to the public; the acquisition of a portable information booth for taking the WCB message to communities, schools, trade shows, et cetera; the development of divisional client service standards; the development of information brochures and related program materials for communicating the board's policies and programs; the development and implementation of a new rate-setting program; the redesign of the annual report to make it more informative; the identification of the need for a workers' advisor and the hiring of a person to fill the position, and I mentioned Ms. Pagonis is here today and she has been the workers' advisor since that position was established in 1989; the development and documentation of formal investment and funding policies; identification of the need for an appeals tribunal; the introduction of annual public communication seminars with employers. A copy of the 1990 information handout is enclosed as Appendix I.

#### Conclusion

I hope this presentation has given you a picture of the structure and organization and mandate of the board. In conclusion I would like to note that the Northwest Territories Workers' Compensation Board are one of four fully funded WCBs in Canada. Other boards have various levels of deficits, one exceeding eight billion dollars - that is Ontario. I believe that the fact that our board is fully funded is very significant when one realizes that, should the board incur a deficit, the government would have a contingent liability for the full amount of any deficit.

Our board of directors is committed to a full funding policy and it is our intention to seek legislative approval to have a statement of full funding included in the Workers' Compensation Act.

Full funding requires continued informed decision making on the part of our board of directors and senior management, with strong support from government. Decisions that will affect the long-term viability of the Workers' Compensation Board must continue to be made on the basis of sound financial and management policies.

Thank you, Mr. Chairman. I hope this material is helpful. As I have indicated, we are open to providing other information that you might require. This may well not be complete, but I hope it is a good start. So that concludes my presentation, Mr. Chairman. Thank you very much.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Patterson. Bryan are you going to add something to this presentation or are you going to do something later?

**MR. ROBERTS:** If the Members of the committee had any specific questions we would attempt to provide the information.

**CHAIRMAN (Mr. Koe):** Thank you for your presentation. Normal procedures in these committee meetings is we hear a presentation and committee Members in turn may have questions or comments they wish to make. So I will turn the floor over to any Member who wishes to make a comment or ask a question. Mr. Arvaluk.

**MR. ARVALUK:** Thank you, Mr. Chairman. Just for my own clarification. On the last part I noticed that Ontario probably has many, many employers contributing to their own Workers' Compensation Board. With so many employers, how do they manage to get into so much deficit? Have you had a contingency plan that will not copy that kind of deficit in an event that the NWT could have a lot of contributing employers?

**CHAIRMAN (Mr. Koe):** Mr. Patterson.

**HON. DENNIS PATTERSON:** Mr. Chairman, I certainly do not pretend to be an expert on the problems in Ontario, but I think it is generally agreed that one of the problems that has led to the deficit in Ontario is that assessment rates were simply not adequate to meet the operating requirements and ongoing liabilities of the board. I suppose that for any government or any board there is a temptation to try to respond to concerns of employers or industry about keeping assessment rates down. I believe that rates were kept down below the required levels in Ontario, at least at some point in the history of the board, which aggravated the financial problem.

I think that there were bad years in Ontario where costs, as a result of higher accident rates, put burdens on the board and for some reason they did not respond with increased levels of assessment to meet those burdens. So I think that is in simple terms what I understand the problem is. I am also informed that Ontario now has a strategy to overcome that problem and to make the board fully funded over a period of years.

**CHAIRMAN (Mr. Koe):** The point is though, that I hope none of our strategic planning will be focused on doing what they are doing there with their moneys. James.

#### Premiums

**MR. ARVALUK:** Thank you, Mr. Chairman. I guess my original question was in trying to lead to my second question. I understand in WCB that you have a no-fault coverage. No matter what kind of accident there is, the Workers' Compensation Board will cover that incident. The WCB is, in this case, attempting to allow small businesses in the small communities to be able to afford the coverage when they have a small construction business, for example, it will not have so much burden on the small business. I understand that is the purpose of it.

Now in order to have the full funding for WCB or self-funding for WCB, then if there is more demand on WCB for the injured workers or discarded workers, then you will have to raise the premiums, according to your answer. How would you then be able to allow the small business to continue to afford those kind of premiums?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, I think the best way I would try to respond to the Member is to explain that in a particular industry or particular classification of business, the costs of meeting the demands flowing from accidents in that particular sector are shared throughout the industry on an equitable basis. So an individual business and let us say a small business as the Member has referred to, that may suffer the misfortune of perhaps having a serious accident, will not alone bear the cost of dealing with that accident. It will be spread throughout the particular industry in the NWT. I think this is a contrast to the situation in the United States, as I understand it, where workers can and do sue an individual employer and a successful law suit can, in effect, put a small business under or make them bankrupt.

So I think the theory is that if it is a cartage business or heavy equipment business or a store, the burden is shared across the class of employee/employer, so that it can be spread and it will not impact a particular business that may have the misfortune to have an accident and particularly a small business.

I think the Member's assessment of the description of the no-fault character is correct and it is also important. As long as the injury arises out of the course of work and the work place, then the employee gives up the right to sue in return for the right to be compensated, regardless of fault. That is correct. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you. Charles.

#### Increase In YMIR

**MR. DENT:** Thank you, Mr. Chairman. There are a couple of issues that I would like to ask some questions about. I think one of the reasons that we have seen so much – or things that we have seen in terms of controversy in the last little while, in terms of workers being concerned about how they are being treated by the Workers' Compensation Board, has to do with the level of support. So I was interested in the Minister's statement to hear him say that to the extent possible, the mandate is to help the worker restore loss of earnings, maximize physical conditioning, and maintain the lifestyle to which he or she was accustomed prior to the injury.

I think one of the major concerns is that the YMIR has not been increased for a number of years and as I understand it, the NWT is actually behind many of the provinces in terms of level of support. Can we look forward to the Minister coming forward to the Legislature in the near future and recommending an increase in the YMIR? What sort of time frame are we expecting that to be in?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, I think the Member is correct that our YMIR has not been adjusted for about five years. Although we do not have the lowest in the country, we are falling behind most jurisdictions. That is correct. I suppose that the point is especially well taken when one looks at the higher costs of living and higher earnings generally in the Territories.

Mr. Chairman, I do expect that this will be a major issue in representations made by workers and workers' representative before the board this week. I do expect that your committee will be making recommendations on that issue. The Member has asked how soon can changes be made. Changes to the YMIR will require, at least under the present legislation, an amendment to the Workers' Compensation Act. The Member asks how soon could changes be made. I guess technically they could be made as early as June when the Legislature next sits.

On that point, I will act as quickly as I can on recommendations that your committee might make as a result of submissions you receive this week. There is a legislative process in place. It ordinarily requires a period of time for public input on legislative changes. Ordinarily that period of time is 120 days, but it may be possible that that period of time could be shortened or dispensed with, depending on the urgency and the nature of the legislative change. That is a matter that I think your committee could recommend on to the government and to the chairman of the standing committee on legislation.

I understand I am going to have an opportunity to meet with your committee again towards the end of your hearings and

perhaps I might respectfully suggest that we could address that issue again once you have heard submissions from interested parties on that point. I am not trying to dodge the question, but I think we will all be in a better position to respond once we hear submissions from the public and interested parties. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you. Charles.

**MR. DENT:** Since the YMIR has not been raised in five years, and given the outcry that we have heard, I had no doubt that we would be recommending an increase. I would hope that whatever steps could be taken by the board to prepare for that in terms of actuarial studies and other information that is going to be undertaken right away so that we do not get an excuse back from the board that we do not have time to figure it out, in terms of getting it to the June session. I suspect that there is going to be the will to proceed with it fairly quickly.

#### Lump Sum Policy

One other maintaining lifestyle that is a problem is the lump sum policy. I wonder if we could get some explanation as to why there has been a policy put in place limiting its application to those workers who have a 10 per cent disability or a \$40,000.

**HON. DENNIS PATTERSON:** Mr. Chairman, I would like Mr. Roberts to respond to this one.

**MR. ROBERTS:** Thank you, Mr. Chairman. With the establishment of a partial disability award the whole purpose of that award is intended as partial replacement of future earnings that are lost by reason of the accident. In keeping with that intent it is reasonable that those benefits should take the form of future income, rather than some form of cash payment. One of the very purposes of the Canadian compensation system actually was to get away from lump sum settlements which despite their short-term attractions, did leave a great many workers destitute in their later years.

Common arguments that are put forth is that a lump sum settlement should almost be automatic upon request because the capital fund established to meet the pension is viewed by the workers as their money. But it is quite a common misunderstanding and it is inconsistent with the terms and objectives of the legislation.

The system was designed for the benefit of three main groups: 1) the workers were to be protected from financial hardship of industrial injury; 2) employers were to be protected from the cost of supporting the insurance industry and the legal profession; 3) the taxpayers were to be saved from the cost of supporting industrial accident victims out of general taxation.

Clearly, an automatic lump sum payment policy would defeat this purpose. In addition to that, when a lump sum settlement is paid to the worker they lose the right to future cost of living increases that may be awarded from time to time. Our current lump sum policy was designed with this intent in mind, and in addition it was intended to provide the staff with clear direction and to remove the many subjective decisions required in the administration of the previous policy.

Obviously, a policy cannot be designed to cover the individual circumstances of each situation, and it is not intended to do so. It should however, satisfy the requirements of the majority of the cases. A system is therefore required to consider those cases to which a policy may not apply, or where the individual circumstances of the case do not meet the norm. Such a system is in place within the Compensation Board, through the

appeal process. Decisions of the review committee and the appeals tribunal must be made according to the individual merits and justice of the case, and they are also governed by the rules of natural justice.

While the act states that the tribunal is to apply the policy of the board, it cannot, by law, fetter its discretion, and it must consider the individual merits and justice of each application before them. In our opinion, with this independent review the necessary checks and balances are in place to ensure individual consideration of each case.

Some of the recent appeal decisions at the review committee level have found in favour of the workers' requests, and the lump sums have been granted. The results of appeals are monitored to assist the board in determining whether or not a policy requires change, and in addition, we review our policies on an annual basis and it is certainly our intention to continue this process so that we can keep abreast of the clients' concerns and respond accordingly.

**CHAIRMAN (Mr. Koe):** Mr. Dent.

**MR. DENT:** I have a number of questions about the lump sum policy. I would have to question you, Mr. Roberts, on your statement that it is inconsistent with the terms of the legislation. Lump sums are specifically mentioned in the legislation as I recall, so it would seem that that is not necessarily inconsistent.

You say that there are three purposes, and one of the purposes of the Workers' Compensation Board is to protect the taxpayer. I have never seen that set out anywhere. Where did you get that from, the statement of purpose?

**CHAIRMAN (Mr. Koe):** Mr. Roberts.

**MR. ROBERTS:** Thank you, Mr. Chairman. The statement dealing with the taxpayers goes right back to the original concept of workers' compensation in the original agreement between workers and their employers, to establish the system.

On the matter of the lump sum not being consistent with the terms of the act, we are talking about virtually an automatic payment policy that would not be consistent. There are certainly cases where a lump sum payment is actually the best decision for the worker. With our policy what we were doing is taking and giving clear direction for the staff on the ongoing basis which will take care of the majority of our clients and allowing the other percentage to be dealt with by the claims review committee and the appeals tribunal.

**CHAIRMAN (Mr. Koe):** Mr. Dent.

**MR. DENT:** Thank you, Mr. Chairman. I assume you are referring to the Meredith principles when you say this is where your taxpayer protection comes in. I do not have the actual copy of the report but I do not see that in there as one of the basic principles, coming from Meredith; not that it is necessarily bad. I was just wondering where you were getting that from.

You still have not answered the original question though; why is the limit at 10 per cent and \$40,000? Why not 11 per cent and \$44,000 or 50 per cent. Why was that limit chosen.

**CHAIRMAN (Mr. Koe):** Mr. Roberts.

**MR. ROBERTS:** Thank you, Mr. Chairman. Going way back in the history of workers' compensation, that percentage has changed within the legislation across the country, from five per cent to 10 per cent over the years. The act states that a disability of less than 10 per cent may be commuted to a



lump sum. The \$40,000 was put there after a study by the board to put a limit on the amount of moneys that would be paid. Depending on a person's age, the value of a lump sum increase, the younger they are the higher the value of the lump sum. It was felt that a payment of the equivalent of one year's benefit would be adequate and would not erode the purchasing power for persons who have a more serious disability, and the capitalized value of their claims would be quite higher.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** Further with lump sums. Are you aware of other jurisdictions having higher limits?

**CHAIRMAN (Mr. Koe):** Mr. Roberts.

**MR. ROBERTS:** Thank you, Mr. Chairman. The lump sum policies, there are 12 compensation boards in Canada and there are 12 different policies on lump sums. Each board has its own policy, and they vary substantially across the country.

**CHAIRMAN (Mr. Koe):** Mr. Dent. We will allow you one more on lump sums, and then we will go on.

**MR. DENT:** Actually, Mr. Chairman, I was going to end my questioning, but I think Mr. Roberts was going to add something to this last answer.

**CHAIRMAN (Mr. Koe):** Mr. Roberts.

**MR. ROBERTS:** Thank you, Mr. Chairman. When I said that the policies vary across the country, there are some boards that do not allow lump sum payments of any description.

**CHAIRMAN (Mr. Koe):** Thank you. Mr. Lewis.

#### Arm's Length Nature Of The Board

**MR. LEWIS:** Mr. Chairman, my first question is to do with the arm's length nature of the board. Since this board is set up under our own territorial legislation, there is some perception, I suppose, that since it is a creature of government in the sense that it was our legislation that set it up, that it should be guided somewhat by the overall wishes of the people that are represented, so I would like to ask the Minister whether, since this is a board that deals with all the people in the Northwest Territories who are in the work place, whether in fact the public will, if you like, through the Minister, can be expressed in the way it develops its policies, the way it does things consistent with the legislation, or whether in fact the board has a degree of latitude to develop its own style, and its own policies, and its own plans, and so on. Since it is above political interference, it cannot be interfered with in the sense that it is an arm's length agency with its own board. Is that a major impediment to making sure that, for example, throughout the Northwest Territories those people that do not belong to organized labour, and I am thinking of hunters and trappers and fishermen and carvers, and so on, can in fact take advantage of this particular form of compensation?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Thank you, Mr. Chairman. I think this is quite a profound issue, an important issue that the Member has brought up. I believe, on the question of the board's jurisdiction to deal with individual cases, that it is probably very important that the board should be independent and not subject to political pressures, or interference if you like. I believe that this is probably the best way of ensuring fairness, given that there is a recourse of appeal to the courts if bias or perverse decisions can be established and presented to the court.

However, Mr. Chairman, the Member raises an important question about issues of policy, and I do believe that because the Legislature, through the Minister, does oversee the provisions of the act, which basically outlines the policy and the structure of the workers' compensation system, there is a good possibility for public policy questions to be dealt with by the legislature, and so the Member refers to the issue of hunters and trappers compensation. That became an issue in a previous Legislature and it was dealt with by public pressure and by an amendment to the act. Now, whether that amendment has done the job is a question you may well address in the course of your hearings or your work. I think there is an important role for the Minister and the Legislature to, I guess, reflect the public will, because it is the legislation and the board which is ultimately a creature of the Legislature.

So Mr. Chairman, I think this week your committee has an opportunity to look at those broad policy issues and to make recommendations which could change the way the board operates by changing legislation. So I think that the arm's length relation, to answer the Member's question, I personally do not think it is a problem with regard to individual cases. I do not think any of us would want to have the responsibility for dealing with the grievances of workers who may feel they were not dealt with properly by the system. I just do not know how that actually could really work. You may want to examine the appeals process and its adequacy, but I believe that should be kept separate from the legislature and the political forum in order to have fairness. So I do not think arm's length relationship is a problem with regard to cases, and I believe that as far as policy issues, we should not consider the legislation cast in stone, especially legislation that is 15 years old. It is probably out of date; it is probably in need of a major overhaul; and this is where your committee should not hesitate to reflect the public will and provide advice to the government about dealing with those broader policy issues.

So that is the root, Mr. Chairman, and I do not think it is something that should be seen as restrictive. Legislation can be changed, and I frankly would not be surprised if that was not a recommendation that came out of your work this week, that there are at least areas that you will uncover that may be out of date and may be out of step with the current situation in the Territories, and I want to tell you that I am open to responding to your recommendations on those broader policy issues. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you. Mr. Lewis.

#### Safety

**MR. LEWIS:** Mr. Chairman, the issue of safety is always a controversial one, and the government does have within one of its departments the responsibility for safety education, inspections, and so on. There has been discussion for some time now about the possible transfer of that responsibility to the Workers' Compensation Board, since it would be very much in the interests of the board to promote safety. I am not saying that the government does not have it. What I am saying is that since the board obviously is going to deal with people who are victims of accidents, then they obviously would have a very, very exclusive kind of interest in this. That is their main concern.

So my question to the Minister is, what consideration has been given to delegating this responsibility to the board, and at what level? Would this include just education programs, or would it include some kind of inspection function as well? Thank you.

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Thank you, Mr. Chairman. This issue was dealt with by the fairly comprehensive review of the Workers' Compensation Review Panel in 1989, and just glancing at appendix G, I see that point 19, which responds to a recommendation that the Workers' Compensation Board should take action to reduce the rate and severity of accidents, notes that the board does have the authority under the act to take on a work site safety education role. Appendix G further notes, point 19, that the board has committed to exercise this authority, and has hired a manager of occupational health and safety education and budgeted funds.

Mr. Chairman, this recommendation has been implemented and the board has a program in place. It does not encompass the whole safety function, in that the Department of Safety and Public Services, which I am also responsible for, has a mandate to enforce the Safety Act and to police and monitor practices in the work place, and to inspect work places and, if necessary, to take action in unsafe work places. Of course, there is also a Mine Safety Act and an activity within the department specifically focused at the special needs of the mine work place.

So Mr. Chairman, to answer the Member's question, the Workers' Compensation Board, following the recommendations of the 1989 review, has established a safety education function and funded it with moneys from the board, but my department retains responsibility for safety inspections, and I guess prosecutions for unsafe practices. I have had some discussions with the board since my appointment, about ensuring that there is co-operation between the board's safety education activities and the activities of my department. There is a potential, looking at the fact that the question of safety is split with some responsibilities with the board and some with my department, for a lack of co-ordination.

I am determined to see that, since I am responsible for both the board and the department, there is a good working relationship and that co-operation takes place. This is something that your committee may wish to review in the course of its work, but the situation I inherited was that the board had a safety education function funded and established with a manager, and that the government has the responsibility for inspections and enforcement of the Safety Act, so my attitude is that until other changes are made I should act to ensure the maximum degree of co-operation.

In some provinces all safety activities, including inspection, are under the workers' compensation board. In other jurisdictions, I think workers' compensation boards leave that to departments of government, often departments of labour. Here we have, I guess, a little bit of both. As I say, since I have responsibility for both areas, I am in a good position to ensure a co-operative kind of approach.

One area of discussion I have had with the board is, with safety officers in the field throughout the Northwest Territories, we have an ability to deliver safety education programs outside the Yellowknife area, and so I have encouraged my department and the board to take advantage of that field presence, because the Workers' Compensation Board, at least at the moment, does not have the staff to deliver programs in the field. So, in pursuing this spirit of co-operation I have also encouraged my staff in the field to work with the board so that the safety programs will be delivered as widely as possible. Whether it be through the board or through the department is not my concern as much as that the programs be delivered as widely as possible, so that is an example of the sort of co-operative arrangement I have been encouraging to take place.

Frankly, the safety education program is relatively new. I think we are still sorting out some of the working relations. But I am satisfied that Mr. Roberts and Mr. Quirke, the deputy

minister of Safety and Public Services, are working hard at a co-operative approach and that it will be to the mutual benefit of the board and the department and the public, hopefully. Thank you.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

**MR. LEWIS:** Since there are jurisdictions where the whole safety is under the WCB in that jurisdiction, it would seem that since these boards are arm's length and there is no interference and so on, that they have a greater discretion to move if you like, than our own, where you have so many political pressures from all over the place. Does the Minister have any comment to make on that? Sometimes we just do not have a very big economy, so does that put certain constraints on government as it relates to the safety provisions within our jurisdiction, which will not exist say somewhere else where they have a much bigger economy and can maybe take a different approach?

**CHAIRMAN (Mr. Koe):** Mr. Patterson.

**HON. DENNIS PATTERSON:** Mr. Chairman, I think the Member is correct, that putting the enforcement of safety measures under the political arm, if you like, can certainly lead to pressures that may compromise safety. On the other hand, you might hear from representatives of the business community that it is appropriate that rules and regulations be tempered with practical considerations, especially in a jurisdiction like the North where there are unique circumstances that perhaps have to be taken into account in a remote setting and difficult climatic conditions that are sometimes different than an urban, more developed economy.

But I think the Member has raised an important question of policy. I do not have any firm strong opinions on it. I think we could probably go either way. Perhaps it might be easier for the public if this function was dealt with clearly in one window; either the board, which obviously has an interest in reducing assessment rates and reducing its costs by preventing accidents, or in the government, which provides more of a kind of political accountability that some people would like to see.

I cannot really give the Members a strong opinion on which is the correct way to go. Perhaps if we review our legislation, and this may be something your committee will want to consider over the course of its review of the board, this is a question that should be reviewed. I know previous Ministers to myself have had strong views about the appropriateness of the board dealing with these issues. I guess for me, since I inherited a situation where the board had a safety program up and running, my feeling was that I would try to make it work co-operatively with my department, since it was there and there were people in place and a budget. I decided that I would accept the status quo and try to make it work. But I am open to advice from the committee on that point and there may well be strong views coming from the interest groups that you will hear from.

I suppose in times of financial restraint I would have to say that I am happy the board is paying for this program because it is getting harder and harder for me as a Minister in times of financial restraint, to identify the funds for safety programs. I suppose a part of me says I am grateful that the employers, through their assessments, are paying some of these costs because it is not getting any easier to identify these moneys within government. So that is a consideration that has to motivate me as well in times of restraint particularly. From that point of view I would say perhaps more responsibility should be given to the board because they may be in a better position, especially considering their rather healthy financial situation compared with other boards. They may be in a

position to take on more responsibilities, including financial obligations.

I think I am wondering, Mr. Chairman, and maybe thinking out loud here. The short answer is I do not have any firm and hard opinions on this important policy question and I welcome committee's advice in due course. Thank you.

**CHAIRMAN (Mr. Koe):** Jim Antoine.

**MR. ANTOINE:** Thank you, Mr. Chairman. I have some concern here as a Member of the Legislative Assembly. You say the WCB is accountable to the Legislative Assembly as a whole. You also mention a number of things like the WCB has exclusive jurisdiction as to how the act should be interpreted, whether injury, disease, employment-related and so forth. You also interpret the act the way you think it should be interpreted. You have certain powers in WCB, one of them being a kind of quasi-judicial administrative tribunal where a worker gets heard and if the board decides if it is not employment-related and so forth, then that is it, and the worker does not have any other recourse to go to. There are a number of specific areas that I am aware of where a lot of workers in the North do not have any other place to go to, but through the MLA. That is one concern.

#### Emphasis On Funding Versus Services

The other one is just a general overall concern I have about whether, because the WCB interprets the act the way they see fit, I would like to know where the emphasis is in relation to the workers. As an MLA I am involved in the Legislative Assembly to try and provide programs and services to the people I represent. I see my role on this committee as also trying to find out the programs and services that are available to the general public in the NWT. WCB provides a service to workers and I am concerned whether the emphasis of WCB is on trying to protect its funding more than providing the services to the people. I am concerned about that.

In your interpretation of the act, what is more important? What is the policy here or the direction you are going on WCB? Is it trying to protect the funds more than providing the services to the workers that are injured? Mahsi.

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, I think the Member has raised a question that goes to the heart of the responsibilities of the Workers' Compensation Board. I would simply note, in response to the first question, that this is a body that acts like a court, as the Member said, quasi-judicial function. It might be seen that the worker does not have much choice but to accept the rulings of the board.

I know that you are going to be receiving a presentation from the chairman of the appeals committee this week. Mr. Jim Evoy. I think everyone knows that he is active in the labour movement and is presently the head of the NWT Federation of Labour. I would invite you to put that question to him because I think the answer I would give to you is there is a recourse available to the worker which is the appeal process. I believe that it is fair to say that the appeal process is independent and does have powers to overturn and review decisions of an adjudicator.

I also point out that you are going to hear from the workers' advisor. That person is independent of the board and reports to the Minister and that person's job is to assist workers who feel they have been wronged, who feel they need independent assistance. I would also invite you to question that person about whether the present process is fair.

I will mention again that it is not a complete dead end. If there is a feeling, if there is evidence of bias or error in interpreting the act, then there is always a right of appeal to the courts. You have to establish grounds of course, and that would be a rare case. But there is always that right of appeal to the courts.

Mr. Antoine asked whether the act emphasizes the rights of workers enough. I would draw his attention to one section in the act which Mr. Roberts has pointed out to me, section 7(5), which I think establishes a standard of proof. It says that all decisions of the board shall be given according to the justice and merits of the case. The board shall from circumstances of the case, the evidence adduced and medical opinions, draw all reasonable inferences and presumptions in favour of the worker. That may be one example of a provision in legislation which tries to assist the worker, where there may be some doubt.

I would also point out Appendix E. As I understand it, this independent review of what is called client service delivery, which I think means how well the board is looking after workers, is as I understand it, one of the first times in the country there has been a request to do an independent review of basically how well the board is serving workers. I think that report speaks for itself. Obviously there are some recommendations about how things can be improved, but I think that the general finding of the review is that, and I quote from page two, "The NWT is doing a fairly good job of serving the needs of its clients in a vast and diverse geographic territory. Individual workers report an overall level which is not quite so high but it is still within the range of good. Where problem areas do arise the difficulties are procedural problems more often than people problems."

I think this study should go some way to answering the question in a fairly independent way. I do not want to be defensive of the board. I think there is a lot of room for improvement, that is why we are here today and that is why your committee has undertaken its review. I guess all I will say to the Member is that this is a workers' compensation board, the emphasis should be on workers. You need funds to adequately provide compensation to workers, so obviously there has to be a concern about the accident fund and the investment policies and all that. But I think I would answer the Member that the primary emphasis should be the workers. Employers would agree with that, I believe. Their interests are in having workers return to the work place and in preventing accidents.

But I think if you want to explore that important question further, ask those questions of Mr. Evoy, who represents labour on the board and is no shrinking violet; ask Ms. Pagonis who hears from the frustrated workers and has a difficult job; and review this independent review of the services to clients. Then I will be open to your advice about whether there should be more done than is in place now.

I am here to respond to your recommendations and I think with those witnesses you will hear this week and with this report you will have the tools to form your own judgement, rather than relying on me to say everything is fine. Thank you.

**CHAIRMAN (Mr. Koe):** Jeannie.

#### Independence Of The Board

**MRS. MARIE-JEWELL:** There are a couple of comments the Minister made that I am somewhat concerned about. First of all I believe the public review, as I had said earlier, our responsibility to listen to some of the problems that are happening with the Workers' Compensation Board and there

is no doubt a concern with the public on the way the Workers' Compensation Board deals with injured workers.

First of all in the Minister's closing remarks he indicated that the board must continue to make these decisions based on sound financial and management policies when they make their policies, but at the same time recognizing that up until recently the board has had a lot of individuals from the larger communities, some of these policies were not acceptable to the smaller communities; and recognizing that the board is totally independent with no responsibility or the Minister having no recourse of advising the board as to what policies are acceptable to smaller communities and what are not, because of the independence of the board. Is the Minister basically advising this committee that even though there are many concerns on the board and even though he does not want to get into individual concerns that are brought to the board with respect to claims. Is he basically stating that this board should continue to be independent? Even though he is ultimately public responsible through the elected process?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, I think that where there are public concerns and concerns of smaller communities that the Member has in mind, it is my responsibility to deal with those concerns. I think when I was responding to Mr. Lewis, I suggested that there is a very powerful tool available to MLAs and the Minister which is the legislation, which provides the foundation for the policies and the very existence of the board. So if there are problems with the boards policies and with decisions that are unfair to sectors in the NWT, say small communities or classes of workers, then I would like to hear about them. And I think through the legislation we have the tools to deal with those problems. And I am the first to acknowledge that the legislation has basically been unchanged, except for cosmetic changes for the last 15 years. And it is timely that we look at those problems.

I think it is possible to make changes by tacking the legislation, rather than by having the Minister or politicians meddle with the day to day operations of the board. So I think that is the way to tackle it and if the Member or your committee can identify these problems and bring them forward, or if they come forward through submissions from the public this week, then I am certainly very open to making the changes as the basic fundamental level of legislative change, which I think is the biggest hammer that we have and we hold. That is what I am here to respond to, and I think that is the mandate of your committee. I will take your recommendations very seriously on problems that the Member is referring to.

**CHAIRMAN (Mr. Koe):** Bryan, did you want to add something?

**MR. ROBERTS:** Thank you, Mr. Chairman. This is part of our ongoing development for policy. It is certainly our intention as we consider new policies or consider amending policies, is to solicit input from all our stakeholders from the regions within the Territories. And then once we have a policy drafted it would be sent out to the interested parties for their comment and input to see what problems may be developing and what changes would be needed to rectify that, prior to the policy being implemented.

**CHAIRMAN (Mr. Koe):** Thank you. Jeannie.

#### Legislative Review

**MRS. MARIE-JEWELL:** There is no doubt that there is a process for public input but it is very, very limited. When you

look at trying to get the viewpoints of trappers or carvers or people that do crafts, there is very limited opportunity for them to place their opinions on your policy development process. I am not disputing in regard to the policy development. I just want to make a point. The Minister on one hand is basically saying the board should be totally independent. My concern is the board is totally independent where there is no process for any type of concerns to be addressed.

If the board wants to tell the Minister, "No, we do not have to listen to you. We have exclusive jurisdiction as a board to develop whatever we see fit," that is their total prerogative and they can do that.

The concern that I have, and I have advised even in the House, is the fact that if the Minister realizes that legislation is our alternative, and we all recognize legislation is our option to look at solutions – and I am sure that recommendations for changes to legislation will come out as a result of these public hearings. Is the Minister considering any legislation now to make changes to the act that does come under his responsibility, prior to this committee coming forth with legislation, or has he just waited for this committee to do the public review and then is going to consider totality all legislation changes at once?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, I think the Member does make a good point, that public consultation processes can be limited and perhaps with the most disadvantages members of our society they can be left out of public processes that rely on written submissions and documents and the like. So I do believe that we have to re-examine how policies are made and how it can be changed. I want to say that this, I think, is an important role of MLAs, who have the responsibility for speaking up, particularly for those who may not be able to represent their own case for one reason or another. I think I am accountable to the Legislature for policies.

I do not want to give the Member the impression that I feel that the board is immune from ministerial direction. There are provisions in the Legislative Assembly and the Executive Council Act which can provide for the Minister to give policy direction to a board. I think that the present legislation may be ambiguous about the extent to which the Legislative Assembly and Executive Council Act can be used to interfere with areas that are quite carefully carved out as areas of exclusive jurisdiction of the board. But I think that there are powers that a Minister has and perhaps a legislative review should examine and clarify that issue where there are ambiguities, because I believe it is not as clear as it might be. Perhaps that should be clarified.

To answer the Member's question about a legislative review, I had some discussions with you, Mr. Chairman, about the need to review the Workers' Compensation Act when I first met with your committee earlier this year. At that time I was talking with the board and with some of my advisors about the desirability of an initiating a legislative review. I think that a legislative review is overdue. It was recommended in a 1989 report and it has not been undertaken.

When I heard that your committee was going to make the Workers' Compensation Board a priority, I guess I did decide that I should work co-operatively with the committee and should perhaps await your recommendations on how to proceed with a legislative review. Some work has been done on that with the board and by my office. I have, for example, met with the chairman of the Yukon Compensation Boards and received quite a lot of material on the comprehensive review of their legislation that was just completed. I think your staff

may in fact be aware of that work. My feeling is that with a neighbouring jurisdiction which has at least some similarities with the NWT, we may be able to avoid reinventing the wheel in some sense, by taking advantage of a very current review that was done of their act.

I also was impressed with the process that was followed in Yukon, which I think we might want to examine carefully as perhaps a useful model for a legislative review that we might want to undertake here.

But to answer the Member's question, I have not actually initiated any legislative review. I have discussed it with the board. The board has indicated their willingness to fund much of the costs of a legislative review, but since your committee is going to be examining this issue and obviously hearing comments on the legislation and its adequacy or inadequacy, I felt that it was appropriate not to initiate anything until I have the benefit of your recommendations on that point.

So I hope that the board and myself, as Minister, can work cooperatively with your committee in improving the act as a result of your work. I think one of the changes we should put in the act is a mandatory review built right into the legislation, and we probably would not be in the situation we are in right now where we have basically a 15 year old act. That is something I think should be done almost routinely, at least every four or five years.

To answer the Member's question, I have not initiated anything but I am open to your advice, and I think such a review is probably overdue. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you. Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, there is one section of the Workers' Compensation Act that I would like to bring to the Minister's attention. It is under part 1, section 7, and it basically indicates: subject to section 7(3), the board has exclusive jurisdiction to examine, inquire into, hear, and determine all matters and questions arising under this act. The actions or decision of the board on them is final and conclusive, and it is not open to question or review in any court, and except where there has been a denial of natural justice or an excess of jurisdiction exercised by the board, no proceedings by or before the board shall be restrained by injunction, prohibition or other process or proceedings in any court, or be removable or otherwise into any court, nor shall any action be maintained or brought against the board in respect to any act or decision done or made by the board in the honest belief that it was within the board's jurisdiction.

The reason why I read this section, Mr. Chairman, was to make the Minister aware - and I am sure he is - there is no executive council act, there is no financial administration act, that gives you as a Minister, any authority over that board once it is appointed. I do not know whether the Minister is aware of that and this is why I had indicated that there is probably need for legislative changes. But that is one of the concerns with respect to the Assembly, or even many Members of the Assembly. Once that board is appointed they have total authority over that act. No Minister of the government can tell them what to do. So the Minister cannot tell me any different either.

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** I will note the Member's comments and defer to her experience, her longer experience than I as Minister. Since this is a problem it is obviously something that should be looked at in a legislative review. I just want to say that in my opinion, when it comes to

adjudicating questions like the degree of impairment, the amount of compensation, issues like lump sum payments, and injury specific questions, I am not sure that any Member of this Legislature or any Minister wants to be given the authority to interfere in such highly technical matters. I do not think we would ever be able to hire enough accountants, actuaries, physicians, to adequately review the decisions of the Workers' Compensation Board on specific worker-injury claims.

However, there are many other policy issues that obviously, there is a very large public interest. It is those areas that I think the Member is probably most concerned about. I am open to examining the adequacy of the act in that regard, comparing it with the provisions of the Legislative Assembly and Executive Council Act and the Financial Administration Act, and where the provisions are wanting we should clarify ambiguities and perhaps strengthen provisions in those acts so that the board is more accountable to the Legislature in those policy areas. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you. Jeannie.

#### Jurisdiction Over The Board

**MRS. MARIE-JEWELL:** I just want to point out one more item, Mr. Chairman. The point of the Minister rebutting and basically saying, "I do not think an MLA or a Minister wants to have this type of authority to interfere," I do not believe that is the concern I am implying. I am not implying that a Minister or MLA should be able to interfere into the process. But I do want the Minister to understand that there is currently, because of the board having total jurisdiction in the act and the Minister having no authority to advise the board differently, in the event that a policy is developed that is not acceptable to the people of the North, that there is no other alternative for a check and balance when this policy is developed. And generally in our system there are forms of checks and balances on development whether or a policy or decisions that are made. And currently there is none and I think that is one of the major concerns in respect to creation of criticism toward the Workers' Compensation Board.

That is the point and that is why I am advising the Minister in respect to policy development or who has jurisdiction over the board. The board can develop a policy with no check and balance on determining on whether that policy is acceptable.

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, I accept the Member's experience and strong views on that point. I would just say that quite apart from the legal constraints that a Minister may find preventing influencing the board from developing appropriate policies, it has been my determination to develop a working relationship with the board chairman and with the board of directors of the Workers' Compensation Board, such that these kinds of problems and conflicts do not arise.

So for example, on the question of hunter coverage, which I know is a concern to many Members of the Legislature, I early on met with the board and chairman, the previous chairman and the present chairman, and pointed out that this is a serious area of public concern and that I wanted something done about it. So I think even though there may be legal barriers to accountability, until we change the act and examine those legal issues, it should be possible to develop solutions to problems as they arise, by a good working relationship.

And I am sure Members of this committee will appreciate that the members of the board are appointed by the Minister and they should be responsive to the Minister. I do not say responsible, because I realize there is a large legal authority

that provides them with independence, but there is no reason they cannot be responsive.

So my attitude is that until there is a comprehensive review in place, I am going to do everything in my power to ensure that the chairman and members of the board are at least responsive to issues that may arise. And so far I may say that I have not encountered a situation where I have personally have had problems encouraging the board to deal with political issues and concerns that have been brought to me. That is not to say that such a conflict could not arise and has not arisen in the past. But I will say that so far in my short tenure, I have enjoyed a good co-operative working relationship with the board, such that these legal issues have not prevented a problem solving approach to be taken.

But I agree that it is an important issue that should be examined and it may be that the legislation needs to provide more accountability than it does now. And I am quite open to seeing changes take place. In the meantime I am going to try and cultivate a good working relationship with the board so that these legal issues need not become a problem. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Minister. A point of clarification in terms of the legislative review. For the record, this committee is not undertaking a major review at this time. What we are doing is a desk paper review of the act for purposes of these meetings. We, in turn, are also waiting for the results of the hearings this week and then we will reassess what needs to be done. We assume there will be major focal points that we have to address quickly and by Friday or Thursday hopefully we will have these and then we can commission whatever – working of course in cooperation with the board and looking at the legislation. That is a big exercise. So I think we want to take it on in isolation of what you guys are doing.

The other issue we are discussing, accountability and responsibility, and I am sure you are all aware that most of your standing committees are very concerned of accountability and responsibility by public servants. We want to know what our departments are doing, where public money is being spent and of course this committee is concerned about efficiency, effectiveness, economy.

The Minister indicated that it is important for the Legislature to make sure that policies of the board reflects the will of the people of the NWT and the one way we had to do it is through the act. Remember other Members have raised the difficulty with existing legislation. Maybe I could ask the question of the chairman of the board, from the board's perspective, what actions do you see the Minister or Members of the Legislative Assembly taking in influencing internal policies.

#### **Minister And Members Influencing Internal Policies**

**MR. ROBERTS:** Thank you, Mr. Chairman. I will go back and reiterate the need for legislative review and I also believe very strongly that there should be a clause in the act for a mandatory review, at whatever time is acceptable by the Assembly. It is the Legislative Assembly, in designing and approving an act that set the intent. Anytime the board is to interpret the act, they must go back to what the Legislature intended.

I think one of the problems that has come up is that it was 15 years ago, the last time, that that intent was established. Many, many circumstances have changed. The compensation system has changed, the world has changed, people are much more aware of their rights. I can only say how important it is, from my point of view anyway, to have a

legislative review so that a new act is established and then the board of directors can carry that out with the intent of the will of the people of the NWT.

**CHAIRMAN (Mr. Koe):** Mr. Arvaluk.

**MR. ARVALUK:** I like what Mrs. Marie-Jewell was elaborating on, that is I strongly believe that the legislation must create a suitable act for WCB and set principles or policies for the Workers' Compensation Board to follow. Since the WCB is a public service, then ultimately the Legislative Assembly has a responsibility to ensure that the act and the policies arising from the act or regulations is abided by the WCB. I think we have to keep that in mind.

**CHAIRMAN (Mr. Koe):** Thank you very much. Our time has run out and these gentlemen are scheduled to appear before us on Wednesday afternoon, after we have heard from the majority of people who have been asked to make a presentation. Any last comments? Okay we will recess until 7:00 p.m. tonight.

—SHORT RECESS

The committee will come back to order. We are in the process of hearing presentations relating to the Workers' Compensation Board, and before we start I would just like to advise anyone in the public, or if you people who are here know of anyone that wants to make presentations to this committee, there are forms available out on the front desk. If anybody wants to make a presentation, ask them to fill one of these out and give it to one of our clerks, and we will try to schedule them in during the next couple of days. At this time I would like to welcome Kathe Pagonis, who is the workers' advisor. Kathe, welcome.

#### **Presentation By Ms. Kathe Pagonis Workers' Advisor**

**MS. PAGONIS:** Good evening, honourable Members and ladies and gentlemen. The position of the workers' advisor was created in November 1989, and I was appointed as the first workers' advisor in the Northwest Territories. The position has been challenging and rewarding. The rewards of my job are seeing a smile on the injured worker's face after winning an appeal, hearing the relief in the injured worker's voice over the telephone, and hearing positive feedback when, for months, it was only negative. Injured workers feel there is no tomorrow to better themselves, as today is difficult enough. Over the next few days, you will be listening to the pain of injured workers. Listen closely, as this pain is genuine.

There is a real need for the workers' advisor position. I have compiled statistics on the number of clients using my services, the activities of the workers' advisor, and compared statistics for 1990 and 1991. I have attached two bar graphs to illustrate this information in my submission that should be in front of you. As workers' advisor, I have attended workers' advisor conferences in British Columbia. This was an opportunity for me to meet with other workers' advisors from across Canada and share mutual concerns. For your information, I have attached a brief data sheet on workers' advisors across Canada. In my presentation I will be discussing the role of the workers' advisor, recommendations of the workers' advisor, and concerns of the injured workers.

#### **Role Of The Workers' Advisor**

To the role of the workers' advisor, the mandate of the workers' advisor position is not as focused as it could be. I would like to share with you the actual role of the workers' advisor as it has developed.

The workers' advisor position was created in November of

1989 to assist the injured worker, their dependants and representatives, with difficulties encountered with the bureaucracy and structures of the Workers' Compensation Board.

Some injured workers, because of cultural differences, limited education and poor communication skills, feel intimidated when dealing with the Workers' Compensation Board. In many cases, the injured worker experiences problems with their claim due to incomplete documentation. They do not understand the importance of the necessary paper work. Often injured workers contact the workers' advisor for an explanation on letters and verbal instructions received from WCB. Considerable time and effort is spent in translating Workers' Compensation Board correspondence and instructions into plain English.

The transition from a healthy, able worker to an injured worker receiving WCB benefits is a very difficult road for many individuals. Over the past two and a half years as workers' advisor, I have dealt with this transition in many ways. Clients have called feeling hopeless, helpless and hapless, and have spoken of suicide; others have spoken of serious family problems which have occurred after the accident, and others have expressed fear and anxiety over occupational changes. Countless hours have been spent in listening and empathizing with these individuals. I have developed and maintained a network of professionals who can assist the injured worker during these troubled times.

At times the injured worker may disagree with a doctor's opinion regarding possible surgery, treatment, degree of disability and availability to return to work. As workers' advisor, I discuss alternatives with the injured worker, such as obtaining a second medical opinion to ensure WCB benefits continue.

Specific compensable injuries, such as white hand and hearing loss, happen over a long period of time. Injured workers may have worked in other provinces during their employment history. In these cases, if compensation is awarded, only a percentage is by the Northwest Territories WCB. The injured worker must then apply to the other WCBs for the remainder. At this time the injured worker falls between the cracks and becomes a victim of the system, and during these times I use the service of other workers' advisors to assist the injured worker in obtaining information across Canada.

On occasion, the injured worker and WCB adjudicators may have difficulties communicating. In these instances, I act as a mediator, clarifying the assisting the concerns of both parties.

Many workers who were injured in the Northwest Territories and receive benefits from WCB, now reside in southern Canada. Difficulties arise from time to time and these injured workers depend on the workers' advisor to ensure their claim continues in a timely manner.

Injured workers' daily living stresses are extreme. Coping with minor tasks, such as putting on clothing, becomes difficult if not possible. On bad days, the injured worker needs a shoulder to cry on, someone who understands how hard life has become. The workers' advisor is that shoulder.

At times, the injured workers disagree with WCB's final decisions. The workers' advisor assists the injured worker with the appeal by reviewing the claimant's file, suggests a plan of action, and involves the injured worker in the appeal process for presentation.

Injured workers who feel frustrated and confused with WCB's

system, often contact their MLAs for help in dealing with their situation. The workers' advisor has received referrals from MLAs over the past years. The relationship between the workers advisor and the MLAs has been open and honest, as both parties have the concern of the injured worker at heart. There have been no problems in this relationship.

Since my appointment in November, 1989, three MLAs have served as Minister of WCB: Hon. Stephen Kakfwi, Hon. Jeannie Marie-Jewell, and presently the Hon. Dennis Patterson. I have had an open relationship with all three Ministers.

Currently the workers' advisor reports directly to the Minister of WCB. This reporting system must remain intact. To place the position with another department would undermine the spirit and attitude of the position and could cause the position to be "lost" in future government changes.

#### **Workers' Advisor Recommendations**

The role of the workers advisor has been satisfying and fulfilling. However, I would like to address some issues which occur on a regular basis in my job. Over the past two and a half years, I have provided quality service to the injured worker, and from time to time I have experienced road blocks in the performance of my duties. I would like to share with you four issues I have experienced, and my recommendations to eliminate these problems.

#### **Letter Of Authorization**

The first one, on page 5, is the letter of authorization. The workers' advisor is required to have a signed letter of authorization from the client before reviewing WCB client files.

This process is satisfactory for Yellowknife residents; however, I have injured workers all across Canada and it just causes a lot of problems because of the vast distance. It is crucial that the workers' advisor have access to the worker's file with a minimum of restriction. The present policy causes delays for the injured worker's claim and prevents the workers' advisor from completing her duties effectively.

**Recommendations:** My recommendations on that are: (1) The workers' advisor signs a statutory document declaring the client has given the workers' advisor permission to review their WCB files, and: (2) A new claim file policy be developed which reflects "northern realities" of distance and includes provisions for a signed declaration from the workers' advisor.

#### **Procedures Related To The Review Of WCB Client Files**

The second issue is procedures related to the review of WCB client files. First of all, the workers' advisor is required to give advance notice before reviewing files. I do not have a problem with that at all; however, the workers' advisor must wait in the reception area, then be escorted by WCB staff members to an appropriate meeting room, and then have a staff member sit in attendance while I am reviewing the file. I find this treatment humiliating and it demonstrates a lack of respect and trust for the workers' advisor.

I have signed an oath of confidentiality with the Government of the Northwest Territories, and I feel I should have access to the claimants' files to provide quality service to the injured worker.

**Recommendations:** My recommendations are: (1) The workers' advisor is not an employee of the government nor of WCB and is not included in the WCB Act. I recommend the workers' advisor position be incorporated into the act to ensure access to files, and: (2) That the workers' advisor be

treated with respect and trust and be allowed to review client files without supervision in the meeting room.

#### Working Relationship With Workers' Compensation Board

When an injured worker disagrees with an adjudicator's decision and requests the workers' advisor's assistance, the workers' advisor is only allowed to speak to the manager of the claims department, not the adjudicator who has made the decision. This process creates unnecessary problems, repetition, and wastes a lot of valuable time.

**Recommendation:** My recommendation is, I should be allowed to go directly to the adjudicator who has made the decision, to discuss the problems of the injured worker.

The second issue here is, any changes regarding WCB policies and procedures should be forwarded to the office of the workers' advisor in a timely fashion. Currently, the workers' advisor finds out about these changes in a hit or miss manner.

**Recommendation:** My recommendation would be to have these procedures and policies forwarded to the workers' advisor in a timely manner.

#### Workload Of Workers' Advisor

The workload of the workers' advisor has increased steadily in the past two and a half years.

The day to day work of the workers' advisor is extremely diverse, from answering a routine question about WCB to dealing with an injured worker thinking about suicide. These drastic changes in focus are stressful. Support within the workplace is essential to prevent employee burnout.

As the workers' advisor works in complete isolation, there is not an opportunity to debrief from crisis calls, or an opportunity to plan, strategize or discuss client cases and appeals.

If I am absent from the office due to illness, vacation or travel, the workload does not diminish. It stockpiles and is attended to upon my return.

There is little or no opportunity for career development.

**Recommendation:** A second workers' advisor position should be created immediately to ensure quality of service to the injured worker.

#### Injured Workers' Concerns

Now I will go into seven of the injured workers' concerns. As workers' advisor, I have listened to these concerns and frustrations of injured workers in their dealings with WCB. Over the past two and a half years, seven consistent issues have been brought to my attention. I would like to take this opportunity to share these seven concerns and recommendations with you. Removing these road blocks will give the injured worker some hope.

#### The Cumbersome WCB System

The first one is the cumbersome WCB system. When an injured worker first applies for WCB benefits, the entire system, its benefits and procedures are a mystery. It is like giving a person a vault without the combination. Information that is available is written in hundred dollar words and almost requires a masters in English to understand. Many claimants who use my services are confused about what they are entitled to and what information they must provide WCB.

Each department within WCB keeps its secrets behind closed doors and inspires fear in the injured worker when his claim is transferred within departments.

**Recommendation:** I recommend the development of a simple pamphlet. This pamphlet must be written in plain English. This pamphlet should include step by step instructions on how to complete an application, specific information on each department, and a list of benefits the injured worker is entitled to. Information on the workers' advisor and the appeal process should also be included in these pamphlets.

#### Re-examination Of A Decision

The claims adjudicator makes decisions regarding the initial claim. If a claim is denied, it then would go to the manager for re-examination for a decision. On November 30, 1990, this process was eliminated. The next option open to the injured worker is the first level of appeal. Once at the appeal level, the injured worker suffers unduly because of excessive time delays.

**Recommendation:** My recommendation is to reinstate the re-examination of the manager's decision policy to allow the injured worker to have his claim reassessed prior to going to appeal.

#### Appeal Process

Over the past week or so, the appeal process has been a concern for a lot of injured workers.

The first level of appeal consists of a review committee made up of two members appointed by the board of directors. The review committee members carry out an in depth review of the claimant's file. Then the review committee, if they find no justification for changing the previous decision, the injured worker may pursue a final level of appeal. The claimant does not have an opportunity to be present at this first level of appeal. It is documentary submission only. I feel it is essential for the injured worker to be present at the first level of appeal. Denying the injured worker an opportunity to be present is denying the worker a fair appeal.

**Recommendation:** The worker should be allowed to appear at the first level of appeal.

#### Rehabilitation Department

Injured workers must change their occupations when their disability interferes with their ability to perform. Change in occupation causes fear and anxiety for the injured worker. There is not a qualified career counsellor presently employed in the Workers' Compensation Board rehabilitation department, to assist the worker in this transition.

**Recommendation:** A qualified career counsellor should be hired for WCB rehabilitation department.

Presently I have worked with employment and immigration for eight years before this position and I have assisted many injured workers on their goals and career counselling and have referred them to people I know can help them. I do not mind doing that in my position, but I feel that it is important that WCB has someone to do this job.

#### WCB Legal Counsel

WCB has awarded its contract for legal services to three prestigious Yellowknife law firms. If the injured worker requires fair and equal representation, there is a conflict of interest with these firms. This system of awarding WCB legal contracts to three firms has limited the number of law firms



available to the injured worker.

**Recommendation:** WCB must retain one law firm to represent its interests.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** The words are clear but you in fact define the three firms, limits the number of law firms available, how does limiting to one firm make it better? Because that is less than three. What does this mean?

**CHAIRMAN (Mr. Koe):** My understanding is the WCB has on retainer three law firms in town. Therefore if a worker requires a lawyer, he or she cannot go to any one of those three firms, they go to whoever is left, who is nobody.

**MR. LEWIS:** Okay, thank you.

**YMIR**

**MS. PAGONIS:** YMIR is calculated at a maximum of \$40,000. This level of compensation is not adequate to meet the cost of living in the North and is forcing a lot of injured workers to relocate to southern Canada.

**Recommendation:** The YMIR must be increased to reflect the cost of living in the NWT and to ensure injured workers do not suffer further financial difficulties.

#### Lump Sum Section 41(3)

I have written in the book the act and the policy that you can read. Presently this policy is dealt with in a rigid manner with no exceptions. The request for lump sum settlements should be assessed on individual merits and not as a general ruling. A lot of the people feel that a person with a minor disability, under the 10 per cent, they have access to receive their lump sum payout and they have access to become financially ahead, and a person with a major disability of 10 per cent and over, does not have the same opportunity. So it is basically discriminating and a lot of the injured workers do not feel this policy is a fair one and they should really look into the concerns of the injured worker and try to have some type of balance so everyone will be happy.

The impact of the lump sum policy affects injured workers lives. It is for this reason I would encourage you to consider the policy on a case by case basis with emphasis on fairness and compassion toward the injured worker. On occasion I have met with clients whose requests for lump sum settlements are justifiable. These legitimate requests are currently being denied. When a worker's disability is over 10 per cent and his pension is over \$40,000, the workers' lump sum request will automatically be denied and the worker must use the appeal process.

**Recommendation:** The act allows lump sum settlements, however the policy does not. The policy should be corrected by submitting an amendment to the policy which states: "Each case should be taken on its own merits." With this amendment the WCB adjudicator will allow individual settlements on a case by case basis, not as a general ruling.

I hope this information I provided tonight will be helpful in your review of the Workers' Compensation Board. I thank you for this wonderful opportunity. In closing, may I leave you with a thought: We must remember the very first work in "Workers' Compensation Board" is "worker". WCB must now become worker focused, not investment focused. Are there any questions?

**CHAIRMAN (Mr. Koe):** Thank you very much, Kathe. It is

well document and I think the issues are very clear. The floor is open. Brian.

**MR. LEWIS:** On the issue of lump sum payments. It says here the act allows lump sum settlements, however the policy does not. Is Kathe saying then that although there is a practice whereby there is a limit placed on the amount of money that can be paid as lump sum, this is not written down as a policy anywhere? Because from what I gather here this is just something that is done but there is no policy that governs it.

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** There is a policy regarding this. I believe it was 1989 they did give out lump sums to people who asked, if there was a sound investment of some kind. But I believe it is changed and it has become so rigid that if you are at 11 per cent, there is no possible way you can get a lump sum unless you appeal it. And even going through the appeal process, you have to have a pretty sound investment or pretty sound ideas before they will even say yes or no.

**MR. LEWIS:** It says, "The act allows lump sum settlements, however the policy does not." But from what I gather the policy does allow lump sum settlements except it is limited and restricted. That is what is meant. Okay.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** How is the WCB given by legislation a legal option to decided which route to grant compensation, whether it is lump sum or on the breakdown basis. Where is the legislation that allows them to decide that as a board.

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** I am not sure. Save that one for the appeal tribunal.

**CHAIRMAN (Mr. Koe):** Would the committee Members try and ask questions of the representative here and then other technical ones we can get back to the board members.

**MR. ARVALUK:** Thank you, Mr. Chairman. I will try to keep that in mind. I would like to get an interpretation from the workers' advisor as to how she understands why she thinks which way the WCB is given a legal responsibility to decide on individual injured workers.

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** On page 15 the board may direct that a lump sum that it considers to be equivalent of the periodic payment, shall be paid to the worker instead of making the periodic payments. So the board is saying that they will give a lump sum. A lot of the injured workers only want partial pay outs. They want maybe \$20,000. They do not want their full lump sum. If their disability is over that 10 per cent, they cannot.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** I think we have to remember we will have to ask that specific question because if there is legislation respecting WCB then we will probably want to have specific guidelines authorizing WCB on page 15.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** I think this is where some of the problems begin. Even though legislation allows for things like this, it is up to the discretion of the board as to how the

policy is to be developed. I think that the concern that I expressed this afternoon, as to no process in regard to policy development is made available to injured workers or to the public besides the board members. This is where some of the problems are created, when they are developed with some rigid guidelines and no discretionary allowance being made.

But I did want to make a comment that I find this presentation very plain and basically indicates many of the concerns that have been expressed to the MLAs and to the Ministers. These are some of the fundamental concerns that cause a lot of criticism toward the Workers' Compensation Board, that it is not focused toward the worker but a lot toward investment. It somewhat reflects either on their mandate or their responsibilities that they seem to take on.

So I did want to thank the workers' advisor for the presentation. I think it is very clear to many of us and to the public and I think it is a very well documented presentation in very plain language. So it is a job well done.

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** I put a lot of hard work into this report and I thank you for reading it. It was basically meant to be in plain English, like the pamphlet should be.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** In the old Workers' Compensation Board, before the current regime got in, there was the ability of the board to make those kinds of decisions. There was no policy that said whatever the 10 per cent was. It was individually adjudicated by the board of directors. So this policy, if it has changed and it if it is a detriment or an asset or liability, depending on how you view it, it came under the current regime.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** Thank you, Mr. Chairman. I would like to thank the workers' advisor for her presentation. It is very good information for me. I have not been involved with WCB in the past, except for paying large sums of money in different corporations I have been involved.

—Laughter

There is one area you mentioned, can you maybe clarify, you said that your mandate in your position is not as focused as it could be. I think the role of the workers' advisor is very necessary and I think you have done a lot of work here. I just want to know what you meant by that.

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** It basically was just about eight or nine lines. When the position was created it was sort of a pilot project and they basically assist the injured worker and help through the appeal process and travel in the northern communities and drop pamphlets off at the hospital and things like that. But I do not think they realized there was a demand for this position at that time and I have not had a chance to do any travelling. I have gone to Fort Smith, that was about the extent of my travels. I am really busy in this position and I do not have that opportunity to cover the travelling aspect and that seemed to be, they thought, was most of the position.

To assist the injured worker, you are not just dealing with the injured worker, you are dealing with the family. You are dealing with the children. You are dealing with them going through depressions and anger. At WCB they should have a display of pamphlets of how to deal with anger, how to deal with depression, so that the injured worker and the families

can go in there and have some direction on where to go when they are dealing with their traumas. It is a very vague mandate and it has to be a little deeper, because I do not just do that. I deal with the whole family.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** Thank you Kathe. Can you tell me at what stage in the process you get involved?

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** Just when they have the accident. They do not know what to do. They are afraid, they are scared, they have never been on WCB. So I take their hand right through the whole system and I explain to them right from the beginning to the end. At times when they are in the adjudication area, the claims area, they are transferred to another department. There is a great deal of fear there. So I have to go through each process with them.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** I would like to know if there are personnel in the WCB itself to do that kind of work. If there is, why are they not providing that service?

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** You have to understand they have an extremely heavy workload and sometimes they do explain to them that they are going through this, they will send them a letter. But a lot of the time the injured worker has limited education, does not understand what is going on, feels he is going to be cut off and then you are talking about finances and how is he going to live and how is he going to eat.

I am really down to earth with them. I tell them this is what they are doing. Do not get upset and they have to go through this. I just go through it in a very down to earth manner.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** In the eight years that I sat on the board of directors of the WCB one of my continuing frustrations was the inability for them to see beyond organized labour and large industry. The larger industries are generally represented well through their union people, et cetera. I am wondering if you have had any experience in the outlying communities where there are people who are also covered by WCB and do not have the expertise or professionalism or the organized groups to represent them. With all due respect I recognize there is a large employee component in the larger centres, but there are a great deal of people out there, aboriginal people, people in the smaller communities, non-aboriginal people. I am wondering if you had any experience with people being concerned about the WCB?

#### **Workers' Advisor Travelling To Smaller Communities**

Within the mandate of your job, have you been given any instructions — you should travel into the communities and talk to people. I sure as hell could not get the WCB to even travel, unless it were Calgary, Vancouver — there was no more Whale Cove, more Iqaluit, Grise Fiord. Is there any mandate whatsoever in your job to travel outside the large centres?

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** That is part of my job to travel to the communities. I have requested a few times and because my position was under review, should it go permanent, contract,

with the government, what department should it go with. We were just sort of waiting for the review to be finished to go up to the northern communities.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** It is fine to say you are waiting, but are you telling me that is there anything within your mandate and your discussions with the board that says part of your responsibility, while it is recognized there are larger concerns in the larger communities with organized labour, that you have to get out there and talk to people. Let us say the hunters and trappers for example.

I have one guy in Rankin Inlet who is 64 years old, a unilingual Inuit, that is desperately looking for someone to go and talk to him and I could not even get the chairman to go and talk to it. He sent me forms in English with his card attached to it. It was very rewarding to know he was concerned about his interest. I am wondering if you are concerned about their interest.

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** At times I call them outreach workers, but in the different communities I talk to outreach workers and try to assist them in any way that I can. The Hunters' and Trappers' Act is a bit big right now and I know it is being reviewed but I have gone to the different outreach workers in the communities and discussed it with them, because I speak English and do not speak their language I use those services in the communities.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Kathe, I am going to put you on the spot for a reason. Where have you travelled to outside of Fort Smith, Yellowknife, Hay River? What small communities?

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** I have not.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Within your budget is there any discussion that relates to getting outside of the centre and going to talk to the small communities, where they have injured workers the same as the larger communities, where they do not have organized labour to represent their interest? Is there anything in your job that says that is part of your mandate and there is a budget for it?

**CHAIRMAN (Mr. Koe):** Kathe.

**MS. PAGONIS:** It does say it is part of my mandate but I have not seen the budget for it.

**CHAIRMAN (Mr. Koe):** Under what terms and conditions are you employed? Are you on a contract or a permanent employee of the board or an employee of the government, a daily rate or weekly rate or what?

**MS. PAGONIS:** Presently it is on a contract basis and the position is being reviewed right now with the Department of Personnel. They are going to be putting it with a department, I am not sure which one. They mentioned they were going to put it as a permanent, full time, with benefits. But that is all I know. I have sort of been left in the dark.

**CHAIRMAN (Mr. Koe):** What is your current contract for? Six months or one week? Or do you have one?

**MS. PAGONIS:** No I do not.

**CHAIRMAN (Mr. Koe):** Who do you report to?

**MS. PAGONIS:** I report to the Minister of WCB.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** When I was first elected in 1987, the vast majority of the things I had to deal with had to do with WCB. I felt very uncomfortable trying to deal with something that is supposed to be at arm's length from the government. But I did go over the WCB on many occasions and everybody felt awkward. The people there felt awkward and I felt awkward. And I was very happy to find that this appointment was made and I think it has been a very valuable one. It has certainly taken a lot of pressure from elected people who really are not quite sure how they should handle stuff like that. So I think it has been a very valuable development and I hope to see it strengthened.

**CHAIRMAN (Mr. Koe):** Any other comments. Kathe, I would like to thank you for your well-prepared presentation, your frankness. We will seriously consider the recommendations you made.

**MS. PAGONIS:** Thank you very much for your time and all the best in the next few days.

**CHAIRMAN (Mr. Koe):** Next we will be talking to the WCB appeal tribunal. We will take a 10 minute coffee break.

--SHORT RECESS

I would like to welcome Mr. Jim Evoy, who is the chairman of the WCB appeal tribunal. Jim, if you do not mind, I would like you to introduce your team and go ahead with your presentation.

**MR. EVOY:** Thank you, Mr. Chairman, and good evening ladies and gentlemen. This evening we are here, at the bequest of the communication of April 24, written to the chairman of the Workers' Compensation Board, asking the appeals tribunal representatives to make themselves available this evening. We certainly look forward to this exchange of thoughts and ideas with great enthusiasm.

With me this evening, on my left is counsel to the tribunal, Mr. John Bayly. I am sure most of you know John. On my right is the appeals registrar, Ms. Lynne Green. She works at the WCB, and during our opening comments Ms. Green will give you a small summary of some of the duties that her job entails. Should I proceed?

**CHAIRMAN (Mr. Koe):** Go ahead.

**Presentation By Mr. Jim Evoy, WCB Appeals Tribunal**

**MR. EVOY:** I am sorry I do not have anything to hand out but I am sure you can bear with me. The appeals tribunal came into being by legislation on April 11, 1990. It functions as a body to hear appeals that are brought before it under the Workers' Compensation Act. The purpose is to provide the final opportunity for workers and employers to have their appeals heard.

I might digress briefly and tell you that prior to that date, appeals were heard by the boards of directors or the corporate board, which was sometimes 11 men in suits rendering decisions in half an hour to an hour - in jeans too. Prior to late 1987, the first level of appeal, which is a claims review, were actually non-existent, although the act did cover it. So in essence what the tribunal replaced was the board of

directors hearing the appeals.

Appeals arise from the review committee, which is the first level of objection in the NWT. The appeals tribunal has exclusive jurisdiction over appeals and its decisions are not open to question or review by any court. The appeals tribunal is not bound by precedent. There are five part-time appeals commissioners and a hearing panel consists of a chairperson and two commissioners; one of those commissioners, representing workers' interests, and the other representing the interests of employers. Training is provided to the appeals commissioners to keep them abreast of the ever-changing complexities surrounding workers' compensation and the laws of natural justice.

Hearings are generally held in person and conducted in an informal atmosphere. Hearings are short on legalistic trappings and features, but are conducted in a manner that assures fairness. Since the appeals tribunal is the final level of adjudication of the WCB, it is, in essence, the final quality control method of this historic relationship between workers and employers.

I think, having said that, if a system is working I think it is evident in the type and number of appeals that are coming forward. If you looked at 12 boards across Canada, if you looked at what was happening in the appeals area, you might be able to understand better what the whole system was about. It is sort of indicative or reflective of the system in that jurisdiction.

For instance in Quebec, I understand this was last year, granted they have a large population, at first level of appeals they had 64,000 appeals and a backlog. So that gives you an idea of what is happening in some jurisdictions.

Before I go any further I would like to have Mr. John Bayly, counsel to the tribunal, say a few words about the overall aspects of natural justice, as tied into the legislation we work under and maybe the Charter of Rights and things of that nature.

**CHAIRMAN (Mr. Koe):** John.

**MR. BAYLY:** Mr. Chairman, my remarks will be brief. Those of you who have had the opportunity before the meeting tonight to have a look at the legislation, will find that there are very brief things said about the opportunity of appellants and other interested people on appeal to be heard. Section 7.6, for example, says that the appeals tribunal shall give the appellant and any other interested person, an opportunity to be heard and to present evidence. And of course the board may direct the appeals tribunal to rehear an appeal if it feels that the appeals tribunal has not complied with the provisions of the act or given a fair and reasonable hearing to interested people.

But the Workers' Compensation Act is part of a web of law, some of which is statutory law which your own Legislature has passed. For example, the appeals tribunal's powers are those which are found in the Public Inquiries Act, and those include the responsibilities to allow people who have an interest to be heard, to hold their hearings in public unless there is a very good reason not to. I think the appeals tribunal is, and has to be, cognizant of the fact that although the decisions may not be reviewed as decisions, they may be examined to see whether the principles of fairness which are the requirement of all hearing tribunals have been fully exercised and allowed to those who bring their grievances or appeals to the committee. I think it is perhaps for that reason that the WCB had not only changed its procedure somewhat, and I think the chairman will expand on that somewhat, but has also chosen to have counsel appointed who can assist them to concentrate

on those very aspects when appeals come before them.

**MR. EVOY:** Thank you, John. I would like to call upon Lynne Green now, the appeals registrar, to give the committee a brief overview of her duties, what they entail and what her function is. Lynne.

#### Duties And Function Of Appeals Registrar

**MS. GREEN:** In order to carry out the duties of the appeals registrar, comprehensive knowledge of rules of natural justice, rules of evidence and administration of quasi-judicial tribunals is required. The following steps outline what the registrar is required to do from the time a request to the appeals tribunal is received, to the mailing of the appeals tribunal's decision to the appellant:

- 1) review requests to appeals tribunal to ensure the issue or issues of appeal may promptly be dealt with by the tribunal; that is to say that the appellant is challenging a decision of the review committee. If not, the appellant is advised and the file is returned to the appropriate division for action;
- 2) identify relevant policies, sections of the act that relate to the issue under appeal;
- 3) acknowledge the appeal, providing full disclosure or updated disclosure of the claim file, if requested;
- 4) prepare a detailed chronological file summary, containing relevant documentation and presentation of facts;
- 5) schedule pre-hearing caucus meetings with appeals commissioners and meet with them to determine what further action or information is required. If further medical is required, advise appellant and/or their representative and make the necessary arrangements;
- 6) schedule the appeal hearing and make necessary travel arrangements for the appellant and/or their representative in relation to an oral hearing;
- 7) attend appeal hearings as a resource person;
- 8) identify for consideration by the appeals commission as possible decision options and their likely implications;
- 9) advise commissioners of possible impact on policies and procedures;
- 10) prepare for signature clear, concise decisions of the appeals tribunal and mail the decision to the appellant or their representative and refer the file to the appropriate division for administration of decision, if required.

Thank you.

#### Selection Of Tribunal

**MR. EVOY:** Thank you, Lynne. If I might continue, I would hazard that one of the questions or one of the things that you might want information on is how the tribunal is actually selected. So I will just proceed with that assumption.

Under section 7.1 of the act: an appeals tribunal is established composed of five members appointed by the Minister, including a) one member appointed on the recommendation of the board from among the members of the board. So as chair of the tribunal I was chosen by my fellow board members, those being both from the worker community and the employer community. So among that group of seven I was chosen as the chair.

As far as the commissioners go – and when we use the number five, any one hearing panel is only three people. There is an alternate in each case; one on the workers' side and one on the employers' side in case there is a conflict or someone is not available.

The Minister responsible for the Workers' Compensation Board appoints members of the appeals tribunal on the recommendations of their peers – and these are the commissioners. The labour community is polled and the business community is polled. From the names brought forward, the WCB makes a recommendation to the Minister for that appointment.

Some of the earlier appointments included high ranking people from the Chamber of Commerce. One of the present incumbents is the president of the Construction Association. At one time we had the past president of the Federation of Labour. So the people that were appointed as commissioners to represent both workers' and employers' interests had the support and backing of their peer groups, whether they be from business or from labour.

There are terms of reference for the tribunal to operate under. Those would be available if you should so wish.

There is the operation of the general appeals activity, the general operation of the tribunal itself. A lot of the things that brought this thing together and a lot of the operating rules were a result of myself and other people working with other jurisdictions, Alberta for one. We used some models in western Canada to try to get something that would work in the NWT. We tried to avoid what may be working in Ontario, but certainly would not work up here, was a very legalistic, very slow and very plodding procedural thing. We came up with what we thought would be the best thing at the present time for the NWT, and that is the way it was put together. As I say, it all started off in April of 1990.

We have a tracking system that generates what we call a pyramid or the actual number of – say if 3000 WCB files are opened in a year, how many of them would ultimately result in a first level of appeal at the claims review, and ultimately how many of those would result in appeals to the tribunal. It is going to take a couple of years for that to generate truthful statistics because some appeals might be five years after the fact.

We operate within the act and within the policies of the board. Yet, we have to work within the Charter. There are certain things, although we have not encountered it yet, where the policy may say one thing, but our consciences and the Charter of Rights and Freedoms may say another. We have not encountered that yet. We have not yet encountered where the board says, "Rehear that case." They cannot say, "Change your decision." But they could say, "Rehear that case." We have had one case appealed but we have gone through that hurdle; where one case has gone beyond the tribunal to a high court.

So we are just really about a year and a half into the inception and as the new appeals generate out of claims review, now they are slowly coming up to the appeals level. It is sometime rather cumbersome to get going because the part-time nature of both the chair and the commissioners dictates that meetings have to be lined up, review of files have to be lined up, writing of decisions, and it is very hard to get everyone at a certain time in a certain week to hear these things. But we manage to survive.

I think your original correspondence, Mr. Chairman, mentioned about 10 to 15 minutes of dissertation from me and I think if the proper procedure is maybe to thank you for your

attentiveness and maybe respond to any questions that you might have. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you. Committee Members, any questions? James.

#### Employer-Employee Relationship On Tribunal

**MR. ARVALUK:** Thank you, Mr. Chairman. I would like to thank the witness for his presentation. It would have been even nicer if we could have had a copy of your presentation for our own review. However, my question, Mr. Chairman, I will ask it now for me to determine how the question respecting the WCB may be asked in a couple of days, probably on Wednesday with the Minister responsible for WCB.

I saw the appeals tribunal in the way that it should be similar to that of the workers' advisor, except that the appeals tribunal is a body rather than an individual. Maybe I misunderstand. My question is respecting the act, appeals tribunal, section 7.1. I want to see a logical reasoning behind the appeals tribunal that is appointed by the Minister. One is appointed on the recommendation of the WCB, two are from the employers and two from the employees. If I was WCB, I would have to make sure that two of those appointed on behalf of the Minister, and the two being appointed by the employers, have to be very articulate psychologically and intellectually, so that they will completely overrule the appeal case that may be fought by the employee representatives and that appeal tribunal.

I cannot see the logic in the act here, how the appeal tribunal is set here, so that you are still tied up. You have no true appeal by the persons who have been rejected by WCB. If the WCB rejects the application, then you are the body to appeal that. But you still have two appointed by the employers; one appointed by the WCB; you have only recommended by the employees, who have this interest of a claim. Where is the logic, without putting the politics aside?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** I will attempt to answer that question. I am not sure if I can answer it correctly, but in theory the chair is neutral in this, and the chair comes from the members of the board of directors, so that the chair in most cases is not making the decisions. It is the two commissioners that are really making the decisions; and in all cases since our inception we have not had a dissenting opinion. Therefore business and workers have agreed with the decision. So that works; and it works in other jurisdictions.

We do not sit there and uphold WCB administration decisions, much to the chagrin and disliking of some internal aspects of the WCB. We are just as soon to grant the appeal as we are to deny it. I certainly would not want to convey the impression that we are draconian in the sense that we are turning appeals down. Nor would I want to give the impression that we are giving away the store. But I can tell you we grant just as many appeals as we deny, and we could provide you with those figures. The reason we have the employer-worker representation on the tribunal is because, quite frankly, those are the two people that have the most invested in the system, is number one, the workers, and number two, the employers that really fund the system. It does work.

I guess I, for one, if we had a bigger jurisdiction and better numbers, I might go a little further. I would be a strong supporter, personally, of seeing the tribunal completely off to the side. Completely separate, as, say, in Ontario, where the compensation appeals tribunal is just far at arm's length of the

WCB system. We do not have the number of cases here, nor do we have the population, nor do we have the number of appeals to completely sever that relationship, to make it a completely independent body.

I hope that helps answer your question.

**CHAIRMAN (Mr. Koe):** Thank you. James.

**MR. ARVALUK:** Thank you, Mr. Chairman. It does not, really. I am not convinced that we can be so naive as to think that the chairman of that appeals tribunal is completely free of all thoughts and influences that the chairman has. However, Mr. Chairman, I will leave that for now until probably on Wednesday when the Minister is sitting as a witness. Thank you.

**CHAIRMAN (Mr. Koe):** Okay. John.

**MR. TODD:** Thanks, Mr. Chairman. Let me say I am a free boy. I do miss these monthly jousts that we used to have when we used to be on the WCB, and I am somewhat taken aback with this new, conciliatory approach. Perhaps we should have appointed you as chairman a long time ago.

#### Members Of The Appeals Review Committee

I was just concerned about who the members are. Who are the names attached to the appeals review committee?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** The tribunal presently consists of myself – and no matter what some members think, is the unbiased, neutral chair, who is quite comfortable in that position.

**MR. TODD:** Could you repeat that, for the record please? That is very good.

**MR. EVOY:** Well, it was either me or the Chamber of Commerce.

**MR. TODD:** Well, you have certainly been more colourful, Mr. Evoy.

**MR. EVOY:** Thank you. I have tried to tone it down, but it is hard. God knows it is hard, some days.

—Laughter

From the business community we have Mr. Rob Roman, who, I believe – and I do not want to put too many titles on him because he runs a responsible business – I believe he is president of the Construction Association. He is quite competent, quite a capable person. The other business representative is a Mr. Dave McCann, who has usually held a senior position in the chamber of commerce here, and he runs his own business; and I am sure in your travels or in your letters to the editor, you have all become familiarized with Mr. McCann. He, quite capably, in my estimation, represents employers' interests very, very well.

On the workers' side we have a Mr. Roland Gosselin, who is a Government of the Northwest Territories employee, who had some previous union experience with the Union of Northern Workers. They actually brought his name forward. And the other person on the workers' side is a carpenter from the Royal Oak Mines, a man that worked himself up later in his work career, and took an apprenticeship and became a carpenter, and earns his living by the sweat of his brow. A very articulate, very intelligent young man. His name is Dan Short. Those are the two workers' reps on the tribunal.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Well, Jim, I am wondering what your feelings are – you know I have had some frustrations with the WCB and I am particularly frustrated with the lack of regional representation and no aboriginal people. I do not want to be pious about it, but we did have that at one time. Now I see in this committee there is also no aboriginal representation. I also see in this committee a strong, if you will excuse the selfish question, Western influence, again. I wonder how you feel about this. How do you feel about the fact that not only is WCB dominated by people from the West – and I use that word deliberately, no matter how well-intentioned they are. We also note that the appeals committee is dominated by the West. I am wondering as chairman, because you in some ways speak for the group, and as a long-time member of the WCB, how you feel about that situation.

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** Well, I do not know how far I can go. I am going to reappear here on Wednesday, and I am going to be going into my phone booth and changing into my other – I would feel much more comfortable addressing some of those things – as far as the tribunal goes, for practicality reasons, and I know this is not going to wash with you, John, or other Members from the Eastern Arctic or even people from the communities, we get together maybe once every three weeks, once every four weeks, and we try to hold a hearing and we try to render a decision. It is very hard to get us together. The part-timeness is really hurting us.

If you want a statement from me as to where I stand on representation, as an individual on the board of directors, as far as regional representation and Dene, Inuit, Inuvialuit – I do not think I have to go into a long dissertation about that. The board should be representative of the Northwest Territories. Having said that, they should also be representative – and I strongly believe in this – in the stakeholder communities, too.

I do not make appointments to the board. I am but a member of the board of directors. I work with people from the communities on the board; I worked with a completely Yellowknife-based board.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** I did not really want to get into this, but tonight obviously is not a time to get into it, but at some point in the agenda we have got to get into this. No matter how well-intentioned you are, whether you are from the East or from the West, whether you are left in your politics or are right in your politics, this country needs a balance. There is nobody more extreme than I am. That is why we get along so well, Mr. Evoy. Anyway, the point was that you need a balance, a balance of opinion, a balance of attitude. And what I find somewhat frustrating in this last little while is that I do not see any balance. I see a balance between industry and labour, which is a historic thing, and it is well represented on both sides of the equation, you are correct; both the union representatives and the business community are well represented. But I do not see a balance geographically, representing interests. And I think that is essential, but what I would like to is probably pursue that discussion later on this week, because it has to be discussed, particularly in light of significant political changes that are going to take place in this country in the next 10 years.

**CHAIRMAN (Mr. Koe):** Mr. Evoy, any comments?

**MR. EVOY:** I agree.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I will say that occasionally I was complimentary to Mr. Evoy and he was a strong advocate of this appeals review committee, so he should be congratulated for its efforts.

Do you know, Jim, the costs associated with this appeal committee; what is it costing on an annual basis?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** Last year roughly, to do this final level of appeals cost \$47,000.

**CHAIRMAN (Mr. Koe):** Thank you. Mr. Dent.

#### Appeals Process Cumbersome

**MR. DENT:** Mr. Evoy, you mentioned that you thought the appeals process was cumbersome. I know that I have had workers come to me and that they felt very much that way. Has the appeals tribunal taken a look at the process to see if there is any way to make it less cumbersome for the worker, and come back to the board with recommendations for changing the process?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** Actually, I sometime have a habit of contradicting myself. It was cumbersome and it still is cumbersome because the numbers are not there really, to feed the system that has been set up. The tribunal itself, the way it is set up, works. If there are complaints – in another career that I have in another life, I represent over 9000 working families in the NWT, and I do not have a great preponderance of issues in front of them that say to the appeals tribunal *per se*. There are always complaints about the appeals system in WCB in any jurisdiction. I personally have some. But at the tribunal level which I chair, and I do not want to sound egotistical, I am not aware of any complaints at present at the tribunal level. There has been a backlog at the review level. There was an acceleration of hearings last month that is hopefully going to catch up to that.

I think right now, to deliver natural justice, the tribunal we have in place is about the best we can come up with. As far as hearing the claims on time, I think that is something that could be directed more to the board as a whole, as to what they can do to facilitate the appeals to make sure they are heard quickly. But I can assure you at the tribunal level we do them as fast as we can.

**CHAIRMAN (Mr. Koe):** Charles.

#### Time Lapse Between Filing An Appeal And When It Is Heard

**MR. DENT:** What is the time lapse right now between the filing of an appeal and the time that it is heard. You mentioned that you meet only about once a month. So are people looking at four weeks or three weeks or what sort of time lapse is there?

**MR. EVOY:** It is clearly defined in the terms of reference, and it is 60 days from the time the appeal is filed. I for one, am a person that pushed for a quick hearing of the appeal. The road to hell, as we all know, is paved with good intentions. We have found out that in some cases it takes from 60 to 120 days just to get an expert medical opinion. We have one case in front of us that goes back to 1990, for an example. That is a case of lawyers not being able to come up on dates. But in the terms of reference it is suppose to be heard within 60 days; from the time the appeal is received until the time the decision is written. That is the way it is set up.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** What happens to the worker whose case has been held up for that long? Are they in limbo or are they being dealt with in a reasonable manner?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** I think this gentleman is getting his temporary, partial disability and it is his lawyers that do not seem to be coming forward and wanting to have it heard. I certainly would not want to give the impression, Mr. Dent, that I chair a tribunal that is sitting there watching workers out there while they are slithering and suffering and waiting for justice to be dispensed, because I certainly would not be involved in a process or system that would do that.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** Mr. Evoy, could you tell me about how many appeals you hear in a month?

**MR. EVOY:** Right off the top of my head right now, and I do have the numbers here, it was only about one a month last year. There are two reasons for that. We would have to get more information out telling workers about their right to appeal to the tribunal, and secondly the backlog came at the review level, which is the first level of appeal. That backlog now is just spilling over. It is just coming now. So I would entertain that probably three times that many appeals would be heard in 1992, in the vicinity to 36 to 40 or 45 appeals.

Last year there was only about a dozen appeals heard and decisions rendered and yet we had the thing in place to probably handle 50. Most of it was due to the fact that the review committees were not hearing them as fast as they should have.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** I know you have mentioned, Mr. Evoy, that you have not encountered a situation yet where your conscience dictated that you should be doing something outside of board policy. A question for Mr. Bayly is, it would appear to me that section 7.7(2) would appear to cast the board policy in stone. So that in those situations where the appeals tribunal may feel that a person would be better served by a flexible policy, they do not really appear to have that right. As a matter of fact, the board appears not to be able to recommend the appeals tribunal, rehear something just on the basis of a policy perhaps needing to be somewhat flexible.

Let us take a specific case. If you were to hear an appeal for someone who is looking for a commutation that had a 10.5 per cent disability. They may have an excellent business plan, an excellent opportunity, and be close to the line. But in fact your tribunal cannot take a look at being flexible, as I understand it. Is that a correct understanding?

**MR. EVOY:** If I might, before John proceeds, there have been in the cases of commutations, where the individual merits of the case is judged on those merits. That could happen.

**CHAIRMAN (Mr. Koe):** Mr. Bayly.

**MR. BAYLY:** Mr. Chairman, I think Mr. Evoy had said earlier, and I think it is important to underline that the board can direct the appeals tribunal to rehear the appeal. They cannot overrule the appeals tribunal. So if the appeals tribunal is to interpret the policy in a certain way in which the board does not like, even on rehearing, the appeals tribunal might stand by its decision and perhaps would feel bound to do so. That

is not to say it could disregard the act or the regulations.

The one matter that has gone to the Supreme Court of the NWT is the decision rendered a week ago, is one in which the appeals tribunal had made a decision that the act did not allow it to give a lump sum award for a purpose which was not deemed to be compensation. It was not something that they wanted to do, but at the same time they said that is what the act says and the court said, you are absolutely right, what was being requested was not compensation and you had no right to give it. So there are difficult decisions, obviously, because the appeals tribunal has to act within the act and regulations.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** The appeals committee I understand has been in place since 1990. Do you think it is just because the worker does not know about the appeals - I am kind of impressed you only have 12 appeals. I thought I was going to beat on WCB but if we are sitting in a situation with 12 appeals, do you think that is because you are doing a good job or because the workers do not know what the information is?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Thank you. I think you can attribute to some of that backlog at the review level. If I might, it seems to be a user friendly room here and we talked about regional interests, the East and the political realities of the North. Some of it is attributed to backlog and some of it is attributed, quite frankly, to a lack of knowledge of the system. If we do it in small steps at a time, what we have to do is we have to get more information out into the communities and perfect a system or a means of getting it out there.

I did a quick analysis in my mind today of where the appeals are coming from and they are coming from southern Canada. There is a few exceptions to this case. A few of our injured workers feel they have been denied remain in the NWT, most of them go south. Most of them are either from the South or they end up in the South after they get into this appeal process. Most of the cases that we hear and have in front of us are from southern Canada.

Obviously there is something wrong if that is where they are coming from. Granted we do get some cases from Yellowknife, from the mines and from government offices and institutions. But we do not get appeals from Iqaluit. We do not get appeals from Inuvik. We do not get appeals from Rankin Inlet. When you look at the overall concept of this board, it is Yellowknife based and it is really the nucleus of it and those are really the forces that are dealing in the appeals venue right now. The big companies, the big work places.

I have often commented in the confines of the boardroom. Where are the appeals from the Eastern Arctic? Where are the appeals from the High Arctic? The information has to get out there. It has to get out there that workers do have the right to appeal and that is something else that has to be promoted.

I do not mean to create a whole little army of people that are just satisfied with decisions, but just to teach workers that they do have the right to appeal. That they do have the right to question the decisions of the bureaucracy. And I think that is the start of getting this message out to the communities.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** That was the question I was leading up to. I am not naive enough to assume we are going to have a whole

bunch of activity in the WCB outside of the major centres. But when there is no activity out there. And you do have organized and industrial activity in Nanisivik and Cornwallis. It is frustrating for me, whether I am a politician or not, that I see this thing just too clearly focused - there seems to be no focus outside the major centres. We will debate that issue later on this week.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** I would like to thank the presenters. Earlier today I talked to the Minister responsible for WCB, Dennis Patterson. My concern is that as an MLA I am here to represent my people and try to provide them with programs and services. I see my involvement here on this committee as trying to look into what we can do for everybody in the North. I see myself sitting here and listening to the whole area of workers' compensation. Is the overall focus of the Workers' Compensation Board on providing services to the workers, providing them with good service when they get hurt? Or is it more involved in protecting the investment of the Workers' Compensation Board? Where is the focus?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** If I could speak as a director that sits on the board. I would say my focus on the board is two-fold and I hate to put the monetary aspect first, but by protecting the accident fund, it is the only way to ensure that the workers are looked after. It is the Workers' Compensation Board. It is not the employers protection association. It is there for workers. Our workers gave up their right to sue and this is what this system is all about. If we want to go back and give the workers the right to sue, I am sure they will take it. It is there for workers.

The investment aspect of it or the fact that it is fully funded is very, very important. It is important to everyone in the North. It is one of the few boards in Canada that is fully funded.

So along with the multitude of criticisms that the board very often does deserve, I think somewhere in the past 10 or 15 years they must have done something right to attain that financial stability. I think sometimes in attaining that stability I might have to agree with Mr. Antoine that maybe the workers were no longer as important as the grinding bureaucracy as the accident fund, as some of the investment things, and the politics of it. The WCB should not be a political thing, it should be a quasi-government thing.

But I think certainly in my mind and the people I associate with and the people I work with, it is the workers' compensation board. It is one of the few things that workers have. It is their's. No matter what anyone else thinks, it is their's. It belongs to no one but the workers. I should not digress like that but...

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** Thank you, Mr. Chairman. I appreciate the answer there, Jim. In trying to provide service to workers, one problem that you have identified is that the people who are on the committee or the appeals tribunal, there seems to be a backlog, because the members that are appointed to this body are not meeting enough. My suggestion is that if they are not meeting enough, then they are not providing necessary services to the workers and we should re-look at the members of this board and try to get people on there that will meet as often as possible to provide the necessary services that workers require. That is a suggestion I would like to make.

**CHAIRMAN (Mr. Koe):** Mr. Evoy.



**MR. EVOY:** I agree with Jim and I would be proud to say that some of the lobbying on my part and other people's part, that effective May 1st that first level of appeal where the backlog was, is now being taken out of the boards hands and it is going to be done on a much more expeditious manner by two outside people. I am sure that is going to increase the speed in which appeals are heard at the first level.

If I might just add, put my proverbial foot in my proverbial mouth, that maybe when we talk about development and developing other people to sit on such institutions, maybe the time is right to start bringing people into some of these systems slowly and developing something that will work for all the people in the North.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** The other concern - I am looking for the snags in the system and it seems to me the appeals committee, the adjudicators, do they have the necessary authority to make the decisions so that it does not go into the appeals process. Is there a mechanism in there for that?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Certainly the adjudicators under the act have the authority to rule on a claim or a file. Having said that, all the training they can get and all the technical help they can get would certainly help them do the job better. A good adjudication would certainly cut down on the number of appeals and that is another way to cut down on the number of appeals, to have good timely adjudication on the files. But all the adjudicators decisions can be appealed to two different levels above.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** I want to ask about Mr. Hinchey and Mr. Johnson. I understand they were appointed to the review committee. Have they been appointed? I understand that happened just before their terms were expired. Can you explain that to us; what happened there?

**CHAIRMAN (Mr. Koe):** Any comments on that? I am not sure who we should ask here.

**MR. EVOY:** I can confirm Mr. Antoine's statement that those are the two gentlemen, and join the names I gave you with some of the appeals tribunal, but I would defer to the learned Minister whoever would handle that question.

**CHAIRMAN (Mr. Koe):** Any other comments? Questions? Any questions or issues by the presenters? Last comments. Mr. Evoy.

**MR. EVOY:** I would wish you well in the rest of your endeavours and, like I say, I will probably be having some dialogue with you at a later date. I would just like to say that in the whole area of the appeals tribunal, on the surface it can sometimes appear to be quite simple. We have our laws and our rules and our policies. Some people might wonder how a person like myself would handle chairing something like that. The responsibility is a lot more than one might think. The first decision I ever signed as the appeals tribunal chairman was denying a full pension to a woman who lost her husband due to silicosis. If anyone wants to replace me, please, it is not always a pleasant task, but as they say, someone has got to do it. I notice the stress on the commissioners themselves too. It is sometimes very, very trying. I am not looking for sympathy or dirt pay or anything like that, but sometimes it is very demanding.

**CHAIRMAN (Mr. Koe):** Thank you. John?

**MR. TODD:** In your many faceted careers and positions, are you going to be addressing us later on this week, as you are a representative of the NWT Federation of Labour or something like that? I will tell you why, Jim. I would like to get some debate going, Mr. Chairman, on the investment component of the thing, and try to get at least some discussion going. You know where I am coming from, and I am wondering if you are going to be here representing labour on Wednesday. Is it you who are going to do that?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** Yes, I struggled with that and I have decided to come forward again, and I beg your indulgence to understand that although we wear different hats in the North, that I might be wearing too many of them, but the fact still remains that in that position - I was elected to that position by people from every community in the Northwest Territories, so I feel that when I speak here on Wednesday as a representative of workers - that I hope I had votes from everywhere from Cambridge Bay to Gjoa Haven to Hay River - so we speak on a broad mandate from all northern workers. Yes, we will be back on Wednesday and we wish to engage you in some lively interchanges of thought and ideas.

**MR. TODD:** We will certainly have to give the press something to talk about, Jim. Can we discuss that on Wednesday? Is that okay?

**MR. EVOY:** Yes, certainly.

**MR. TODD:** Okay.

**CHAIRMAN (Mr. Koe):** Mr. Arvaluk.

**MR. ARVALUK:** Thank you, Mr. Chairman. Would Mr. Evoy supply this committee a list of the appeal tribunal members before Wednesday, and also a copy of his opening presentation? I would really like to have a copy of that one. Thank you.

**CHAIRMAN (Mr. Koe):** If we can put the notes together, we would get them typed up and presented. Mr. Evoy.

**MR. EVOY:** We will certainly attempt to put that in some kind of cohesive order for you.

**CHAIRMAN (Mr. Koe):** Do you have a comment, Jeannie?

#### Appointments To Review Board

**MRS. MARIE-JEWELL:** Yes. I wanted to make one comment. I recognize that Mr. Evoy is here as the tribunal representative, as the chairperson of the tribunal; however, at the same time realizing that he has retained his position by being a board member of the Workers' Compensation Board. It is my understanding that Mr. Hinchey and Mr. Johnston's appointment to the review board was made on the recommendation of the Workers' Compensation Board. Is that not correct?

**CHAIRMAN (Mr. Koe):** Mr. Evoy?

**MR. EVOY:** Yes, that is correct. Under the section of the act, the board can appoint the review committee.

**MRS. MARIE-JEWELL:** So therefore these appointments to the review committee were made on the recommendation of the Workers' Compensation Act, and not the Minister?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** It would be my understanding the

recommendation was made by the board, but I think in all instances of this manner, I am certain that the Minister was flagged and made aware of the intentions of the board.

**CHAIRMAN (Mr. Koe):** Mrs. Marie-Jewell.

**MRS. MARIE-JEWELL:** According to the act, the responsibility lies with the Workers' Compensation Board for recommendation of the appointment to the board, and this is where the responsibility lies. I would presume that the process allowed the board to make recommendation to the Minister's office as to who they wanted to be on this review committee, so am I correct in stating, Mr. Chairman, through you to Mr. Evoy, that the board did make recommendation for Mr. Johnston and Mr. Hinchey to be the review committee members to the Minister's office.

**CHAIRMAN (Mr. Koe):** You may comment if you wish.

**MR. EVOY:** Yes, they did, to my understanding. But I am sure you could check with the board. I am sure you are going to be talking to them again.

**CHAIRMAN (Mr. Koe):** Mrs. Marie-Jewell.

**MRS. MARIE-JEWELL:** I guess the one concern that I want to ask is, I recognize that the Minister affirms these once the board makes this recommendation, because the Minister politically would not deny it, but I guess the question I have and the concern I have that probably is in the public is, what or where is the public's concern addressed where there may be a perception of conflict of interest on decisions that maybe Mr. Hinchey or Mr. Johnston have made on the part of the board, and they are the first level of appeal? So what assures the public that there is no conflict of interest in addressing their concerns?

**CHAIRMAN (Mr. Koe):** Mr. Evoy?

**MR. EVOY:** I think you would have to address that to the chairman of the board.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

**MR. LEWIS:** Just something that caught my ear earlier on about the province of Quebec. I think you mentioned that there was something like 64,000 appeals that would be heard. I was not quite clear. Are those appeals that would be heard by various tribunals throughout the province?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** There are approximately, I think, 60 to 70 tribunals at any given time operating. The first level of appeal, they call it the practise level, the second level is where they go for the gusto. So some of the provinces are just inundated with thousands and thousands and thousands of appeals.

**MR. LEWIS:** I know Mr. Todd, Mr. Chairman, was very complimentary that this tribunal of ours is very, very cost effective, because it only costs \$48,000, but it only heard 12 appeals. That is \$4000 per crack, and in Quebec if we were to use the same figures, it would be \$256 million just to listen to those appeals. It is just a point. I am wondering whether, in fact, the way we are set up now, we could be handling an awful lot more appeals and it would be more cost effective if it were doing more than what it is doing.

**CHAIRMAN (Mr. Koe):** I think that point was made earlier. We are set up to do 50 easily, or more. Okay, any other comments or issues? I think we have got a few more titbits of information that we will be using, I think, in our further

discussions. On behalf of the committee I would like to thank you for appearing before us, and we are looking forward to seeing you later on in the week. Thank you very much.

**MR. EVOY:** Thank you very much, and thank you for your attention and your interest in the tribunal. Thank you.

**CHAIRMAN (Mr. Koe):** For Members of the committee, we will resume at 9:00 a.m. tomorrow on the dot.

—ADJOURNMENT

## STANDING COMMITTEE ON AGENCIES, BOARDS AND COMMISSIONS

## YELLOWKNIFE, NORTHWEST TERRITORIES

MAY 12, 1992

**Members Present**

Mr. Antoine, Mr. Arvaluk, Mr. Dent, Mr. Koe, Mr. Lewis, Mrs. Marie-Jewell, Mr. Todd

**CHAIRMAN (Mr. Koe):** I would like to call the meeting to order. Before we start this morning, just for the record I would like to mention that we have received two written submissions: one submission from the Norman Wells and District Chamber of Commerce, and we will table that for our records; and we have another submission from Mr. E. Melcosky from Peachland, BC, and I will table that for the record. This morning we have representatives from the Northwest Territories Chamber of Mines, and I see Mr. Willy is in the middle. Maybe I will ask him to take the mike and introduce his team, and once you do that you can proceed with your presentation.

**Presentation By Mr. Doug Willy, Echo Bay Mines**

**MR. WILLY:** Good morning, Fred. Mr. Chairman and members of the ABC committee, as Fred suggested, my name is Doug Willy. I am with Echo Bay Mines Limited. Along with me today are Brian Hagen from Royal Oak Mines, and Tom Hoefler, the general manager of the NWT Chamber of Mines. The three of us are responsible for dealing with workers' compensation issues. Specifically, Brian and I, on behalf of our companies, and Tom in a co-ordinating effort with the Chamber of Mines.

**Role Of WCB**

Before we go any further, it is important to provide you with an overview of how we see workers' compensation. As Minister Patterson indicated to you yesterday, the WCB was created to provide the injured worker with financial compensation, free medical aid, and medical and vocational rehabilitation in return for giving up the right to take legal action against the employer.

To provide the worker with this service efficiently, the WCB must strike a balance between the level of compensation provided to injured workers and the ability of industry, or society, to provide the compensation.

To again quote the Minister, the WCB system is based on compulsory insurance in a state accident fund. It is this accident fund which fully funds the WCB and allows it to operate without burdening the taxpayer. This is in stark contrast to government departments and most government corporations.

We believe it bears repeating that our Workers' Compensation Board is one of the few fully-funded boards in Canada, and we wish to see it remain so.

If the Workers' Compensation Board's accident fund is eroded, the shortfall must be made up by increases in employer premiums. It will not be made up by government assistance. Therefore, as major members of the stakeholders that pay all the costs of workers' compensation, we are very motivated to ensure our investments are being managed wisely.

**Concerns**

We are very concerned with recent development that threatens to damage the funding which supports the WCB, and ultimately its programs for protecting the workers. Taken

individually, these threats may seem minor, but when taken as a whole, they could seriously damage the Workers' Compensation Board.

**Poor Communication**

The first of our concerns is a lack of constructive communication on behalf of the Workers' Compensation Board. In its dealings with industry, the board paid little attention to our concerns, and what we received was basically lip service.

We have been called upon only when deep pockets were required to build up the accident fund, and we receive only double talk in return. If this attitude continues, we predict that rising WCB costs will ultimately reduce the industry's ability to compete, and mines will shut down. This is not the intent of WCB, as we are sure you will all agree.

Thankfully, since Mr. Patterson took over as Minister, we have seen a refreshing change of attitude at the WCB. We hope this finally indicates a start of valuable dialogue between employers, stakeholders and the board. Dialogue that will allow us to find innovative methods to provide workers with benefits without damaging the ability of employers to pay for them.

**Investment Policy**

The next of our concerns is the investment policy of the board. The accident fund relies on sound investments if the board is to maintain its fully funded status. Poor investment policy could collapse the accident fund. Workers, industry and the public would consequently suffer.

We agree with the present policy of the Workers' Compensation Board to contract investment management firms to invest employers' premiums to maximize returns. These investment professionals have the experience and expertise required to wisely invest employers' premiums. They must be allowed freedom to do this as they see fit.

**Safety Training And Inspections**

A third concern we have is the recent foray by the Workers' Compensation Board into safety training. While we understand the present act allows the board to make this move, we are against any further growth in this area. We are strongly against any amalgamation of inspection services with WCB.

The WCB was created as an insurance vehicle, and it should remain so. We see great danger in the insurer becoming the policing agent. We see administration costs increasing to pay for this growth, at the expense of the accident fund, and the stakeholders. We are against rising costs.

We see no suitable need to transfer boiler inspectors, fire inspectors, electrical inspectors, elevator inspectors and mine inspectors to the Workers' Compensation Board. We see this as a way for government to pass its financial obligations for these safety services on to the accident fund, which we are against.

### Hunters And Trappers Issue

A fourth concern has surfaced from some MLAs and communities' apparent confusion over hunters and trappers coverage by the Workers' Compensation Board.

In 1987, the territorial government arranged, essentially, to contract the WCB to administer compensation for hunters and trappers. The territorial government covers all claim costs for this group. The claim costs do not come from the accident fund. However, administration costs do come from the accident fund. We believe this to be wrong, and these costs should rightfully also be paid for by the territorial government.

As a final point in this issue, hunters and trappers compensation is not related to the YMIR, and therefore has no place in setting its level.

### The Board

Our fifth concern is with the board itself. As the two major stakeholders of the Workers' Compensation Board are industry and labour, past Ministers have recognized the necessity of having them represented equally on the board. Until recently, the board operated without a full complement of members, despite our attempts to have it brought back to full strength. This was incomprehensible. We are encouraged that the new Minister has finally corrected this, and we are heartened that stakeholders will be consulted on future appointments.

We were disappointed, however, when stakeholders were not consulted on the two recent board appointments. We now wish to determine which stakeholder groups the new appointees represent.

This brings us to an interesting observation. It is strange that majority of the business workers, mining workers, construction workers, and transportation workers, in essence the majority of workers that create the wealth in the Northwest Territories, are not part of organized labour, and therefore are not represented on the Workers' Compensation Board.

A final concern on the issue of the board, is the position of chairman. The chairman is currently appointed by the Minister with no input from stakeholders. We are surprised that a position that carries such great responsibility and receives such a significant remuneration, is not advertised nationally from the ranks of professional managers.

### General Concerns

Our sixth and final concern is a general one that deals with various areas of workers' compensation that must be improved.

First of these is the issue of rehabilitation. It is important to employers that workers' injuries are rehabilitated quickly in order that they can return to useful work as soon as possible. Workers represent an expensive investment by the employer, an investment that is lost without rehabilitation. Without rehabilitation, injured workers also represent a drain on the accident fund.

The second of these general concerns is fraudulent claims. These are nothing but a total drain on the accident fund, and a burden to the system. Fraudulent claims are especially elusive when the workers live in the south, far away from the observation of the WCB staff.

### Conclusions

We would like to draw some conclusions from our experience with the WCB, and from our study of the issues we have

raised today.

Our first conclusion is that the WCB is susceptible to political interference. In areas such as investment decision, political interference would destroy the fully funded position of the Workers' Compensation Board. Therefore, we believe it is imperative that the Workers' Compensation Board remain at arm's length from political interference.

Our second conclusion is that periodic review of the WCB is mandatory. The 1989 review also recommended this. The response you are receiving at these public hearings should clearly point out the need for periodic review of the workers' compensation legislation and policies.

### Recommendations

Finally, we would like to close our presentation with several recommendations:

We recommend that policy be established requiring useful dialogue, not lip service, to be paid to the stakeholders. We further recommend that this dialogue be aimed at seeking innovative ways to balance the needs of stakeholders, especially in these recessionary times. For example, tying pension increases to investments, not to the YMIR;

We recommend that the Workers' Compensation Board continue to contract investment managers to professionally manage the board's investments;

We recommend that the Workers' Compensation Board remain an insuring body, and that occupational health and safety, and safety inspection services not be amalgamated with WCB;

We recommend that all costs associated with providing the Territorial Government with administration services for hunters and trappers be recovered. If this cannot be done effectively, consideration should be given to handing this service back to the government;

We recommend that the board be kept at full strength. To this end, we further recommend, for continuity, that board terms overlap;

We recommend that the recently appointed two board members be given responsibility to stakeholders. We recommend Mr. Wray become a business representative. We recommend Mr. Kuptana be given responsibility for unorganized labour;

We recommend the position of chairman be advertised nationally to ensure a qualified manager is found. We further recommend stakeholder input on the selection of this position;

We recommend renewed effort be given to rehabilitation of workers, and to the reduction of fraudulent claims;

We recommend that the Workers' Compensation Board be protected from political interference by remaining at arm's length from the government;

And finally, we recommend a periodic review of the WCB legislation and policies take place every four to five years. This review should be conducted by an impartial body similar to that which completed the 1989 review. Thank you very much.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Willy. Is it possible that we can get a copy of that submission? You made a lot of comments and a lot of recommendations and I think during our discussions it would be useful for our Members to have that handy. The floor is open to Members. Mr. Todd.

**MR. TODD:** Thank you. It sounds like a manifesto from the Reform Party, the presentation. Anyway, I wondered first of all, the stakeholders you keep talking about, Mr. Willy. What about aboriginal stakeholders? You do not think Mr. Kuptana represents aboriginal stakeholders?

**MR. WILLY:** John, we really do not know Mr. Kuptana.

**CHAIRMAN (Mr. Koe):** Microphone. Please address through the Chair.

**MR. WILLY:** Mr. Chairman, to answer John's question, I think one of the concerns is that we really do not know Mr. Kuptana. I think the selections, as we pointed out, were made without consultation, and although he has probably had some previous experience, I think one of the important issues must be that the role of a board of directors is not an easy task. It takes a considerable amount of time and I think we have to have some very strict rules, which I think the board has, on the qualifications of a board of director.

**MR. TODD:** Are you suggesting Kuptana is not is not qualified?

**MR. WILLY:** I do not think I said that at all.

**MR. TODD:** Well I know Mr. Kuptana and I think he is perfectly capable of representing the interests of the Eastern Arctic and Nunavut and I find it somewhat offensive - we have had a whole bloody presentation this morning that is somewhat rigid in its thinking.

Let me ask you a couple of other things. You told me that the mining industry would be in serious financial jeopardy if the rates of the WCB went up. The fact of the matter is that six per cent of your payroll costs are related to WCB premiums. Are you telling me that with six per cent payroll costs in the operation of mines that that is going to jeopardize a gold mine or especially one that is as successful and affluent as yours?

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** Mr. Chairman, some of the companies that are represented by the Chamber of Mines pay 18.25 per cent of payroll as premiums in workers' compensation. I think just to bring it into perspective a little bit, a few other companies that are represented by us pay one million dollars a year premiums. Probably significantly more than a majority of the companies have as a total operating budget. So it is a significant amount.

**MR. TODD:** There are others besides just the mining industry, let me assure you of that. The world does not set and rise on mining.

I am concerned with your almost paranoia approach to this investment thing. The fact of the matter is that WCB does have a sound investment policy from what I know. There is no intention whatsoever of having the board of directors or political interference determining how its money is invested. What has been suggested by some of us, myself included, that we could take a small portion of that fund, which is currently sitting at \$125 million and when I left it as chairman of the finance committee of WCB it was sitting at \$105 million. You could take a small portion of it and invest it back into the country. I would have thought an operation like yourselves who are constantly looking for some kind of assistance in terms of the building of infrastructure, roads, et cetera, would have been encouraged with that. Are you suggesting that the mining industry is taking a position that we should not put five or 10 per cent back into the country?

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** Mr. Chairman, I think if we are going to collect premiums from companies under the guise of workers' compensation, to develop other economic development whatever in the NWT, then maybe we should change the name of workers' compensation. The workers' compensation is there very distinctly for one purpose; to ensure that employees who are injured during the course of work have some coverage. Not for politically driven motives of economic development throughout the NWT.

As far as the mine industry contributing to the NWT, I think we should just review who is the biggest private employer in the NWT.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** So that gives you the biggest share of the pie. Is that what you are saying? I guess I am not suggesting for one minute that the Workers' Compensation funds should be used as a great big economic activity. Currently we are moving \$125 million of that fund into southern Canada. We have not got enough faith in our own country to invest some of it back in. Something is fundamentally wrong. When people like yourself who are pioneers in the mining field and working under difficult conditions, it sort of mind boggling when we get this attitude.

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** We do not use these funds for the development of our own interest, which we could possibly do. We are currently going out all the time and trying to raise funds to develop new projects. But that is not what this fund is there for. This fund is there for one specific reason, and that is to ensure that in the distant future we still have moneys available for people who are injured when they are working.

**MR. TODD:** I am fully aware what the fund is for. I sat on the board for eight years. What I am suggesting to you is that a small portion of the financial portfolio should go back into the North and get the same kind of return whether you are putting into Alberta gas and oil or bonds or anything else.

Where did you get the idea that all these inspectors are going to be transferred over to the WCB and the costs associated with that are going to come out of the fund? Fire inspectors, boiler inspectors, where do you get this? Is this something I am not aware of? I know they are looking at safety, but you suggested in your presentation here that WCB was looking at taking over the responsibility or fire, boiler, elevators, et cetera.

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** Mr. Chairman, we are making a statement that we do not think that this is the way we should go. There has been discussion in the last number of years along these lines. This just is not something that fell out of the sky. It has been discussed a number of times by the Workers' Compensation, by the previous - within the last two years it has come up a number of times.

**CHAIRMAN (Mr. Koe):** John.

#### Process For Appointing WBC Chairman

**MR. TODD:** Your comments about the chairman. I am wondering how you feel, should the chairman perhaps be someone in the mining field, like the mine manager or someone like that? What is your problem with the chairman and the process of the chairman? Where do you see the stakeholder involved? Should we hold an election? Should

we just put out a ballot? How do you see the chairman being appointed?

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** Mr. Chairman, I think like a number of the other jurisdictions across Canada, we are talking about a company that has assets of \$150 to \$200 million and what we need is someone who has the professional management know-how, preferably with an industrial background. Mine managers, some of them probably would definitely be qualified for the job. But construction industry in the NWT is a significant industry also. I think that there has to be someone who knows something about running a business.

We do not hire people to run our mines just because they are good guys and they deserve a pat on the back along the lines because of past service. We hire them because of the expertise that they bring along with them to the job. We are told that the Workers' Compensation Board and the chairman are overworked and have been for the last couple of years and that it is almost becoming a full-time job, and we just say that with the interest of labour and employers in the North at heart, that we have to have someone in that position who can manage a company, not a small company, a medium to large company.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Well maybe that is where we differ. It is not a company, Mr. Willy. It is an organization that is supposed to look after injured workers and it should not be run as a company.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

**MR. LEWIS:** I would like to thank the witness for a very clear presentation. There is no ambiguity there. It is very clear and I do not think it is right that if we do not agree with what someone is saying that we should make this a forum for argument. We should listen to what the man has to say and I think he said it very clearly and I think we should take what he has said.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Thank you, Mr. Chairman. There is no doubt we are here to listen to what these organizations have to say but I guess I am somewhat taken back at the arrogant type of self-righteousness that is presented to us. Particularly in respect to the area of hunters and trappers. And also in respect to the safety training and inspection

It appears the NWT Chamber of Mines feels that the administration costs should not be burdened by the accident fund in that the government should pay for this. I am somewhat thinking that I know many mines across the Territories sometimes go into areas of hunters and trappers and probably go into areas that may have disrupt the land for many trappers. I guess the point of the hunters and trappers was somewhat of a concern where the government had seen it as a livelihood, just as they saw miners and carvers and other type of industrial workers. It appears that the attitude that is prevailing is only the highest paid contributors to WCB should be considered for coverage. I have a problem with that.

The government could take this self-righteous attitude and indicating that 65 per cent of WCB's contributions comes from the Government of the NWT, even though the Chamber of Mines feels - and we recognize the economic viability that the mines give to the Territories and we recognize the amount of contribution they give, but what I do want to state is the fact

that there are other, in my opinion, equal groups that should be treated equally as the Chamber of Mines. I do not feel it is fair that the Chamber of Mines should self-righteously state that because we are one of the biggest employers or one of the highest contributing employers in the NWT that we should be given preferential treatment. This seems to be what you are implying. Is this basically the implication that the mining companies should be given preferential treatment?

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** You can draw any conclusions you want, which seems to be one of the problems we have been faced with for the last number of years. But I do not know where you get the figures of 65 per cent of the contributions are made by NWT government to Workers' Compensation. Maybe you are privy to some information that has not been distributed to the companies that contribute. But that is definitely not the figures that we ever see.

The hunters and trappers associations, speaking personally from a point of Echo Bay Mines, we did not disrupt anybody's trapping. We have worked harder toward ensuring minimum disruption of that whole traditional way of earning a living, to the point that our two and two rotation totally complements the Inuit lifestyle in the areas of influence that we have in Cambridge Bay and Coppermine.

Preferential treatment. We never said anything about preferential treatment and we came here with the understanding of presenting our point of view. Now I guess it is a bit consistent with one of the points that we raised, that lip service is maybe what it has all been about. But we are pointing out to you some of our concerns, some of the suggestions that we think the stakeholders, including the employees, not just the employers, have to look at, have to consider in the coming years.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, I just wanted to make that point as a Member of the committee. It appears that is the type of approach that is being brought forth to us and I wanted to get clarification from the individual during his presentation.

**CHAIRMAN (Mr. Koe):** Jim.

#### Hunters And Trappers Compensation

**MR. ANTOINE:** Thank you, Mr. Chairman. I would like to thank the presenters for their presentation. Myself, I am the Member for the Nahendeh area, we do not have any mines in our area except for Cadillac Mines that is still sitting there and also Tungsten that is closed down.

My main concern is about the workers and that is what we are here for, injured workers. I have not been involved in the Workers' Compensation Board either but I have been involved in companies back in Simpson where we pay huge sums of money to them every year to provide the service for the injured workers.

The one area I am concerned about is the hunters and trappers. I represent a lot of hunters and trappers. In your presentation you stated that the hunters and trappers compensation is not related to the YMIR and therefore has no place in setting its limits. Do you have any suggestions on that?

**CHAIRMAN (Mr. Koe):** Mr. Willy.

**MR. WILLY:** Mr. Chairman, I think our only point is that there

is a difference between the YMIR and any of the funds that are paid out to hunters and trappers. There is a distinct difference, I think. Now we are addressing more the concerns of the Workers' Compensation Board and one of the points I think we are trying to make is that the hunters and trappers issue is different than the issues of the Workers' Compensation Board as far as injured workers go. So it is a point that we are looking at the cost end of it when we are looking at hunters and trappers. We are looking at the administration costs that have significantly increased since the hunters and trappers fund was introduced. We have a problem basing the YMIR on anything dealing with the hunters and trappers.

The YMIR is supposedly based on the wages that are paid to the employees in the NWT. I think there is a policy directive that they would like the YMIR set at a level that would cover 80 per cent of the employees in this jurisdiction. I do not think we are addressing the issue, trying to tie that in with the hunters and trappers at all. We are talking more about the administration costs, dealing with the board itself and the administration.

**CHAIRMAN (Mr. Koe):** Any other questions? I would like to thank you gentlemen for your presentation. I would like to make a couple of comments before you leave and for the benefit of other presenters in the next few days.

Basically our purpose of these hearings is obviously to listen to presentations. We have a whole slate of different groups, organizations that will be making presentations to us and in turn it gives the committee Members for some dialogue and exchange, basically to try to get clarification of the points that are raised by the presenters.

This committee in turn then will take all the information that has been received, both verbal and written, keeping in mind that everything that has been said in this room is recorded, documented and it will be available for the public once it is all typed up.

We in turn then will be making a public report. We will be tabling a report in the Assembly and more than likely we will be including certain recommendations. I do not think it is conceivable for us to take every recommendation that we receive, because obviously not every one of us agree with what has been said. So we will take what we do agree on and report those to the Legislative Assembly. The report will be addressed to the Minister responsible for the Workers' Compensation Board, with a series of recommendations and in our report we also request the Minister to respond within a certain time frame.

So that is the process and hopefully throughout the next two days the people keep that in mind and we will try and get the work done as best as possible. Like I said, we do not always agree on everything and the dialogue may get heated, but that is part of the game. Thank you very much.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** If it is possible prior to these presentations being made and we can go through them when they are going through theirs. It is easier to make notes and formulate my questions accordingly. It will probably save us some time.

**CHAIRMAN (Mr. Koe):** To members of the public making presentations. If you have a written submission, we would prefer that before you make your presentation. It is easier then for committee Members to highlight different points and when it comes to questions we can refer back to them. The Clerks are available and they will be getting names. If you have a copy we will appreciate it.

**MR. TODD:** It is unfortunate that they left but just for clarification purposes, first of all he claimed it was 18 per cent of payroll costs. It is not 18 per cent of payroll costs. The operation of mineral mines is \$5.75 per \$100. There is a situation with the operation of asbestos, coal or uranium mines is \$18 per \$100. So it is important for clarification purposes. They are not paying overall \$18 per \$100. They are paying \$5.75, which by the way, just so everybody knows, is cheaper than the construction industry paying because they are paying around eight dollars.

**CHAIRMAN (Mr. Koe):** We will recess.

---SHORT RECESS

The committee will come to order. We will hear now from the injured, disabled and discarded workers. I would like to introduce Ron Celej who is the president of the group. Ron, please introduce your members and proceed with your presentation.

**Presentation By Mr. Ron Celej, Injured, Disabled And Discarded Workers**

**MR. CELEJ:** Mr. Chairman, to my left we have Austin Page and to my right is Roland Gravel. I will try and do the best I can. I am relatively new to this type of thing but I will just go right through our presentation. I supplied other information, but it is rather lengthy, so I will let you look through that at your own leisure.

On behalf of the Injured, Disabled and Discarded Workers group, I must say it is an honour and a pleasure to be included in this review. This is indeed a sure sign that the government is upholding its commitment to be a responsible governing bodies. Injured workers, and I mean all injured workers, not just our group, are victims of an historic compromise that took place many years ago.

In the year 1913 Chief Justice William Meredith recommended workers receive benefits for work injuries irrespective of who was at fault. The principle of this historic compromise is still basically sound, but the recent trend to reduce compensation cost by eroding entitlement benefits, reducing rehabilitation costs and benefit amounts is a threat to the integrity of this compromise.

The only way to effectively reduce compensation costs is to reduce accidents and injuries in the work place. Perhaps the single most important cost cutting measure that must be taken is an effective piece of legislation that requires pre-accident employers, who benefit from this social insurance scheme more so than the worker, to re-employ the disabled worker at his or her pre-accident income, in a meaningful career, if the worker so chooses.

We as injured workers see here in the North a WCB that is totally insensitive to the human resources in the region they service. This is demonstrated by:

A YMIR that barely meets the needs of higher income earners, not to mention lower income earners or those in regions with an even higher cost of living than here in Yellowknife.

The income tax deduction implemented by WCB to reflect 90 per cent of net on the 40,000 YMIR does not reflect the northern resident deduction nor any other tax shelter an individual may be afforded; and as this money does not to the federal Revenue Canada, the territorial government loses tax dollars as well.

This YMIR, the fourth lowest in Canada, forces injured workers to move to the South so they can afford to meet their basic

needs. To put this in perspective so that you can see the effects on the northern economy, approximately 60 out of 100 injured workers that have to be retrained leave the Territories. At an average of \$25,000 per man or woman this translates into \$1.5 million per 100 injured workers per year in retraining, not to mention lost revenue and the scores of quality skills lost to the northern economy.

We the injured workers see a rehab department that does little or nothing to utilize northern resources so that the injured worker can remain here in the North. Further, the rehab department is totally insensitive to social problems caused by its lethargic approach to retraining. This rehab department has no clear-cut guidelines available to each injured worker that clearly defines available benefits. This creates turmoil and helps to drive up compensation costs. And more often than not, information is only received through the grapevine after out of pocket money has been spent.

This rehab department clearly has a vested interest in each and every injured worker and as a result, future careers are compromised with no respect of individualism and the needs of the injured worker, much less the northern economy.

In the area of policy the injured worker is subjected to board policy that too often comes before the interest of the injured worker and family. The policies set by the board all too often spill over into other jurisdictions that cost this government money by way of court costs, legal fees and lost revenue.

The policy of no pay-out for pensions over 10 per cent is another example of a policy that affects not just the injured worker but the northern economy as well. In most cases the monthly pension is less than interest paid if the total pay-out was deposited in a local bank on a term deposit.

It has been said that sometimes an injured worker reacts to this money like a lottery windfall. I am sure that a simple credit check and a short follow-up course with a local investment counsellor could alleviate this problem and cut down related costs, which in turn would contribute to lower compensation costs and help to boost our economy.

Many a viable business proposition has been turned down by these policies and in some cases the cost would have been less than the compromised alternative. These policies are purely at the discretion of the board and are too easily manipulated against the injured worker, virtually allowing a departmental manager to play the role of God.

The Territories has a set of WCB statutes that is not only incomprehensible to the average reader, but clearly leaves too much jurisdiction in the hands of the board. The term "the board may" should be eliminated from these statutes and another term substituted to clearly define statutory authority. Most other WCB statutes in other jurisdictions reflect these changes by the simple term, "the board shall" if these measures were implemented, the number of reviews and appeals would decrease significantly, therefore reducing legal and compensation costs.

It is most disturbing and unfair that no advocate is present during meetings between the board and the injured worker. It is an equal injustice that no representation is appointed on behalf of the injured worker at reviews or appeals. If we are going to continue to have little or no recourse as would otherwise be granted under common law, then we must have this representation.

If it would please the committee I would now like to read some letters from other injured workers and families who are also suffering from a system that is in dire need of change.

### Letters From Injured Workers

**MR. GRAVEL:** Good day, Mr. Chairman. I will read the letters:

"To the attention of Injured Workers: Being on the WCB is just a way for them to have control of your life. It takes away all your self-esteem and makes you feel that you are begging for something that is rightfully yours to begin with. My husband's mood is up one day and down the next, never knowing what each day will bring. We live in a two-bedroom basement suite because right now this is all we can afford. Having two boys and a girl it is very unfair to them. They had to adapt to a lot since the accident and being parents it is breaking our hearts. Stress is the one thing that is always with us. It does not go away, it just builds up. An accident can happen to anyone anywhere. The shame of it all is that someone has to suffer during and after this ordeal."

Another one. "What is today's society coming to when an injured worker that has worked for 18 years is virtually put into prison with no bars. I am totally appalled with the way the WCB treats injured workers, from the time you are injured right up to the time you start rehabilitation and after. You are put in a state of chaos and confusion. The only way you know what your rights are is when someone else tells you them. You do not find them out from the WCB and when you approach them on these matters they then tell you about them. Here are just a few dilemmas that I have encountered.

"First came the initial talk that I would have to retrain. I could no longer do carpentry work. Then came the drop in income from \$70,000 to \$27,000. This has forced my wife to go back into the work force to supplement our income. This also has added the expense of day-care for our two children. When I first was injured I asked WCB if there was some place that could help me get back to work and I was told no. I was told I would have to retrain, so in October 1991 I started a retraining program at Arctic College. In January 1992 the WCB phoned me and said they wanted me to go to the care clinic in Edmonton to see if they could get me back into the work force. I was ecstatic. Finally after two years they were sending me somewhere to see if they could help. I was pulled out of school for one month to go to this clinic. I was told to retrain there, there was nothing they could do for me. At this point I lost all faith in WCB. Maybe if I had been sent to this clinic earlier I would still be working.

"The final straw happened last week when I received a letter from the WCB telling me I had to find work for the two months of summer when school is out or my WCB would be cut off. I am only upgrading this year in school. The only work I can do is desk top work. So tell me who is going to hire me? Who is going to pay my mortgage? Who is going to feed my kids?

"In conclusion, I have no where to turn. I wish that I had never got hurt on the job and never heard of WCB. Dealing with their bureaucracy is a constant nightmare."

**MR. PAGE:** Mr. Chairman, I also have some letters here that were addressed to the workers' support group.

"I am a timberman underground at Royal Oak - Giant Mines. On November 6, 1990 I was carrying a 3 by 8 plank and when making a turn my foot got stuck in the mud or slime and I twisted my knee. The slime or mud was supposed to be cleaned up, but the company did not clean it up. I worked about three months but had to quit work and go on WCB. I was on WCB for 55 working days and then returned to work which was supposed to be to a different job than timbering. I ended up back on timbering and this time my knee started giving me more trouble and I had to go back on WCB in July



of last year.

"I had an operation that did cut some of the cartilage inside my knee and it did not seem to help that much. In March I went to a specialist in Edmonton where I was checked over and had an x-ray taken. I was on therapy all the time and I am doing that at home. I am getting a new brace for my knee and I am using a cane also. I now find out that WCB will discontinue my benefits as I will be 65 this month. The mine does not have light duty any more; in fact they offered me a job underground where I cannot work any more.

"They wanted me to sign a slip that I would retire on my birthday. I have no intentions of retiring for at least two more years. And after 40 years of working underground I think I should get a better deal and should not be discriminated against because of my age."

I have another letter that is also addressed to the workers' support committee: "I am a carpenter at Nerco-Con Mine with cervical disc injury and have been off work since September 16, 1991. Since then I have been receiving benefits from the Workers' Compensation Board and I have spent two months - mid-February to mid-April 1992 - at the Centre for Active Rehabilitation and Exercise in Edmonton, under the auspices of the WCB.

"My concern with the WCB centres around a number of areas:  
1) A lack of consistency in how injured workers are treated in exactly the same circumstances; 2) Decisions on my case seem to be made in an arbitrary fashion without reference to policy; 3) There appears to be a lack of written policy and procedures in how injured workers are treated with many decisions seeming to be at the discretion of the case worker or whoever.

"I would like to give a few examples of the points I noted above from my own experiences:

"1) When I was referred to the CARE facility in Edmonton, I was told that because I was driving down I would get \$480 in cash to recover my return expenses. Shortly after arriving there I talked to another injured worker from Yellowknife, travelling under the same circumstances, who told me he had received \$690. I complained and was eventually paid the difference.

"2) I bought a pair of exercise shoes recommended by the CARE centre with my own money and was advised by fellow patients that they had been provided with similar shoes by WCB. I approached WCB and was reimbursed for 75 per cent of the cost, yet fellow patients were reimbursed 100 per cent of the cost.

"3) My discharge assessment from the Edmonton centre recommended for my continued rehabilitation that I be provided with a pool pass, a gym pass and a treadmill. I had been told that WCB will provide a pool pass but are refusing the gym pass and the treadmill. The decision has not been explained to me nor do I know what authority it is made under. A policy or criteria for such decisions has not been given to me and I assume does not exist.

"4) My income was above the \$40,000 WCB ceiling but my biweekly income from WCB is \$1100, which averages out to \$28,600 per year. I have not been given an understandable explanation as to why I am not receiving the maximum of \$40,000 per year.

"5) My most important concern has to do with my long-term future. The Centre for Active Rehabilitation and Exercise after the two-month assessment concluded that my injury is so severe that I cannot continue as a carpenter and must work at

a secondary occupation. The report has been with WCB for three weeks and all I have been told is to wait and see what Nerco pays. Again I have seen no policy or program or guidelines, nor do I have any idea what my options are. I am a 33 year old man who has just been told that I must give up my trade and take a secondary job. I think that the WCB attitude is awful casual in the wake of such a stressful and traumatic situation. If Nerco cannot do anything for me, I have at this point no idea what future choices are available to me. I do not know how long I am going to be in this situation.

"To sum up, the WCB does not seem to operate from a well defined policy and program base and I seem to be at the mercy of whoever is handling my case. I have nothing to refer to so that I can determine whether or not I am being treated fairly or receiving all the benefits I am entitled to. Furthermore, at a critical time in my life, I am told to sit and wait. Not knowing what my options are I do not know where to turn.

"My strong recommendation is that the WCB will be instructed to develop well defined written policy, program and guidelines, so that the worker knows what his entitlements are and what authority the staff and management have in interpreting and implementing them. As well there should be an easy accessible appeal procedure, so that the workers concerns can be dealt with quickly and efficiently."

**MR. CELEJ:** In conclusion I urge this committee to keep in mind that the North is not so rich in human resources that we can allow this board to allow to continue to drive injured workers into such a moral and spiritual bankruptcy, that stripped of all dignity they are forced into seeking a more sensitive climate. Human resources play an integral part of every growing economy no matter where the region. An injured worker may be disabled physically but that does not mean he cannot still contribute to society. So why discard him?

I wish to take this time to thank the committee on behalf of all injured workers for allowing the Injured, Disabled and Discarded Workers for the opportunity to have our views heard.

I do not have any recommendations but I thought of a few things last night. I submitted a copy of page 19(22) in retrospect to another thing that could be implemented so that the injured worker has another recourse. I am not too familiar on how that can be done here but I think it is a pretty good idea what they have done there.

Secondly I think another thing that would benefit just about everyone, probably the business community and the injured worker to help them get back into the work force quickly, would be a fully funded apprenticeship program sponsored by WCB.

A third recommendation would be a review of the act. Review of deductions, review of adjudications would be essential and I would urge that the maximize on capabilities, not disabilities. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you very much Ron and your group. Any questions? Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, I want to thank the Members for bringing forth their concerns. I have recognized somewhat the inconsistent approach of solutions that WCB has taken toward workers and I think some of these examples will give us more information so we can deliberate on trying to address many of their concerns.

Their concerns have been very well articulated and I believe

Members will take their concerns and try to address them accordingly. I agree with many of their recommendations, particularly in respect to the legislation. But I did want to mention that the YMIR is not set by the WCB board, but it is set by legislation, which should be increased on a continual basis and not always being looked at as it has been three to five years, as it appears to have been dealt with in the past few years.

The submissions were very good and well documented and articulated to the committee Members.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** No matter what side of the equation you sit on in this debate, the fact of the matter is there are some concerns out there, in my opinion and I said it in the House and I will say it again, we have to humanize WCB. We have to make it more sensitive to the injured worker. It does not matter if you are industry or a unionized worker, there has to be a clear recognition that you have to stop worrying about forms and start talking about people. You have to simplify what is going on.

Never mind the worker who can relate to English, what happens to the guys who cannot even relate to that. The WCB does not even get off its ass - excuse the expression - and get into the Arctic. It sits in the major centres because it has organized labour and it has organized business to represent and lobby it. There are a whole bunch of other people outside of organized labour and organized companies that need to be represented.

I think it is tragic that these guys have had to get together and organize some injured workers support group. It is a reflection of something out there. Again no matter what side of the equation you are on, whether you agree or disagree with this group, the fact they had to organize means that something fundamental has gone wrong, and my best guess is we have kind of dehumanized, in some ways, the Workers' Compensation Board. I know when I sat on it, the primary objective was the injured worker. Whether it was me fighting with Jim Evoy or Arnold Hope or whatever, the focus was the injured worker.

This group, as indicated to me anyway, whether they are right or wrong, whether you interpret it, whether you are on their side or not on their side, something is fundamentally wrong and we have got to get back to its focus, and that is to look after the injured worker. Being fiscally responsible, and by the way with \$125 million to \$130 million in the bank, that is pretty fiscally responsible, in my opinion anyway. The accident fund and the pension fund being eroded is an over-dramatization. We have got a very conservative approach to the investment portfolio, unless it has changed, and I think that unless the costs of running this operation have increased dramatically - when I left it was fairly intact in terms of the costs related to the services provided.

Surely, again if I can repeat myself, something is wrong and I hope that bringing in Mr. Robert, who has got probably more experience than anybody in the NWT, even Bryan Roberts, who is the acting chairman right now, he will bring about that human component to the thing. If anybody understands mine workers, northern workers, it is him. He has got my support and I want to say that publicly, so I hope we will not have to go through this stuff again a year from now or two years from now.

So again, it does not matter what (inaudible) you are on, you obviously have a problem out there. It is a disgrace. You have to organize yourself, and it is a reflection, in my opinion, of the insensitivity of the bureaucracy within the WCB.

**CHAIRMAN (Mr. Koe):** Any comments? Mr. Lewis.

#### **Inconsistency Among Claimant Benefits**

**MR. LEWIS:** Thanks, Mr. Chairman. Just one matter that I listened to very carefully, and when I first heard it I thought, well, it does not seem such a big deal whether you could get this level of benefit or another level of benefit. But the more you think about it, the more you realize that what you hope to achieve by having an arm's length agency, which is an agency that does things according to the book, according to policy, according to standards, with no interference from anybody, that you would expect it to be consistent. And when you hear stories about somebody who gets this amount of money for that, and somebody else gets this amount, what you are really saying is that the more politically astute individual, perhaps, who knows how to do things, will get one level of benefit and somebody else who does not question things and just takes what he is given, he just gets this much. What you hope to achieve by having this arm's length thing that does things according to proper procedure is just not happening.

Although it seems small whether you have a pair of shoes or not, or whether you have to pay for it or not, if there is inconsistency, it makes you lose faith that there is a system there which is consistent and which has a policy that everybody understands, everybody knows what their entitlements are. And it is a symptom, it seems to me, of a system which is supposed to be straightforward and aboveboard, and so on, not really working very well. So that letter, although when I first got it, I thought, "Well, this is not a big deal," really is, because it is symptomatic of the fact that you do not have a system which treats everybody fairly, which is what we had hoped having an arm's length agency would definitely provide. Thanks.

**CHAIRMAN (Mr. Koe):** Thank you. Jim Antoine.

**MR. ANTOINE:** Thank you, Mr. Chairman. I would like to thank Ron and Austin, and is it Roland? Thank you for your presentation.

In your presentation you mentioned the board's relying quite a bit on southern resources for training and assessment. Can you tell me more about that?

**CHAIRMAN (Mr. Koe):** Ron.

#### **Fully Funded Apprenticeship Program**

**MR. CELEJ:** Well, essentially there is not much training available. In my personal scenario, I tried to get into an apprenticeship program and it did not work out. They were willing to go 50-50, but the employer was not quite willing to do that. And I can see his point, because he has got a lot of extra paperwork and he has got to worry about me, whether I am going to reinjure myself, and that. That is why I suggested the possibility, seeing as we do not have the resources available here, maybe a fully funded apprenticeship program might be essential, and it might help everybody. It might help small business; it might help the injured worker to get back to work quickly; give him some self-esteem back because he is doing something instead of sitting at home waiting to find out what he is going to go into. It is just a way to save money for everybody, as far as I am concerned. For myself personally, I like the North. I would like to stay here. But I find myself day by day getting forced more and more into a situation where I have to go south, because there is no other alternative.

**CHAIRMAN (Mr. Koe):** Jim, Charles, Jeannie? Ron, can you elaborate a little more on that last point, a fully funded

apprenticeship program? Give me some of your thoughts on what you see.

**MR. CELEJ:** Well, if it was fully funded by WCB at no cost to the employer, you would probably have quite a few employers interested in it. As I said, I think it would benefit everybody. Like myself, if I had the opportunity from the very beginning to do that, I would have taken it, because it gets me back to work right away; I am retraining right away; and at least I am doing something that is meaningful.

I am not good at organizing anything like that. That I am going to have to leave up to you guys; but I just thought it might be a good idea and something that the North should maybe consider looking at; and to benefit everybody. The employer is paying into this compensation scheme; I think maybe at one point or the other he should get something out of it. If he can take advantage of a situation like that and still help out the injured worker, as I said, I think it would benefit everybody involved.

**CHAIRMAN (Mr. Koe):** You visualize this as something that would benefit people that would have to be retrained? They cannot work underground; they have to do something else, or...

**MR. CELEJ:** Yes. In some scenarios it would. Obviously, if somebody has got a real serious injury and he cannot be retrained as a small engine mechanic or something - I do not know how he could get into office work through an apprenticeship, but in a lot of cases it would alleviate a lot of - - you could get into hotel management; you could get into all kinds of different careers by developing something like that.

**CHAIRMAN (Mr. Koe):** One more question where I need some clarification. In your presentation you said that the current policies and legislation leave a lot of the decision-making in the hands of the board. And you said that the term "the board may" should be changed. Can you elaborate on that a little more?

**MR. CELEJ:** Well, again, speaking for the few people I know, I would like to see something that is a little more clear-cut. Because to me, "The board may" means "maybe." It does not mean definitely that they are going to do it or they have to do it. It means that maybe we will do it and maybe we will not.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

#### Intimidation By WCB

**MR. TODD:** Maybe I am wrong on this idea, but I just want to come to grips with it a little more. I think attitude has got a heck of a lot to do with what you are doing, no matter which side of the equation you are on. I am getting a sense, when I talked to you guys during the last session, and the stuff I have been doing in reviewing the WCB that - do you sense an adversarial role rather than a complementary one, as an injured worker when you walk in there - and I know it is pretty intimidating when you are in these palatial palaces down the hall way there, but, you know it is like the Eiffel Tower - but anyway, I am wondering about when you walk in there, do you feel comfortable that these people are sensitive to your concerns, or do you think it is more an adversarial role this last little while? Do you think that you would walk in there, and whoever you have talk to, is it intimidating? Do feel that it is an adversarial type of situation?

**CHAIRMAN (Mr. Koe):** Ron.

**MR. CELEJ:** Mr. Chairman, I think that is depending on the situation. If you are a person that has stood up for the rights,

you are going to get an adversarial role. But if you are a person that is intimidated - it depends on the certain individual, eh? Everybody is an individual; I cannot speak for everybody else. I can speak from my side of the story. But everybody is different. I know, myself, when I first went in there, when you are sitting in those glass rooms on display for everybody, it is pretty intimidating.

**MR. TODD:** Maybe we should change to slogan to "The Crew that Cares." Maybe that might work. I am finding that kind of awkward, how much I am representing the workers here. I used to work to represent business. But anyway, I guess my point is that I am finding it right across, whether it is in this group or others, there is this adversarial thing that is going on all the time. To me, the common sense approach is to sit around and try to work out your differences.

Again, I am trying to get you to be a little more articulate. How do you feel the staff - because we do not make this thing run. Let us not kid ourselves. The bureaucracy makes it run. If they want to do an end run on you, they will do an end run on you. That is just the way it works. You can just beat on them occasionally and try to get some changes. You cannot change the world; you can just make it a little bit better. I am wondering, at the staff level, whether it is the counsellors or whatever, do you really think - I need to know, okay? - that there is a sensitivity? Are there difficulties that you are under as an injured worker? A serious question. I need to know that.

**MR. CELEJ:** Mr. Chairman, from my personal perspective and the few people I associate with in our group there, I do not think there is a sensitivity there, in adjudications or in rehab. Once you might get up to review or appeals, you might get some sensitivity, but in the process of getting there, no, I do not think there is any.

#### Union Representation

**MR. TODD:** Let me ask you another question, if I can. Are you comfortable? I thought Mr. Evoy would have been here today. I am most disappointed. Anyway, are you comfortable that at a board level, as an injured worker - were you a unionized worker? Are you comfortable with your union representation, that it is really addressing the issue of injured workers? Because I am a little confused, here. I have got to be quite candid with you. I thought that somebody as aggressive and as adversarial as Mr. Evoy has been, that he would have taken care of you guys. So I am just curious if you are comfortable with your union representation.

**MR. CELEJ:** Yes, basically I never went to the union too much on it. I usually tried to go at things myself and with the help of a lawyer, because I figured that was my right and I figured I would probably get better results.

I think the union is doing the best they can, but again, as I said, I do not know how to put it, but basically what happens is that the board is almost untouchable. You can put it wherever you want, there, and try to talk with them, but unless there is a clear-cut guideline that says that they have to be more sensitive, and stuff like that, and have some accountability there, I am at a loss to say how you could do it.

**MR. TODD:** Well, you set a whole adversarial tone by saying, "You are union and you are business" anyway, and that is a bit of a concern I had when I was on the board. Okay. I was just curious. You know, attitude and the approach to whether you are a chairman, or - and I, for one, I felt that the board and perhaps in the leadership at WCB had lost some kind of sensitivity to the fact that their job was to look after injured workers and be fiscally conservative, I suppose, to keep all

the stakeholders, including myself, by the way, happy. But I kind of sense that there is a lack of caring, a lack of sort of knowing what their job is, and I have just got to get a better feel for that. Thank you.

**CHAIRMAN (Mr. Koe):** Any other Members have any other statements? Mr. Lewis.

#### Recourse To Court System

**MR. LEWIS:** This is a basic question about the whole issue of workers' compensation, how it is set up and why it is set up, and so on. Is there a general feeling - I know it is difficult to ask this kind of question of any individual, because they have their own experience to go on, and things they pick up in the workplace. But is there a feeling among some workers that would probably have got a better deal, especially in cases where maybe the company has been negligent, if, in fact, they had recourse to the court system?

This whole workers' comp is set up, you know, as a judicial procedure that is different from the normal court procedure. And it was set up for that reason, I suppose. It was a way of avoiding very expensive court actions, and so on. But is there a feeling in the workplace that some people, or maybe a lot of people, would be far better off if, in fact, they did not have this imposed system in order to arrive at fair compensation for injured workers?

**CHAIRMAN (Mr. Koe):** Ron.

**MR. CELEJ:** Mr. Chairman, as far as the negligent end goes, I do not know. That is kind of a controversial question. You do not want to take the employer to the cleaners, so to speak, either, because he does have a certain amount of responsibility in making jobs available and everything else. There is no doubt you would probably get a better deal, but, again, there has to be some discretion, because as I said, you do not want to take the employer to the cleaners, either, because that is not right, either. But in an instance, let us say, for a miner that is losing so many thousand dollars a year and coming home with \$26,500 or \$27,500, whatever the case may be, like myself personally in the last 12 years that I have been working - I have been mining for the last 12 years, and each year that I have paid income tax, I paid more income tax than I am now getting from WCB.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** Okay. Really, there is no criticism then, from the way you see it, anyway, of this as being the best way to arbitrate, if you like, on the issue of compensation for workers. This is the best model that can be used.

**MR. CELEJ:** It probably is. As I said at the beginning, the principle of historic compromise is still basically sound, but the recent trend to reduce compensation costs by eroding entitled benefits, reducing rehabilitation costs, et cetera - really, the only way to cut compensation costs is to cut accidents. By putting the responsibility on the employer to rehire and accident employee, maybe those larger companies that do have the large amount of accidents will police themselves.

**MR. LEWIS:** Okay. Thanks.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Let me try one more. I have a bit of a concern that we have 20 per cent of the population in the Northwest Territories doing well, and a great deal of it not doing that well. Let me try to ask you this: I come from a very simple world. That is the way I see life. Is it policy or people that is the problem in the WCB? If you had people that were

sensitive to you; if you had people that would listen, is it really policy or is it people? That is the way I see it.

**CHAIRMAN (Mr. Koe):** Ron.

**MR. CELEJ:** Mr. Chairman, the only way I could probably address that one would be that the policies as well as the people have to be sensitive.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, maybe for information for Mr. Todd, it appears that the policy that has been developed has been developed in isolation, with very little sensitivity toward the individual workers, or injured workers, and has caused frustration to the point where this group has been formulated, and the board, working in exclusive jurisdiction, allows them to determine what policies and how it should be developed and how it should be applied. Probably some of it is a lack of policy that allows for inconsistencies. Thank you.

**CHAIRMAN (Mr. Koe):** Are there any other comments? Do the presenters have any last parting words?

**MR. CELEJ:** No. I would like to take this time to thank you again.

**CHAIRMAN (Mr. Koe):** On behalf of the committee, I would like to thank you for your presentation and well documented material that you submitted. We will recess until 11:00 o'clock.

#### —SHORT RECESS

I call the committee back to order. Before we get into the next presentation, I would like, for the record, to table a written submission received from Dr. J. Corkal from Yellowknife.

At this time I would like to welcome Mayor Pat McMahon from Yellowknife, who is the president of the Northwest Territories Association of Municipalities. Welcome, Pat, and you can introduce your cohort and proceed with your presentation, please.

**MAYOR McMAHON:** Thank you, Mr. Chairman. Ladies and gentlemen, Members of the committee, I would like to introduce to you Roy Clarke. He is the city's purchasing manager. Yvette Bungay, my executive director, was to be here with me but she got tied up in meetings with Municipal Affairs and was not able to make it, so I asked Mr. Clarke to fill in at the very last moment.

#### Presentation By Mayor Pat McMahon, NWT Association Of Municipalities

I am pleased to be able to appear in front of you on behalf of the Association of Municipalities for the Northwest Territories, and provide a municipal viewpoint on the subject you are dealing with today. We all know that many of the responsibilities of the federal and territorial governments are being passed on to municipal governments, and the role of municipalities in dealing with matters close to our citizens is becoming paramount. When the contact between government and the citizen is predominantly at the municipal level, citizens, rightly or wrongly, judge the effectiveness of government and government institutions by how well this contact functions.

Workers' compensation is a "people business"; so is municipal government. This ever increasing role has municipal budgets strained to the limit. Municipalities are therefore looking in every possible direction for help in meeting their citizens'

needs, while at the same time keeping costs under control.

Municipalities are grateful for the existence of workers' compensation, and have praise for the compensation system. I do not have to repeat here that workers' compensation meets a most important need, the need for benefits when disease, injury or death results from the work place hazards. At the same time, a workers' compensation system is a means for workers to get coverage within a framework of pre-established costs. Our members have no flexibility in their budgets to meet these costs themselves, so they deem the workers' compensation system essential.

Our member municipalities are mindful of the record of service of NWT workers' compensation, and in particular commend the board for being able to have the program fully funded by its own resources. We envy you. We understand that the principle by which workers' compensation has become universally accepted is that, as a result of payment of workers' compensation fees by employers, employees are compensated for work related disease, injury and death, and employers are immune from claim by employees. I am told that this is known as the "exclusive remedy doctrine." It has apparently been tested all the way up to the Supreme Court of Canada and has been found to be fair, and not to contravene our charter of rights.

So we understand that the employee gets compensated without having to go to court -- "no fault coverage" -- and employers, having funded this, are immune from further claim. This is how it works. The legislation in Alberta, for example, says:

"If an accident happens to a worker, entitling him or his dependants to compensation under this act, neither the worker, his legal personal representatives, his dependants nor his employer has any cause of action in respect of or arising out of the personal injury suffered by, or the death of, the worker as a result of the accident; (a) against any employer, or (b) any worker of an employer.

"In an industry to which this act applies, when the conduct of that employer or worker that caused or contributed to the injury arose out of and in the course of employment in an industry to which this act applies."

This, we understand, is how the legislation generally reads -- except for the Northwest Territories. Here, the bar to recovery action only applies to the actual employer of the injured employee. We understand that this is extraordinary and exclusive to the Northwest Territories Act.

I have been told that for all other workers' compensation boards, such is not the case. The employer elsewhere is also protected against legal action by any worker or employer who is covered by the act relative to industrial accidents or diseases.

So the exclusive remedy doctrine applies both ways -- workers' compensation benefits are the exclusive remedy for workers' injuries, and the source of funds to provide for this are confined to the fee contributions of employers, except in the Northwest Territories.

Here, we have the potential for an employee who has been injured on the job, and who has received NWT workers' compensation benefits, to go on and sue a municipality for whom his employer is under contract. In fact, the board can sue too, to recover its payout, if it can be alleged that the cause of the disease or the injury was the fault of the municipality.

No other municipality in North America is faced with this

exposure to liability. The city of Yellowknife and other communities, for instance, contributes to NWT workers' compensation and is subject to all territorial safety programs. In all other jurisdictions it would therefore be immune from claims, but not here.

Why our concern? You might respond that the city has public liability insurance to protect against claims alleging negligence causing injury, sickness, disease or death. Yes, the city has such insurance, but there are two problems: First, the municipal liability insurance is about the hardest kind of liability insurance to get. That is because municipalities are perceived to have "deep pockets." Lawyers for injured people say that municipalities have unlimited liability, and this is true. But how do municipalities meet this potential demand? Through insurance, to the extent that they can afford it.

Municipalities are frequently sued as a result of people getting injured on roadways, children getting injured in playgrounds, and in other situations of ordinary exposure. Because courts have been sympathetic to claimants for all kinds of perceived wrongs, municipalities and their insurers have had to pay out staggering amounts.

Where does this money come from? The existence of insurance creates no new funds. The insurance companies get their money from the policy holders. Municipal self-insurance or reciprocal insurance programs get their money from the participants in the plan. So any additional exposure of municipalities ultimately falls on the shoulders of the taxpayers

If premiums cannot keep up with claims -- as happened in the mid-70s -- municipalities just cannot get the insurance. Cities like Chicago and Toronto actually could not get liability insurance at any price at that time. Playground equipment had to be taken down and sports programs had to be cancelled. The pressure has only lessened in recent years.

Thanks in part to a vigorous loss control program, the NWT Association of Municipalities is embarking on a loss control program now, too. They can take many forms -- workers' compensation is one.

To repeat the principle once more, employers contribute to the workers' compensation pool and are therefore immune from claims. At this system exists everywhere in our country except here in the Northwest Territories.

Second, there is an added feature to the problem -- pollution exclusion in insurance policies. The cost of coverage is so high as to be virtually prohibitive. And the definition of pollution is very broad. It includes sickness, disease, and contamination resulting from discharges, seepages, and emissions.

So a garbage hauling contractor's worker who catches a disease from his duties at the dump receives workers' compensation benefits. And then he, and the board, can, under existing workers' compensation law, recover from the city. And in this case, the city is on its own, with no insurance coverage.

The problem goes further. The city of Yellowknife, the town of Hay River, and other municipalities are, in the interests of conservation and ecology, becoming parties to salvage retrieval, recycling and, in the most positive sense of the word, scavenging programs. Are we to abort these commendable efforts because the NWT Workers' Compensation Act puts an uninsured exposure on NWT municipalities not faced by municipalities anywhere else?

What is the remedy? The association this April was able to

have its liability insurance broadened slightly to cover sudden and accidental pollution. But the coverage is very limited. True environmental liability insurance is just too expensive. The association has explored other alternatives.

The remedy, as we see it, is simply to use the system that is in place everywhere else, to make the NWT Workers' Compensation Act read like all similar legislation elsewhere. To bring the exclusive remedy doctrine that applies everywhere else to the NWT. Obviously it has already been given careful thought elsewhere, and has been found to be a practical answer. We do not have to re-invent the wheel. It already exists. We have just kicked a couple of spokes out of it. Let us put them back in.

Yes, NWT assessment rates may be affected by not being able to recover payouts. But where does the cost belong? In all other jurisdictions it has been determined that the cost is best fixed by containing it in the workers' compensation fee structure.

It is evident that the NWT workers' compensation system operates efficiently. I am confident that the board can see the added efficiency of adopting this approach. Surely it is more efficient for the board to operate a system that is totally cost contained and scientifically funded, than to have municipalities running unenforceable and, if they occur, unaffordable contingencies. The alternative is to leave NWT municipalities in a position of heightened exposure faced by no other municipalities on the North American continent.

The Northwest Territories Association of Municipalities asks that the NWT Workers' Compensation Act be brought into conformity with other similar acts in Canada on the subject of barring any further recovery of compensation from employers who are contributing to the fund.

I would like to note that the NWTAM's board has granted support to the Minister of Safety and Public Services to strengthen and expand the government's safety education programs. The Northwest Territories Association of Municipalities and its member municipalities, 44 of the 47 incorporated municipalities in the Territories, also endorse safety education and, in fact, are very much involved in it.

In closing, it is my view that the Workers' Compensation Board is as effective as it is because it is located here in Yellowknife where its clients are concentrated. It only makes sense to see this continue. I say this in the context of providing service to the employees and employers that the Workers' Compensation Board serves, but also recognize that it is true from the perspective of administrative efficiency.

The one thing that could be done is that the boards could be moved around - the board meetings could be moved around - and I think they should be moved around. We at the association move our board meetings around. It is an accepted practice and I think you should be doing it too.

We share your interest in safety and we want to work with the board in the mutual interest of public and workplace safety. We are also interested in the board's efficient and effective service delivery. Let us work together for the good of our work force and the NWT public. I would like to mention also that the association has passed, for the last three years, resolutions on this legislation, and I certainly will be sending that legislation over to you. I was unable to get hold of it today. So I ask for your comments and questions. I would be happy to take them.

**CHAIRMAN (Mr. Koe):** Thank you, Pat. Do any committee Members have any comments? Mr. Todd.

### Centralization Of WCB

**MR. TODD:** Yes, thank God we got a "yes" vote. I can understand, as the Mayor of Yellowknife and, I suppose to some extent, representing the municipalities, that you could see the need for centralization. I would certainly like to get four million dollars worth of O and M costs that are spent in the East, but you know, we have got to find a way to make sure that other interests outside the heavy centres are represented. I am saying this to the point of boredom, I think, but you know that old movie "Network" where Peter Flynn said, "I am mad as hell and I am not going to take it any more"? That is frankly where I am at right now.

I see a strong centralization of this WCB. I see people like yourself lobbying hard, and that is understandable. You should be lobbying hard for the interests of your municipality, but my job is to lobby hard for the interests of the Eastern Arctic and other people's interests, and I am not convinced that we have necessarily got a balance in the WCB right now that represents all the interests in the Territories, as it should. I am not convinced that by simply saying, "Well, let us go into the Keewatin for a meeting once every five years," we will bring about the exposure, if you want, and the understanding and feeling of what the concerns are out there.

We heard this morning a very aggressive presentation by the NWT Chamber of Mines, and yours is the same way, and it scares me even more because you are both well organized, and I commend you for that, but I think we have to find a way in which to - you are not going to like this, but I think we have to find a way where we have to find some method either to sensitize organizations like the WCB to the issues outside of the larger centres, whether it is big industry or organized labour, and if we cannot do that, then I am saying to you that politically we have to find another method, and it may be that we have to decentralize it.

It may be that you have to do something with it, but to suggest that it is more cost effective depends on how you look at cost effectiveness. I take exception, if you want - and I say that in the kindest way - and the fact that we should continue with this thing in a concentrated manner. There are other interests out there; there are other contributors besides the mining industry. We may not be as large, but we certainly contribute the same as everybody else does. That voice should be heard.

This WCB was currently sitting until recently with four Yellowknife representatives. You have the ability to lobby every day because you just walk down the hallway; it does not cost you \$1500 to get an air fare, never mind the cost of living in hotels and spending your money in the Gold Range.

I think that as representative of the NWT Association of Municipalities, you are going to have to look beyond that - beyond just Yellowknife. That is the point I am trying to make with you here. That is the one issue.

**MAYOR McMAHON:** Thank you. Mr. Chairman, could I speak? I think that the WCB, which is appointed by the territorial government, had best be looking at its own organization. The Association of Municipalities moves its board around three times a year. In the last year, we have been in Iqaluit, Fort Smith and Hay River. We have three or four meetings a year and even moved our annual general meeting this year. I think that, as an association, we recognize that here is our headquarters, but there is absolutely nothing wrong with spending the extra dollars to move the board around to get that kind of input.

I would suggest that the WCB be modeled on that sort of thing. We do not have the kinds of problems that maybe the

board has in getting that kind of information that they need and being sensitized. We already are sensitized. We have on our board, members from across the Territories. We move our meetings across the Territories, and I do not understand why the board does not do the same thing. To me, it makes perfect sense. But in the words of efficiency, you must have some place where you have a central incubated area. I would recommend that the board begin moving their meetings around. I do not know how often you have board meetings, but certainly if we can move our board meetings around more than once every five years, the board of the Workers' Compensation can do the same thing.

I really, truly take exception of the fact that we can just walk down the hallway and get an appointment with the WCB members. It does not work that easily, not even when you are in Yellowknife. We, too, have to move through the process. The process can be extremely unwieldy at times. I would like to make the point that it is just as hard for people in Yellowknife to get appointments at times as it is for people from outside Yellowknife. The association has been successful in being sensitized and moving their boards around, and I think the WCB should be moved around as well.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** I do not think you are giving yourself enough credit, Pat. I cannot see anybody not taking the time to meet with you considering you are as articulate and outspoken as you are. I do not think that is an argument..

**MAYOR McMAHON:** One to another.

**MR. TODD:** That is no the argument here. The argument, and the fact of the matter, is that people simply do not understand the issues outside of the larger centres when it comes to this WCB in my opinion. You are wrong, in a sense -- and I do not want to debate with you on this too much -- that you can walk down the hallway. I know you can. I have been around long enough. It does not cost you \$2000 to walk down the hallway. That is what I am trying to say. I commend the NWT Association of Municipalities for moving around and about. That is not my concern. My concern is to make sure that the attitude and the policies are a reflection, not of just the strongest lobby group out there that we got this morning with these NWT Chamber of Mines people -- it is not just the reflection of Yellowknife's municipal attitude -- these are all legitimate attitudes, do not misunderstand me -- but you articulate them well and have the lobbying abilities all of you over here. But we need to make sure the other silent majority is heard as well. I do not see that right now in the WCB, I guess. I am talking to you more than asking you a question. I think you have a responsibility, also, as an association of municipalities representing municipalities outside of the West.

**MAYOR McMAHON:** I know

**MR. TODD:** To seek out in support of the kinds of things myself and others are trying to say when it comes to this board. This has blinkers on.

**MAYOR McMAHON:** If I can, Mr. Chairman, I agree that there needs to be that sensitization, but I also think that it is in the board's best interests to be sensitized. What I am saying, Mr. Todd, is that if the board does not understand the issues outside of Yellowknife, it is nobody's fault but the board's -- if they would get out into the communities and understand those. The resolutions that were passed through the NWT Association of Municipalities were passed unanimously by the association -- 44 out of 47 of the communities in the NWT. They have exactly the same

problems as Yellowknife, Hay River and Iqaluit have. All I am saying is if you want to sensitize, meet in those areas.

**CHAIRMAN (Mr. Koe):** Thank you. Mr. Lewis.

#### **Suing City For Neglect**

**MR. LEWIS:** Thank you, Mr. Chairman. In the presentation there was no specific recommendation made other than our act should be changed to make it consistent with other acts across the country. It is not quite clear from the presentation what the real difference is. If I can try -- see if I have it right -- under our act, if an employee of a contracting company is injured during work related to the demands or needs of the city, then that individual could get compensation because he is employed by a company. But that does not mean it is exclusive. After having his benefits from WCB as an employee of that company, he still could sue the city if there was something that could be proved to be negligent on the part of the city. Is that not the same as exists everywhere else? Really, it is an employer contribution that funds the compensation boards across the country. Since it is an insurance fund that exists in every other jurisdiction, what makes ours different to the other jurisdictions? I do not think there is any difference.

**CHAIRMAN (Mr. Koe):** Pat.

**MAYOR McMAHON:** What makes yours different from the other jurisdictions is that the WCB can sue us to recover their costs. But we pay WCB fees so why should we be dinged twice when we already paid the WCB fees and you come along and sue us again to recover them? In essence, we pay twice when we are already paying to belong to the family of people who pay their fees. That is not fair. In every other jurisdiction, that cannot happen. In essence, the NWT legislation is out of step with the rest of North America. That worker has the opportunity to sue the City of Yellowknife or the Town of Fort Smith, and we cannot recover that. At the same time, they can recover from the WCB. So they recover twice. We have to pay two or three times. The bottom line is that kind of insurance is very detrimental to us as municipalities when we go into the market to get coverage. They are saying it does not really make any difference whether you have the insurance; you are going to get dinged anyhow. Then, if you are going to get dinged anyhow, you have to have a larger than normal amount of coverage to cover the two dings. That is not fair because we pay our fees the same as everybody else does. That does not happen anywhere else in Canada.

**CHAIRMAN (Mr. Koe):** How many instances of this are you aware of municipalities getting double or triple dinged?

**MAYOR McMAHON:** Mr. Clarke can probably answer that. There is one under way right now. I know we have had other cases in the past. In essence, a worker who was working for a contractor slipped and fell on our steps. He then went to the WCB for compensation and is now in the process of suing us. In essence, we are getting dinged twice for one accident, and that is not fair.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** I do not see that this is any different to what exists in southern Canada though. If you are injured because of negligence by a third party, then I do not see how other legislation would be different to ours; to exempt an individual, a citizen, from suing because the WCB is set up and funded by employer contributions. Just because your city happens to be a contributor is not the issue. The issue is that it is a third party. I do not see how other jurisdictions would be exempted because all municipalities get coverage. They all

have liability insurance of some kind.

**MR. CLARKE:** Mr. Chairman, through you, I do not have hard evidence in front of me, but it is a fact that not only can an individual pursue damages against an employer – not his – a third employer, the WCB can also pursue damages not only for costs but for duress, if you like. That is the case that we have before us over at the city. The WCB is pursuing the city for damages. We are going through our insurance program which – if we are found negligent – we will have to pay moneys and our insurance costs are going to go up. Not only are you claiming for the damages, you are also claiming for the duress. WCB does not pay duress costs directly. They pay for the damages incurred, but not duress.

**MAYOR McMAHON:** So in essence, we are paying the fees to the WCB. We are also paying damages to the WCB, unlike any place else in Canada. That does not happen. When you pay your fees, it is supposed to cover everything; and it does not. When you get a little further along with the whole thing of the environmental issue, that is going to be an incredible bugaboo. We are having a really difficult time getting coverage because it is so open-ended.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** I would like to suggest that our research staff examine this issue to see what kind of exemptions exist under the other acts because I understand that our act is modelled on the provincial acts. That is why I find it difficult to see how this would have slipped through.

**MAYOR McMAHON:** If I could, Mr. Chairman, it is modelled on other acts, but you very conveniently left out the one thing that saves us from paying extra fees. We have a lot of research that has already been done on that. We would be more than happy to make this available to you. It is research that has been done by the Department of Municipal Affairs. It is research that has been done by the Association of Municipalities and our insurance people. It is research that has been done by the City of Yellowknife. We will be more than happy to make this available to you. We have researched it to death. We have written letters to the Minister to change the legislation. We have written resolutions and passed them. Putting it very bluntly, nothing has been done. It is getting to the stage now where it is costing us double what it should be. The bottom line is, why pay fees if you cannot get coverage?

**CHAIRMAN (Mr. Koe):** This goes back to the act which has not been looked at since 1977, and this was probably not a big issue then.

**MAYOR McMAHON:** Well, it is now.

**CHAIRMAN (Mr. Koe):** Any other questions from Members?

**MAYOR McMAHON:** If I could just sum up, then, Mr. Chairman. I would like to have the act changed in that instance. Also, the association would very much like to have the whole aspect of environmental liability looked into. It is becoming much more of a high profile thing than it was before, because a number of municipalities are getting into the whole recycling, scavenging type of thing, and sooner or later municipalities are going to be dinged with a real whopper. We just cannot get the kind of coverage that we need, because the act is so broad.

So I would really appreciate it if you could do that. Also, I would also recommend that the board move its meetings around. We have never had any problem in the association with the fact of not being sensitized, simply because of the fact that we do move our board meetings around, and we

meet with the local councils. And those local councils sensitize us to their needs. And I think it is critical that that be done. Thank you very much.

**CHAIRMAN (Mr. Koe):** Jim Antoine.

**MR. ANTOINE:** Thank you, Mr. Chairman. I would like to thank Pat and Roy for their presentation. You mentioned something about safety education. You mentioned that the Association of Municipalities endorses safety education. I would like to know from you what role WCB should play in safety programming. Thank you.

**MAYOR McMAHON:** Yes, Mr. Chairman. I think that the WCB should be guiding the small communities, as well as the larger ones, into what kind of safety education should be given. When you are looking at municipalities and communities, there is everything from defensive driving, if you have a truck, to proper handling of hazardous wastes, if you are shipping them. Every community has hazardous wastes. I will bet you not very many of them have got trained people in how to handle them. Every community has a land fill site or a dump; every community has heavy equipment on their roads – I mean, there is everything from fire safety, to handling of hazardous goods, to driving defensively – the list goes on and on, and the association right now is very involved in what they call a loss control program, where a number of these types of programs are being put forward as the types of things that our members should be educating their employees in to make the workplace safer. And the Workers' Compensation Board should be in there like a dirty, wet shirt – pardon my colloquium. But you should be involved in it. And I do not know whether you are, because the bottom line is, we pay the fees to the Workers' Compensation Board. If the Workers' Compensation Board is not involved in the education program, then what happens is that the thing has the tendency to break down half way through.

We can say to our members, "Yes, we would like you to be educated in this, this, and this and to educate your employees in it," and if the Workers' Compensation Board does not start saying, "Yes. We need to have this type of education done," then when the claims start coming in, they can say to us, "Why did you not do this a long time ago?" But it is only in the last year that we have started doing that. And we did it because we could not get coverage for a lot of things.

We went out onto the international market for insurance for all of our municipalities, and until we had an up-to-date appraisal done of all of our communities and a loss control program, we were not able to get it. What that means in the totality of it, is that if workers have an accident and we cannot get insurance, then it is the worker who suffers. And that is not fair to them, either.

**CHAIRMAN (Mr. Koe):** Thank you, Pat. Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, some of my comments were covered. However, at the same time, just to note in the Workers' Compensation Act under part 1 of section 5 it does indicate that not only the office of the board shall be situated at Yellowknife, but it does state that the meetings of the board shall be held in Yellowknife or at another place that the board may direct. So the board probably felt that the "shall" gives them basically the discretion to use Yellowknife only for their meeting places.

**MAYOR McMAHON:** If I can, Mr. Chairman, just to speak about that for a moment longer, as I said before, the association has its headquarters here, but it was a conscious decision of our board to move them around where at all possible. So we did that, and it has been very successful.



And it has sensitized everybody on our board, whether they are board members from the East being sensitized to problems in the West, or board members, say, from Fort Smith being sensitized to problems in Sachs Harbour. It has made the operation of the board a much more well-rounded and comprehensive board.

And it certainly has done our members an awful lot of good by just virtually having the board members learning that if they come from a very small community, that there are problems that maybe larger communities are having that they may run into, or that there are problems that the smaller communities are having that the larger communities can help with. It has worked very well. And the legislation, if it reads "or another place as the board directs" - maybe the board should be looking at that.

**CHAIRMAN (Mr. Koe):** I do not think you will get any argument from some of us.

Just to summarize, then. Your association can provide this committee with copies of the resolutions regarding workers' compensation. And if you can provide that research material, that would be helpful. And we will do some research on the environmental issue, and we will, obviously, consider the other recommendations you made.

On behalf of the committee, I thank you for your presentation. I guess that is it for this portion. So we will recess until 1:30.

**MAYOR McMAHON:** Thank you very much.

**CHAIRMAN (Mr. Koe):** Thank you.

—SHORT RECESS

The committee will come to order. This afternoon we have the Northwest Territories Chamber of Commerce. I would like to invite Don Yamkowsky and Louise Nielsen to the table, please. Don, you are the president of the Northwest Territories Chamber of Commerce?

**MR. YAMKOWY:** Yes, I am.

**CHAIRMAN (Mr. Koe):** Okay, if you would like to introduce Louise and then proceed with your presentation.

**MR. YAMKOWY:** Thank you. Mr. Koe and Members of the standing committee on agencies, boards and commissions. I am Don Yamkowsky, president of the NWT Chamber of Commerce. I have with me Louise Nielsen, the chamber's executive director. I have only been in the chair for two months, so I have invited Louise to join me to answer any difficult questions which I may be lacking some information. We wish to thank the committee for extending to the chamber the invitation to address you on these matters which relate to workers' compensation.

#### **Presentation By Mr. Don Yamkowsky, NWT Chamber Of Commerce**

The Northwest Territories Chamber of Commerce membership is comprised of 11 local and regional chambers of commerce from all regions of the Northwest Territories with the exception of the Keewatin. As well, a growing number of larger corporations, whose business activities span all or a significant portion of the total Northwest Territories, have joined us as associate members. The Northwest Territories Chamber of Commerce oversees Prospects North '92, a major business and investment conference which is to be hosted in June in Yellowknife.

#### **Northern Employers' Council On Workers' Compensation (NECWC)**

This past year, the Northwest Territories chamber joined with other industry members in forming the Northern Employers' Council on Workers' Compensation. We applaud the efforts of the council and are active participants in working towards its objectives of becoming an effective employer advocate on workers' compensation matters.

#### **Workers' Compensation Mandate**

As our industry colleagues have emphasized to you earlier in your proceedings, the Workers' Compensation Board is unlike just about all other boards and agencies in the Northwest Territories in that its sole source of revenue is from employer assessments and the return on the investment of those assessments. It is not funded from GNWT general revenues. Workers' compensation is an insurance fund which was established from employer contributions for the benefit of workers injured in the workplace. It provides protection for both employers and employees. It is imperative that WCB's total effort be focused to this purpose and that under no circumstance should other agendas be permitted to encroach upon the sanctity of this mandate. The WCB enjoys powerful legislation, and so it should, in terms of its ability to tax, if you will, employers and its responsibilities to ensure that workers receive reasonable and just compensation for injuries. It is incumbent upon all of us to protect the process that ensures that these responsibilities are then administered efficiently, justly and effectively.

#### **1989 Workers' Compensation Review**

It is often said that history repeats itself. In the spring of 1989, there was a major, and we might mention thoroughly credible, review of the WCB which was precipitated by an outcry over significant rate increases to 58 per cent of the industry subclasses, concerns over the proposed move of the WCB to new premises, and the impact of other WCB policies and procedures. In a split decision, the 1989 review panel found that the rate increases set by the board were ill-founded and recommended that they be moderated.

In addition they unanimously stated: "We found, in the course of our review, many very basic management deficiencies. In particular, it was clear that strategic planning, clarity of roles, responsibilities and accountabilities, management ownership, leadership and direction are not evident in the WCB. Criticisms that the board is not operating in a financially efficient and responsible manner are borne out."

Regarding the move to the new City Centre accommodation and whether it was "advantageous to the WCB financially and administratively" the finding was:

"The leasehold agreement is not advantageous to the WCB financially and administratively. It would appear to be a case of wanting one thing and getting something quite different. We believe a prudent person, in the board's position, would have built their own 13,000 square foot building for \$2,035,000."

The review that took place in 1989 was performed by a review panel comprised of an independent chairperson, and representatives from both the Northwest Territories Chamber of Commerce and labour groups. We think this is the appropriate composition of a review panel, that is: a panel with representation from the stakeholder groups, employers and employees, chaired by a neutral candidate.

We mention the findings of the 1989 review panel to set a needed backdrop to your proceedings today. Through our experience in being actively involved in the 1989 review

process, we are all too acutely aware of the lack of financial management and accountability to the stakeholders that took place during the years preceding the review. We have closely monitored the board's proceedings subsequent to 1989 and find that there have been significant improvement in all areas. Management has been tighter, policies have been developed, investment results have been stable, decisions have been explainable in most instances, and the board has put forth a commendable effort in meeting with industry groups, and our chamber in particular, to inform us about plans in progress.

Which is not to say that continuing assessments, monitoring and changes are not required. Further, we must ensure there are no more costly "deals" or decisions made for political purposes, as noted in the 1989 review, that drive up assessment rates and dilute the focus of the WCB.

#### **Matters Needing Attention**

The NWT Chamber of Commerce notes the following areas requiring investigation and satisfactory resolution:

1) **Workplace safety.** We must work to a system that provides recognition to employers who improve the safety of the workplace and therefore reduce claims. While there is provision in the act in section 62 for what have become known as "super assessments" for employers with poor claim records, there is no recognition for employers with good or improving claim records. This should be remedied.

2) **Costs.** WCB administration and general costs between 1989 and 1990 rose from \$3.4 million to \$4.1 million, an increase of 20 per cent. Why?

3) **Contingency reserve.** The contingency reserve increased from \$6.7 million in 1989 to \$9.2 million in 1990, an increase of 37 per cent. When will there be enough in the contingency fund?

4) **Economic conditions.** While the chamber appreciates the need for WCB to remain fully funded and fulfil its responsibilities, WCB must also fulfil those functions in the context of the Northwest Territories economic picture. With the downturn in economic activity, the employer's ability to pay in some circumstances is diminished. All agencies with the power to tax must be respectful of the broader milieu, particularly for employers subject to conditions beyond their control or influence.

5) **Appeals tribunal.** Under Section 7.1 the chairperson of the appeals tribunal must be a member of the Workers' Compensation Board. How can the rules of natural justice be respected by having appeals to a decision heard by a member with the ability to influence the original decision? The appeals tribunal must be, and be perceived to be, completely separate from the board

6) **Injured worker transportation.** For some time the Norman Wells Chamber of Commerce has asked for Section 54 (9) to be changed to have the employer responsible for transportation to the nearest nursing station. Employers operating in communities without physicians or hospitals are unfairly burdened through incurring the costs of air medivacs. In the case of some of our smaller employers, these costs, in the case of multiple injuries, could precipitate the demise of the business. We do not think this was the board's intent.

#### **Agencies, Board And Commissions Committee Review**

The Northwest Territories Chamber of Commerce urges you to proceed cautiously with your review. We have pondered long the role that your committee might have in relation to workers' compensation. We have reviewed the complaints members

have brought to the Legislative Assembly during the last session. We find it appropriate that you comment only on the political aspects of workers' compensation.

#### **Exclusive Jurisdiction**

We would find it totally inappropriate were you to be tempted to dabble in matters that infringe upon the exclusive jurisdiction of WCB. It is not the job of the Legislative Assembly or this committee to set assessment rates, policy on lump sum payments, rehabilitation programs, medical evaluations, investment policy or other functions presently under the mandate of the board. Because we do not see this as part of your responsibility, coupled with our lack of technical knowledge in these matters, we will not offer any further comment.

However, we do encourage a periodic review of the operations of the board, by an independent agency, to offer an evaluation of the board's progress in satisfactorily improving its service. Any review should be accompanied by a financial assessment of the recommendations.

#### **Legislative Assembly**

It is the job of the Legislative Assembly to pass legislation and to provide input into and review proposed legislation. We understand the current workers' compensation legislation is in serious need of review. We strongly urge the formation of a working group, the same as was established to develop the new Mine Safety Act, for this process. Any proposed changes should be accompanied by costing of such changes.

#### **Minister Responsible For The Workers' Compensation Board**

Harmony. Among the Minister's responsibilities should be assistance to the board to function harmoniously with other mandated government departments and programs. Had the Minister played a stronger mediator role in the recent split between the Workers' Compensation Board and the Department of Safety and Public Services over the delivery of safety education programs, and with the NWT Power Corporation over investments, we would not have been treated to the public squabbles which could and should have been avoided. As well, solutions could have been found that would have resulted in a more satisfactory end.

Board Appointments. The Minister is also responsible for appointing board members. The whole tenor of the effectiveness of the Workers' Compensation Board is set by the board of directors. We cannot emphasize too strongly the importance of filling these positions with highly competent and dedicated people who will bring to the table the skills required to properly manage the \$100 million trust fund and set the policies and processes for fairly, justly and attentively delivering the compensation programs.

The ministerial tolerance of the inefficiencies of the board in the 1980s is well documented in the 1989 review. Since 1989 vacant positions have been left unfilled despite submissions by industry and follow-up inquiries and requests which went unanswered. Two positions were filled this past winter with no consultation with industry groups. Also, two weeks ago we learned that all present appointments have been extended, again with no consultation or industry input.

The chairperson has fared no better. All stakeholder groups applauded the appointment by the then Minister, the honourable Nellie Cournoyea, of a strong chairperson in 1989, to effect the improvements recommended by the 1989 review panel. Earlier this year, the chairmanship was not renewed but rather left to lapse. We now have an amazing situation

where a mid-level Workers' Compensation Board employee has been appointed as chairperson. This absolutely defies explanation and could be sequed to appointing a civil servant, for example, the director of policy in the Department of Economic Development and Tourism, to fill the position of Minister of Economic Development and Tourism should it, for some reason, become vacant. Why was a board member not appointed to serve as acting chairperson? More importantly, why was such an important position left to lapse? The expiry date of the incumbent's term was well known. Responsible conduct dictates that a decision or appointment should be made in a timely manner in order to ensure the leadership of the board continued uninterrupted.

Further, we have no knowledge of how long this interim arrangement is to continue. The chairmanship role remains undefined. Are we looking for part time, full time, public relations skills, northern knowledge, investment expertise, claims expertise? The list goes on. How can we fill the position without defining the job? How can we expect to attract a competent person to the position without offering some guidelines, stability and defined framework? These questions must be answered, and it is imperative that the parties answering the questions be from the employer and the employee groups. To assist the Minister, we offer the following recommendations on the board appointments, which includes the chairmanship.

#### Recommendations

- 1) The board be composed of a neutral chairperson, who is acceptable to both employers and employees. Remaining board positions be filled only by representation of employers and employees.
- 2) Job descriptions be developed; time commitments, duties, and knowledge required by well documented, understood and accepted.
- 3) Interested applicants be interviewed and assessed, based on the requirements of the position.
- 4) Accountability for board members be defined, understood, and accepted for all parties.
- 5) Board position terms be staggered in time so that all positions do not come up for renewal at the same time.
- 6) The remuneration for the chairperson and board members be adequate to attract competent people; employers be involved in setting rates. At the present time we do not know the levels that are being paid.

Board members must be accountable to the stakeholder groups; namely the employers and the employees. At present, we are bystanders to the process, yet are legislated to contribute assessments with no control or input. This must change. Employers must have direct input into determination of costs and assessments. By developing accountability from the board of directors, we will be able to work with them in dealing with the frustrations encountered in the administration of the workers' compensation program.

#### The Nature Of The Workers' Compensation Board

We also urge you as legislators to seriously consider the nature of boards. If you want a program controlled by, or under the direction of, a Minister of the government, then a department staffed by civil servants should be established. The nature of a board, and especially a board such as the Workers' Compensation Board, which is not financially supported by general revenues, is that it is created to operate at arm's length from the government. The Legislative

Assembly has the power to enact the legislation but them must remove itself and charge the board with fulfilling the requirements of the legislation. Periodic reviews and a framework of accountability are then the tools available to measure performance.

#### Conclusion

In conclusion, we wish to repeat our appreciation of your invitation to appear before you. We also repeat our general support of the progress made since 1989 in bringing the Northwest Territories workers' compensation to becoming a more credible, financially responsible and stable program. We trust you will implement our suggestions for further improvements, however, and strongly emphasize our position that the exclusive jurisdiction of workers' compensation be protected in order that resources be devoted to fair and equitable compensation for injured workers at a manageable cost to employers. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Yamkowy. I assume there are a few issues the Members may wish to address. Don, our committee has no questions, but do you have any other comments you wish to make?

**MR. YAMKOWY:** No. I do not, Mr. Chairman.

**CHAIRMAN (Mr. Koe):** Okay. The next group is the Northern Employers' Council on Workers' Compensation. They are scheduled for 2:30, but I see, I think, most of their representatives are here. I do not know if they are ready to make their presentation or not.

If you are ready to proceed, maybe we should, because I think we may have similar themes here. Okay. I appreciate your groups' ability to appear before us a little before the time scheduled. You are representing the Northern Employers' Council on Workers' Compensation. Please use the microphone; there is a button on it. You can introduce yourself and cohorts and proceed with your presentation, please.

**MR. LEONARDIS:** Thank you Mr. Chairman and committee Members. My name is Fred Leonardis, and I am a director of the Northern Employers' Council on Workers' Compensation. We will refer to it by its acronym, NECWC. Appearing with me are fellow directors, Garth Wood, representing the retailers, and Charlie Fair, representing road transport. I represent the Yellowknife Chamber of Commerce on the board.

#### Presentation By Mr. Fred Leonardis, Northern Employers' Council On Workers' Compensation

NECWC is an association of employers groups representing the NWT Chamber of Mines, the NWT Construction Association, the NWT Chambers of Commerce, Road and Air Transport, Marine Transport, as well as tourism, retail and hotel groups. The industries we represent contribute approximately 80 per cent of the total employer premiums paid to the Workers' Compensation Board, or almost \$60 million annually.

NECWC was formed in the winter of 1991-92 as a result of commonly held employer concerns and frustrations regarding WCB activities and costs. The announcement last September of significant rate increases, coupled with individual employer helplessness to significantly affect WCB operations and decision-making, led to the formation of this council.

As one of the two major stakeholders in WCB, the other being the workers, it is our intent to become much more involved in WCB activities: to monitor, advise and consult on issues related to the WCB.

Mr. Chairman, one of the critical concerns NECWC has today is the relationship between the Legislative Assembly and the WCB: what it is, what it has been, and, most importantly, what we believe it should be. Recent debates in the Legislative Assembly regarding WCB accountability, board appointments, and WCB investment policy have, in our estimation, demonstrated a lack of understanding of what WCB is. The WCB is an agency established to provide protection to employers and workers. Unlike other boards and agencies which your committee might review, this agency is totally funded through employer contributions and returns on the investment of these contributions. It is not a government department or a government funded agency. This distinction must be clearly understood.

When individual companies currently pay premiums in the range of eight per cent of their payroll to support the activities of the WCB, they have a direct and very real interest in any decisions which could increase these already significant costs.

#### **Board Appointments**

Mr. Chairman, as employers whose contributions fund this multi-million dollar agency, we have a direct interest in seeing the most capable and skilled people appointed as board directors. Direction provided by this board is critical to the stewardship of WCB funds and the reconciliation of employer and worker interests. The involvement of employers and workers in the selection of board appointees is essential. In fact, echoing the recommendations of the government-commissioned WCB Review Panel Report of 1989, the board itself should consist solely of an equal balance of labour and employer representatives with a neutral chair. The drive to make board appointments based on political considerations of ethnicity, regionalism or gender can result in a board lacking the skills and understanding to adequately perform its duties. We cannot support such appointments.

#### **Investment Policy**

Mr. Chairman, the NWT WCB is one of the fully funded WCBs in Canada today. We want to keep it that way.

Investment decisions which reduce the viability of these funds will ultimately require either an increase in employer premiums or infusions of government funding. Neither of these options is desirable. WCB pension and contingency funds cannot be viewed as a cash cow which can be milked for cheap sources of GNWT funding. Investment decisions must continue to be made by professional investment managers whose performance is monitored by the WCB. These investment managers cannot be directed to accept non-marketable securities which would seriously impact on their flexibility and ability to manage WCB funds for maximum returns.

#### **Exclusive Jurisdiction**

Mr. Chairman, in the matter of "exclusive jurisdiction," it is our strong conviction that control of the claims process and decision-making must remain with the WCB. Systems and policies must be defensible and equitably applied. To do otherwise leaves the process open to a whole range of interference and possible abuse of the process. While we recognize the responsibility and desire of politicians to represent their constituents' interests, the settlement of outstanding WCB claims and/or grievances cannot take place in the political arena.

#### **Hunters And Trappers**

It was a decision of the GNWT in 1987 to extend coverage to hunters and trappers and to fund claims through the Department of Renewable Resources. As an employer group

we raise this issue for two reasons: One, the WCB has taken a lot of criticism lately for a program that is not even theirs. The criteria for claimants and the amounts they can claim should properly be determined by those who established the program and pay for it. This is the GNWT and the Department of Renewable Resources. Number two, the WCB administers this program for the Department of Renewable Resources and the GNWT and must be able to recover all costs plus the administration costs. Such arrangements should be formalized in a memorandum of agreement and not in legislation.

The WCB Review Panel Report of 1989 observed that from its first year of operation, when claims costs were approximately \$28,000, hunters' and trappers' claims mushroomed in 1989 to increase costs to the GNWT by a million dollars. We understand that claims costs under this program for the period of 1988 to 1990 exceeded \$2.4 million.

This cost was not originally anticipated when the decision was made to provide coverage for hunters and trappers. It underlines the fact that hard political decision must be made as to who, how, and to what extent hunters and trappers can access these benefits. Mr. Chairman, we believe these decisions are not the responsibility of the WCB but must be placed in the hands of a more appropriate agency such as the Department of Renewable Resources or the FMB, as examples.

#### **Role Of Legislative Assembly Re WCB**

Mr. Chairman, we see the role of the Legislative Assembly as an important one in many areas such as the passage of legislation, ensuring regular reviews are conducted, and acting as a guardian of the public trust. I will expand on this:

1) Board appointments. Board appointments must take place on a timely basis. We cannot afford to repeat the experience of the past few years, where board positions remained vacant despite numerous submissions of qualified nominees. Terms for board appointments must be staggered so as to promote stability, improve continuity, and enable the WCB to maximize the benefit of funds expended on directors' skills development. The Legislative Assembly must ensure that proposed appointments to the board and the chair have the support of employer and labour groups.

2) Periodic reviews. Mr. Chairman, WCB legislation and operations must be reviewed and possibly amended on a regular basis. As well, issues and concerns raised by constituents may point to a need for a review of existing policy or procedures. Ensuring that these reviews take place and that they are conducted by knowledgeable, impartial committees is another important function of the Minister and the Legislative Assembly. Of course, any review of the WCB must involve employer and labour groups; further, any proposed recommendations for change must be costed prior to implementation.

3) Public guardianship. Mr. Chairman, the Legislative Assembly cannot allow individual or political agendas to impact the future of the WCB. A financially weakened WCB requiring massive additional infusions of employer and/or public moneys must be avoided. That leads me to my final observation on the role of the GNWT and the WCB. The GNWT should act as a guardian of the overall public interest in ensuring that the WCB is wisely and prudently managing the moneys entrusted to it by the employers and safeguarding it for the benefit of the workers.

#### **Legislation**

Mr. Chairman, it is our recommendation that a review similar

to the one being done for the Mine Safety Act be established for the Workers' Compensation Act. This would consist of an independent review conducted by a committee made up of labour and employer representatives and a neutral chair, which would invite stakeholder submissions. Recommendations for legislative change would be costed for their impact on assessment rates and, if acceptable, prepared as draft legislation which would be presented to the Legislative Assembly in the normal channels.

#### GNWT Lease Of Surplus Space

Mr. Chairman, in 1984 the boards submitted a proposal to the Minister of the day for the construction of an office building in downtown Yellowknife. The response at that time was negative and stated that it "would not be in the best interests of the government at this time to allow the WCB to acquire its own office building." The WCB today occupies the leased space in the City Centre Square. How and why the WCB entered into its current lease, which includes approximately 5000 square feet of surplus space, is a matter of history. However, the additional drain on WCB funds is significant.

The Review Committee Report of 1989 observed that the effect of the move to these premises on the operating costs of the WCB in the next five to 10 years would be, and I quote, "increased in the order of \$1.5 million more than if they had purchased their own office space...." That means that by renting the space, the cost has increased to the employers by \$1.5 million. "There is a risk that additional costs may be as high as \$1.8 million to two million dollars."

Political decisions forced the WCB, and employers, to assume these increased costs; therefore, it is our recommendation that where a need for GNWT office space is identified, first consideration should be given to leasing the WCB surplus space.

#### WCB Accessibility

One of the greatest sources of frustration over the past few years has been the lack of responsiveness and accountability of the WCB Minister, and consequently the board, to employer concerns and interests. Submissions of nominations to the Minister for the vacant WCB board positions were unacknowledged and ignored, as were requests for information. Mr. Chairman, committee Members, there is an old principle we think should be kept in mind: You pay, you play.

I am happy to report that we have begun to see some moves toward better consultation with industry. The Workers' Compensation Board and staff have made serious attempts to respond to our inquiries. We have been able to meet with the new Minister responsible for the WCB and have begun the process of providing informed input into the WCB process. To do this, NECWC has set up committees responsible for researching and developing employer positions on WCB issues. We are not in the process of gathering employer nominations for the upcoming vacancies on the board. We expect two, and ultimately three, appointments to the board to result from these nominations.

Mr. Chairman, it is our hope and expectation that this committee, and indeed, all Members of the Legislative Assembly will recognize that their responsibilities extend beyond simple representation of individual constituent interests to acting as guardians of the general public good. This particularly applies to the WCB, which provides an essential service to all employees and employers, with funds drawn from employer premiums and investments. It is in all our best interests to ensure that the WCB can continue to provide the service it was created to provide, at a cost that employers can

bear. To do otherwise is to risk increased business failure, diminished funds for injured workers, and, ultimately, increased costs for government.

Mr. Chairman, and Members of the committee, thank you very much for inviting us to make this presentation. We are open to your questions.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Leonardis. Do any of the committee Members wish to respond? Do you have any questions or comments on the presentation? Mr. Lewis.

#### WCB As Arm's Length Agency And Political Interference

**MR. LEWIS:** We have had several submissions which point out the need to have this remain as an arm's length agency. It seems to run through all the submissions we get, because of the history, I suppose, of what is considered to be political interference.

One thing I do know on the one issue you raise about whether they should have built their own building or whether they should have leased it. You have to remember that at that particular time there was a considerable effort on behalf of several Members throughout the Territories to move the Workers' Compensation Board out of Yellowknife, and it was in that environment that all of this discussion took place. Because there were lots of things on the chopping block to be moved out of the city, and there was some feeling that perhaps the desire to own the building was being done to prevent that process from taking place. There was also some speculation that the leasing arrangement that was entered into was done in such a way that would curtail any possibility of moving it out, because of the kind of lease that was entered into.

I make that comment simply because it is still unclear in some areas where political activity is all right and where it is not. I agree that on the issue of the operation of the board, the way its decisions are made, and so on, should be beyond political interference. There is no doubt in my mind whatsoever that that is the principle that we should operate under. But when you are looking at the major economic activities, and the fact that many places do not have very much, there is always that temptation to look at what parts of government could go to different places.

I just wanted to make that as a comment, Mr. Chairman, that I did see this as one example of political interference, if you like, where there was some concern that the board would be moved out, and not because of the principle of having things done elsewhere, but maybe there are some things that just cannot be moved that easily and continue to perform the function that you would like to see it perform. So I just wanted to make that comment, that that is one example where I do see some example of potential political interference that may have been headed off.

I agree with all the comments that have been made about the arm's length relationship and the fact that the stakeholders should have a far greater say in the way appointments are made, and so on. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Brian. I can just add to that, I guess, as committee chairman. Members of this committee are elected officials representing various constituencies, elected by people, a majority of whom do not live in Yellowknife. We consider them the silent majority. They are not organized. They do not necessarily have a voice. We are looking at this organization, the Workers' Compensation Board, because in the act it states that the Minister shall prepare an annual report and shall table an annual report. Once an annual report is tabled, we as

Members of the Legislature can ask and enquire and do whatever we wish in terms of finding out what goes on within the material that is presented.

Also, the mandate of this committee gives us the authority to look at any boards, agencies, or commissions. That is within the legislative reign of this government. So that is why we are here, and that is why we are looking at Workers' Compensation.

I would like just maybe an explanation on one of your points regarding political involvement. You various times refer to the 1989 review. I am a bit confused, because one of the recommendations in the 1989 review was that the Minister responsible for Workers' Compensation Board be empowered to take a more active role in the monitoring of the management of the board. I am not sure if you are supporting that or not supporting it. Maybe I could get some clarification.

**MR. LEONARDIS:** It depends on how that is viewed. As a trustee, we are saying, "Yes." We believe that the Minister should be a trustee of the WCB fund. We do not believe that the Minister should be totally, or should eliminate the involvement of the stakeholders. Do you have anything to add to that, Garth?

**CHAIRMAN (Mr. Koe):** And another thing. Our committee - I do not think the intent is for us to get involved in all the day-to-day stuff that was mentioned in your presentation. It is almost impossible, with all the other activities that we do. We will be taking, again, the comments, the presentations that we hear during this week, and there will be other sessions, to determine, I guess, looking at legislation and making recommendations. Our recommendations will be tabled in the form of a report, which will be tabled in the Assembly. The report will be addressed, basically, to the Minister responsible for workers' compensation, and then he in turn will deal with it, I guess, accordingly, how he sees fit, obviously, and I hope in conjunction with the board and the organization.

That is our process. If there is legislative change and then it comes back at a later day, I guess the recommendations we make, hopefully, will then be translated into print and may be in the form of new legislation. But that is a considerably way down the road, I think, unless there are some really serious, significant changes that are required immediately. Then we can act more quickly. But that is something that has to be determined during this week.

**MR. LEONARDIS:** If we can be of any help, Mr. Chairman, we would be most happy to do so.

**CHAIRMAN (Mr. Koe):** Any other Members have any comments? Mr. Todd.

**MR. TODD:** Yes. I am sure the workers will be pleased to hear your statement about "You pay; you play." Are you suggesting that only the contributors to the fund should have a say in the workers' compensation - is that your implication with that comment?

**MR. LEONARDIS:** No. As a matter of fact, Mr. Todd, if you were paying attention, all the way through the report we were referring to two stakeholders: the employer and the employee. We feel that the WCB was in fact established to safeguard both the employer and the employee, and we feel that it is imperative that both be equally represented.

**MR. TODD:** So on this Northern Employers' Council on Workers' Compensation, NECWC, has that been elected by northern employers, or is that just a coalition of groups? Was an election called...

**MR. LEONARDIS:** Actually what was done, each organization appointed a representative to the board, and we meet on a regular basis, monthly, and each board member is responsible to his organization, and we have the full support of all the organizations represented.

**MR. TODD:** But it was not an elected position, correct? You were not elected directly to this northern employers' council.

**MR. LEONARDIS:** Each one was elected by their board, yes - by their...

**MR. TODD:** You were not elected by the northern employers across the Territories. It was an appointment made by whatever organizations you represent. Is that correct?

**MR. LEONARDIS:** Each member was elected by the individual organization. Yes.

**MR. TODD:** There was no direct election on the part of all the employers in the Northwest Territories on this Northern Employers' Council on Workers' Compensation.

**MR. LEONARDIS:** No.

#### Investment Of WCB Funds In NWT

**MR. TODD:** Okay. Thank you. Another question. I do not want to be too flippant, but when I look at the Chamber of Mines presentation, the Chamber of Commerce, and Northern Employers, I thought maybe you were all in the same room when you wrote them, but I guess one question I want to ask at this point is on this funding thing, where you suggest that WCB pension and contingency funds cannot be viewed as a "cash cow" which can be milked for cheap sources of GNWT funding. Maybe I am missing something here, but I as an advocate, as you probably know, have said that some of the Workers' Compensation funds should be re-invested in the Northwest Territories. I am a bit concerned about where the paranoia seems to be in this thing. I mean this as a serious question.

When I talk, if I can, because it is an issue that is close to my heart, when you talk about re-investing some of these funds, I am talking about a marginal amount of the funds. I am talking about investment on the same principle as the Workers' Compensation currently does its funding through the investment counsellors, whether it is Bolton, Tremblay, Laketon Investments, McConnell or whoever. I sense in your comment, and in Mr. Yamkowsky's and Mr. Willy's, that you have got this interpretation that we are going to pour this money in to subsidize programs out there. Am I getting the wrong message here, or what? I would like more clarification of where you are coming from on this issue.

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Basically, what we are saying is that investment decisions should be made based on good investment decisions, not to - and I am saying this in true honesty - comply with some political agenda or to some pet project. As you noticed by our presentation, we did not specify whether it should be in the Northwest Territories, Russia or the United States. What we state is that invested funds, a very large contribution to the WCB, which impacts the rates, and what we are saying is that whatever decisions are made, they are made based on good investment decisions, not on political agendas.

**MR. TODD:** You are saying, by implication anyway, with all due respect, by implication you are saying, we want to see the fund invested in the same way they are currently being invested, and that 100 per cent of the funds except for a small

thing with maybe the Power Corporation or something – but my interpretation is that by implication you are saying, we do not want any of the funds invested in the North. I would like to be more specific. Where are we concerned? What do you mean by "pet projects"? What do you mean by "political interference"? I mean this seriously. What do you mean? Are you saying to me that you find that perhaps there has been political interference because the NWT Power Corporation, a couple of weeks or three weeks ago, went to the Workers' Compensation Board and said, "Give us \$20 million"? Is that what you are saying? Let us cut the wheat from the chaff here.

**MR. LEONARDIS:** No, what I am saying here is that in the past, decisions have been made that were not good economic decisions.

**MR. TODD:** Where?

**MR. LEONARDIS:** Well, let us take this building...

**CHAIRMAN (Mr. Koe):** Order. Please address through the Chair.

**MR. LEONARDIS:** Mr. Chairman, as Mr. Lewis attested to, the political decision was made that they would not build their own building. They would lease instead. That created a cost to the employers of \$1.5 million. Now, Mr. Lewis did qualify, or at least explain the reason behind it, but the fact of the matter was that it was a political decision, and that political decision cost the employers \$1.5 million. What I would like to express to Mr. Todd is, we are not specifically stating that whether it is the Power Corporation or it is a Yak farm down in Gjoa Haven, or whatever it happens to be, what we are basically stating is that if, in fact, there is a good investment decision, then it should be invested in the North. But it should not be invested in the North strictly because it is the North. Mr. Chairman, we are talking reasonable here. Let us assume that if an average return is 18 per cent, we think they should maintain some sort of criteria.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** Let me ask you this question. Now I have got a bit of a selfish agenda here and I am going to qualify it up front because I think we should be putting some of the money back in the North, because some of us have got some faith in it and some of us can give Northerners a reasonable return for their investment, and I am sure all of you, yourself included could do the same. If there was a reasonable return -- by the way I do not believe for one minute that the Workers' Compensation Board gets you an average of 18 per cent, or as Mr. Willy said this morning, 23 per cent. I am asking for a clarification on that. You are probably lucky if you get six or seven or eight points, and in today's world you would be lucky if you got that.

The point I am trying to make is, if in an ideal situation you had an element of security, whatever you need as a stakeholder, some kind of marginal guarantee if you want, would you be prepared to support the idea of bringing back in some of this Workers' Compensation Board funding into an investment fund that would assist small business, like yourself, in the Northwest Territories? If it got the same kind of return as you are currently getting with Bowens (sic) or Arctic Gas, Alberta Telephone bonds and stuff like that? That is why I am getting a bit confused here. I need to know, because there is no point in pursuing this thing any further if the public is not going to support it.

**MR. LEONARDIS:** Mr. Chairman, I think what we are saying here – and I am a firm believer of the North obviously because my livelihood is in the North as well – what we are

saying is that we expect the WCB to follow prudent investment policy for the benefit of the employee and the employer. If, in fact, that can be done by investing in the North, I do not think there is anyone who would say, "No, we will not invest in the North."

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I wanted it official and said out loud, and I am glad to hear it. Thank you.

**CHAIRMAN (Mr. Koe):** Any other committee Members? Mr. Dent.

**MR. DENT:** Thank you, Mr. Chairman. We have heard quite a number of the presenters say that they want to see the Workers' Compensation Board maintained at arm's length. We had a presentation this morning where the recommendation was made that a final route of appeal should exist outside of the Workers' Compensation Board. I guess the case can be made that, for instance if the CRTC makes a decision about a radio licence, that can be appealed to cabinet, or if a public utilities board makes a decision, there is always a political route of appeal, if you will. In the Alberta legislation, the Lieutenant Governor in Council is allowed to intervene if he is of the opinion that injustice or hardship of the worker has resulted or will result from a decision of the board, notwithstanding anything in the act or the policies. What would your position be on writing that kind of appeal mechanism in as a last step?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, I really am not too familiar with our jurisdiction. One of the things that comes to mind, of course, is that the appeal process we have in the Northwest Territories is, there is an appeal where there is an employer/employee group, and to my knowledge, and I could be wrong and I am sure you will probably hear from the employee groups, but there has not been a great deal of difficulty, or at least every employee has been... (inaudible) may not think it is fair, but every appeal has been looked upon and acted and evaluated, and fairly to my knowledge. So the additional process, I really do not know. I do not see what benefit it would have, to have someone involved that has absolutely no expertise in the workings of the WCB, the medical problems of the injured worker, but then again if it is proven to be valuable -- I really do not know.

**CHAIRMAN (Mr. Koe):** Mr. Dent. Mr. Todd.

#### Political Interference in WCB

**MR. TODD:** Just again, help me out here. Exclusive jurisdiction, you say that while you recognize the responsibility and desire of politicians to represent their constituents' interests, settlement of outstanding WCB claims and/or grievances cannot take place in the political arena. What would you do if you were in my position, and you had a unilingual Inuit guy sitting in Whale Cove where the WCB has never, repeat never, been, and he came to you as a politician and said, "Can you help me? I had an accident..." in Inuktitut, by the way, "...and nobody is responding to me." What would you do?

**MR. LEONARDIS:** I am sorry, nobody is what?

**MR. TODD:** Nobody is responding to me. I do not know what to do. Would you see that, if I brought that before the chairman or the staff, as political interference?

**MR. LEONARDIS:** No. I do not see that as political interference. You went to the board, and the board was an

independent body who looked at it, for whatever reason, whether they did not get the claim or whatever may be. I do not see that as being interference, as long as you did not have the power to force the board to act.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** You are really in a unique situation over here. You have well organized lobby groups representing whatever side of the equation you are sitting on. I said this to the previous reports. There has to be a recognition on behalf of your group and others, that there is another group of people out there who simply do not have that kind of lobbying and political skill. It is obvious, if you look at this review, that there is not a single presentation being made from anybody from the Eastern Arctic, or anybody from the aboriginal groups, or anybody from any unorganized, and I use "unorganized" liberally, employers. So I just want to get it clear what you are talking about, because I see it, just so you know where I am coming from, I see it clearly, Mr. Leonardis, as my job as an MLA and as a politician elected by people in Keewatin, to interfere if they feel that the system is not treating them fairly. I want to make that clear, where I am coming from.

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, I do not want to argue with Mr. Todd as to what his responsibilities to his constituents are. I do not see the difference between an injured worker in Iqaluit or Gjoa Haven, and an injured worker in BC. They all have the same interests and the same problems and the same requirements. The fact of the matter is that you are meeting here in Yellowknife, and we are here. Therefore, we are here to make a presentation. If you had met in Iqaluit, you can rest assured that we would not be there giving a presentation because of the costs of travel. However, the WCB is an insurance program. It is a no-fault insurance program, and if it works effectively, it should work for what it was set up for - the benefit of the employee who has been injured, and that is in fact why the whole thing was set up.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I do want to argue, Mr. Leonardis, because I want to get a clear definition of what you mean by "political interference," and I am asking a serious question. I am not sure I understand; I live in a pretty simple world, so maybe you could give me what you mean by "political interference".

I mean, it is important because there was a heavy debate in the Legislative Assembly in the last round. It is not complete, and do you feel that was political interference, for example?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Well, let us go back to what you said earlier, Mr. Todd. Mr. Chairman, if you do not mind if you pay the bills, you have the right to do whatever the hell you want. If you do not pay the bills, then we have to involve the people that are paying the bills. Now, if you go in there, and I am talking about political interference, if you can go in there because of your position and influence the board to do something that was not according to policy or directive, that is political interference.

**CHAIRMAN (Mr. Koe):** Mr. Antoine.

#### Appointments To The Board

**MR. ANTOINE:** Thank you, Mr. Chairman. I would like to thank Fred Leonardis. I agree with a lot of your presentation, but I need clarification on a couple of points.

I am a Dene so I want this clarified. You are saying that you do not support appointments based on political consideration of ethnicity - meaning that you are native, I guess - regionalism or gender which can result in the board lacking skills and understanding to adequately perform its duties. Can you clarify this for me, please?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, one of the things that is extremely important when you are dealing - and first of all, let us understand that the board is a policy-making board for the WCB. It is the one that has to, in fact, make the right decisions or policies to the benefit of the employee. What we are saying is, appointments should be made based on a person's ability to run a multi-million dollar corporation. What we are saying is that it does not matter whether we are talking about native, whether native Canadian, native American, native Asian or black; he or she should be appointed because of his or her ability to manage this multi-million dollar corporation.

**CHAIRMAN (Mr. Koe):** Mr. Antoine.

**MR. ANTOINE:** Thank you. I am of the opinion and view that even though you are native people, you can sit on these kinds of boards. It is a free country. I think a lot of people that are native are capable on sitting on these sorts of boards. I think you should not disagree with any appointments because you are native. I would like to make this point.

**MR. LEONARDIS:** Mr. Chairman, what we said is whether they are native, black or oriental, they should be on the board if they have the capability.

**CHAIRMAN (Mr. Koe):** Mr. Antoine.

**MR. ANTOINE:** I am a new MLA here since October, so I am trying to find out about WCB. I have been involved in WCB on the giving end of it. I paid the dues myself so I know how that feels. In your presentation, you said you supported the process in 1989 in which a review committee report was completed. You seem to feel that this is the best way to find out what is needed for the board. Is this correct?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, I do not know if that is the best way. That is one of the ways it was done and it seems to have brought up a lot of information that was not available to the employers before, given some insight to what was happening with the inner works of the WCB. We thought it was a reasonable way to approach it. There may be other ways of doing it; I am not sure.

**CHAIRMAN (Mr. Koe):** Mr. Antoine.

**MR. ANTOINE:** In 1989, there was a recommendation, No. 62, which I would like to read. It says, "...that in the future the Minister responsible for the Workers' Compensation Board be involved by the board in any major projects or policy decisions that involve significant financial or other implications on employers and employees. Policy guidelines should be established with such involvement. This recommendation is not intended to reduce autonomy of the board; however, it must be recognized that for practical purposes, the Minister is ultimately accountable in the Legislative Assembly for the board, and must provide an appropriate level of leadership to the board dependent upon the situation. It is the finding of this panel that the board was not satisfactorily fulfilling its accountability to the public on its own."

In your presentation, you were saying that the Legislative Assembly should not be involved in any decision. It seems to



be different from the position you are presently taking. Can you explain this to me?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, we are looking at it from a different perspective; that is, the Legislative Assembly, through its Minister, acts as a trustee of the WCB. The stakeholders are the employers and the employees. In the past, there has been very little interaction with the stakeholders in legislation and decision-making. As we mentioned in the report, it was virtually impossible to get information from the WCB under the guise of confidentiality or whatever the case may be. We have not changed that position. We are saying that the Legislative Assembly, through its Minister, must act as a trustee to the WCB. But the stakeholders are the ones in the decision-making process and must be involved in choosing the board, the chairman and the policy-making decisions. We are the ones that pay for the wrong decisions, and we feel we should have the right to make the wrong decisions. Thank you, Mr. Chairman.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** We have had a lot of discussion on board appointments, and I think that is valid. I think your comment about requiring skill and capable people on the board is valid. I am wondering what your definition is. What kind of qualifications do you see for a board member? Do you have to be a chartered accountant? Do they have to be a rocket scientist? What do you mean capable and skilled appointees to the boards?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, I am afraid I do not have that answer. That is something that we are working on. Obviously, we have to come up with something. We will be interacting with the Minister in that regard.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** As Mr. Antoine said, do you see no need for ethnic or regional representation? Is this correct?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, that is correct.

**MR. TODD:** So it will be only skilled people, in your view at the current time, that can serve on this board are from Yellowknife and happen to be caucasians. Is this correct?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, Mr. Todd is really reaching out. Unless I misunderstood my own words, that was not exactly what was said in that report. What we said was that they have to be qualified.

**MR. TODD:** What is your definition of qualification, then?

**MR. LEONARDIS:** Let me answer that in just a second. Mr. Todd. Can you please tell me how the needs of an injured worker in Iqaluit are any different than an injured worker in Inuvik? What would regional representation bring into the WCB that would provide any benefit to the injured worker? I do not know. If you do, then you have given it a great deal of thought or you must have some benefit that regionalism would bring to WCB. I am not aware of any, but if there is, I am sure nobody would argue that point. I cannot see how spreading the WCB, based on regionalism, would improve the board and the quality of service delivered to the injured

worker.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I think there is certainly a need, at least in my opinion, from a balanced point of view. I think regionalism provides some of that. There is no question that if a guy breaks his leg in Iqaluit or breaks his leg in Inuvik, he has still broken his leg. But how we approach that person who has broken his leg may be differently viewed from a guy who comes from Yellowknife than the guy who comes from Iqaluit. That is all I am saying. You need to find a balance to the thing. I, personally, feel that the balance is not there right now.

I think you are implying -- and it is improper for me to speak for you -- when you talk about qualifications, everybody seems to have this idea that WCB makes decisions on the money. From my past experience, the money is made on qualified, financial managers sitting in Toronto and Calgary. There is a way in which even a person like myself who does not have that much experience in that field, can evaluate the performance of these financial people because they come forward and say what they did each month. I am a bit concerned -- by implication, at least -- that what we are really saying here is that we need to understand finance to a far greater degree than I think we do.

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, no, actually, I think that is the farthest from the truth. I think that when you are dealing with a large corporation, your biggest skill that any manager has is personnel skills. Knowledge of finance is an excellent asset, but when you are dealing with people, it is personnel skills and the ability to understand not only the people that you are serving -- your customers which in this case are the injured workers -- but, also your suppliers -- the people that are supplying you the money, your employers -- and having to ensure that you maximize your return both to the injured worker and to the employer. They certainly must have the skills required to manage people and money.

**CHAIRMAN (Mr. Koe):** Mr. Dent.

**MR. DENT:** Thank you, Mr. Chairman. I notice in your presentation that you have recommended a review similar to the one being done by the Mine Safety Act for the legislation, but you do not really point out in your presentation areas of concern that you have with the present legislation. Are you satisfied with the present legislation or do you feel it needs to be reviewed right now?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, There are a few areas -- and it is very difficult for me to get into since I am not knowledgeable about the legislation -- of concern. One, again, is board appointments. I believe a revision to the present legislation was submitted, and, to our knowledge nothing, nothing has happened. There is some need to review the legislation to amend it or bring it up to current status.

**CHAIRMAN (Mr. Koe):** Mr. Dent.

**MR. DENT:** Thank you, Mr. Chairman. What is your group's opinion on the YMIR? Do you think it should be raised or maintained at the level it is at? Do you have any recommendations for a new level?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, I am afraid we do not have

a recommendation at the present time. It is something that was brought to our attention recently, and we do have someone looking at it to evaluate both its reasonableness, fairness, and its effect and cost.

**CHAIRMAN (Mr. Koe):** Thank you. Any more questions from Members? Mr. Antoine.

**MR. ANTOINE:** Thank you, again, Mr. Chairman. You say you are happy to report that there are some moves towards better consultation. You mention that the new Minister was able to meet with you and that a process has been put in place. Can you explain this to me, please?

**CHAIRMAN (Mr. Koe):** Mr. Leonardis.

**MR. LEONARDIS:** Mr. Chairman, we find that we are getting a better rapport – now there have been some changes as we all know, and we do not know what these changes are due to whether because of the change of the chairman or the change of some of the board members or the Minister or whatever. But it seems to be a more open process which we very much appreciate. We are trying to keep it going and improve it so that we do have a good open process.

**CHAIRMAN (Mr. Koe):** Thank you. On behalf of the committee I would like to thank you gentlemen for appearing before us and making your presentation. There is a lot of food for thought and it adds up with all the other submissions. The committee will recess until 3:00 p.m. when we will hear from the Department of Renewable Resources on hunters and trappers coverage.

One administrative note for the committee, we will have a quick caucus meeting in the back right now.

—SHORT RECESS

#### **Workers' Compensation Coverage For Hunters And Trappers**

The committee will come to order. We have Mr. Joe Handley on our schedule right now. He is the deputy minister, Department of Renewable Resources. Joe, I am sure you are aware the committee is presenting reviewing the Workers' Compensation Board and one of the areas of concern is coverage for hunters and trappers. We would like your insight and background and information on what the Department of Renewable Resources is doing in regard to coverage for hunters and trappers and if there is any new developments.

#### **Presentation By Mr. Joe Handley, Renewable Resources**

**MR. HANDLEY:** Thank you, Mr. Chairman. I received a call yesterday to ask me to appear here to answer questions. I have not prepared a written statement for you. I can provide one to you if that is your wish. In the meantime what I will do is give you a bit of the history from our department's perspective and then attempt to answer any questions you want.

Basically what has happened is in 1987 the Workers' Compensation Act was amended to provide coverage for hunters and trappers and then from that period on until 1990 the Workers' Compensation Board absorbed the cost of benefits to hunters and trappers. In June 1990 there was a cabinet record of decision which directed the Minister responsible for the Workers' Compensation Board to make a number of changes, including a change in the amount that trappers would be eligible for and some of these would require changes to the Workers' Compensation Act.

Essentially what the record of decision directed the Minister to

do was to modify the eligibility guidelines to make them more restrictive. The reason, as I understand, for making them more restrictive was that they years maximum insurable remuneration, YMIR, was by the Workers' Compensation Act set at \$40,000 per year. Income for an average trapper probably ranges more between \$3000 and \$7000 plus whatever the value would be of any food obtained through hunting, trapping, fishing and so on.

The problem that this created was that whenever anybody was defined as being a hunter or trapper and were injured, then they would automatically be eligible for \$40,000 per year. That led to the direction to make the eligibility guidelines more restrictive.

In October 1990, each of the hunters and trappers associations received a letter from the Workers' Compensation Board indicated that the definition had become much more restrictive; that in order to qualify, among other things, people would have had to have had no other income than that obtained from hunting and trapping for at least 131 days and other various criteria.

It created some problems and it took several months before the hunters and trappers associations began to voice complaints about it. One of the reasons of course is that many of them are not people who are very much into the reading culture or answering government mail. So a lot of this laid on their desks and over the fall of 1990 and spring of 1991 in the department we began to get more and more questions about why so many people were being deemed to be ineligible for compensation.

We had some concerns with it and there seems to have been some, I think, disagreement between Renewable Resources and the Workers' Compensation Board about the amount of consultation that had taken place. My staff tell me that there was very little or none before the letter went out and we certainly did not concur with the letter that was sent out in 1990 and in fact feel that it does restrict too many people from the definition of hunters and trappers.

Since the fall of 1991 there has been correspondence back and forth. There have also been meetings between the Department of Renewable Resources and Workers' Compensation Board to look at alternatives and as a department we have suggested some changes to the Workers' Compensation Board. But the changes that we are suggesting would mean having to change the Workers' Compensation Act. The basic intent of our changes is to more accurately reflect reality in terms of peoples income from hunting and trapping.

A second responsibility in the record of decision in 1990 was to recommend that the Department of Renewable Resources become more responsible for administering claims for hunters and trappers. Again that would require a change to the Workers' Compensation Act. We have some concerns about taking on that responsibility, primarily because of the administrative workload that it would create for our department and we are not set up to assess claims and so on. We have suggested in our eligibility assumptions that we would assist in identifying people who made their principle income from hunting and trapping. We would make our fur records, for example, available. We would be able, through a panel of people that would include hunters and trappers representatives as well as renewable resources officers and justice of the peace and so on, a panel that might be able to determine at the local level whether or not a person was eligible.

We have not come to a final decision on this with the Workers' Compensation Board because it would mean a

change to the act if we were to provide compensation less than the \$40,000 provided by the YMIR. The level of benefits that we are recommending as a department would be somewhere in the range of \$12,000 to \$14,000. This would allow for a value of between \$5000 and \$7000 to be assessed as the value that individuals who rely on hunting and trapping would obtain from any meat and food that they obtain from hunting and trapping livelihood.

That is basically where the situation is at. There are letters and suggestions going back and forth, but no resolution between our department and the Workers' Compensation Board. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Joe. Does your department currently pay premiums to the Workers' Compensation Board for hunters and trappers?

**MR. HANDLEY:** We have had a holding figure in our budget that is used to pay for the cost of any benefits to hunters and trappers. It is only a holding figure because we do not know from year to year what the amount might be.

**CHAIRMAN (Mr. Koe):** Is it used to pay benefits to hunters and trappers or is it used to pay premiums to WCB?

**MR. HANDLEY:** It is used to pay WCB. WCB pays the hunters and trappers and we pay WCB, as I understand it.

**CHAIRMAN (Mr. Koe):** The amount of the award that is given to the hunter and trapper is recovered from the department?

**MR. HANDLEY:** That is correct and I believe the amount is amortized, so it is paid up front by the government.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

**MR. LEWIS:** Thank you, Mr. Chairman. This has been a controversial issue for many Members. Can this particular program really fit into the work of the Workers' Compensation Board? Because the whole purpose of the WCB is to avoid employees taking employers to court. It is something that if you are a hunter or trapper you are self-employed and you look after yourself. Although it is a problem that has to be resolved, it seems to me we are using a mechanism that was designed for one purpose and we are trying to fit all kinds of other stuff into it, because we do not have another solution. Are these people any different to an individual consultant who works on his own? Would there be a different solution for hunters, trappers, fisherman, carvers? The WCB was never set up to solve the kinds of problems we are asked to deal with. Have you thought this one though for self-employed people?

**CHAIRMAN (Mr. Koe):** Joe

**MR. HANDLEY:** Mr. Chairman, that is exactly why we are in the problem we have right now. The way the Workers' Compensation Act is currently set up it is not established to fit this kind of situation. The problem is that many hunters and trappers do not rely solely on hunting and trapping for their livelihood. Trapping may last two months and then the rest of the time they go on wage employment, construction or whatever, and then go back to hunting and trapping.

I cannot speak for the reasons why it was included in here, but there was a need to do something for hunters and trappers because it is a very important part of our whole lifestyle in the North and if we are going to encourage people to continue with that lifestyle, there was a need to assist them with some form of compensation package in the event they were injured while hunting and trapping.

If it is going to continue as part of the Workers' Compensation Board scheme then I personally believe there has to be a change to the act and we have to have a much more flexible definition of what a hunter and trapper is. There are many people who trap 30 to 50 or 60 per cent of their time and the rest of it being made up of other forms of employment or assistance.

The other problem of course is that tied very closely with the hunting and trapping lifestyle is the fact that they do earn sort of a cash equivalent in terms of food -- meat and fish, from the livelihood that they raise and it is not as easy for them to simply pay premiums on the fur sales and use that as the way of calculating compensation.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** The kind of changes you would have to make to the act, would they substantially change the nature of what we are trying to do? Because as I understand it, you know, the origins of compensation really to do with an industrial economy, you know, where there were significant numbers of injuries in the workplace, and so on. I am not arguing that this particular group of people is not at risk, because it is a risky business. But I am wondering if we have to change the act so that it no longer does what it was originally set up to do, if we are going to include all kinds of -- maybe consultants, for example, you know, that are self-employed and, in a sense, face the same kind of problem.

**CHAIRMAN (Mr. Koe):** Mr. Handley.

**MR. HANDLEY:** Mr. Chairman, yes, I believe for the situation that hunters and trappers find themselves in, there is a need for a significant change to either the Workers' Compensation Act or else some other form of compensation insurance for them. It is difficult, because as I say, the people work part time at it; they are involved in different kinds of activities within that broad definition of hunting and trapping, and so on. We have not come to a conclusion of whether it is possible to do it within the Workers' Compensation Board guidelines, but I have not reached the point yet where I would say it is impossible to fit it within the act if the act was changed.

**CHAIRMAN (Mr. Koe):** Thank you. Jeannie.

**MRS. MARIE-JEWELL:** Thank you, Mr. Chairman. I was just going to ask Mr. Handley if the department had considered other options as opposed to other options and developing for insurance coverage as opposed to only the WCB avenue. The reason I state that is that I believe the Department of Renewable Resources used to pay at least approximately about a million dollars toward WCB for coverage, the coverage cost for hunters and trappers.

It would be fair to state that there is no way that it costs a million dollars for them to administer or for it to flow back to the trappers in the event that any of them were to get hurt, and the minimum amount given out in disability is probably nothing near a million dollars, that it would be cost-saving to your department to look at an option of another forum for the hunters and trappers, and that possibly be allowed to give you those cost savings for other programs for hunters and trappers. I am just wondering whether or not other options have been considered for insurance coverages, to get the best use out of the dollars from your department.

**CHAIRMAN (Mr. Koe):** Mr. Handley.

**MR. HANDLEY:** We have not looked at other options in terms of going to other insurance companies, for example, who might be interested in underwriting this for a premium, or

anything like that. You are correct that we do have a lump sum of money that we hold in the department, and this past year it was \$750,000 that was there as a holding figure in the event that we needed it to pay off the costs to hunters and trappers who are injured. In 91-92 we did not need that amount of money, but we cannot predict what it is. The amount of money that is there is held, basically, as a holding figure. If we do not spend it on that, then it rolls back into the government's general revenues.

We have, again, not just in Renewable Resources but through a committee with Social Services and Economic Development and Tourism, Education, and Renewable Resources looked at other things in terms of harvester assistance programs. Again, those have not come to a conclusion, either, but there may very well be other ways of providing assistance to hunters and trappers through some other harvester assistance program that may evolve as we work along.

**CHAIRMAN (Mr. Koe):** Thank you. Any other questions? Jim.

**MR. ANTOINE:** Thank you, Mr. Chairman. Other presenters earlier today have suggested that the administrative costs associated with the claims of harvesters should be paid by government, the Department of Renewable Resources. What implications would this have for the use of departmental staff and resources?

**CHAIRMAN (Mr. Koe):** Joe.

**MR. HANDLEY:** Yes, Mr. Chairman. Yes, that would depend on whether - if we are being asked to administer a program where we would have to assess claims, seek medical opinions, and so on, then the costs, I suppose, could be substantial. Again, I do not have an estimate of it because it would depend on the number of claims that were brought to us. If there were zero claims, of course there would be no costs. My experience, in the past few months that I have been with Renewable Resources is that there are not very many claims being brought forward right now, at least that we become aware of.

The advantage of going through the Workers' Compensation Board, of course, is that they already have a structure in place for assessing claims. As it is now, our involvement in assessing claims is very little, so of the amount of money that is in our budget for this purpose, all of it goes toward the premiums and the benefits, eventually, to hunters and trappers. None of it goes to administration, because we do not take it upon ourselves to assess anything, other than providing advice, if we are asked whether or not someone actually sold furs or was involved in hunting and trapping, and so on.

**CHAIRMAN (Mr. Koe):** Do you know how many claims have gone through, say, in the last year, for hunters and trappers?

**MR. HANDLEY:** In 1991-92, we spent approximately \$200,000 on hunters' and trappers' compensation program.

**CHAIRMAN (Mr. Koe):** What does that represent in terms of individuals?

**MR. HANDLEY:** We do not have that statistic from Workers' Compensation Board. We get a billing from them, and on that basis have paid it. I can get that information for the committee, if you wish.

**CHAIRMAN (Mr. Koe):** Mr. Dent.

**MR. DENT:** Thank you Mr. Chairman. Just in addition to the numbers of individuals, it would be possible to track their

home communities. I think that would be of interest, too.

**CHAIRMAN (Mr. Koe):** You mentioned you had been working with other departments, Social Services and Economic Development, as two instances, looking at a harvesters' support program, or something. In our earlier discussions this week, we had mentioned that there is a large group of people, industrialists, in a sense, as they are carvers, sewers, fisherman, all self-employed, with very little safety standards associated with their work. They have nobody monitoring them; they have no organized group unless they belong to a co-op or a co-op movement, in the case of carvers, and some of the organized sewing shops. I have been around like all of us and seen carvers at work on their kitchen table with power tools and dust flying and kids crawling around under the table. Very dangerous working conditions. Hopefully in your investigations in looking at something new or something different or something just to assist these people if they do get hurt, these others, other than hunters and trappers per se - because they are all interrelated; they relate to the materials they take from the land and use it - I hope that the government is very seriously considering some kind of coverage or some kind of protection for these individuals. There are a lot of them out there.

I would like to thank you for coming here. I know we did not give you much time, but there was a lot of concern about hunters and trappers, and in various presentations the issue is coming up, so we wanted to get a perspective from the department, what they are doing, and things that they are looking at. Thank you for coming.

**MR. HANDLEY:** I will get information on the number of individuals who have been injured and their community.

**CHAIRMAN (Mr. Koe):** The next group we have scheduled is the Northwest Territories Construction Association. I would like to welcome representatives of the Construction Association. Since you are sitting in the middle, Mr. Bushey, I assume you are the spokesperson. Could you introduce yourself, your title, and your cohorts, and then proceed, please?

**MR. BUSHEY:** Thank you, Mr. Chairman. My name is Richard Bushey. I am here representing Rob Roman, who is the president of the Construction Association, but he is involved with the building of the Legislative Assembly, and he is involved on site today, so he could not be here. With me is Donna Laing, who is the executive director of the Construction Association.

We have a brief presentation that we would like to make, and then we will be prepared to answer questions.

#### **Presentation By Mr. Richard Bushey, NWT Construction Association**

The Northwest Territories Construction Association is a non-profit organization representing approximately 150 contractors, sub-contractors, and suppliers in the construction industry from across the Northwest Territories and throughout Canada. The construction industry is the largest employer of tradespeople in the Northwest Territories. In fact, construction employs over 2000 workers and is the third largest employer, after government and mining, in the NWT. In some regions, such as in the Baffin, construction is the second largest employer, with an annual payroll that exceeds \$10 million.

Because of the number of workers employed in the industry, and the payroll classification of assessment rates charged to employers, the construction industry is one of the principal funding partners or shareholders in the Workers' Compensation Fund. The NWT Construction Association is

supportive of the purpose behind the workers' compensation program. However, as major shareholders with a significant investment in the program, the construction industry has a number of concerns.

One of our primary concerns is the role of the Government of the Northwest Territories in the management and operations of the Workers' Compensation Board. We are all aware that Workers' Compensation was created in order to provide a no-fault insurance program for employees and employers. This plan is unique in that it is fully funded by employers, and there is no liability to the government. Nevertheless, we realize that government has a role to play in terms of ensuring the implementation of the legislation and regulations to protect the public interest. However, what is disturbing to us is the apparent political manipulation, interference, and neglect that the government has displayed toward the Workers' Compensation Board.

Mr. Chairman, directors of the Workers' Compensation Board carry a significant responsibility. They must appear to be fair and equitable to workers by providing services to injured workers, including compensation and reasonable financial benefits that are protected from inflation. In addition, the board of directors must also be seen to be responsible and reasonable to employers by establishing fair assessment rates and by judiciously handling claims. Composed of equal representation from labour and business, the board of directors is responsible to administer the act, develop policy, recommend changes to the act, and to serve as trustees of the accident fund; and as such, the directors have exclusive, independent jurisdiction.

Consequently, the appointment of directors, who oversee the overall direction and operation of the board, is a key element to the fair and efficient operation of the WCB. Unfortunately, Mr. Chairman, over the last several years the Government of the Northwest Territories has refused to fill vacant director appointments to the board in a timely manner in spite of the fact that labour and employers have nominated many competent individuals to serve in that capacity. When the few appointments are made, the appointees are either not supported by the major contributors to the fund, or the appointees do not have the knowledge, background or time that is required to be conscientious contributors to the board and its committees.

Mr. Chairman, the Construction Association believes that appointments to the board of directors by the government Minister responsible for the WCB should not be undertaken as acts of patronage, personal favouritism, or as attempts to satisfy representatives of some regional or political interest. In fact, the NWT Construction Association recommends that director appointments should be made from the invited short list of candidates sponsored by employer and labour group representatives. We would also propose that the principal funding partners and labour should choose the directors and select and appoint the chairman at an annual general meeting of the Workers' Compensation Board, for example. This approach would go a long way in easing our concerns over appearances of political interference.

Mr. Chairman, we are fortunate that the NWT Workers' Compensation Fund is one of the few fully funded programs in Canada. This is an important consideration, because the WCB is required to fulfil its responsibilities to injured workers, oftentimes over the length of their lifetimes. A fully funded insurance program is required. Otherwise, the failure to adequately meet long-term responsibilities will result in increasing future taxation on the employers. This would have a negative effect on the economy of the North, as the cost of doing business would have to rise and be passed on to consumers.

We understand that there have been attempts within the government to pressure the board to provide funds to government departments and agencies. We also find it disturbing that there have been attempts within the government to influence the use of the accident fund so that it may serve as a cheap source of government financing. Mr. Chairman, these attempts at coercing and influencing the investment and funding administration of the WCB by the Government of the Northwest Territories should be discouraged. It is not advantageous to workers or employers to have their funds placed at risk. Nor is it wise to place investments in securities and other obligations which are high risk and do not receive the maximum amount of a potential return.

Mr. Chairman, we believe that investments in marketable securities will maximum return and that these investments should be managed by professional investment consultants on behalf of the WCB. To do otherwise is to threaten solvency of the program and to put at risk the ability of the WCB to fulfil long-term commitments to injured workers.

The Construction Association also believes that the fully funded status of the accident fund should be maintained and prudently managed. In addition, the Workers' Compensation Board should develop an overall, flexible, investment policy and strategy in all of its affairs. This is the only way to protect the integrity of the fund and enhance the long-term viability of the program.

Mr. Chairman, most people do not realize that a substantial number of claimants for workers' compensation comes from accidents affecting workers who reside in southern Canada. In fact, most of these non-resident workers have never been permanent residents of the Northwest Territories. In many cases these non-resident workers are employed for a few months in the NWT. They have an accident on the job site, and the NWT Workers' Compensation Board is then required to pay compensation. In some instances, this could be a lifetime pension. This is a particular problem for workers in the 50 to 60-year-old age group who may have been injured in other jurisdictions. They may be claiming for injuries in the NWT and in several jurisdictions at the same time. Obviously, the present system of claims is open to abuses.

Accidents also take place on construction sites in the NWT which are operated by contractors from outside the NWT who manage a fly-in and fly-out work force. Many of these companies operate in the NWT at a great distance from their established locations. As a result, these contractors are hesitant to ship items that they feel are excess freight, such as ladders and scaffolds. The safety division of the government, condemned to their restrictive travel budget, knows little about the activities of these contractors and what takes place on job sites in remote communities. However, we do know that most northern contractors have good safety records. Yet construction industry assessment rates continue to rise. In fact, the NWT construction industry class 4 rates average among the highest rates of any other industry except for mining and logging. For example, building construction contractors must pay \$8.25 for every one hundred dollars of assessable workers' pay.

This is very puzzling to us. So we have made a number of inquiries to seek information, and we have met with officials of the WCB for an explanation. We have asked the WCB to identify which contractors have poor safety records. We have been told that the current WCB legislation and regulations considers the release of this information to be confidential, even to employers who are shareholders in the program.

We have repeatedly encouraged the Workers' Compensation Board to develop a system of assessments where companies

who have good safety records are not penalized for the few in their sub-class that do not. We have not been successful in this area also. Nevertheless, Mr. Chairman, in spite of all that we have mentioned with regard to workplace safety, we believe that there is an overall greater problem that impacts upon safety in the workplace across the Northwest Territories.

Mr. Chairman, members of the NWT Construction Association are reporting to us that the Government of the Northwest Territories is not enforcing safety regulations. Contractors in some regions have told us that there is no resident safety officer, and if there are safety officers located in a region, contractors tell us they are not seen in the communities enforcing legislation in the workplace.

To make my point more clear, Mr. Chairman, I would have Members of the committee recall the exterior work which was recently carried on in the post office building here in Yellowknife last year. Workers were on scaffolding that had no safety rails, and were working without safety harnesses, shoes or helmets. This work was undertaken on the main street of the capital, less than 50 metres from the government's safety division main office, and a block away from the Workers' Compensation headquarters.

Mr. Chairman, safety education and enforcement is important to the construction industry, because as accidents become fewer employee productivity goes up, and the rates that are charged to employers tend to stabilize and hopefully go down. Although safety education is essential, we would point out the fact that since more than 50 per cent of the construction industry labour force comes from southern Canada, the safety habits of workers are often lacking or not in compliance with NWT standards. As a result, enforcement of safety regulations should not only be targeted at employers, but also at workers. For example, if a worker on a job site in Pond Inlet is instructed to wear safety equipment and ignores the instruction of the employer, should it be the responsibility of the employer if the worker is injured? Presently this is the case.

Mr. Chairman, the NWT Construction Association believes that a number of serious questions go begging with regard to safety. Some of these questions include the following:

What is the role and direction of the Government of the NWT safety division with regard to monitoring, regulating and enforcing safety in the work place? We believe that the role of the Government of the NWT is to provide a sufficient budgetary allocation for staff and travel, to enforce the regulations concerning safety on the job site.

Is this solely a government responsibility? We think that it is, because public safety should be a responsibility of government. Should the WCB play a more direct role in this area? We believe that it should not, because it is poor public policy to have the insurance and the policing function in the same agency.

What are the responsibilities of workers in the industry concerning workplace safety? We think that employers should be responsible for providing the means to enact safety practices, and that the workers should exert the effort to abide by the regulations.

Mr. Chairman, we believe there is a lack of direction, leadership and commitment in the enforcement of safety regulations in the Northwest Territories. There is also an unwillingness by the government to resolve jurisdictional disputes over safety education, training, and monitoring. We believe this has led to the neglect of safety practice on work sites in the Northwest Territories. We recommend that the government and the Workers' Compensation Board resolve these problems as soon as possible.

Concerning legislation, the NWT Construction Association believes that if the government is going to draft legislation concerning the Workers' Compensation Board, every effort should be made to involve the shareholders, workers, and the public in the consultation process. We also recommend that the draft legislation should be reviewed by an independent professional actuary in order to provide a cost benefit analysis of the impact of proposed legislation upon the fund. This report should be tabled in the legislature as a public document.

Mr. Chairman, we would also recommend that, should proposed amendments to the existing WCB legislation or the proposal of new legislation be considered, the Standing Committee on Legislation should make available drafts of the proposed legislation to labour and business. Time should also be set aside for all parties to review the bill and make presentations to the committee before the bill goes to the House for consideration. We believe that this process would produce more effective legislation.

Mr. Chairman, I thank the committee for giving us the opportunity to present our views, and we would be happy to answer any questions.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Bushey. Are there any questions from Members of the committee? John? Brian? Jim? Charles? Jeannie? John.

#### Investments By WCB

**MR. TODD:** I had a difficult time with the last group, getting a direct question on the investment thing. At least one thing about the four presentations is that they have all been consistent. They all say the same thing. I am wondering, could I ask you a direct question, Mr. Bushey? Again, there was some reference to the accident fund being used to invest, and interference of the board in investments, and there was some reference to the billing in 1989, but this is 1992. You have all said it in the three or four presentations that have been made. Do you have anything specific that you would be prepared to be bold and tell us, more direct, as to where your concern is with respect to investments? Is it the fact that the NWT Power Corporation came in and asked for \$20 million, and you are concerned that it is not a secure investment, that the return on the investment is not there? Is that the kind of thing we are talking about here? Can somebody tell me, is that what we are talking about?

**CHAIRMAN (Mr. Koe):** Mr. Bushey.

**MR. BUSHEY:** In our presentation we emphasized marketable securities, and the reason that we state that is because if you, for example, had invested funds in marketable bonds last year, you would have received a return of 21 to 27 per cent. That was unusual, but you would have. I think there is a certain fear from employers because of the situation, for example, in Ontario with their WCB fund. Also, if you had read the newspapers last month with regard to what the federal government did with the mortgage insurance fund of CMHC and a few other crown corporations and agencies, where they basically took millions out of those funds and put them under the government's control to make their deficit look better. If they are empowered to do that, I guess there is nothing in their legislation that prevents them from doing that. I think there is a fear out there that because of the deficit situation of governments, that is one fear that people have.

The other thing, I think, from the employer's point of view, is that they feel that if the fund was invested in marketable securities which are flexible and you can move around, and you are not committed, for instance, to bonds that are fixed over a long term, your return on investment would be higher,

and therefore the fund would be larger and the assessments would be controlled or level out. That is a hope. Whether that is realizable or not is yet to be seen. I think that is rather than any one individual incident. For example, you raise the issue of where would you invest in the north? Well, there probably are occasions where you could invest, let us say in mortgages and certain properties which probably would be very good investments, so it does not rule out investing in the North.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I am delighted to hear you say that. I was not being flippant. I was trying to figure out where you guys were coming from, and being from the East and not being too involved in these territorial organizations, I really was not quite sure where you were coming from, so I am encouraged to hear you say that, because that is the kind of thing I am talking about. However, if I can just for the record, I guess I did check and you did get 21 to 22 points on your bonds, but you do not finance a \$125 million organization on one year investments, Mr. Bushey. It is amortized out over a series of different years and different returns, and I guess for the record I want to say my experience has been that if we got eight or nine points in a good year, on an average, we were delighted if I remember rightly. We were in a unique situation last year, so we do not want to overplay that. But I am encouraged by your comment about the mortgages.

Maybe we are just simple folks here in the East, but where does the thing come in that we would use WCB for the deficit? I am just intrigued by this whole political thought that seems to be permeating through the NWT Chamber of Mines, the NWT Chamber of Commerce, Northern Employers' Council on Workers' Compensation, and now the NWT Construction Association. All of you are inter-connected, I understand, and that is okay. But I am wondering where it came from. Who dreamed this up? I am serious.

**MR. BUSHEY:** Well, you take an organization like the Construction Association, whose directors come from Iqaluit, Rankin Inlet, Inuvik, Fort Smith, Fort Simpson, so it is not that the ideas are the ideas of a single individual. I think it is a fear people have by reading the newspapers and being involved in businesses. They have had experience in other jurisdictions, and they do not want what has happened in Ontario to happen here. I think we are very fortunate that we do have a very strong fund, and people want to maintain it and feel it is sort of sacrosanct, and I think that is the feeling. It is more a fear than it is something that is realizable.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** It is important to point out, of course, that Ontario has got a three billion dollar deficit and we think, we are not sure but the finance department tell us at the end of this month that we have got a \$25 million deficit instead of a \$50 million deficit. But I want to say that you have explained a little more clearly to me where this concern is because, as I say, it is rampant through each of the presentations. Speaking for myself, I do not think anybody is of the mind that the deficit should be borne on the backs of the injured worker, just the same as the deficit should not be borne on the backs of the small communities or the people who have less. You cannot beat on those who are weakest. You have got to take away from those who are wealthiest.

So I will tell you right up front, I do not see where the politicians are going to even consider in their wildest dreams taking money from the WCB when it is specifically there for injured workers. That is just my opinion. I do not know if that reassures you, but I cannot see it.

**CHAIRMAN (Mr. Koe):** Any comments? Mr. Antoine.

#### Focus Of WBC

**MR. ANTOINE:** Thank you, Mr. Chairman. I have heard a number of presentations which have a similar focus on all the points, and yesterday the Minister was here. The main focus of the Workers' Compensation Board, to me, is the injured worker. That is where the focus should be. There was nothing in the inter-connected presentations – we really did not hear any real concern about the injured workers. This morning we had a presentation from the injured workers, and they read letters from other injured workers, and there was pain and frustration and the message was very clear for me, and I am kind of concerned that there does not seem to be any recognition of this in any of your presentations.

It seems to me there is no sensitivity to the personal and financial hardships that these injured workers are encountering at this time, and the focus seems to be more on protecting the financial investment. I know it is for the workers, but at a point in time you are going to have to spend it on the workers. You cannot keep re-investing and protecting it forever. The focus is for the protection and to help these injured workers, and I am wondering if the focus of the WCB has shifted away from what it was intended to be in the past, and shifted more towards protecting the investments. I wonder if this is the attitude here. Is it the reflection of the people you represent?

**CHAIRMAN (Mr. Koe):** Mr. Bushey.

#### Safety

**MR. BUSHEY:** You may have noticed that in our presentation we emphasize a great deal in the area of safety, because most businesses that are involved in construction in the North are small businesses which are owner-operated and which also employ a great many people from the community and members of a person's family in that business. So there is a great deal of self-interest in the safety aspect. Because if we had good safety we would have fewer accidents and fewer injured people.

This is a real concern of ours because we have gone across the Territories, in fact we were in Rankin in the fall, we met with Mr. Todd; we were in Baffin, and we were told by people working in those businesses and people who owned them, that people were getting injured because there was no enforcement of safety regulations, including the Labour Standards Act. I would like to make a comment with regard to that. Safety division is also supposed to enforce the Labour Standards Act. For those of you who are not familiar with it, it regulates the hours that people can work, et cetera.

Well we found that many contractors who are from outside of the NWT are violating the Labour Standards Act, that is when people are working 10 or 12 hours a day for six or seven days in a row. They get tired and then they get injured. We have been acting as a police function and we have turned in a number of contractors who have violated both the Worker's Compensation Act and the Labour Standards Act because of the fact they have violated safety regulations, people get injured, they get hurt.

If we had better safety we would have fewer injured workers. So our emphasis is on the safety aspect. We would like to have the injuries prevented rather than the injuries happen.

**CHAIRMAN (Mr. Koe):** Thank you. John.

**MR. TODD:** I am encouraged by the fact that we have to look at safety. That is the root of the problem. It has nothing

to do with the fund, the politics, the chairman, the board – it has to do with injured workers and the need to make their workplace safer. Have you got records on file that indicate that northern contractors, in comparison with southern contractors, have better safety records? Are we talking factual stuff here?

**CHAIRMAN (Mr. Koe):** Mr. Bushey.

**MR. BUSHEY:** I pointed out in our presentation that we have met with WCB and with the safety division and we have asked WCB to give us the records of who are prone to violate. They said that those records cannot be given to us because they are confidential and we just cannot get them.

**CHAIRMAN (Mr. Koe):** John.

#### **Business Incentive Policy**

**MR. TODD:** So theoretically if you are correct and we had a business incentive policy that was exclusive north, then theoretically our costs should be reduced, our injured workers should be less and we should all be happy campers. Am I right?

**CHAIRMAN (Mr. Koe):** Mr. Bushey.

**MR. BUSHEY:** We have strong views on the BIP. We have presented a paper to the Government Leader, a 14 page paper, on why the BIP does not work. We are proposing invitational tendering process, in which all contractors in the North who are designated northern are classified and qualified by their trades in certain areas and only those contractors are permitted to bid and bid competitively. We think that is a way to control a good many of these problems. Because most of the violators, and this is not because we are prejudice, we have members who are from southern Canada too in our organization, but most of the violators, we think from our experience and from what people tell us, are contractors who come from outside of the NWT on this fly-in and fly-out operations.

**CHAIRMAN (Mr. Koe):** In your paper you ask if the WCB should play a direct role in the area of safety and your response here is that you believe it should not. And then in your wrap-up you say you recommend that the government and the Workers' Compensation Board resolve these problems as soon as possible. What is your position on the role that WCB should play in the area of safety regulations enforcement.

**MR. BUSHEY:** There is jurisdictional dispute going on within the government over who should play the leading role here. As you may know, in BC the WCB is also involved in safety. Our position is that they should be two separate bodies, that the government should do the safety aspect and WCB should be the insurer. We think that is a better way of doing it. One of the problems is that the safety division just does not have the money or personnel to really go out and do the job and they should be doing the job.

**CHAIRMAN (Mr. Koe):** Donna.

**MS. LAING:** Maybe it is something we could toss out to you, because we are commonly concerned, the concern has been expressed about the welfare of the worker, health practices, safety practices and what happens to the injured worker. Maybe I should toss it out to you people who are MLAs – what are you going to do in terms of ensuring that there is a sufficient travel budget in the labour standards section of the Department of Safety and Public Services? What are you going to do to ensure there are sufficient safety inspectors and sufficient travel budgets for those people to get around and

do the job that needs to be done?

So it is something that I toss out to you. I was here last evening. I remember that the workers' advocate was questioned as to her mandate and travel budget to go out and do these various things and she responded to that. So my question to you then is, as people who are in the Legislative Assembly, who are responsible for the expenditure of public funds, let us see that there is some responsibility to ensure that we create the best possible and most safe workplace for our workers. Thank you.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** Parallel with that you also have to look at the need for the WCB to get out there and find out what is going on there as well. I think that is what my argument has been for years. I think there is a bit of an attempt to put some people in. In the Keewatin Region we now have a fire marshal and they are bringing in an electrical inspector and stuff like that. So there is some attempt to do that. But if the source of the problem is accidents, then all we are doing is throwing money in at it unless we take a look at how we can reduce the accidents.

But I agree that the GNWT should travel in the regions and parallel with that you have to see the WCB getting out there too and determining the kinds of needs and programs, et cetera. So I do not see it as one isolated group, the GNWT or safety division. I also think the WCB has to get out there too and it has not done that.

**CHAIRMAN (Mr. Koe):** Thank you. On page one of your presentation you talk about the WCB being created to provide no fault insurance and then you say the plan is unique in that it is fully funded by employers and there is no liability to the government. I question the word "no liability" in that the act is fairly clear in section 57(2), that if the fund is depleted then the government will pick up and assume they will cover the deficit. There will be limited liability if that ever happens and we hope it does not.

On behalf of the committee I would like to thank you for making your presentation and we will take your recommendations, especially the ones on safety and we will be dealing with them at appropriate times. We will take a short recess.

—SHORT RECESS

I would like to welcome Dale Robinson, Executive Director of the Northwest Territories Council for Disabled Persons. Dale, would you like to proceed with your presentation please?

#### **Presentation By Ms. Dale Robinson, NWT Council For Disabled Persons**

**MS. ROBINSON:** Thank you. The NWT Council for Disabled Persons is a non-profit volunteer organization that advocates with and for people with disabilities in the NWT. As an organization, we are very concerned about the level of service that injured and disabled workers receive from the Workers' Compensation Board. In my presentation, I will outline concerns under the headings of rehabilitation services, financial compensation, appeal process, reinstatement legislation and public education.

#### **Rehabilitation Services**

With regard to rehabilitation services, we support the early intervention program that requires contact with the injured worker within 90 days of an accident. While keeping in mind there are times when circumstances require a delay in contact,



It is important that injured workers know what is available to him or her within an appropriate time so that rehabilitation can begin as soon as possible. The benefits of rehab include regaining ability, reducing the fear of re-injury and avoiding a dependency on a system that may impair future independence.

The current problem with rehabilitation services in the NWT is the lack of services. It is essential that an injured workers' clinic operate out of Stanton Hospital. The cost of the services would be charged to the WCB. This team would include occupational therapists, physiotherapists, a psychologist, vocational evaluator and use of rehab facilities like the pool. Currently, injured workers are sent to programs in the South. Not only is this expensive, but it means that families are separated and ties that are established can make it more difficult to return to the NWT. Once you have established a rapport with the service providers in the South, it is more difficult to recreate that same level of trust and confidence.

The cost of assessment is about \$200 per day for six to 12 weeks. You add in the air fare and \$100 per day living expenses, and you are looking at over \$10,000 per client on the average. If the service was provided in the NWT, we would be looking at a positive economic initiative in addition to the least intrusive system for the worker.

The current demand for rehabilitation services for people in the NWT outweighs the ability of professionals to provide the service. We are all familiar with the waiting lists for family counselling, occupational therapy and physiotherapy. Professionals do a good job of maximizing what they can do, but it is often not enough. The establishment of an injured workers' clinic would provide more staff and develop a level of expertise that would benefit all Northerners.

#### Financial Compensation

The physical and psychological pain that a worker can endure after an accident is compounded when the worker and the family experience financial difficulty. One of the concerns we hear most often as an organization is that the wage ceiling is much too low in the NWT, and that the equation is unfair. A worker who earns in excess of \$50,000 per year will experience an incredible wage loss while on WCB. Currently in the NWT, there is a wage ceiling of \$40,000. It is then recalculated to give an amount that results in a net wage of which the worker is then given 90 per cent. This ends up being about \$28,000 per year for a family. It creates an incredible amount of stress on a family at a time when stress is already high.

This equation requires legislative change. We support a recommendation that looks at increasing the ceiling and addressing a more equitable system that addresses the needs of all levels of income earners.

Benefits must also be adjusted to reflect the regional variations in cost of living. It is a lot more expensive to live in Spence Bay or Holman Island or Hay River. Again, without addressing these discrepancies, we are building barriers which prevent returning to home communities and maintaining family balance.

The board must look at a wage loss compensation. The system in Saskatchewan is financially secure, and the key seems to lie in the implementation of the program. Other jurisdictions such as Newfoundland and Ontario have not been as successful. It is important to research these options and study the implementation process.

#### Appeal Process

With regard to the appeal process, it is essential that an independent appeal process be established. There is an inherent conflict when WCB members are asked to rule on decisions of their organization. This is not intended to question the integrity of any individual, but to look at a systemic barrier in the process.

The role of the appeal board should be one of an ombudsman and not have board members placed in the unenviable position of voting on their organization's decisions. Let an independent committee evaluate the policies and practices in each situation.

#### Reinstatement Legislation

Once an injured worker is rehabilitated, they need a job to return to. Quebec and Ontario have this legislation. In Ontario, the legislation provides, for up to two years, that all suitable positions are offered to the worker. It is difficult to mandate good will. There are opportunities for organizations to make reinstatement difficult. If the company does not want to take a worker back who is capable of working, then there should be a rate increase. The unions can take a leadership role in providing support for their injured members.

The WCB must support some kind of re-employment measures. This re-employment must be supporting meaningful careers. In order to support these types of initiatives, the WCB must work in co-operation with employers, unions and injured workers.

#### Public Education

Education is crucial. Funding must be made available through the WCB to enable public education. Resources must be allocated so that workers know what their rights are and how to ensure a safe environment for everyone. Co-operation with advocacy groups, unions and employer associations to deliver effective information will help prevent accidents. The NWT Council for Disabled Persons can also assist in workshops to sensitize employers and employees to hiring people with disabilities. As the injured, disabled and discarded workers' group said in their presentation, "The only way to effectively reduce compensation costs is to reduce accidents and injuries in the work place."

#### Recommendations

Preventing accidents is essential, but we must continue to improve the supports for victims of accidents. The NWT Council for Disabled Persons makes the following recommendations:

- 1) establish an injured workers' clinic in the NWT;
- 2) raise the YMIR and include a system to address regional difference in cost of living;
- 3) examine systems of wage loss compensation and institute a policy that best reflects the needs of the NWT;
- 4) establish an independent appeal process;
- 5) support re-employment legislation;
- 6) fund public awareness initiatives for the prevention of accidents.

I appreciate the opportunity to touch very briefly on a number of concerns that have been raised by our members. I hope we can work closely with the WCB to provide the best service

possible to workers and employers in the NWT. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Dale. That was a nice presentation – very precise with some good recommendations. Questions from Members. John.

**MR. TODD:** I would like to commend you on a plain, simple and straightforward presentation. You certainly were not in the room with the other four guys.

I think, clearly, we see a different point of view. We see here what Mr. Antoine brought up earlier, which I found interesting, and that there is no preoccupation with funds, boards appointments or chair. There is a total preoccupation with the injured worker. I am encouraged by this.

#### **Sending Injured Workers South For Rehab**

Something I have been advocating is what we call the costs associated with moving people south. I was talking to some of the guys earlier about this. I am encouraged by your point of view. Have you got any costs associated with it? What is the net effect of moving injured workers out to Edmonton or wherever they go for rehab? What would be the costs associated with putting that into the North in Inuvik or Yellowknife? Have you done any work on that at all?

**CHAIRMAN (Mr. Koe):** Ms. Robinson.

**MS. ROBINSON:** I have not done any work on that specifically. Some of the figures that I requested from WCB were things like average costs of \$10,000 for an average rehab in sending people to the South. Again, looking at some of those different costs, I think that with the number of people that are injured, we would be looking at some significant prices.

**CHAIRMAN (Mr. Koe):** Roughly, how many are sent south for rehab?

**MS. ROBINSON:** That I am not really sure of. I do not have enough information to make a strong financial statement on this, but I did get indications from people within WCB that there is definitely a significant amount of money being spent.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** I think you know my big thrust on the dental clinic thing in the Keewatin and how we demonstrated northern dollars were going south and we were going to put it back in the North. We could do exactly the same thing. I would encourage you to do some more homework on that and start lobbying for that. I will certainly, with the finance committee, start looking at some of these things

If I may, Mr. Chairman, the other thing I found encouraging was your part about benefits being adjusted to reflect regional variations. I am wondering if you would concur – and this may be a negative – that perhaps then to pay for that, we would reconsider what we were doing in terms of the people in the south. A great deal of our injured workers are sitting in BC digging potatoes, et cetera. In a spirit of fairness are we going to say, on the one hand, that it costs more in Holman Island and Fort Simpson so we need to up that? What would you think of the idea of taking it away from those who are living in a less expensive area?

**CHAIRMAN (Mr. Koe):** Ms. Robinson.

**MS. ROBINSON:** I guess the other way of looking at it is rather than taking away from people, you just have to add on to those that do not have rather than saying let us reduce it from here.

**MR. TODD:** The role of the appeal board should be one of an ombudsman. I think the idea of an ombudsman is long overdue in the North. Could you elaborate on how you would see that? Would you see this ombudsman specifically for WCB, or would it be in a larger role?

**CHAIRMAN (Mr. Koe):** Dale.

**MS. ROBINSON:** I certainly think there is a need on other levels not just within the WCB, but with trying to keep within the narrow mandate of looking at reviewing WCB services, the idea of that being a combined role of the appeal process. I would certainly advocate that there is a need for an ombudsman on a number of levels. That is why advocacy groups like us exist.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Again, I am encouraged by your comment on public education in that funding must be available to WCB to enable public education is absolute essential, in my opinion. But whether you have injured workers in Inuvik, Yellowknife, Grise Fiord or wherever, we have to get out there. Again, I would encourage to press politically more for that. Good luck, by the way, because I tried for eight years when I was on the WCB and like I said earlier in my usual flippant manner, they were like the Air Canada ad where they say "More Calgary, more Vancouver, more Toronto" and there is less of an understanding of the fact that they should get out there and go and talk to the smaller communities about what is going on, as well as big unions.

Let me say lastly, that your conclusions one, two, three, four, and I waiver on five, on six, I support wholeheartedly.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Thank you, Mr. Chairman. I too want to echo my colleagues remarks in respect to the well developed brief for the committee. Your recommendations certainly will alleviate and eliminate a lot of the problems and frustrations that individuals are dealing with. I fully support the concept of utilizing many of the rehab facilities or trying to develop them up in the North in opposed to sending them South. The concept is nothing but beneficial to the North, if we can get that developed.

In respect to the YMIR in reflecting the cost in the regions, first of all I believe the YMIR should be increased, but I think your idea of taking it another step to reflect the cost of the regions, would probably be an encouragement for individuals to live in the North, as opposed to going south. Because I believe now some of the disabilities they receive probably gives them very little choice but to move south because of the high cost of living in the North. This probably would look at a solution that would keep many of the dollars flowing in the North, but at the same time would assist the workers from having to absorb so much frustration and at the same time having to absorb so much – I guess recognizing financial burdens that they are absorbing now, once they get injured.

So I want to thank you very much for your presentation. It is certainly a refreshing presentation after all the negative ones that I seem to have heard today and one that is looking for solutions to the problems that we are considering toward the worker, as opposed to the investment portion of the WCB fund. Thank you.

**CHAIRMAN (Mr. Koe):** Dale.

**MS. ROBINSON:** What we are really saying here when we make it difficult for people to remain here, not that we are just losing that one worker, we are losing the resources that that

family provides to a community too. Those children will grow up to be productive people within the community if there are spouses involved and the whole extended thing. So we are not only discarding one person. We are saying to somebody, "We do not value you. Go somewhere else." The loss is more than one person and certainly those effects have probably been expressed today, particular with the Injured Workers Association, that it is not just happening to one person and it has a big impact on the whole community.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** One of the other things we are taking away from is the spending power. Whether it is \$28,000, the fact of the matter is we are taking that \$28,000 and we are sticking it in BC. One of the injured workers wants to stay. We are taking that money, my money, as a contributor, away. If we up the YMIR some so these guys can get by and survive, they will stay and there will be a net economic impact to the Territories. Because theoretically the money gets spent in the North. It is no different from your idea behind the rehab thing. You need to punch some numbers and see if it makes sense. But the net impact of that spending goes somewhere else. So let us say you have 100 workers and because the YMIR is not adequate to live, which I fundamentally do not think it is in Yellowknife, never mind if you are in Muktuk bay. If 88 workers move, you are taking that cash flow out of the Territories. So I think we should be looking more closely at that and doing those kinds of financial analysis, rather than just looking at what is the direct cost of YMIR as it relates to the rates. What impact does it have on the territorial economy?

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** That information is always brought to you in the form of a briefing and when you try to encourage ways of trying to utilize these dollars to be retained in the North, it quickly comes back to you that 60 per cent of the WCB funds are flown to the South to workers. As if to basically imply that there is no point in trying to set up rehabilitative services because these guys are going south anyway. Not thinking that instead of taking a proactive solution and trying to initiate and create these type of rehabilitation services in the North and to encourage people to stay in the North. But sometimes I can say it is very discouraging for people to feel and think and comment that these funds can just go to the South and we should say it is okay. It seems it is one of their points of rebuttal most of the time from WCB, that these dollars are from the workers but they go south anyway. That is their attitude and it is an attitude that really leaves a lot to be desired.

**CHAIRMAN (Mr. Koe):** In your presentation you talk about the concept of mandatory re-employment and you talk about legislation and other jurisdictions. Several of the employers organizations have expressed concern that if we vary the current equation and it will put undue pressures on employers and the sustainability of business. How would you argue against this position and the support of this idea of mandatory re-employment.

**MS. ROBINSON:** I think as in anything that you are going to be challenging a lot of long-held views. You have to look at a way of developing some form of compromise and that is why in looking at it I really feel that the cooperation has to be between employers, unions and injured workers. But as we can historically see, the number of people with disabilities, whether they were born with the disability or have become injured, there is very high rates of unemployment and there are systemic discrimination, there is overt discrimination, against people with disabilities and I think that is another part of this public education, where you have to say you have to

reframe the way that you look at people, you look at situations and that we have to look at the abilities that people have. And sometimes we are too quick to judge that people do not have the ability to return to certain positions or to do certain types of work.

I look within our own office and perhaps if you had a very brusque kind of description of some of the people and what their disabilities are, you may not think that they would be able to conduct the type of work that they do. One person in particular has cerebral palsy and is visually impaired, but she is a very effective administrative assistant and in a training program at the current time. People may not have thought that that person had that ability unless you saw it happen, unless you have the supports, the technology and basically the knowledge and the initiative to move forward to employ people with disabilities.

Because we all want to prevent the accidents but when they do happen we have to be prepared to reintegrate people back into the work force and I think it is really re-education and looking at people in a different way and not focusing on what they cannot do, but focusing on what they can do. And through a cooperative effort, I believe a lot of people who have been discarded could be brought back in very effectively.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** Thank you, Mr. Chairman. I would also like to say that this is a very good presentation and it focuses on the concern I have since we have started this hearing. It focuses on the injured worker. I feel that the Workers' Compensation Board should refocus on the injured worker more and look at all the problems in their system. There seems to be a lot of problems and you have identified some of them.

The rehab services is working in the North and I agree there has to be something done to operate a workers clinic some place in the North. I do not know why you put Stanton Hospital - it may be a typing mistake. But I do agree there should be something in the North, basically for financial reasons and I think a lot of workers would like to remain in the North but because of the YMIR it is not enough, so they move south where they can afford to live on the amount they are getting on the YMIR. So something definitely has to be done in those two areas. I would like to thank you. Mahsi.

**CHAIRMAN (Mr. Koe):** Dale.

**MS. ROBINSON:** With regard to why I said Stanton, I think that in trying to also consider costs in the initial stage, that we should be looking at building on a facility that currently has something available and a good basis. But I think you would also have to look at either having a team that moves to different regions and communities, and that is where the cost has to be considered and hopefully there would not be enough people who were injured in one region, but that is not the reality. So as a result, building on current expertise and then looking toward the future of an injured workers clinic, being able to have that flexibility to move into other regions and areas and provide support.

**CHAIRMAN (Mr. Koe):** We also have underutilized buildings in Inuvik or Hay River.

**MS. ROBINSON:** I am real flexible on that point.

**CHAIRMAN (Mr. Koe):** Okay Dale, it is nice to end on a fairly refreshing note and different outlooks on the situation. Thank you very much on behalf of the committee for your presentation. Brian.

**MR. LEWIS:** Since everyone is so friendly -- when everyone is friendly you would like to be part of it.

--Laughter

We find there are many people who work for voluntary boards that make tremendous contributions and people that can put something together like this, demonstrates once more that not everybody who does not work for the government is simply there because they do not have much to offer. This is the kind of person that should be providing the kind of creativity we would like to see in our own government. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you again.

**MS. ROBINSON:** Thank you very much.

**CHAIRMAN (Mr. Koe):** We will recess now.

--SHORT RECESS

**Telephone Witnesses**

**Telecon With Mr. Keith Coffin, Prince Edward Island**

The committee will come to order. Is this Keith Coffin?

**MR. COFFIN:** Yes it is.

**CHAIRMAN (Mr. Koe):** It is Fred Koe here calling from Yellowknife. We are in the standing committee on agencies, boards and commissions, reviewing the Workers' Compensation Board. With me are five committee Members and staff and there are also members of the public here in the room. So tonight we will listen to your presentation. We have about 20 minutes. Please proceed.

**MR. COFFIN:** Chairman Koe, my name is Keith Coffin and I reside in Mount Stewart, Prince Edward Island. I appreciate this opportunity to be able to address the Members of the Legislative Assembly of the NWT. I will try to briefly summarize the events which preclude me having this compensation.

In 1977 I was injured on the job working in Inuvik, NWT, flown to Edmonton and had my knee operated on. The operation did not turn out so well and left me with a permanent injury. Several years after that I was awarded a lump sum settlement to pursue a business interest of mine, being logging, kiln drying with lumber. Several years after that I was awarded another five per cent disability as my leg is a degenerative knee and will not get better.

At that point things all seemed fine with the Workers' Compensation Board. I had occasion to defend the board many times to my friends. They could not understand why I thought the board was good because nothing had ever happened wrong.

A few years ago I was working at another job as a teaching assistant requiring a lot of walking and I started having trouble with my knee again and it required another operation. From that time on my life has gone strictly downhill. Mainly because of the Workers' Compensation Board. Since that time I have wound up with an injured wrist, requiring an operation. I have an abnormal gait on my right foot from my knee. I was sent for tests by the Workers' Compensation Board and injured my back. All of these things they have accepted responsibility for but have given me no compensation for.

I am now on welfare and losing my house, have lost my fiancée of six years and life is not very good, and I do not understand why this happened. I do not know how it can be

fixed. I have been treated terribly poorly by the board and doctors associated with the board, to the point of being abused. I have called the College of Physicians and Surgeons to complain about one of the doctors and that has been addressed by the board.

A few years ago I would not think I would be making this call to you. Are there any questions I can answer? It is not so much a presentation but I am being treated poorly and I would like it to stop. If anything becomes of this I will try and prevent anybody being treated the way I have. I would be glad to help.

**CHAIRMAN (Mr. Koe):** Can you give us some specific problems that you have had and about when did they start?

**MR. COFFIN:** They started just over two years ago. I was on temporary total disability, recovering from two operations. I am an amputee first off and the knee I injured on the job has nothing to do with the amputation, but because of the strain back and forth I am beginning to have problems with that knee. Being on temporary total disability I had requested over almost two years I was on the disability I wanted to speak to someone with the board who may help me with career direction, that kind of thing.

Trevor Alexander mentioned Neil Pierce was the vocational rehab officer and I offered to confer with him and I was told it was not necessary. At one point I sent in mileage vouchers as my mileage is paid to the doctor and I am required to go at least once a month. As soon as those were sent in I was requested to go to Yellowknife within a number of weeks. My doctor recommended I should not even do that trip, not being extremely healthy. I was asked to stop in Yellowknife to see Dr. Colter who physically abused me; wrote things in the report that were not true, things I did not say, that kind of thing. I was in Yellowknife the next day for a short meeting with Mr. Alexander and Mr. Pierce. I was flown directly back to the island the next day and my benefits were cut off that same month.

Shortly after that I was trying to find a career counsellor here, somebody that could help me find a job. The compensation board was contacted in Prince Edward Island to see if they could find some place I could be tested, I presume for aptitudes or job training or something. I was sent to Nova Scotia to do functional accessibility tests, which involves nothing more than lifting, carrying, pulling, that kind of thing, which because of my injuries I really should not be doing.

In the course of doing those things the muscles were pulled in my back. Since then, driving is almost impossible; walking is extremely difficult. Just about any chore at all. My day is spent just on basic life skills. And none of this has been addressed by the board.

**CHAIRMAN (Mr. Koe):** Have you gone through an appeal process?

**MR. COFFIN:** No I have not. I have had to seek legal counsel though. I could not understand what there was to appeal. I was just sent to Yellowknife and I am almost still in shock from it happening. When I say I was abused by this doctor in Edmonton, I seriously was. He twisted and turned my body and did things that really should not be done. I just do not understand what is going on.

Other than the workers' advisor, there is no one to talk to at all. I have been made fun of on the phone by members of the board, put down, made fun of. I do not understand their personal attitude. So I have sent appeals for a large number of items and they would all have to go through the courts somehow, I presume. I have been denied medical apparatus,

medical reports that my doctors here requested and the board refused to send them. They have requested braces and articles like that; they refused to pay for them, with no explanation at all.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** If I could get clarification on two items. When you were hurt in 1977, when were you initially awarded your lump sum payment?

**MR. COFFIN:** In 1980 and the additional payment in 1983.

**MRS. MARIE-JEWELL:** What was the percentage of your lump sum settlement on your disability?

**MR. COFFIN:** Twenty-five per cent and the five per cent on top of that is a monthly pension. Before I went to Yellowknife a year ago January, when I went I was still under the impression that I was working with people that I knew and Bill Hart was with the board. He was who I dealt with mostly and seemed to understand that I had problems and tried to help. When I went to Yellowknife a year ago January, I asked to have my five per cent commuted so I could fix my house, buy a tractor - I have blueberry land but no equipment to manage the property, and if they did that I would be working now. They refused to do that and even discuss that. Then after I hurt my back they offered to help me get a tractor and work on my blueberries, which I cannot do not.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Your disability that they assessed here in the NWT and subsequently after you injured your wrist and your back.

**MR. COFFIN:** Yes and my foot, all from the same knee.

**MRS. MARIE-JEWELL:** When you came up to Yellowknife for your assessment, that was on your knee?

**MR. COFFIN:** And my wrist at that time. They did not want to look at it but they have since accepted responsibility.

**MRS. MARIE-JEWELL:** Recognizing that they awarded you a disability for your injured knee and then subsequently discontinuing your benefits, did they indicate why?

**MR. COFFIN:** No.

**MRS. MARIE-JEWELL:** Who made such an arbitrary decision that you should be denied some of your benefits?

**MR. COFFIN:** Neil Pierce and/or Trevor Alexander. Trevor Alexander was the adjudicator and Neil Pierce was the vocational rehab manager and then they amalgamated the offices.

**MRS. MARIE-JEWELL:** So when was the last time you received any type of benefits from the Workers' Compensation Board?

**MR. COFFIN:** I do receive a monthly cheque of \$114 and other than that I received a mileage cheque about a year ago for a couple of hundred dollars. That is it.

**MRS. MARIE-JEWELL:** So your disability pension is assessed at \$114 per month.

**MR. COFFIN:** Yes, even though they have accepted responsibility for my back and my wrist and I presume my foot as well. That is in writing. They just do not do anything about it. I do not know what to do. The last time I was

talking to either one of them on the phone, neither gentlemen were very nice. I cannot even stand to call and talk to them. It frustrates me too much.

**CHAIRMAN (Mr. Koe):** Anybody else?

**MRS. MARIE-JEWELL:** Can I just ask one further question, Mr. Chairman? Since you have been discontinued your disability, and since you have had your assessment and your disability has declined to your monthly pension of \$114, is this from that point on where you have found that attitude problems existed with at the WCB office?

**MR. COFFIN:** Yes.

**MRS. MARIE-JEWELL:** Have you found them to be somewhat insensitive to your concerns? Are you basically saying that they arbitrarily made decisions to deal with your concern as they saw fit?

**MR. COFFIN:** They were completely insensitive. My health is literally falling down, and yet there are provisions in the Workers' Compensation Act for them to help a person in dire need. I cannot buy food; I am on welfare. I do not have a car; I cannot afford gas. I have to borrow a friend's car to go to the doctor. They do not care. It does not matter to them whatsoever. Until one gets a hold of the act is when one finds out what benefits are actually in there, it is a secrecy act. I wear a dislocation brace on my knee which I find in the act that I am allowed \$100 per year for clothing. But until I had received a copy of the act, I had no idea. One is not told anything at all.

**MRS. MARIE-JEWELL:** My final question is, what was your monthly pension before it declined to \$114 a month?

**MR. COFFIN:** It was \$700 and some a month.

**MRS. MARIE-JEWELL:** When was it decreased to \$114?

**MR. COFFIN:** In January 1991.

**MRS. MARIE-JEWELL:** That was after your assessment?

**MR. COFFIN:** Yes, in the same month.

**MRS. MARIE-JEWELL:** I do not have any other questions, Mr. Chairman. Thank you very much.

**MR. COFFIN:** You are welcome.

**CHAIRMAN (Mr. Koe):** Any other questions from committee Members? Keith, as I mentioned before, there are some representatives of the WCB here. The workers' advisor is here. There are representatives of the Injured Workers' Association here, plus six committee Members. We have heard your presentation, and I am sure there will be some follow-up. Hopefully, somebody will get back to you here shortly. Do you have any additional comments before we close?

**MR. COFFIN:** I just hope somehow, either by the act or something has changed, people can be treated more humanely. My health is in extreme danger. There seems to be no concern whatsoever. It is really my life. I am not saying these people are ruining my life; it is just a matter of circumstance, but I am not doing it alone. I really hope for everyone's sake that something can be done so that it becomes more honest. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you for your time, Keith.

**Telecon With Mr. Vic Scoville, Nova Scotia**

**CHAIRMAN (Mr. Koe):** Is this Vic Scoville?

**MR. SCOVILLE:** Yes.

**CHAIRMAN (Mr. Koe):** Vic, it is Fred Koe calling from Yellowknife. I am the chairman of the standing committee on agencies, boards and commissions. We are in a formal session here looking at the WCB.

The process is that we will listen to you and some Members may have some questions. We have about 20 minutes. We are phoning people across Canada, starting from the East. Please proceed.

**MR. SCOVILLE:** Thank you. I was injured in 1987, and I had two operations in 1988. The operations did not work for me. My condition got to a certain point where I could not do any of the work that I could do before, but I was not totally disabled. I have worked all my life and have always done as much as I possibly could before I was injured and after. We tried therapy before and after the operations and my condition stabilized at one point so that I knew what I could or could not do. When the pain got to a certain point, I had to stop whatever it was I was doing. I have learned to live with that, and I know when I have to stop.

Some of the programs the WCB has put me on – I have been told that I can put up with more pain and that I have to put up with more pain. When it makes it worse, it does not come back down to the level it was before. In other words, it is making my injury worse and is making me more handicapped. That bothers me a lot because I do not want to end up in a wheel chair. I do as much as I possibly can every day. I am not the type of guy that lays around on the couch all day watching television and popping painkillers. I hate taking painkillers and I very seldom take any painkillers, muscle relaxants or anything.

I have a driving range and a mini-golf that which the WCB helped me start. When I started it, I knew it would take three or four years to build it up for a guy to make a living off of it. It has not been given a chance yet, and it has been doing better each year. I have been able to look after that myself. Right now, I have a lot of debt, and it is making it awful hard. Bill collectors are on my back all the time. They took my car when I was with the pain clinic in Vancouver. They threatened to take my equipment, my mowers and my equipment for operating the driving range, as well as my house. I had been told by WCB that maybe I should sell everything and pay off my bills which would leave me with nothing – no income, nothing. To me, this is not very good advice.

The rule about the 10 per cent payout on a pension is fine if a fellow is only 10 to 15 per cent disabled; he is still able to work so the pension does not mean that much to him. If I was only 10 to 15 per cent disabled, I could still be working up north where I was when I got injured. But when a guy is - I am in between, around 50 per cent disabled and can get around and do some things – over 50 per cent disabled, he needs his pension for the rest of his life because he is not able to do too much. In my condition, I am still able to do some things. I know what I can do and what I cannot do. For me to get a payout on a pension would make life a lot easier for me, and I could set my business up so that it is a lot more cost efficient.

Also, for me to get around in my house with the steep stairs is hard. I would like to get different stairs in. My washroom is really small and it is hard to manoeuvre in there especially when I am on the wrist crutches sometimes. Some of this stuff is what I would like to spend the money on to make

things easier for me, looking down the future.

**CHAIRMAN (Mr. Koe):** Where were you injured?

**MR. SCOVILLE:** My lower back. I had a ruptured disk in my lower back. That injury took place at Arctic Bay. I had a minor injury in May of that same year so I was off for about three weeks. I was working in Frobisher Bay at that time up on the college site which was on a hill. It was icy and about 30 degrees below. I lost my footing and went down on my back onto the hard ice. After three weeks, I was back to work. I did not have any more problems with it until something snapped in Arctic Bay. I could not do anything. For the longest time, I could not even put my shoes on.

**CHAIRMAN (Mr. Koe):** Can you give us some specific concerns you have with the treatment you have been receiving from the WCB?

**MR. SCOVILLE:** Yes. The WCB – the surgeons that operated on me and the doctors – I cannot sit for a great length of time nor can I stand for very long. I have to keep changing positions. I cannot get on concrete or asphalt at all. It really does my back bad. The WCB had me fly all the way to Yellowknife once. They flew me to Vancouver which is a nine or 10 hour flight and does me no good at all. Downtown Vancouver is nothing but concrete and asphalt. I was there for six weeks which did not help my back. They sent me out there to a pain clinic. The pain clinic is there to get people off the couch and off of pain pills of which I was doing neither. They spent approximately \$30,000 for me to go out there to help me deal with the pain which I had already been dealing with for several years now. That did not do me any good nor did the concrete.

I had a previous back operation in 1984 in Ontario. I was back to work in a month. The surgeon said it would probably be three months, but I was back within a month. I worked 15 to 18 hours a day, seven days a week, up north for a couple of years. My back never bothered me at all. The WCB, as soon as they were told about the operation I had before, immediately said my present condition was minor and the one from before was major. They made that decision without any doctor's opinion. The doctors that operated and the specialists I had seen have ever mentioned anything about the operation before. It had nothing to do with the injury I received up north. That is one thing that bugged me.

One thing they should do – like the pain clinic in Vancouver helps a lot of people there, but, in my opinion, if a person has to have an operation, they should be sent to a pain clinic immediately after to get their muscles built back up. It does not do any good years down the road. I have either another piece of disk in my back or scar tissue that is putting pressure on my nerves. They do not want to operate any more because every time they operate, they get more scar tissue. The surgeons feel that another operation would only cause more scar tissue. The surgeon told me that as long as I watch what I do, then I probably will not get any worse, but doing a lot of this therapy stuff makes it worse. I do not know whether it is the way you twist doing it or not. Everybody says it will not make me worse, but it has so far, and I do not want to get worse, if you know what I mean. I still am able to walk, so I do not want to end up in a wheel chair.

As far as the pension payout, if it is 10 per cent or \$40,000 or less they will pay it out. As I think I said before, if the disabled person is only that disabled, normally he would not need a payout on his pension anyhow because he can still continue working, so it is kind of discriminating against the injured person. If his injury is worse and he could really use the money, then they will not pay it out. I understand why they do that, too, because they take a certain amount of

dollars and set it aside for that injured worker, and they make interest on that money they set aside. They make more than enough to pay his pension for each year, which is good business for them but it is not good for the injured worker.

In my case, like I say, if I was 80 or 90 per cent disabled, or 100 per cent disabled, then you definitely need a pension for the rest of your life, but when you are able to do something, which I am trying to do, and I know I can make a living, if I did not have the debts, with what I have right now I could make a living off of what I could make from the mini golf and driving range. I think the WCB sometimes thinks that is a couple of months of the year job. Well, it is not. You open up around May and close at the end of September, and before you open up there is a lot of stuff you have to do on the mini golf, like putting the stuff back out, and there is a lot of work you have to do out on the driving range, and the same thing applies in the fall, so it is not just a few months of the year. It takes up about eight or nine months of the year, because you are always working on stuff during the winter, painting stuff out in the barn and stuff like that.

One thing I have been told by the compensation board is that the pain is all in my mind. It is not in my back, it is in my mind. Well, when you have got pain 24 hours a day and you cannot sleep hardly at all at night, and if you overdo something it makes it worse, then it is awful hard for me to understand how they can tell me it is in my head. Another thing, I get into some kind of program like the Vancouver pain clinic, and they pay me benefits while I am in that. It made me worse. As soon as I was out of the pain clinic, and in worse condition than before I went in, then they cut off my benefits.

I went to an upgrading course here in Yarmouth that was a 16-week course. I went five and a half weeks, and it is all concrete and asphalt there too and that bothers me a lot, and sitting. I stood it as long as I possibly could and I could not stand it any more. I could not concentrate on the classes. I was doing good at the grades but I just could not concentrate because of the pain. As soon as I stopped going to that, they cut me off again. And then they say, "Well, you tried, we tried and it did not work. We are sorry." Well, I am in worse condition than when I started, and "sorry" does not help.

**CHAIRMAN (Mr. Koe):** Okay, Vic. You mentioned that you flew to Vancouver for this pain clinic. When was that?

**MR. SCOVILLE:** I went up there on the 20th of January and came back the end of February.

**CHAIRMAN (Mr. Koe):** Of this year?

**MR. SCOVILLE:** Yes.

**CHAIRMAN (Mr. Koe):** And when did you fly to Yellowknife?

**MR. SCOVILLE:** That was back in 1988, I think. They brought me up there for their medical examiner to see me, and for the people I was dealing with at that time to see me. It was Les Robinson and Cathy Bentley, I think. When we started up on the mini golf and driving range, that is who I was dealing with - Les Robinson. He put a lot of work in and he fought a lot to get the compensation board to help me with that. They would only help so much. They gave me enough to pay off the existing mortgage on my house. At that time I owed \$24,000 total debt, and I paid off the mortgage so I could re-mortgage to do the landscaping and buy the equipment. At the present time, I think I am about \$57,000 in debt.

This will be my second full year open. I have only had one full season since I opened. The first season I was open

approximately three months. I did not get open until the middle of July. Then last year was a full year. I took in about 50 per cent last year than I did the year before, and I plan on taking in probably about another 30 per cent more than I took in last year, this year. My biggest problem there, too, is advertisement and stuff like that. With a debt load like that, you spend all summer with whatever you are bringing in, trying to catch up on it, and when you do close up in the wintertime, when you do not have any income, you have spent all your money you made in the summer trying to catch up on bills, so you end up doing the same thing the next year. You end up behind the eight ball again.

**CHAIRMAN (Mr. Koe):** Vic, I have one of the Members who wishes to ask you a question. Charles.

**MR. DENT:** Hi, Vic. Could you tell me, before the Workers' Compensation Board decided that the back injury you suffered in the North was not the major problem, what percentage disability did they assess you at?

**MR. SCOVILLE:** I do not quite understand. What they had me assessed at from the injury in the Northwest Territories?

**MR. DENT:** That is right, originally.

**MR. SCOVILLE:** I was not assessed with any disability before I was injured in the Northwest Territories. They told me 15 per cent. When I got the files for an appeal, their medical examiner had originally assessed me at 20.5 per cent. He put in his notes to file that 2.5 per cent was previous. There was no previous disability, but he said 2.5 per cent, and somebody in the WCB looked at that and said, "Well, that does not sound right. We will put it down at 5.5 per cent previous, and 15 per cent as ours." I do not know just who it was. Some of their writing I cannot make out in their reports, but somebody overruled their own medical examiner because it did not look right. They took 5.5 per cent off the 20.5 per cent. Well, 15 per cent disabled was low as far as I was concerned, and as far as the surgeons were concerned at that time.

The surgeon that operated on me, Dr. Molloy - most specialists I have dealt with, doctors and surgeons, have told me that it does not matter what their report says. When it goes to the compensation board, they use their own methods of determining the amount. He said it does not matter what he puts down. He said he will put down what he honestly thinks, but he said that it does not mean they are going to go by what he says, because he said they have their own way of doing things.

**CHAIRMAN (Mr. Koe):** Another follow-up question. Charles.

**MR. DENT:** Vic, you said that the WCB helped you start your business. Can you tell me how? Was that through a partial commutation?

**MR. SCOVILLE:** How they helped me was, they gave me money to pay off the existing mortgage on my property so I could get clear title to it. They gave me \$27,000, I think it was, and then they gave me another \$6000. The landscaping and that cost more than the original estimate, because it rained all spring and so it took a lot longer to do it. I was able to open the first year late because of the weather, and because we did not get the decision on it until yet. In 1989, I was planning on getting a lot of the work done in the fall, and I did not get the okay to go ahead until it was too late to do anything. It was in the wintertime, then, about January, so we did not get started until the spring of 1990, so it took until about the middle of July before I was able to open.

**MR. DENT:** Are you still receiving a pension, and if so, how

much is it?

**MR. SCOVILLE:** I was getting \$332.00 per month, a 15 per cent disability pension, and they advanced me four years on that to help me out.

**MR. DENT:** What would your solution to the problem be right now? What do you want the board to do?

**MR. SCOVILLE:** I would like to be assessed at the proper level of disability for one thing, and it is not 15 per cent. Dr. Molloy, the last time I saw him, said in the 30 per cent range. I am worse now than I was then. The level of my disability has never gone back down since I came back from the pain clinic in Vancouver. That has been since the end of February, so I do not think it is ever going to go back down any farther. It has levelled off at a certain level again, so I would like to be assessed properly. The compensation board is supposedly going to send me to somebody in Halifax to have another assessment done. Apparently then, whoever does the assessment in Halifax sends the file back to Yellowknife, and the same medical examiner there that examined me before decides what the disability is again. They did not take his word for it the first time.

I do not know why it would change now. There were things in his files. When I was up there, he did some tests on me, like ankle jerks and stuff like that, and I have no ankle jerk at all on my right leg. Every doctor and specialist I have been to mentioned that in all their reports. He checked it out. He hammered away on it for about five minutes, but he never mentioned that at all in his report, and they also never mentioned anything about the three weeks I was off in May of that year when I slipped on the ice and fell on my back. That was never mentioned in their reports at all, but they keep mentioning about the operation I had away back in 1984. They bring that up in all their conversations and letters. I have questioned them about that, but they have never given me an answer on that yet.

But I have a feeling it was because that happened in the Northwest Territories too. I felt that if there was any previous injury, it was done at that time, because you cannot work seven days a week, 18 hours a day, with a bad back. I do not care who you are. Not the kind of work I did, like heavy equipment and welding, and all that stuff. There was nothing wrong with my back before. I would say I could out-work a lot of people a lot younger than I was, which I did do when I was up there.

Another thing I would like to mention is that they only have one advisor for the compensation board workers in the whole Northwest Territories. That seems kind of strange, because that is an awful lot of area for one person to have to deal with. It would almost seem like it would be too much for that person to do a good job if she has that many people to deal with.

**CHAIRMAN (Mr. Koe):** Okay, Vic. Are there any other questions?

**MR. SCOVILLE:** One thing I would like to say is that sometimes I feel like they think because I have a back injury, that I am brain dead, that I do not know what is good for me or what is not good for me and I cannot make any decisions on my own. I told them repeatedly that concrete and asphalt - I do not know what it does to my back, but if I am on it for five minutes I am in agony - and they say, "Well, try different shoes." I have tried all that stuff and it does not seem to help, but it does not seem to make any difference to them. I should be able to take more pain. They told me one time that if I was totally disabled, there would not be any problem. If I was paralysed from the neck down, well, I do not want to be

that way.

I do as much as I possibly can every day and some days I can do more than other days. But when the pain gets to a certain level, I know when I have to stop doing it. As long as I keep doing it that way, I probably will not get any more disabled than what I am. When you have no income coming in and they say if you do this we are going to pay you again, what does a guy do? He has to do something. So he tries it and it makes him worse and then they say, "Well that is too bad. We tried and you tried. But we are going to cut you off now because you are not doing anything."

I think another thing is, they can fly me all the way up to Yellowknife and all that, people I am dealing with there, I am the injured worker. It seems to me it would be better - they are not injured - if they come down to see me or whoever else they are dealing with, on a more personal basis, to see what the fellow is trying to do. I am not laying around crying the blues and trying to get a great big fat pension. I would just as soon not have any pension at all. But I am injured and I have a pension coming to me and I would just as soon have a payout and make my own living and not have to deal with anybody else. Because the headaches and the pain that you have to go through trying all these different things.

If I was a guy lying on the couch all day with a remote control watching TV pumping painkillers, then I could see them doing that; trying to get a fellow out and doing something with his life. I am already trying to do that. I am quite confident that I will be able to do it.

**CHAIRMAN (Mr. Koe):** We have heard your comments and some of the recommendations you have made. As I mentioned there are other people involved in the system and a lot of people have been taking notes. There will be some follow-up on this conversation. We have other calls to make. We are travelling from the East going across almost each province here talking to different people. I thank you for your time.

**MR. SCOVILLE:** I thank you for calling and listening to me. If you have any further questions I am more than willing to talk to you. Thank you.

**Telecon With Mr. Joe Kubik, Saskatchewan**

**CHAIRMAN (Mr. Koe):** Thank you. Is this Joe Kubik? This is Fred Koe. I am the chairman of the standing committee on agencies, boards and commissions. We are meeting here in Yellowknife and the committee is reviewing the Workers' Compensation Board of the NWT. With me here in the room are five other committee Members who are MLAs from across the Territories. Also in the room are members of the public representing the Workers' Compensation Board, the workers' advisor is here and we also have members of the Injured Workers Association and some members of the press. So we are here to listen to you and some of the members may have some questions. Please proceed.

**MR. KUBIK:** My name is Joseph Kubik. I got hurt in March of 1985. I was working in Terra Mines. When I got hurt in 1985 I had surgery on my back, it was my back I injured. I had some disks taken out and for a year I was on full compensation and then after a year - I am not positive of the time frame - I was called into Yellowknife and then I was put on a 20 per cent pension.

Still after the surgery in that year time frame that I was off, I still could not return back to work. I had a hard time walking and hopefully they were going to do more surgery. Every time I would end up in the hospital no more surgery was performed.



So this carried on and carried on and when they put in on the pension they gave me a 20 per cent disability pension, which I was getting at that time, it was in the neighbourhood of \$300 or so. I still could not return back to work and then they gave me an increase of five per cent and put me on a 25 per cent disability. I still could not return back to work. Every time I would try and do something I would end up in the hospital. I could not do any lifting, I was restricted to lifting five pounds and compensation would keep saying there is nothing wrong with you, go back to work, that is all the money we are going to give you. So living on \$300 and some a month and you cannot go back to work, that is pretty hard.

So then from the 25 per cent then they increased me to 30 per cent and that is all they pay for a back injury and I still could not go back to work. So it carried on and finally I said to myself I either go back to work or there has to be some kind of a problem some place. My doctors specified to me and on paper in the letters they wrote to compensation that I could not return back to work. So with this 30 per cent disability I went back to the doctors and said to either give me surgery or tell me what the problem is because I have gone my limit.

So I did go back to the doctors, they were going to redo surgery and then when they looked at the final x-rays and the milligrams and the CT scans, I was totally disabled. The doctors told me I would never work again as long as I live.

So I informed the compensation on this and they said they did not have any statement like that from the doctors. So then I put in for an appeal case. It took me awhile to get that. Finally I got the appeal and it was stated on the doctor's reports in the appeal that the man is disabled. I am classified today as a paraplegic.

So with the lawyers and everything I spent just about \$15,000. All this was in black and white from the lawyers. I never lied. The doctors did not lie. When it came to an appeal it cost me roughly in the area of \$15,000. On the appeal it says you can fight your own case. Well I never had any case to fight, it was in black and white, right from the doctor's reports that I could not return back to work. But the way I see it, if you do not get a lawyer to do the job for you, you do not get anything done and your answer is you go back to work.

So that is the situation with my disability. But that is all cleared up now after two appeals that I went through. So I am on 100 per cent disability. So everything I gained it cost me money for the lawyers.

Then when I did put in for partial payout - this is all I want is a partial payout. Other people in my situation do not want payouts. I think they would want a partial payout. This is all I am asking for. Because before I got hurt I was \$75,000 in debt. I did not ask to get hurt. We have compensation covering us. This compensation, I understand, we are covered for life under it, once we do get hurt. Now in the situation that I am in, the money I went through for lawyers and everything, which I did not need - so when I did say I would like the return for what it cost for lawyers, I proved what the problem was. They said I did not need a lawyer. Before I got a lawyer they said there was nothing wrong with me, all I wanted was more money and to go back to work.

So it takes a lawyer to tell them to more or less say this is what the doctor says. So that point was proven. So all this money that I did receive, it cost me in lawyer's fees and like I said, I was around \$75,000 in debt when I did get hurt and today approximately I owe less than half of that.

Then when I did start asking for a payout, they said they did not do such a thing. Well I feel when the compensation gives

you a penny, they figure they give you a payout. We are not asking for a payout, we are asking for partial payout to get out of debt. That is all we are asking for. Then they turn around and say they will only give 10 per cent. If you are 10 per cent injured you are on a partial pension. If you are 10 per cent partially disabled, they will give you that payout. It just depends on what wage you are getting at the time you got hurt. This 10 per cent could mean maybe a \$20,000 payout. Well that is peanuts. You cannot do anything with that \$20,000. The thing is with a 10 per cent disability you are capable of going back to work, which actually does not mean nothing at all. But once you are 100 per cent disabled, you are in a different situation altogether.

This is why I feel that they should give you maybe a 25 per cent payout, partial payout. To them you say partial payout and they say payout. To me there is a difference. If they were to pay me out they would have to give me just about half a million dollars. I am not asking for that. All I am asking is for a partial payout to get out of debt, which I think the other people in my situation are asking for the same thing.

So I will leave it at this. If you have any questions I will answer them to the best of my ability.

**CHAIRMAN (Mr. Koe):** Thank you, Joe. Have you had trouble with the attitudes of the people you have been dealing with?

**MR. KUBIK:** I had trouble until I got a lawyer and then after I got the lawyer it says right on the appeal papers that you do not need a lawyer if there is anything that is your own cost. But without a lawyer you cannot do anything. I did fight for this - this would be about two years after I got hurt, in 1987. I am outside raking the yard, in about half an hour I am just about on my hands and knees. That did not help at all. And then when I did get a lawyer and we got all the medical evidence from the doctors, the doctors did have it in black and white to the compensation board that I was not able to work. So it all boiled down to that I had to have a lawyer. And I think every other man and woman are in the same situation; you have to have a lawyer and lawyers do not come for nothing.

This is what I feel they are in the wrong by doing that. If the doctor states that you are disabled and cannot return to work, they should not argue that. You should not have to take a lawyer. If you are hurt, you are hurt. When I turned around and asked them to pay me back for the lawyer they said they do not do that and that I did not need a lawyer. But when I told them I could not return to work, they said all I want is more money. That is what I was told straight to my face. I said that if that was the case, there is no sense in me saying anything more to them. I gave it to the lawyer and told him the situation. The lawyer got the medical report from the doctor and that is all that was done. Then there was no argument at all.

**CHAIRMAN (Mr. Koe):** Okay, Joe. Brian Lewis has a question.

**MR. LEWIS:** Joe, I certainly know an awful lot about backs. I know that if you have a bad back you can be almost like a baby. You just cannot do anything. I want to check on one thing you raised earlier on. You said that you were told that the limit on backs, according to WCB, was 30 per cent. That is it.

**MR. KUBIK:** This is what I was getting until I got a lawyer. They said this is the limit we pay on your back. The problem is in my back, but it all goes down to my legs. The situation I am in is that they fixed up the disk, but my sciatic nerves are split and stretched. The situation I am in now, I should be

paralysed but, fortunately, I am not. What happens, I do not know, but every time I lift or whatever anything, this all goes down to me and I cannot walk. It humps up my back and that is as far as I can go. That is my situation.

**MR. LEWIS:** This is a question that comes up time and time again. I had several people come to see me about four years - before the workers' adviser was appointed - who said that whenever you go into workers' comp with a back problem, they immediately get suspicious and do not believe that you have a bad back. One worker told me that he was told by WCB that the reason why they behave this way is because it is so easy to fake a bad back and that it is the easiest thing to fake. Have you ever heard anything like that?

**MR. KUBIK:** I have heard of different people saying that you can fake a back problem. I would believe to say that the compensation did have the attitude that I was doing the same thing. I will tell you that in the first three years that I was off work, it just about drove me crazy. I just about ended up in a mental hospital because every time I tried to do something I would end up in the hospital. All they could do to me was give me demerol and morphine to calm the pain down. That is all they could do. This carried on and carried on, and then I finally went to one doctor - my doctor here in North Battleford made this appointment for me - and I told him the situation. I said that if he can fix me, to fix me; if not, tell me what the problem is and why you cannot fix it. He got all the x-rays, the myelogram and the CT scans because the doctors that did the surgery on me are the ones I was always sent to. They said that they cannot do any surgery on you. That is as far as I got with them. Why, I never did get that answer.

The doctor I went to - the last one here - looked at the myelograms for about half an hour and told me why the doctors will not operate and that he would not either because any doctor in his right mind would not touch you because as soon as they touch that area, I would automatically be in a wheel chair. He told me I am walking and that I am a very lucky man to be doing so. He told me to leave it that way. That is when I found out what the problem was. Other than that, I cannot say anything at all. I do understand your point of this faking stuff. I wish I could fake it, but I cannot.

**CHAIRMAN (Mr. Koe):** Thank you very much for your time. As I mentioned before, we have numerous people here taking notes, so hopefully someone will get back to you. Where are you phoning from?

**MR. KUBIK:** This is North Battleford, Saskatchewan.

**CHAIRMAN (Mr. Koe):** Thank you. We wish you well.

**Telecon With Mr. Ray Wonnick, Manitoba**

Mr. Wonnick, we are here to listen to you and hear your story about concerns with compensation, and we may have some questions after. We have about 20 minutes. Please proceed.

**MR. WONNICK:** I was working up in the Territories for ITT when I had an injury. I had an additional claim with the Manitoba board before I had gone up there. Now, the NWT say that they will not accept any responsibility for an injury I had prior. The Manitoba board says that I went to work so it is the responsibility of the NWT. I have been penalized because I had only worked for a period of 10 weeks when I was up there and got hurt. That is what they are calculating my income on. My income now is less than \$9000 per year. I find it very, very hard at this time to maintain a family, being a father, and the responsibility of that is very trying.

I have a permanent injury and, at this time, I am going to a pain clinic. I have tried therapy and am still on about \$180 to

\$200 worth of medication a month for anti-inflammatories and painkillers. I have leg braces for my legs. My legs were fairly damaged at the time and will not heal. My concern at this time is that the injury itself is over a three-year period. At different times, they refuse to pay me for two or three months at a time, and I have no other income coming in. They will re-evaluate it and send some money to me again. I find that every time this happens, they force me to go to work a couple times and I have had further complications and could not carry on.

They said that they would give me some kind of upgrading which consisted of a one or two-day computer course. I do not have any real education. I have been in this trade for 35 years. Basically, this is all I know. For me to go to another line of work, I find I have very little mobility. I have constant pain all the time which is why I am on medication. With my educational level - I am just 52 years old - I do not see a future in what I can handle on a one or two-day training course. I asked them, at that time, if they would send me to school for three months. I suggested that they do it that way, and they gave me a consulting firm here in Winnipeg. I went there and all that firm did was cut a few ads out of the paper and told me that I had to take these jobs or they would cut me off. I did not qualify for some of the jobs they were trying to get me to take. Every time I was interviewed by a company, they would ask me where I had worked the previous two or three years. When I told them I was on compensation, they would not allow me to work with them or be part of their company because they know that if they accept the responsibility of hiring me and I have a relapse, then it is always a new claim. That new claim is going to be charged to the people that I am working for at that time. It never goes back to the first injury.

The compensation board says that if I can return to work, I have recovered. Some of us, when we have leg or back injuries, we cannot completely recover. If we have a relapse, a new company is very, very reluctant to hire us because they know that we might make a few weeks or a month or two, and if we have further complications - and we find that lots of times when we have to go on these jobs, we are still under a lot of medication. Our keenness is not there and we could fall into additional injuries. Sometimes we have to change our occupation midstream without any real schooling and with the amount of medication we are taking, we find it very hard because we are forgetful and are very vague in our speech and thoughts.

With the amount of people on the unemployment line right now, it is very competitive. I do not have a clue who would hire me at this point. I have asked for additional training. They will give you a six-month period with a consulting firm. They do not have any real ins as far as job opportunities go. All they do is take a few ads out of the paper, stick them on a piece of paper, and say that you have three jobs to try to find one from, otherwise they are going to cut me off the benefits. It is very intimidating and very hard because if you walk in with leg braces, people take a look at you and you can see the writing on the wall. They give you their best wishes and are sincere. I think they are happy when we leave their premises because they know we are going to have additional problems as we go along. With the amount of people looking for work out there, it is very hard to qualify.

At this point in time, I am starting to find that I do not have any future. What am I going to receive a few years down the road when I am completely disabled?

**CHAIRMAN (Mr. Koe):** Are you presently receiving benefits from WCB in the Territories.

**MR. WONNICK:** Yes, \$31.18 a day. They pay for my

medication, and they pay me 16 cents a kilometre to go in for therapy, to the pain clinic, or to see my doctor. That is all I receive. I do not have any other income other than the Territories.

**CHAIRMAN (Mr. Koe):** Do you have some specific issues or concerns with the WCB?

**MR. WONNICK:** It is very hard because with these people being that far away -- now they finally got in touch with the advisory board in the Territories. They made an appointment for me to go to Winnipeg. Now she has to go through three years of paperwork in order to try to resolve some of these differences. I was in there last week. I have not got any outcome of that. But it has taken three years, and now if the Territories cuts me off of what I am getting now, I am going to lose what I had.

I had a big fight with the bank a while ago. Sometimes I do not get paid for two or three months at a time. I have to pay all the late charges, and then the Territories will quickly transfer some money into my account, saying that it was a postal error, a post office strike, or whatever it is. And all it is is a cover-up. It gets to the point that -- I do not know of anybody that could basically maintain a family on \$9000 a year. It leaves me very doubtful. From where am I going to receive help?

I find out that I even have a hard time with the medication, because my medication is around \$180 to \$200 a month. I have to pay for all my fuel to go in. I have asked for an increase in mileage, because our fuel was up to 78 cents a litre here, a while ago. Now it is back down again, so it is a little easier, but it costs me almost \$20 a trip, and I am only receiving about \$15 or \$16 out of that. And there is no allowance made for wear and tear or insurance, or anything.

I have got leg braces that I had to go in and have modified for me, because the leg is deteriorating. It has started to lose its form or go out of shape. They wanted me to go to work with these leg braces on, and 600 or 700 milligrams of anti-inflammatories and painkillers. I tried it for a couple of weeks, and it got to the point where I was flat on my back for a month and a half. My leg swelled up, and now I have additional chronic pain all the time. Now they have got me going to a pain clinic.

Before they try to get me to work, I think they have to fix me up first. As I said, I have been out school since 1957. I have worked since 1957. I have an engineering degree, and schooling is something new for me. I cannot absorb very much on a one-day or two-day computer course. To me that is very hard for me to even comprehend, that indifference. And I find that if I learn to turn a computer on and off -- a company is not going to hire me. The consulting firm say, "Well, at least you have taken this one-day computer course. You know how to turn the computer on." I would not hire anybody on that basis. I do not know why they would push me that hard.

I told them that there is an adult education program just outside of Winnipeg. It is three or four months. They told me that the course was too long. They would give me a one or two-day course. I have not had any success in that area. I have been out of school for a long time, so it is going to take me a little while to get into that; and they did not agree to that.

I tried for additional benefits and they said, "No." This is where I am at. I am stuck.

**CHAIRMAN (Mr. Koe):** Okay, Ray. One of the Members has a question.

**MR. ANTOINE:** Thank you. Some of the things that we have been hearing from people is that the WCB staff seem quite insensitive to the situation that injured workers find themselves in. I was wondering if that has been your experience as well.

**MR. WONNICK:** My first adjudicator -- I will not mention any names over the phone, but -- she was more that compromising. She was a pretty sound person. The second adjudicator I got, she was a hatchet person. She just cut me off, or I either did this, or -- there was no leniency in that area. I said to the lady, "I am going to stop by the RCMP going to these appointments. I have got 70 kilometres driving with this medication, and I am scared I am going to either have an accident or I am going to lose control." And she says, "Well, you should be able to function under that. I have checked this medication." And I said, "You are not the person that is suffering from it. How would you know? You would not have a degree of hurt or feeling."

A week and a half ago a chap shot himself here on the parking lot of the Compensation Board right here in Winnipeg because he went in, and it was very intimidating for him; he could not handle it. He went and sat in his truck, and he shot himself. And he is dead. And there are a lot of people that -- all of a sudden the board would just cut off everybody that has been on comp for a year and a half or two years, so cut them all off. And they do not have any support system. Where are they going to go? Their families are breaking down, and there is not money to help these people. A lot of these people need outside help, like myself. I need some outside help. I do not have the education factor.

Now, at my age, I have to change my occupation. I know nothing other than I am an engineer and a mechanic. I could function fairly well in that area until I got hurt. Now I cannot function. I barely have mobility for a few hours a day. I find it very, very intimidating.

**MR. ANTOINE:** Okay, Ray. The insensitivity of some of the WCB staff seems to be a concern here, and I was wondering how we could deal with this situation.

**MR. WONNICK:** I think what the board should do is that when there is an assessment done, it should be done through his doctor; it should be done through his chiropractor; and they should take that into consideration.

What they do with me now, they send me to Winnipeg, and they have a compensation doctor. He does not take a look at any of the reports that are in. He takes a little cloth measuring tape and measures it; then he takes a pin, and he sticks it in my leg. He does not take a look at the X rays. I have crucial ligaments torn out of me leg; I have a couple of fractures in here; I have some of what he calls separation disks in my back. He has not taken that into consideration. They always seem to favour his report.

As I said, I will not mention his name, but the last one I went to said, "Go to work." I went to work for three weeks; the leg swelled up, and it is funny. Three weeks later I have got a doctor casting leg braces for me, and they put me into therapy. Prior to that it was a compensation doctor who said, "Well, you have been on compensation for four and half months now; it should have healed; my report is that you go to work immediately."

So I went to work for three weeks, and finally the company came up to me and said, "What is wrong?" and I said, "I cannot function." And the guy says, "We see you are getting pretty wobbly." And I said, "I have had to increase my medication in order to try to stay with the company." I liked the company I was working for. It was a truck dealership here in Winnipeg. The people treated you nice. But I just could

not function. I was just losing it. I had to recheck my work over three or four times. I have been in that trade for many, many years. I usually do not have to recheck my work. It is good. But I found myself making mistakes. I found myself covering up, and I was starting to lie to myself. And finally one morning I told my wife, "I just cannot make it." So she phoned in, and the adjudicator was more than sympathetic at that time. But that was my first adjudicator. My second adjudicator, she says to me, "We have had you on job search for six months. If you cannot find a job, you are on your own. Sorry."

I cannot find anybody at this point in time that will hire me, and I find it very, very trying.

**CHAIRMAN (Mr. Koe):** Okay, Ray. We are making phone calls to various people across Canada here, and we have heard your story, as I mentioned, and there are representatives from various groups here, people taking notes, so I assume there will be some follow-up to see what kind of assistance...

**MR. WONNICK:** Okay. Just before you go, I would like to find out that the compensation board works, or should work, with the company that you were working for when you got hurt. My company has signed my insurance papers here that I had resigned from my position, which I never did. I came out on a medical leave. The company has shown no interest in my injury or how my family is making out as a result of the injury. Could they be helpful in that area? Nothing. They just avoided the system. My own company would not take me back now, since I have had this additional injury, because I could not make the medical. I received no help from them, not even a call-up or a card -- even from the union.

We paid hundreds and hundreds of dollars while we were working, into these unions, and the only thing the union ever gave me is the compensation board, the 1-800 number. That is all they have ever done. There is no follow-up. There is no support for that person who is hurt.

**CHAIRMAN (Mr. Koe):** Do you want to give us the name of the company?

**MR. WONNICK:** That I worked for? ITT, Inuvik Services.

**CHAIRMAN (Mr. Koe):** Okay, Ray. We sympathize with you, and the message you are giving us is very similar to the message we are getting from other people across Canada in similar situations.

**MR. WONNICK:** I think you will find that a lot of us that were up in the Territories working probably know our trades, but we are not really -- when we get a lot of these letters and we get a lot of these follow-up reports, we are not even made aware of what is on our file, and that is very, very scary because I do not know what the compensation board has on me. I have never seen the file. I have never seen a report or a follow-up on that. They say they have all these kinds of medical reports. But I never see any of those, so I do not know, when they question me, I do not know what they have in front of them. They are prepared; I am not. I am just a tradesman. They are qualified people in that area; I am not. I am just an injured worker.

**CHAIRMAN (Mr. Koe):** Thank you, Ray, and I wish you well and your family well.

**MR. WONNICK:** Thank you for calling. Good-bye.

Telecom With Mr. Robert Brewer, Alberta

**CHAIRMAN (Mr. Koe):** We would like to hear what you have to say about the compensation process. We have about 15

minutes. Tell us what happened to you.

**MR. BREWER:** I have a pretty good story actually. I was hurt in the Territories. Everything was hunky-dory. I received compensation for a certain length of time the first time. I tried to go back to work and it failed. The same thing happened and it took me almost a year and half to get compensation for exactly the same injury. In that year and a half, I owned a house and had a family. I no longer have a family; I no longer have a house; and my credit rating is nil. I could not get any help from anyone. I tried going to welfare. I tried going to different constituencies. For the same injury, I could not understand why it was taking so long just to get compensation. It just blew me away. Because it was such a strain on my whole life, I became super-stressed out and ended up having a stroke which I did not like and which was not good for my health at all. It added to my injury. Other than that, if it was not for the workers' advisor, I probably would still not have any money today. It is just the way the situation was and just the way things are going.

As well, if it was not for the workers' advisor, I do not honestly know if I would be here today. I was so stressed out and so strung out because nobody was helping me and I had a family to support; I could not do it. I have no clue why we pay into this thing and why we cannot get it out. It was kind of disappointing.

**CHAIRMAN (Mr. Koe):** What is your current status? Are you on some kind of disability insurance now?

**MR. BREWER:** Yes, WCB has come across, after a year and a half, to help me. The workers' advisor's help from the Territories was a Godsend. Kathe Pagonis could not be praised enough in my books.

**CHAIRMAN (Mr. Koe):** Do any Members have any questions? Mr. Lewis.

**MR. LEWIS:** We are all taking notes here so it would help, Robert, if you gave us who you were working for, what the injury was, and when it happened. That would help us a little bit.

**MR. BREWER:** I was working for PCL, Poole Construction Limited northern, for a long time in the Territories -- I still associate with them because they are still my employer as far as I am concerned, and as far as they are concerned, I am still their employee. When I injured myself, I hurt my left knee as well as my lower back. It was quite a substantial injury because I am a big guy and I could not do anything any more. I could not do the same stuff I was doing which was really disappointing.

**MR. LEWIS:** When did this happen, Robert?

**MR. BREWER:** Two and a half years ago in October.

**MR. LEWIS:** Where was this? Was it in Yellowknife?

**MR. BREWER:** No, it was in Baffin Island.

**MR. LEWIS:** Thank you.

**CHAIRMAN (Mr. Koe):** Mr. Antoine.

**MR. ANTOINE:** I asked this question to the other people we have been talking to. The WCB staff seem to be insensitive to the situation that workers find themselves in. Can you tell us about any of the experience you had?

**MR. BREWER:** I do not know if it is insensitivity, if that is what you want to call it. I find that they just do not seem to

understand or realize there are some real people out there who actually get injured. These people are not trying to take them for everything. I would rather be working and making \$6000 a month than making what I am making now. There is no way in the world. I have been a hard worker all 20 years of my life since I have been in the work force. I do not know if it is called insensitivity. I just think it is a lack of knowledge as to what is happening to the people that are injured. I do not think they understand that this is for real and that they are situated in a spot in their lives and are supposed to help us.

If we get injured, that is why the insurance is there in the first place. I want someone to help me. I do not want them to tell me that they do not think my injury is that good and that they think I do not deserve anything. Excuse me. I cannot go back to work, here. I hurt myself on the job and they are telling me I cannot have anything. In that area, that is insensitivity.

**MR. ANTOINE:** Thank you, Robert. Yesterday, we had a presentation from the workers' advisor. She outlined her role, and the workload that she carries. From what you have indicated, you had pretty good experience with her services. I am wondering if you can give us any suggestion about the support service that should be available for injured workers.

**MR. BREWER:** As far as support services for injured workers, I sure would not abduct Ms. Pagonis' position. She does a hell of a job. I am sure she could use some help; she is by herself up there. I have been all across Canada working, and I never realized how many workers' advisors and how much compensation there is for people, et cetera, but there are a lot things going on in this world. One person to take care of the whole NWT has to be phenomenal. It is an incredible job.

As far as suggestions are concerned, all I suggest is that the actual person who is in charge of the claim should take two or three of them and go out to the job to see what this person actually does for a living before they judge him or before they send him to an appeal board. Why do things have to always go through an appeal board? I do not understand this. My company pays into the WCB to give it back should I get injured. I do not understand why it is not just cut and dried. If I injured myself and I have proof that I did it, I do not think I need to get six doctors to do it either. That seems crazy. One doctor after another, and they all say the same thing. Then, it still takes a year and a half to get compensation. I do not understand it at all.

**CHAIRMAN (Mr. Koe):** Okay, Robert. Thank you for being available and making your presentation to us. We are moving our way across Canada here, talking to other people

**MR. BREWER:** Well, I hope I helped, or at least put my two bits in anyway.

**CHAIRMAN (Mr. Koe):** Your story is very similar, as I mentioned before, to other workers, and we are getting a good feel for...

**MR. BREWER:** I will tell you something, that if it was not for Ms. Pagonis a few times I know I would not have made it. She works almost like a psychologist. Maybe she should do that too. Give her extra money to go and do that, because she did a hell of a job with me anyways.

**CHAIRMAN (Mr. Koe):** Okay, Robert. We wish you well, and keep your head up.

**MR. BREWER:** Okay. Thanks very much.

**MR. LEWIS:** Just a suggestion, Mr. Chairman. Maybe it would be good, when the next person comes on the line, if you would just guide them a bit, you know. What happened, and where?

**Telecon With Mr. Paul Saftner, British Columbia**

**CHAIRMAN (Mr. Koe):** Hello, Paul Saftner?

**MR. SAFTNER:** Speaking.

**CHAIRMAN (Mr. Koe):** Paul, it is Fred Koe calling from Yellowknife. We are in a standing committee on agencies, boards and commissions. We are in session reviewing the Workers' Compensation Board. We are in the process of calling various individuals across Canada to listen to their situation regarding their experiences with the Workers' Compensation Board here in the Northwest Territories. With me in the room are five other Members of the committee, plus staff. Committee Members are made up of elected Members from across the Territories. Also in the room are various members of the public, including Workers' Compensation Board representatives, Kathe Pagonis, the workers' advisor, members of the Injured Workers' Association, and some members of the press.

What we would like to hear from you, Paul, basically, is a little history of where you got hurt, when, the magnitude of the injury, and some of your experiences with the board. Please proceed. You have about 20 minutes.

**MR. SAFTNER:** Actually, I got hurt in 1983 while on the City of Yellowknife fire department. Subsequently I was told by the city there was nothing wrong with me, to report back to work. I had left the city after seeing my doctor, and he told me I could not go to work until this was completely finished, and they did not go along. At that time, I think I had about 80 to 100 sick days coming to me, so I felt after 20 some years with them, if this was their attitude I just left and tried to make it on my own.

I had a letter from Workers' Compensation saying that if I could not, I could re-open my case, which I tried to do in December of 1988, and I have been fighting with WCB since then. So far, it has been negative in some ways. In the last year I have been getting some help, due to, I think it is, Kathe Pagonis, the worker advisor, and Trevor Alexander. They are both very good people.

The medical department, I think, is where most of the problem lies. It took from December 1988 to March 9, 1990, that is 16 months, for them to make one decision of a 2.5 disability. Now, 25 months later, I am still waiting after seeing orthopaedic and spinal surgeons. I have seen two of the best in western Canada, and they have told me that I cannot work. I have been accepted as fully disabled by Canada Pension and Revenue Canada. I still have not got an answer from Workers' Compensation.

I would like to state, in one letter I have here from the medical team of WCB in Yellowknife: "When we examined this worker in 1988, the 11th month and 24th day, there was no measurable disability. This was strictly a judgment call, and one could probably make a 1.5 disability." In another letter about a month later from the same department, it says: "Been and examined by Dr. Gibson of the NWT Workers' Compensation Board, after a complete history taken and examination..." So in one letter he is saying it was a quick judgment, and in the other that it was just a judgment call.

They have received letters from these two spinal surgeons, and what they did to me. I have taken milograms, discograms, arthograms (sic) and every other damned thing

you can take, and I still have got nothing from them. I am now getting paid for temporary total disability, but that could end tomorrow, which always leaves you thinking, "What do I eat next week?" I could go on, but I guess you have probably heard a lot from other workers.

Another one is your tribunal. Where do these men get their medical licence from? How do they know, when they turn down advice from specialists and say, "Oh no, there is nothing wrong with this man." I know some of these men. They have no damned medical history at all. After fighting since 1988, I have got about a foot and a half of paper from WCB, and I have seen several doctors - I think altogether about 15 - and here I sit waiting, waiting, waiting.

**CHAIRMAN (Mr. Koe):** So you have gone through the appeals tribunal process?

**MR. SAFTNER:** I went though the appeals tribunal on December 13, 1990, and they said if I could come up with more evidence, my situation would be looked into. They have more evidence from Dr. Richards and Dr. Petrogam (sic), these two orthopaedic and spinal surgeons, that tells them exactly what is wrong with me, and so far nothing. I was seen again by another WCB doctor here about a month and a half ago, and I guess his letter went back to Dr. Gibson to review, and I just have not heard. They are the ones that even suggested that if they wanted second advice, it should be from an orthopaedic surgeon, and they got it from two of them. I do not know what else to do.

**CHAIRMAN (Mr. Koe):** Okay, Paul. I will just ask the other committee Members if they have any questions. Do any committee members have a question? Brian Lewis.

**MR. LEWIS:** Paul, when you set up your business, I remember this occasion when you went on your own. Were you given any help at all? I am asking the question because we have talked to a few people already that have gone into starting up small businesses and so on. I am just wondering if you were given any assistance at all in any of those ventures.

**MR. SAFTNER:** I was not aware that you could get any, and I tried it on my own, doing the work, and it was heavy. The business was not big enough. I tried hiring help but it just was not big enough to keep on hired help, so I had to sell it, and I took a very substantial loss.

**MR. LEWIS:** So Paul, what happened? Was it after 1988, then, when you had a crack at that? This is when you reopened the case, to have it re-evaluated?

**MR. SAFTNER:** In December of 1988 I went back to WCB in Yellowknife and told them my troubles, and I told them I was moving out of Yellowknife because it was very expensive and I was going to move to where I could get by if I would receive help, and it looked good, and immediately upon getting down here I got a letter saying that after my examination - I guess that is that letter I told you about, that quick examination - there was nothing wrong with me. I returned to Yellowknife and I saw Bryan Roberts, and he helped me out and told me, "Well, you should be on compensation." They put me on temporarily for a few months, and then the medical board said, "No, there is no change. We are not going to help him. There is nothing wrong with him."

**MR. LEWIS:** Okay, thanks.

**CHAIRMAN (Mr. Koe):** Paul, as I mentioned, we are phoning various people across Canada, talking to them, and your story is very similar to other ones where we are finding out some of

the issues related to how you are being dealt with.

**MR. SAFTNER:** I think you will find - you are probably having problems there too, but I have talked to several people here in British Columbia, and they are having the same problems other places in Canada, so you are not alone.

**CHAIRMAN (Mr. Koe):** Thank you very much, and I wish you well, Paul.

**MR. SAFTNER:** Thank you for hearing my little spiel there.

**CHAIRMAN (Mr. Koe):** We will take a 10 minute break.

—SHORT RECESS

**Telecon With Mr. Steve Ouellette, British Columbia**

**CHAIRMAN (Mr. Koe):** Is this Steve Ouellette? This is Fred Koe calling from Yellowknife. We are in a session of the standing committee on agencies, boards and commissions, presently doing a review of the Workers' Compensation Board. We are in the process of phoning individuals across Canada who have had experiences dealing with the board. With me are five Members of the committee, representing different areas across the North, plus some staff and there are people from the public in the room. There are representatives of the Workers' Compensation Board, the workers' advisor, Kathe Pagonis, there are members of the Injured Workers' Association and a member of the press. We would like you to give us some of your experiences, where you got injured, when, and some of the things that have happened up until today.

**MR. OUELLETTE:** I got injured in September 1989. I was walking in a trench and we were moving some concrete forms and the crane came over to get the concrete forms and the hoist cable came loose from the back of the crane and the hoist fell on me. I was standing on the concrete form when that happened. The hoist hit me and I stumbled down the bottom of the trench.

After that I went to the hospital and I stayed there for a little while and went home. I could not walk, there was too much pain in my legs. A few days after that I went to the hospital to get painkillers. I thought it was going to go away. A few days after I went back to work. I was taking painkillers every three hours, two or three Tylenol 3. I stayed on the job but I did not do anything. I was more hiding from people and kind of resting.

After that I did not go back to work. I said it was crazy and it was too dangerous for me to work under drugs. After that I went on compensation for a long period of time. I did not have any marks so the compensation was telling me I had nothing and they were being rude and telling me to go back to work and get somebody to help me and do the work. They were very rude.

June 16, 1990 they stopped benefits and they told me I was able to go back to work, I was fit, but that was not the case because each time I tried to exercise I was getting a lot of pain. So I appealed the decision of the board in July 1990. From there I did nothing. I waited and waited and waited and got very depressed. I went to the compensation a few times and they told me I had nothing and that there were thousands of people like me all over Canada and they are all working. It is one time you feel that maybe something is wrong with you and you try to exercise and work yourself up to a point where you say you are going to go back to work. But each time I tried to exercise I worked myself to a higher pain. The pain would get very intense and I could not sleep at night and I would take more painkillers.

I was at a point where I did not know what to do. I went to see a psychiatrist and it did not help very much. He was giving me sleeping pills and that did not work and then he was giving me uppers, that did not help any. I talked to a lot of people as to what I should do. One day I talked with a guy in construction and he told me to go and see the workers' advisor, Kathe Pagonis. She helped me and made me feel better and said they would look into it. She made me feel better. When I went to see her I was right at the bottom. Nobody would call me any more. They asked me to do this and that and I would say no. If I would do something with them, I would not participate and I would go home and take more painkillers. You end up not knowing what to do and what is going to happen. You hope for the best. The doctors say it will get better but that is not the way it worked.

I went to see a doctor and the doctor said you may learn to live with this. From there is changed. Kathe Pagonis was being very positive and very helpful and try to work with me against WCB, because WCB was keeping the door closed. They would call me in and ask if I still had a problem and then they would say, "Okay, this is over, go back to work, go back to work. Get out." Stuff like that. They treat you like you are nobody.

This went on for a year and in December 1990, six months after all this, I decided I should go back to school. I asked different people and they said it would be good for me. So I was looking forward to something new and starting to feel better. My back was still the same thing. We checked the courses at BCIT, NAIT and SAIT. I got the courses and I chose BCIT. I asked them what was the prerequisite and I moved to BC and I started part-time school. I was not eligible to enter full time because I am born and raised in Quebec. I needed grade 12 in English so I needed to do upgrading and I was out of school for so long I needed physics and math.

I went to school two nights a week. I did not get anything from WCB. I was keeping in touch with Kathe. I did that with my own financing. That kind of kept my mind better. I was feeling like I was doing something. At the end of the class in May I went back to Yellowknife. I went to see WCB and then they fixed a day for the appeal that I filed in July 1990. They fixed a day in July 1991. The apologized for the delay. At the end of July 1991 I went to the appeal board and from there I won my appeal because the WCB were lying to me. They were pushing me away.

Ten months after they stopped issuing payment I received a cheque in the mail saying they were going to give me a pension; they agreed I had a problem with my back and they sent me a cheque for \$1400 for 10 months - \$140 a month. That is not even being realistic. What is that going to do, \$140 a month? Then we decided, in talking with Kathe, and she was saying she was doing her best and helping me out and being positive. So we decided to write a letter to the Minister of Workers' Compensation Board who was Hon. Jeannie Marie-Jewell at the time. We wrote a letter to that and after that WCB kind of gave me more respect and things started to go better.

I came back to BC and I finished the part-time course at BCIT for my English. I passed the course successfully, so I started full time in September 1991 and in November 1991 I received a letter that WCB decided to help me. Only then, over a year later. Before I started my school they were saying that was not the course I was going to take. I checked everything and that was the best for me.

When they were not issuing me benefits, I got a lawyer and

he helped me get a third party action going because I was not getting any help from WCB. Then WCB started to look at it and they said I could not use a lawyer, they were going to help me and I had to use their lawyer, Adrian Wright. I did not get good feedback. I was not feeling comfortable, I tried to change that. I included that in the letter to the Minister of Workers' Compensation Board. In the end I received a positive answer so I could use my own lawyer. In the meantime Kathe told me Adrian Wright is a nice guy and try it and see what happens, all the time trying to make me feel better. She would say to take things one day at a time and see what is going to happen.

Now I am in school full time and getting WCB benefits on a steady basis. But the one year was the worst year of my life. It was very tough, it was frustrating. You feel like you are nobody. If I had not had my savings or anything, I do not know what I would have done. That is basically it. I am a bit nervous here.

**CHAIRMAN (Mr. Koe):** Thank you Steve. You are doing okay. Brian.

**MR. LEWIS:** I just wanted to ask you about when things began to turn around for you. One or two other people that we talked to tonight said that things really began to move when we spent time with the workers' advisor, but the main thing that came through in one case was that until you get a lawyer working on your case, no one took you that seriously. Would you confirm that that was your experience too; that once you got legal help it began to move it bit better?

**MR. OUELLETTE:** When I got my lawyer it did not really move things. He sent them letters but it did not change too much, until I went to see Kathe and we wrote to the Minister. They started to be more humane and more respectful and talk to me like I was an adult, not like I was the low life of the street.

**MR. LEWIS:** So maybe then when you wrote to the Minister that is when things started to get better. Is that what you are saying?

**MR. OUELLETTE:** Yes, that made a big difference.

**CHAIRMAN (Mr. Koe):** So Steve you are currently receiving full disability allowance now?

**MR. OUELLETTE:** Since they agreed to help me with the school. For a long time I was going to school and they said they were not going to help me. I had my savings and I calculated everything. Also my parents said they would help me if I had problems. It would have been tight, but I was doing it on my own. Then in November 1991 they decided to help me, two months after I started full time. That is when they decided to issue benefits. Things started to go better from there, I could concentrate better on my school.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

**MR. LEWIS:** Steve, where was this accident?

**MR. OUELLETTE:** At the City Centre building in Yellowknife.

**CHAIRMAN (Mr. Koe):** Steve, I would like to thank you for your time and for making your presentation to us. Your story is very similar to other people across Canada who have had injuries in the North and are trying to get rehabilitated or take on a different life. I wish you well in your school and in your future.

**MR. OUELLETTE:** Thank you very much. Good-bye.

**Telecom With Ms. Sandy Laidlaw, British Columbia**

**CHAIRMAN (Mr. Koe):** What we are doing, Sandy, is phoning people across Canada, talking to them about their experiences with the WCB here in the Northwest Territories. What we would like to hear from you initially is a brief history of your accident, where you are, where it happened, when, and some of the experiences you have had with the board. Please proceed.

**MS. LAIDLAW:** This is initially with my husband, Gary Laidlaw. He is the one that put a claim for white hand syndrome in Yellowknife in 1982. He was tested by doctors and they figured out a percentage of his disability. Yellowknife WCB were very helpful because they got the ball rolling, but because Gary works in different mines across Canada is where the problem arises. We are not getting any response from any other WCBs. I believe we are really victims of the system here. I think that all compensation boards should work together even though they are provincial. It is a white hand syndrome disease.

**CHAIRMAN (Mr. Koe):** Can you elaborate a little more? Have you filed any claims?

**MS. LAIDLAW:** Yes, we filed a claim in Yellowknife in 1982. He got a settlement in 1987 for white hand. He was 12 some per cent disability and 3.8 per cent of that was to do with his work history in Yellowknife. The rest of it was across Canada.

**CHAIRMAN (Mr. Koe):** Does any Member of the committee have any questions? Mr. Lewis.

**MR. LEWIS:** Sandy, I would like to get some idea of what other places Gary has worked.

**MS. LAIDLAW:** Gary has worked all over Ontario as well as Manitoba, Saskatchewan, BC, Quebec and the NWT. Being that he is a miner, wherever the jobs are, that is where it takes you. The disease that he has is white hand which has to do with working with vibratory machines, and being in the dampness and cold underground.

**MR. LEWIS:** Where is the other claim, Sandy?

**MS. LAIDLAW:** There is a claim going on in Ontario which I have been fighting for over the last 10 years. If it was not for Kathe Pagonis, one of the workers' advisors in Yellowknife, I would not be anywhere with them. I have written six letters in the last three months, and I have not received one reply from them. I finally sent one about three weeks ago, registered mail. To this day, I still have not received anything.

**MR. LEWIS:** Thank you very much, Sandy.

**CHAIRMAN (Mr. Koe):** Sandy, there does not seem to be any other questions. What we have been doing this evening for the last three hours is talking to people across Canada who have been relaying to us their situation and circumstances in their dealings with the board. The stories are very similar; seemingly, insensitivity of the board in dealing urgently with cases. We will take these into consideration. Charles Dent has a question.

**MR. DENT:** You make it sound like you are satisfied with the way you have been treated by the NWT Workers' Compensation Board.

**MS. LAIDLAW:** They have been very good to us. If we phone them to ask them any questions - especially Kathe - if I have a problem and I call Kathe, she is always there to help me or to give some advice or tell me which step to take next. When I phone Ontario, I keep getting put on hold 3000

times and my bill is skyrocket high. I still do not get anywhere with them. Yellowknife has helped. When I phone Kathe to get any information, she tell me what we should do.

**MR. DENT:** Thanks. I just wanted to see if you had any complaints about the NWT Workers' Compensation Board.

**MS. LAIDLAW:** No, I do not.

**MR. DENT:** Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Sandy, for taking the time to talk to us. I wish you well. Take care.

**MS. LAIDLAW:** Good-bye.

**CHAIRMAN (Mr. Koe):** Committee, that is the last phone call today. I think, from all our calls tonight, the stories have been fairly similar. Certain incidents have happened, and I think the position of workers' advisor, in most cases, has assisted greatly in these claimants dealing with the board.

Our day tomorrow is scheduled to start at 9:00 a.m. We are going to hear more presentations, and will end up the afternoon meeting with the Minister and the chairman of the WCB, again.

We will recess until 9:00 a.m. tomorrow.

—ADJOURNMENT



## STANDING COMMITTEE ON AGENCIES, BOARDS AND COMMISSIONS

## YELLOWKNIFE, NORTHWEST TERRITORIES

MAY 13, 1992

**Members Present**

Mr. Antoine, Mr. Arvaluk, Mr. Dent, Mr. Koe, Mr. Lewis, Mrs. Marie-Jewell, Mr. Todd

**CHAIRMAN (Mr. Koe):** I would like to resume this session of the standing committee on agencies, boards and commissions. This morning, on our agenda we have representatives from the Union of Northern Workers. I would like to call them to the centre table, please. Darm, if you do not mind introducing yourself, your position and your cohort, and please proceed with your presentation.

**Presentation By Mr. Crook, Union Of Northern Workers**

**MR. CROOK:** I am Darm Crook, president of the Union of Northern Workers. This is Campbell West, our research officer. We have about a 15 or 20 minute presentation, depending on how fast I can read, and I would like to thank the committee for this opportunity for us to do this presentation.

**Independence From Government**

The Workers' Compensation Board, in our opinion, should remain completely independent from government. Operations of the WCB are funded solely by assessments paid by employers. It should remain that way.

We are strongly opposed to statements from some MLAs that they would like the GNWT to be able to exert more influence over the management of the WCB financial reserves and investments. For instance, to require that those funds be invested in northern businesses. Again, WCB should be fully independent from government. This means complete autonomy to invest the funds where the board and its politically neutral financial experts determine it will get the best return.

I am not saying that the board should not invest in the north, but I am saying the board should invest in a politically neutral environment with no control from the Legislative Assembly or MLAs.

**Keep Safety Inspectors In The Safety Department**

There has been discussion that some government functions, like Safety and Public Services, should be amalgamated with WCB. We are cautious about this. WCB is basically a privately funded insurance scheme, responsible to its two stakeholders - workers and employers. The government must serve the public at large. We do not believe it is appropriate to take some resources from the government's Safety Department, for instance safety inspectors, out of the public domain.

**Safety Education**

One example is in the area of safety education. Last year the WCB began moving into this area. However, shortly after, concerns were raised by an employer in Yellowknife, that the board had no mandate for safety education. It is the Union's position that some education is valuable and should be undertaken by WCB. Safety education is going to prevent on the job accidents and will keep the employer's own assessments down. However, if the board is going to do some safety education, the funding for this should come completely from its own resources. That is the way it is now.

The public, through taxes, should not be expected to shoulder the burden for making workplaces safer. Employers directly benefit, and they should pick up the tab.

Also, safety inspectors could see their independence and integrity broken down by bringing them under the jurisdiction of the WCB. If a safety inspector finds that a workplace is unsafe, an employer is going to have to spend money to make that work site safe. With the employer being a main stakeholder in WCB and appointing half of its directors, it is not hard to see how their self interest could be brought to bear on the work of the inspectors. Large powerful employers, such as mines, could effectively lobby the board to pressure safety inspectors to turn a blind eye to safety hazards and infractions. The UNW believe Safety and Public Services should remain independent in all aspects from WCB. Inspectors must be left to do their jobs.

Overall, the UNW is pleased with the establishment of a safety education branch by WCB. Our members and service representatives in the eastern Arctic feel this office could visit even more work sites than it does now. As well, more must be done to translate WCB safety education materials into Inuktitut. The Union has learned over the years that workers who speak English and Inuktitut prefer to have the material in Inuktitut.

**Failure To Report**

Fines for not reporting accidents should be increased. Failure to report undermines the board's entire operation, since assessment rates are based largely on the number of reported accidents in each industry.

**WCB Structure**

The union favours the trend over the last three years or so, to have a smaller board. The present size of seven members is agreeable, as long as half are representatives of organized labour, and half management, with a neutral chair.

The honorarium for sitting on the board is \$350 per day. This information should be public and disclosed in the WCB's annual report. Individual names do not have to be revealed, but the honorarium should be.

Board members are appointed by the Minister. There should be a joint worker-employer consultation process enshrined in the act, where half the WCB directors are recommended by organized labour, half by management, and a neutral chair is agreed to by the board members once they are appointed. This would eliminate the possibility of patronage by the Minister. Workers' Compensation is a serious issue and should be treated as such by this government. Patronage appointments to the board are unacceptable. Workers and employers should be solely responsible for recommending and appointing the directors that will run Workers' Compensation.

**Review Process**

The review committee is comprised of two members, one labour and one management, appointed by the Workers'

Compensation Board upon the recommendation of workers and employers. This equal representation should be enshrined in the act. Also, honorariums for review committee members were not disclosed by the board. They should be printed in the WCB's annual report.

#### Appeal Process

The appeals tribunal sits with three members, chosen from its reserve of five, all appointed by the Minister, a chairman recommended by the board from its directors, and two members each from labour and management.

The UNW would like to see the appeals tribunal consist of one board member, one person chosen by the appellant, and a mutually agreeable chairperson. The decision of the tribunal would be binding, and the costs of the appeals tribunal would be paid by the WCB.

Reporting on the appeal process is very scant in the WCB's 1990 annual report. We would like to see more statistics regarding the number of appeals and the outcomes of them. This information could be presented in a general fashion so as not to breach confidentiality.

Finally, the honorarium of appeal tribunal members should also be published.

#### Medical Evidence And The Claim Process

The UNW has concerns with the treatment of medical evidence in the board's decision concerning claims, reviews and appeals. The board has its own medical doctor who advises the board on medical evidence in each case. We believe the board should consult the advice of an independent medical specialist. The outcome of claims, reviews and appeals depends largely on the medical evidence presented to it, interpreted by the board's doctor. To give workers confidence that medical evidence is objective, we believe the board should use an outside, independent medical specialist.

The UNW has also found unethical employer influence over medical assessments for claims. This seems to result where doctors are employed by government agencies, such as a health board. Here is an example of what we have seen happening: A government manager will phone a doctor to get information on the status of a worker's workplace injury. Biased assessments have been done as a result, which have worked against the interests of our members. WCB has to make it clear to employers that they have no right to an employee's medical record unless the employee consents in writing. This material is confidential. The employee is only obligated to tell the employer when they can return to work, if they know. There should be no direct communication between an employer and a doctor.

#### YMIR And Pension Payments

The YMIR has been whittled away by inflation. The present \$40,000 was set in 1989. Since then, the cost of living has increased by about 16 per cent. This amount should be indexed to cover cost of living increases. The same treatment should be accorded to a pension that a worker receives from WCB. It should be indexed annually by an amount equal to the consumer price index.

#### Pensions Versus Lump Sum Payments

Should workers have more freedom to accept lump sum compensation instead of long-term pensions? We say no. If a worker is given a pension, it is hopefully a means to survive and pay the bills. If the worker is given a lump sum payment and buys a house or other assets, what do they then have to

live on? Is society expected to pick up the social assistance tab for this worker? The intent of the legislation which set up the pension scheme is to help the worker retain a decent standard of living if they cannot do a job they previously did. This intent must not be lost.

#### Compensation For Workplace Stressors

Working in the north, due to isolation and other cultural factors, can be stressful. WCBs in some jurisdictions, Ontario for instance, recently have moved in the direction of recognizing job-related stress as a compensable injury. We would urge the WCB to consider expanding compensation to cover this area.

#### Sensitivity Toward Clients

Finally, the board is being perceived by MLAs and workers to be cumbersome and insensitive. The WCB should ensure that their staff have full interpersonal communications training. Many clients who deal with WCB are already under excessive stress. They are injured, and they are uncertain about their financial and employment future.

I thank you for the opportunity to make this presentation.

#### Use Of WCB Doctors In Final Assessment

**CHAIRMAN (Mr. Koe):** Thank you, Darm. Maybe I can start this morning. The comments you made about medical examinations and the board insisting that their own doctors make the final assessment or evaluation, even though people use outside doctors - can you elaborate a bit on that? I see your recommendation is that they take these other assessments or evaluations and use them in their case, but just perhaps elaborate a little more on that. We heard last night, when we talked to these people across Canada, just about all of them had problems in getting the board to accept a third party evaluation.

**MR. CROOK:** When the board has their own doctor making that final assessment, that individual is compensated by the board, and it only makes sense that that individual is going to come down on the side of the board or in an effort to attempt to save the board some financial resources.

We will take it a step beyond that. We have members that are not highly educated members. They are out there in the work force and they have an injury whereby they could receive compensation. They have all their assessments done in their home community. They have to, at some point, in a lot of cases, come into Yellowknife and go down to the WCB to have an assessment done by the WCB's doctor. We have members, again, that do not have an education. They come in and call on the union to go with them because they are afraid to face the WCB's doctor on their own. I have personally gone in with an individual member of ours to the final assessment - let us call it that. This guy had lost his foot, but he had to be flown into Yellowknife to be examined by the WCB's doctor. The member came to us and asked someone to go with him.

**CHAIRMAN (Mr. Koe):** Any other questions. Mr. Todd.

#### Structure Of The Board

**MR. TODD:** Structure of the board; both the organized unions and what I call the organized employers seem to think it is their sole right to have representation on WCB. What is your feeling about the unorganized worker? What about the worker that is not represented by a union? Should there not be some representation there? I am just curious.

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** I think the worker right now that is not represented by a union has the full opportunity to become represented by a union. By accessing that avenue, that worker, then, has every opportunity to have representation on the board as well, if you accept our position.

**MR. TODD:** That is not an answer, but that is okay. Let me ask you this. I do not agree with that, by the way, because you know as well as I do that not everybody is an organized worker and never will be. There has to be representation for people outside of the organized worker. In particular, in the Eastern Arctic where we do not, in the small business, have organized labour and they employ small people in the construction industry; to some extent, a large organization that does not have unions, and there should be some representation on there as far as I am concerned. I do not want to get into a confrontation here this morning, but I think it is somewhat arrogant on the part of big business and on the part of organized labour to assume that they are the sole voices of the people when it comes to WCB.

#### Membership On Review Committee

I am wondering about the review committee. You say in your report that the review committee is comprised of two members; one labour and one management, appointed by the WCB upon the recommendation of workers and employers. Were you consulted in the recent appointments to the review committee?

**MR. CROOK:** The UNW itself was not.

**MR. TODD:** You were not consulted with respect to Mr. Johnson's and Mr. Hinchey's recent appointment to the review committee.

**MR. CROOK:** Not the UNW.

**CHAIRMAN (Mr. Koe):** Thank you. Mr. Todd.

#### Lump Sum Payments

**MR. TODD:** I wonder, again, in the pensions versus lump sum payments, in the past there was a much more flexible approach to lump sum payments where the board, based upon whatever presentation made by the individual that wanted it, would make a decision. My understanding of the current situation is that if your pension is 10 per cent or less, they will commute it in a lump sum payment. Do you feel that if a worker wants a lump sum payment, is over 21 and can make his own decisions, that he should be entitled to it? Do you not feel – a lot of people feel this way, by the way, not only on your side of the equation but on the other side of the equation – this has been a little too rigid? We should, in fact, have a more open approach to this thing, be more flexible and deal with things on an individual basis rather than just a rigid policy saying "No"?

**MR. CROOK:** I realize that this is a bit of a paternalistic-type attitude. However, once you open it up for a lump sum payment for this individual, be it 10, 12 or 15 per cent, where are you going to draw that line? When is somebody permanently disabled, are you then eventually going to end up giving that person a lump sum payment as well. The person spends it all on one item and then you have the rest of society continually picking up that person's living through social assistance? Workers' compensation was originally designed to give that person a way to still live with dignity from an injury at work. It is a hard one to come down hard and fast on; however, if we do not, where are you going to draw the line? It will eventually be totally eroded.

**MR. TODD:** Again, I realize it is a very controversial issue, but maybe you should ask the guys behind you because they are the guys making the lump sum payments. It seems to me that – I am not suggesting for one minute that what you are saying there are occasions – it is very paternalistic, and I appreciate you being candid about it, but I find it almost patronizing. I think there has to be more flexibility. There are situations where some of these guys are sitting with a 12, 13 or 14 per cent disability and they cannot cash it out. They cannot pay their mortgage payments because they do not make enough money to do it. I am saying – you said it, with all due respect, and so have some of the other presentations made to us – that this position is far too rigid. I think you should come forward or reconsider all of this when we make our report when we present it to the chairman, but I think you have to give some flexibility to the worker. Right now, if you have one point over whatever the ceiling is, they will not pay it out. I know it is not an easy issue, but to say "no" to everybody does not make any sense to me.

**CHAIRMAN (Mr. Koe):** Mr. Crook, any comments? Members? Mr. Dent.

#### YMIR

**MR. DENT:** Thank you, Mr. Chairman. Mr. Crook, in your presentation, you talked about the YMIR. You do not actually recommend a figure, but from the tone of the presentation, it sounds like your union would feel a proper for the YMIR would be basically 16 per cent higher than it is now – so about \$46,000. Is this correct, or do you see a different figure?

**CHAIRMAN (Mr. Koe):** Mr. Crook.

**MR. CROOK:** Basically, we believe that when the \$40,000 was set, it fell behind, and whatever the cost of living – and this is minimum – has been since then is compounded as well. Do not just 16 per cent it. Go back and compound that increase to where it should be today.

**CHAIRMAN (Mr. Koe):** Mr. Dent.

**MR. DENT:** Has your union taken a position to come up with a recommendation for an exact figure that you think we should be looking at this year?

**MR. CROOK:** No, we have not.

**CHAIRMAN (Mr. Koe):** Anybody else? Mr. Todd.

#### Investment Fund

**MR. TODD:** In the fund investment, – if I am politically neutral – is your group of the mind that it is currently political in their feelings or even in terms of trying to influence the board for its money before its money is invested?

**CHAIRMAN (Mr. Koe):** Mr. Crook.

**MR. CROOK:** We do not believe that is the case now, but also do not want it to happen.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I have a tough time with this one because four or five people brought it forward yesterday. I was not able to come to grips with it. One group said they do not want the GNWT balancing the budget on WCB money. Within the organized labour, are there people that would actually believe that kind of thing would happen?

**CHAIRMAN (Mr. Koe):** Mr. Crook.

**MR. CROOK:** Yes.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** From my perspective, I cannot. I have not heard that. Maybe you are all just talking to each other and should be talking to somebody else.

The other question would be, hypothetically, if we took some of the WCB money and turned it into some kind of investment on some of it; put it back into the Territories and got some kind of return as we are currently getting in investments, would you view that in a favourable light? Or, do you think we should continue to use investment money in Ontario, Alberta, Manitoba and BC? How would you view reinvestment of some of that money up north? This is a pet project of mine. That is why I am curious.

**CHAIRMAN (Mr. Koe):** Mr. Crook.

**MR. CROOK:** First of all, when you say we invest it, it depends who you mean by "we." Do you mean "we, the people of the North," or, "we, the Legislative Assembly"?

**MR. TODD:** You would use the same rules as you are currently using with independent financial counsellors making the decision on how the money is to be spent. It is my theory that some of the money should come back if we are putting it all in. I am wondering how you would feel, as organized labour, if that took place.

**CHAIRMAN (Mr. Koe):** Mr. Crook.

**MR. CROOK:** With that clarification, I think I have said it in my report. I have no problem whatsoever with money being invested in the North as long as that money is invested independent from government.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

#### Lump Sum Payments

**MR. LEWIS:** I would like clarification on the issue of lump sum payments. In the presentation we heard, the question was put, "Should workers have more freedom to accept lump sum compensation?" You say, "No," that there should be no more freedom than exists right now. But from what I hear you say, you are not absolutely against it. You are just saying that it should not be loosened up so that it is almost like a right to have a lump sum rather than to have the month by month payment. The reason I raise the issue is because a few people we talked to last night, not kids any more. These are people in their fifties, and it is pretty hard to see where your future is, and some of them have decided they are going to be self employed people. That is the only way they could see going. So I suppose what I am trying to get out of you is that, do you see them, there still being that possibility that is one way in which we should still go. It should still be on the books, if you like, as a policy, that option is available, if the board sees that as the logical way for an individual to look after his future.

If he is going to set up a small restaurant or, as we heard yesterday, a gardening business or a golf course, then if the person has had good advice and the board is convinced that is the way the person can survive best at his age and with his particular state of health, then that should still be an option available. What is your comment on that?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** No, I do not, because once you left that option there, you are relying on some people, members on the

board, to make a judgment call on an individual. They are not just going to be judging that individual on his or her ability to do the job, his or her ability to run a business. They are also going to be judging that individual on his or her education level. They are going to be making a personal assessment of an individual, and once that starts happening, where does it stop?

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** Okay, we are not going to debate here or argue, but would you not agree that the board is always making judgments. For example, yesterday we heard from several people who said, "The judgment of the board was that I go back to work, but it is impossible; I cannot go back to work." So would you not agree, then, that the board in fact is in the business of making judgments about a person's fitness to work or not?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** Yes, the board is, on the advice, presumably, of qualified medical practitioners that are experts in the field.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** This is my final one. Would you not agree, then, that before you enter into any activity, then you would do so on the basis of advice, whether medical advice or professional advice, that this kind of advice is what you use before you decide to enter into any activity at all?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** Yes, I would. However, that is not the same type of advice as you should be getting from a medical practitioner. If a person has lost a leg from the knee down, a medical practitioner can say, "This person has lost that leg from the knee down, and he is going to be disabled to this amount." What you are asking for in your question, Brian, is an estimation for something that may or may not happen in the future.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** I do not want to flog it to death, but you know, as a union organizer you have to give and take. You have to negotiate. It seems to me the position you are taking here, Darm, is pretty intransigent, particularly as it relates to organized labour or whatever. You have got to give some flexibility. I understand your concern. You do not want to deplete the pot. You want to make sure that a guy gets his fair shake, et cetera, but I want to say again, and I will say it out loud and get it into the report, that I disagree. It is too intransigent, this position, for me, even though I recognize what your concerns are.

In today's world it is the spirit of compromise that gets you anywhere. It is not saying, these are the rules and that is it. That is why we are in the mess we are in now, because people have been translating the rules literally and not taking a look at how they can deal with the human aspect of the thing. I think that this position is just far too intransigent. I think you should reconsider and think about it. Perhaps there are situations where a lump sum payment may work to the best benefit of the employee or injured worker. You cannot all have failures out there. That is what I am trying to say.

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** I believe you are right, John, in that there could well be some situations where a lump sum payment would be in the best interests of that particular individual, but

I guess our position is, is it worth it to take that gamble? It is the same as capital punishment; is it worth it to have capital punishment if you run the risk of executing one individual that is innocent? That is our position. When the mistake is made, then it is too costly on the individual.

**CHAIRMAN (Mr. Koe):** Okay. Any other questions? Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, I was not going to make a comment, but I find it is necessary in respect to the UNW's position on lump sum payments, and them just basically blatantly denying it for reasons of possibly leaving an individual to be dependent upon the system, whether it be social assistance or whatever, and to allow them to get a pension so they can live in dignity. It appears that it is obvious they are not aware of certain workers that are deemed a certain amount of disability and percentage that leaves them possible with a pension of anywhere - I believe last night we heard \$140 per month. I believe we heard last night different variables, where an individual even indicated that they had a house, they had a family, and their pension is so small they cannot make the mortgage. They cannot keep up with their family commitments, and I do not know where denying them a lump sum payment, if their percentage of disability varies from zero to 10, or zero to 20 per cent. Even though they do get a pension, they still cannot live in dignity.

That was obviously clear to us last night by many of the workers who expressed their concern. So even if they did get their pension, they do not even have enough money to be able to meet their financial commitments, so they still have to use the system, and not only are they going through the stressful process of going through WCB to determine their pension, but you are adding another stress to get them to go to social assistance to top up their pension, which I think is a position you have taken that allows an individual to go through many stresses, and I am sure some of them just about admitted last night, to even look at suicide. That is some of the realities some of these workers are looking at. I think your position on just saying no, totally no, is a position that leaves you very, very narrow minded, and probably a position that does not make you recognize what some of these workers are going through.

**CHAIRMAN (Mr. Koe):** A comment, Darm?

**MR. CROOK:** Well, I think there is another way of looking at it, too. Perhaps the pensions are a little bit too low in some cases, or in many of the cases. Perhaps that end should be looked at. If the pension is a small pension, that lump sum payment is probably going to be a small payment as well, and once that payment is gone the individual is still back in the same boat. He or she has nothing to move forward with.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Well, Mr. Chairman, I am not going to berate the point. I just wanted to indicate to Mr. Crook and the UNW that I feel their decision on denying in totality a pension, is a very rigid decision. It does add many compounding factors and consequences for an injured worker to absorb, and to indicate that these individuals may have only a small pension and what can they do with it? A disability pension, lump sum payouts, can range. Some of them have ranged to the point where it allows an individual to at least buy a house, and the secure feeling of owning a house is something that can take a lot of stresses off any individual.

As we heard from one individual, he did not have a home, he did not have a house, he did not have a credit rating, he did not have anything. This is the point I am trying to make. The

lack of availability of financial funds does not give him the ability to be able to do anything to help himself, and as a result these poor individuals have such low self-esteem that you do not know what type of consequences they are going to have to face. When you get into societal aspects, this is what society has to deal with, and I think it is totally unfair, because I believe that the system for WCB was to help the injured worker whenever a worker got injured. Thank you.

**CHAIRMAN (Mr. Koe):** Comments. Darm. James.

**MR. ARVALUK:** Thank you, Mr. Chairman. I am a little bit confused here. I need some clarification. The president of the UNW, who is supposed to represent the labour force, seems to be responding to some of the questions contrary to what workers seem to want, in respect to what Mr. Todd and Mrs. Marie-Jewell were saying. I guess my question would be, if a right handed worker, who also happened to be a hunter when the construction season is not on, if he loses a hand or all of his fingers, for instance, while using a skill saw or table saw, and we know immediately that he will not be able to pick up nails with his left hand any longer, and therefore he will not be in a position, until he is retrained for other jobs, to work in that particular profession. However, he still will be able to go hunting. Because he happened to be right handed, he still will be able to handle without using so much of his left hand, and he knows that. What he wants to do now is get a lump sum payment, get his hunting gear, and continue to provide for his family.

With Mrs. Marie-Jewell's statement, otherwise he must go on welfare. He will still be able to hunt and trap if he can get his equipment. My question is, do you assist these kinds of injuries depending on what kind of injury it is, and there is a possibility for that person to continue his livelihood? Do you have some kind of guidelines where you help the WCB board to determine what kind of a benefit that person should get?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** We have not suggested any guidelines in the report. There already is a set of guidelines out there for training, retraining, compensation for loss of wages at 70 per cent of that salary for a fixed lump, set a time until the person is able to work or should be able to work, that is, in my opinion, already there, and the matter then comes to finally when the person is rehabilitated, whether or not the person becomes pensionable or lump sum. That lump sum payment, if it is made, is not going to assist the person to any great extent to re-establish himself in the market. There is already a process to attempt to re-establish a person. I do not know how long it lasts. Is it a year or is it two years?

**CHAIRMAN (Mr. Koe):** James.

#### Delay in Claims

**MR. ARVALUK:** Thank you, Mr. Chairman. I am very happy that in your presentation, you want to have the WCB get some information, especially for those who are unilingual, in Inuktitut and other languages other than English or French. However, even with that kind of information, because the method of WCB is set up in such a way that it is imported from, in principle, employer's liability principles, then that person will still not be able to represent himself or seek information as to how he or she may be compensated. I have a two part question, Mr. Chairman. First of all, ten years ago I was with a fellow who was injured and had to wait 16 months before he was compensated. There was another one who lost his finger and waited something like four years. My first question is, are these kind of delays still going on today? Secondly, as a union representative, how do you get the claims to be done quickly?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** I believe there are still delays going on today, but perhaps not to the extent they used to be. There are some cases that are dragged out because of the appeals process, the review and everything else. I do not know that we as a union can push to move that process on any faster than it does move. We can and do assist the people who are having problems in directing them where to go in assisting with any appeal presentations they may have to put forward. But I do not know if we as a union could speed that up.

There is always a certain amount of bureaucracy that is going to have to be followed and as long as there is bureaucracy there it is not just going to flow overnight. If there is a way to speed it up, then let us find it and do it.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** Thank you, Mr. Chairman. In your introduction you say you represent 5500 territorial government employees and you also work for 40 territorial funded hamlets in the housing association. My involvement in this hearing and looking at WCB is that we are looking at the rights of injured workers. These people have certain rights and WCB has a big fund and the purpose of this fund is to provide services for these people. Of course there is investments and the fund itself is self-funded and you have to protect that, of course, but the ultimate goal has to be the injured workers. You say you represent workers but yesterday we heard in telephone calls that people who are injured workers are no longer employed and they no longer pay union dues.

I am wondering if the position you have taken is coming from all these 5500 employees you have? It seems to be a pretty rigid position you have taken. If you represent people who are disadvantaged you should try to fight harder for them. Right now the board is comprised of different members and one of those members is coming from your union. I am wondering if the position you are taking is the one your representative on the board is taking? It seems to be inflexible. So whatever you are saying here, if it is represented on the board, it is going to be very difficult for injured workers who are saying they need help, lump sum funding and so forth. It seems to me their rights are not protected.

It is difficult for me to sit here and say nothing because I just want you to know that there are quite a few people who are injured in the aboriginal community but they are not represented, so they come to me as an MLA. So I try to find out how it works and it is really getting cumbersome.

There are a couple of specific areas I am curious about. This is the first time we have heard about this stress - job-related stress should not be conditions at which workers can claim compensation. What is your position on stress-related disorders, addictions, alcoholism, drug abuse, emotional problems? I am wondering if those stress-related disorders should be compensated?

**MR. CROOK:** That is a hard judgment call there and we never looked at it from that end. Somehow or another people that have addiction problems should be given an opportunity to seek treatment should they so choose. But I do not think we can say that because an individual has an addiction problem that it is necessarily related to the job. I think stress has to be judged on the direct medical effect it has on the individual - blood pressure, heart problems.

The other avenue for the addiction problem - it should be dealt with as well, but not through workers' compensation.

**CHAIRMAN (Mr. Koe):** Jim.

#### Safety

**MR. ANTOINE:** You seem to agree that WCB should be involved in safety education. Could you tell us more about what you think this involvement should be? What should the WCB be doing and what should the department's responsibility be?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** I believe WCB should have a full education program set up. I believe that is what they are starting to do. They should have the ability to travel to Fort Simpson, Fort Liard, if and when called upon by the employer or the work force, to put the education in front of the people. The safe work site occurs when the people know what to look for for safety problems. Without the education the work sites are unsafe.

I think I expressed it in my report that WCB has made a good start by creating that division inside of themselves. I think they have one person now, that one person is not going to be able to serve the North of that person is going to be doing the full task themselves. The person may be able to develop the program and get it started, but then if it is not expanded for services to be delivered to all the communities of the North, then it is a waste of money.

**CHAIRMAN (Mr. Koe):** Jim.

#### Union Section To Help Injured Workers

**MR. ANTOINE:** Thank you, Mr. Chairman. Another comment you made is that your services are sometimes used by your members when they wish to appeal a decision by the board. Is there a unit or section within your organization that is designated to help out injured workers?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** Inside of our organization we have full-time service officers that are not just designated to look at the workers' compensation problem, they may also be designated to try to assist or guide a person with an addictions problem; they may also be there to do negotiations on behalf of members; they may be there to fight grievances; to do competition appeals. We have full-time officers whose task is to represent workers in a full variety of scenarios.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** You say you are representing all these people here, does that position you are taking come from all the people you represent?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** Well obviously all 5500 territorial government employees and the other thousand that work for these other 40 units that we have, have not been personally consulted. We work on a representative system. In each region we have the Territories and our organization broken down to eight regions. In each of these regions we have a regional vice-president who is elected by the membership and in each of those areas we have locals. The position comes from consultation with the executive of the UNW who assumably is representing view of their membership.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** So your position that you have taken on this

lump sum problem, that comes from that sort of a system?

**MR. CROOK:** That is correct.

**MR. ANTOINE:** So the position is coming right from the membership.

**MR. CROOK:** Through their elected representatives.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Would it be fair to say, Darm, that the Union of Northern Workers, when it relates to the safety inspector and safety department is that you see the WCB's role as an educational role and that the policing component remains with the territorial government and the fiscal responsibility for payment of that remains with the territorial government?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** Yes.

**CHAIRMAN (Mr. Koe):** Jeannie.

#### Non-Union Worker Seeking Assistance

**MRS. MARIE-JEWELL:** In the presentation it says, "We urge you to work to ensure that WCB continues to operate free from political influence and to get the best possible deal for workers on the job." Mr. Crook is here to represent UNW workers, the individuals who pay union dues. What avenues does he feel should be made available to non-union workers who come to their MLAs for assistance through the process of addressing their concern, when they have the right to represent their union workers through the process? What does he feel is the difference when non-union workers come to MLAs for assistance through the process on their concern?

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** I have no problem if an individual constituent goes to an MLA for assistance and that MLA goes in and starts from the bottom up and works through the appeal process the same as we do. No problem whatsoever in assisting their constituent in presenting their appeal before the tribunal. I have no problem with that. But if the MLA through the Legislative Assembly or through a Minister comes down from the top and says, "Fix this," we have a real problem with the system then. Use the system the same as we have to as a union when we represent our people, by assisting the people through the steps that are there.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** To take it one step further, Mr. Chairman, is that there are protocols that are in place. Generally the protocol for an MLA is to go directly to a Minister or to another MLA in regard to addressing a concern. And if I recall correctly, there was a letter sent to, even, I would say for myself, from a previous MLA, that he was denied or he should have been told not to contact WCB workers through the process, because they felt it was political interference.

So what I am saying is that basically the union or the public is saying not to use the proper protocol, for MLAs to go to the Minister to address a concern. But if you also take them through the process, by each step, they feel threatened, or they feel intimidated because it is an MLA. I guess what I am saying is that the unions can take them through the steps and there is no problem with it. So what avenue is there for a non-union worker? Until recently. They have an association

of injured workers and discarded, but before that, there was nothing. How do they feel that this type of problem should be addressed? is what I am asking.

**CHAIRMAN (Mr. Koe):** Darm.

**MR. CROOK:** We also have here in the Northwest Territories an organization that is called the NWT Federation of Labour who, I am sure, a lot of the individuals here have heard the past president and, I think, this president say that they are prepared to assist and represent people who are not organized. That is another avenue that is there.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, I guess the reality of the North is that if you go to many of the hamlets and many of the councils, they would not even realize that there is the existence of the NWT Federation of Labour. They would not even know their mandate. And these poor individuals off the street, aboriginal people that maybe I represent, or maybe Mr. Todd or Mr. Arvaluk represent - they do not know about this organized labour. And who do they go with? Do they think of the NWT Federation of Labour in their community? No. They think of Mr. Todd, who is their MLA, or Mr. Arvaluk, and that is who they approach. I guess the point that I want to make is that the union is taking a self-righteous approach to state that there should be no political interference in respect to the WCB. But the problem that I want them to understand is that individual constituents feel at many times there is not alternative route, no organized group, to represent their interests. Thank you.

#### Appeals Tribunal

**CHAIRMAN (Mr. Koe):** Darm. I have one, before we finalize. On page four you talk about the appeal process, the appeals tribunal. You are recommending that it be restructured to include a board member, a person chosen by their appellant, and a mutually agreeable chairperson. Just elaborate a bit on why you recommend that and what advantage you see in this system over what is there now.

**MR. CROOK:** The appellant then, I believe, has a direct representative; and this is set up almost like an arbitration board, then. The appellant has a direct representative on that board that is theoretically going to argue on the appellant's behalf. The board has a direct representative to protect the interests of the board. The independent chairperson agreeable to both sides obviously has to be somebody who is knowledgeable in the affairs of the compensation board as well as honourable and open-minded and fair-minded.

The appellants are going to have some direct representation there if they have a person of their choosing. Perhaps that could be part of an answer to a previous speaker. It is a smaller board than now exists. There are five that handle this now, if I am informed correctly. This would cut it down to three people. Ultimately what would end up happening if there was a division of opinion is that the independent chairperson would make the final ruling. If the board's member and the appellant's member could not come to grips with it, you independent chair would end up making the ruling.

**CHAIRMAN (Mr. Koe):** On behalf of the committee, I would like to thank you for your presentation and wish you well in your future deliberations. Thank you.

**MR. CROOK:** Thank you.

**CHAIRMAN (Mr. Koe):** We will take a four minute recess

before the next group.

—SHORT RECESS

**CHAIRMAN (Mr. Koe):** We have a quorum. I would like to call the meeting back to order. We have a representative from the United Steelworkers of America. I would like to invite Fern Denault to the table. Fern. Are you the president of the United Steelworkers? Yes. Please proceed, Fern.

**Presentation By Mr. Fern Denault, United Steelworkers Of America**

**MR. DENAULT:** Mr. Chairman, Members of the committee, we thank you for giving us the opportunity to be a witness in front of you today. There are a few things that we would like to address on the issues of workers' compensation.

It seems to be more evident as the days pass that at times people may not have had the opportunity to know much of the history behind the establishment of workers' compensation. Prior to the establishment of Workers' Compensation in Canada, workers suffering an accident, or their dependants, in cases of fatalities, had the sole recourse of suing their employers through the court system for just compensation. This option was of little concern to the establishment of the day. Workers were generally poor, on the brink of destitution, and they were kept that way. Lawyers have always been a privileged part of society and less accessible to ordinary people in those days. Justice always carries a high financial cost. The victims were many.

The labour movement, during this period of time, was making progress and becoming a force and a voice to contend with. They were turbulent, difficult times, because a comfortable social system established for the benefit of the wealthy was challenged, with some success, by organized workers, who took some control of the forces applied upon their lives, through the collective bargaining exercise.

These agreements, or contracts, were, and are to this day, providing organized workers with protection against management right abuses, giving ordinary people the precedent tools necessary to achieve meaningful, social change.

The workers were becoming more powerful. A threat was not perceived by the captains of the industry in the area of risk and liability due to accidents in the workplace. Ordinary working people were not empowered to collectively access the justice system and seek compensation and retribution for the damages suffered as victims of industry.

The table was set for discussions between reasonable, practical people. All the necessary elements, checks and balances, necessary to achieve a workable agreement between the principals involved, unions and employers were in place. A humble beginning for an important pact.

The fundamental principles of no-fault compensation to the worker for damages suffered at the place of employment were reached. The organized workers, on their part, were willing to give away their right to sue the employer as a result of damages suffered from an industrial accident. Workers' Compensation as we know it was born.

These facts are historical; they are not rhetorical.

We feel that a review of this institution should start by recognizing who the principals on the issue are. They are organized labour and employers.

Government plays a key role in assuring the continuity of the

institution and should take this responsibility very seriously. The delicate balances established through tradition and legislation must be maintained in order to assure that workers and employers maintain historical mutual coverage. To do otherwise puts at risk the already stressed relationship between the parties due to inadequate indemnity to injured workers and, in cases of fatalities, their dependants.

We recommend that representation on the board should be limited to the two groups who hold the vested interest on workers' compensation. They are organized workers and employers. We further recommend that representation should be equal in numbers.

We often hear frustrations being vented on the high cost of workers' compensation to the small business and various industries, followed by requests to cut benefits to the workers or tighten up programs to further restrict access, or to tag the level of benefits to the interest returns performance of the investments of the board. We suggest that these are the very approaches that have compounded the fiscal pressures on Workers' Compensation Boards and hindered their ability to perform duties in accordance with their mission, at an alarming national level, therefore losing the confidence of many injured workers and their families, in the country.

We commend the board for being in its sound financial state, and we ask the Government of the NWT to resist meddling with the board members' fiduciary responsibilities. The NWT Workers' Compensation Board presently finds itself in an envious position because ours is one of the few that are self-sufficient in the whole of Canada.

We are aware that some Members of the Legislative Assembly wish to capitalize ventures such as the NWT Power Corporation with privileged funding agreements by borrowing from WCB. We recommend against such agreements because, in our opinion, there is a real danger of compromising the security of the fund. We recommend in the strongest terms possible that the MLAs take a hard look at the form and reason the fund is presently diversified and secured; its purpose is to cover existing liabilities.

MLAs and Members of the Executive of the Legislative Assembly, along with interested parties, should be made fully aware that even if the accident fund of WCB is sitting at \$110.5 million, \$103.8 million is required to fully fund the future liabilities for prior years' accidents, and that the remaining \$6.7 million is simply a contingency reserve to protect the board against possible future adverse events.

Now that \$1.3 million that we are talking about, that is to cover accidents that have already happened. The Government of the NWT has to recognize that this contingency is meagre compared to the risk. For the sake of example, of only one of the "fly in and fly out" transportation of crew changes, crashing at any of the operations would end the mining industry.

Given these facts, the Government must not add unreasonable pressures onto the board members on the whim of patronage expediency at non-competitive rates of interest for risk ventures. For example, capitalization of the power corp. It is our information that the interest rate that was offered was around the 10 per cent area. Well, the performance of the funds of the board have been way better than that. To place money in that way, workers and employers would have lost money from the fund, because the fund would not have been allowed to perform to its maximum.

This is the kind of practice that could really send the cost to employees through the roof. We must also remind you that this capital that exists at WCB was not raised through a tax



base and, therefore, does not belong to the GNWT.

We agree that small business does shoulder a higher burden than some of the other bigger employers and that, in part, their complaints are fully justified. The mining sector is presently a highly subsidized sector and this subsidy comes directly out of the pockets of the small business community, especially with regard to the higher risk fly in and fly out operations. Even if they were made to pay as much as 20 per cent higher premiums, this privileged sector of our economy would still be in a position of subsidy from the small business operator. We do not believe this to be a fair assessment practice, and would back fully a just redress in this area. This would be a just and fair move on the part of the board that should find political favour with the citizens of the NWT, given the minimal contribution these fly in and fly out operations make to our economy.

We further believe and recommend that the transfer of industrial and mining health and safety services from Public Services to the Workers' Compensation Board would greatly contribute to a potential redress of this inequity by adding an increased level of efficiency; therefore, properly identifying and correcting the practices of higher risk employers by evaluating and imposing just levels of assessment.

We also recommend that a full bi-partite review by an independent board of inquiry consisting of an equal number of representatives from the employers and organized labour with the full support of the Legislative Assembly and properly mandated with intent to implement its recommendations without further government intervention, be undertaken without delay. This need is urgent. No increases have taken place with the pensions in the last four years; the last increases were in 1988.

The yearly maximum insurable remuneration, YMIR, has not kept up with the increased inflation levels of these past years. Ninety per cent of net up to a maximum of \$40,000 does not reflect an adequate remuneration to workers of the mining industry. A further example, is that the 90 per cent net, or \$40,000, we are told only brings home to the injured worker \$25,000 to \$28,000 a year. They have taxes deducted from that. The northern resident reduction is not allowed, and there is a double-take on CPP and UIC since the employer appears to also pay into it. The board deducts. These pressures are unnecessary. These are certainly not in keeping with the consumer price index of Canada that we believe to be the baseline comparison used to maintain an equitable remuneration level.

In addition, job re-entry is becoming an unsurmountable obstacle to injured workers, and the problem increases since we are developing a more stable work force that has invested and are constructively contributing to our economy.

In closing, we wish this standing committee constructive and positive deliberations, and hope to have been perceived and accepted in the traditional role that organized workers are proud to exercise, and in the full respect of the members we represent and the workers-at-large.

For your added information, I have been dealing with job re-entry. We have provided to you an example on the last page of the kind of article our local has been able to negotiate with our employer that helps the situation along. A good portion of our work force of the Nerco Con Mine is made up of people who were injured and have come back to the work force in meaningful employment through this type of article in the collective bargaining agreement. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Fern. Questions. John.

### Responsibility For Health And Safety Services

**MR. TODD:** Let me first of all commend you on being direct as it relates to the financial component and the concern you have regarding the NWT Power Corporation. I could not get anybody else to say it for the last day and a half, so I commend you for that.

I asked your brother Crook how he felt about the responsibility of industrial mining health and safety being turned over to the WCB, and I want to know if you are implying that this should be the responsibility of the WCB? Is this correct?

**CHAIRMAN (Mr. Koe):** Mr. Denault.

**MR. DENAULT:** I am encouraged that the honourable Member has changed comrade to brother, just to throw in a little dig here – looking at some of our Steelworker charters I notice that Mr. Todd is a charter signed member of Local 803 United Steelworkers at Giant Mine. A humble beginning.

**MR. TODD:** Does your union believe that the fiscal responsibility for the health and safety services should come under the WCB?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** If it is made possible that there is no intervention that would make it difficult. The cost could be covered through assessments. Now that provides you with another problem because employers are already saying they are being dinged too hard. If that type of move is in the picture, it would need some transfer payments, in the same way that transfer payments are being made between the federal and territorial government, for example.

**MR. TODD:** You have indicated here that the Workers' Compensation Board is solely funded by the employers, it is independent, et cetera. My concern would be that once you mix it up and you are asking for GNWT to move money across to pay for this safety – because I do not believe it should be there personally, the policing component of it – then you are really mixing up two different pots of money and I think there is a real danger there.

There is a bit of a contradiction because in fact the employers are going to pay for this, just for argument sake, because that is a possibility and I would not be surprised if that is what the Minister is trying to do, to save the government money. If the employers through the assessments end up paying for this, then you have already said some of the employers are almost in revolt now with the costs. How are we going to pay for it? Because on the one hand you are saying do not touch the pension plan, we have that fully funded at \$110 million; we have a \$6.7 million contingency reserve which was 1989 figures; we want to add all this fiscal responsibility with Safety and Health; and on top of that – and I want you to know I agree with you – you want to up the YMIR. But it has to come out of somewhere and I am saying there is a bit of a contradiction there. I want to know how you feel about that. You are adding significant fiscal costs to the WCB, we both acknowledge that and it has to come from somewhere. If we up the assessments anymore we are going to have a bloody revolt on our hands. So I am just concerned if you have thought this thing through with respect to your recommendation that these responsibilities go over to the WCB?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** Yes we have, Mr. Chairman. There is a long-term benefit, we believe, where the service is coming from. The long-term benefit is efficiency of operation. We

believe that if it were under WCB that through the powers of assessment and super assessment, risk assessment, WCB would be in a good position to give some needed incentive to those employers and they are few in numbers, but they are very costly and those employers could get the smarten-up pill when the need it. In return we see a system that would become more efficient; we see a work place that could benefit and become a much safer work place.

In the short term however, there are pressures that are exerted and this is why we say that it should be dealt within the same manner as transfer payments are dealt with between the federal and territorial government, when the territorial government is taking over new responsibilities from the federal government. Ample precedence to this exists. A similar mechanism would greatly benefit this changeover.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** And some of these things that are being transferred, now there is a price attached. I want to say to you clearly that I disagree with your position on this, so you know where I am coming from and I believe it should stay where it belongs. As Mr. Crook said earlier, I believe the WCB should be looking at the educational component of it. That is what this is all about. You are trying to reduce injured workers, not increase them. So you have to find a method to get out there and talk to people and make the work place safe. So if it was from an educational component you would have me on side, but if it is from a judicial one, no.

#### Regional Variations in YMIR

One of the excellent presentations made yesterday was from the NWT Council for Disabled Persons. She suggested benefits under the YMIR must also be adjusted to reflect the regional variations in the cost of living. It is a lot more expensive to live in Spence Bay, Holman Island, than it is to live in Hay River. I am wondering how you feel about that?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** Mr. Chairman, we believe it is already addressed some way. We do not agree it is fully addressed because we believe the YMIR needs to be increased drastically. But we believe it is addressed in that structure. The problem we have is with the YMIR itself and with the disparities between the regions and the higher cost of living, those are normally reflected through also higher wages and salaries.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** That is not necessarily true. The organized worker certainly does well, but there are a number of people who are not organized out there who do not make the same kind of investment salaries and wages. But somebody has to recognize that the cost of living in Holman Island is higher than living in Yellowknife - this lady has recognized it. Nobody else has recognized it. She is suggesting that maybe there should be some method to reflect that cost. You are saying you do not see that as a problem.

**MR. DENAULT:** What we are used to is recognizing the higher cost of living in various regions by collective bargaining. This is the vehicle we are used to dealing with and we would suggest that it would be a vehicle that would provide the proper solutions to people in the regions also.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** But the reality is that everybody is not organized and everyone does not want to be organized. As a good

unionist you should know that and I am sure you do. So what do we do with the non-organized worker who is living in Whale Cove who has to pay \$45 for a roast? Should we look at addressing that?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** The inequities that exist, exist essentially from an employer/employee relationship. Now we do not support a situation where a person would actually be making more on WCB benefits than they would normally be making at their salary level. We believe it should be the same. We believe it should be full compensation. We do not believe that that would help to cure the entire situation of rehabilitation, gainful employment and all those issues.

#### Workers' Advisor Position

**MR. TODD:** What is the unions position on the workers' advisor position? Is it pleased with the position and the role it is performing? How does it see it continuing?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** The labour advocacy role that is played within that function is one that we are familiar with. It is one that we have to perform in every day of our lives when we decide that yes we will be involved and yes we will be active. It is an important step and it should provide a similar type of service to anybody on the street or even us, because at times we are stumped. We are not perfect people, all knowledgeable, to go in and require information, maybe help break down the barriers, that sort of thing. That is the type of role we would enjoy seeing out of that service and it is a very important job that needs to be done there.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** So from that I am detecting that you are supportive of the workers' advisor position.

**MR. DENAULT:** We are, yes.

**MR. TODD:** How do you see it operating? Do you see it operating sort of arm's length from everybody? Do you see it in a government department? I am trying to come to grips as to how people view this position.

**MR. DENAULT:** We do not see on a long term a great benefit should the workers' advisor position stay in isolation at this time. We do see that the Government of the NWT is moving toward establishing an ombudsman. We believe that as the system matures the citizens of the NWT would greatly benefit if there was an ombudsman structure with advocates dealing on different issues. We believe that that would solve a lot of the problems and frustrations that come to MLAs from various communities all the time. It would fill the gap. But kept in isolation as it is right now, what we worry about is the possibility of development potential for the people who serve in that position - personal development.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** Thank you, Mr. Chairman. In this presentation we were given one example at the end of how the union was able to get a clause in the collective agreement which made people with partial disabilities, affirmative action people for re-employment. We have heard that this particular clause exists in some jurisdictions as a legislated right for workers. I wonder if we can get some comment on that, whether it would be appropriate to have something like this in legislation rather than in the collective agreement.

**CHAIRMAN (Mr. Koe):** Mr. Denault.

**MR. DENAULT:** Mr. Chairman, one of the reasons we submitted this example to you today is to drive home an important point. Very often legislative change comes from exercises such as this that get the necessary recognition for the value and the service they provide. Across the country and at the origin of workers' compensation, it is that very type of thing that happened and then became enshrined in legislation; to meet a need. This is why we say that organized workers can help to solve many of the problems that we face in society. This is how we do it through the collective bargaining agreements.

**CHAIRMAN (Mr. Koe):** John.

#### Make-Up Of The Board

**MR. TODD:** The make-up of the board is a big issue to everyone; that the stakeholders, organized labour and management should have equal representation on the board, and that they should be consulted in the process. Was your union consulted on the two recent appointments of the review committee - Mr. Hinchey and Mr. Johnson?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** We were consulted on the one. Mr. Johnson.

**MR. TODD:** Would that have been directly through the board or through the union representative on the board? Was it a formal consultation or was it a casual chat with Brother Evoy?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** There is two different things. Mr. Johnson was there some time ago and Mr. Hinchey's name came about a month ago and that was through the Federation of Labour.

**MR. TODD:** Did you get a formal request?

**MR. DENAULT:** We have good working relations within the labour movement and we respect the verbal discussion between principles as fairly formal for our needs.

**MR. TODD:** So somebody came and asked you your opinion.

**MR. DENAULT:** Good.

**MR. TODD:** Put aside your biases, how do we ensure or who represents the non-organized worker if we take this approach of union versus the private sector?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** We believe there is a lot of examples that already exist on how the unorganized worker benefits from the precedents that are established through exercises that organized workers participate in. One of the clauses that you were looking at a few minutes ago is a prime example. On the entire issue of WCB this is how it began and everybody benefits, not just organized workers, but everybody benefits from that exercise. We believe that is how workers who are not organized benefit. It is a freebie to them. It is a situation where they are not a participant but yet they fall from the exercises that organized workers participate in reaches them anyway. So it is a freebie that they get and we do not oppose that. In fact we support that. Everybody should gain.

The reverse however is not true. The reverse does not happen. We will challenge you to find a precedent anywhere

where the reverse has happened and where people have gained from the exercise.

**CHAIRMAN (Mr. Koe):** Charles.

#### Dollar Figure For YMIR

**MR. DENT:** Thank you, Mr. Chairman. Has your union taken a look at what they think the YMIR should be in terms of an actual dollar figure? Are you prepared to recommend a dollar figure for us to consider?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** Mr. Chairman, we believe that to put a cap is wrong. We believe that a person should be fully compensated and it varies, depending on the relationship, the salary and wage relationship that exists between various employers and workers.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** Thank you, Mr. Chairman. Removing the cap would obviously have some pretty drastic implications on the payroll costs to employers in certain sectors. Do you think the economy here can withstand that kind of impact right away?

**CHAIRMAN (Mr. Koe):** Mr. Denault.

**MR. DENAULT:** We believe that proper assessments would cure that problem. Employers should be assessed based on the pressures that they place on the administration of the board.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** You pointed out in your presentation that you think that some of the mining companies should have their premiums increased significantly. That would drive a few out of business, I expect, and I am sure that as legislators we would hear a real hue and cry from the mining industry claiming that most of them would be driven out of business. How do we balance their complaints against the demands of labour when we are in tough economic times and we are concerned, all of us, about providing as many jobs in the North as we can?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** Mr. Chairman, the argument of driving us out of business is one that we as organized labour have to listen to every time we sit at the negotiating table. Yet we achieve contracts that offer our members a good level of living and very few employers ever blame us for going out of business. It is a matter of sitting down, discussing the needs and negotiating where you have to be. These are exercises that are good and honourable and usually you can get around, "You are driving me out of business," because that appears to be the thing to try and get you to back off all the time. It is a strategy to get you to back off and eliminate pressures. You have to be able to get over that hurdle and go down to the nitty gritty and the issues at hand.

The fly-in/fly-out operators of the mining industry is where we are saying you are facing some major problems, major risk and to tell you the truth, it has been our experience in looking at those operations, that to this day they pay very, very little to the coffers of the NWT. So how can they justify a just compensation assessment is driving them out of business. They pay little as it is.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** Thank you, Mr. Chairman. In your presentation you recommended a full bi-partite review be undertaken and that there is an urgent need for that. You justify that with a need to increase the YMIR and pensions. Are there any other extremely serious issues that you think that that sort of review committee needs to deal with?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** Mr. Chairman, there may be, based on the findings of such a committee. This is from our perspective. Now mind you, organized labour and our local within the United Steelworkers is only one of the principles involved in the in the issue. So other people might identify other areas that would have to be addressed by this type of exercise.

**CHAIRMAN (Mr. Koe):** Charles.

**MR. DENT:** Mr. Chairman, I guess I am just trying to find out if the union feels that the legislation and the activities of the board are, in general, at a fairly good level or if we need to go through the time and expense of having another review of the Workers' Compensation or if action on the YMIR and pensions is the only thing that really is important right now.

**MR. DENAULT:** Mr. Chairman, we like to give recognition where recognition is due and as far as looking after the funds of WCB, the board has done commendable work. However, in the area of providing benefits to the injured workers and dependents in cases where we have a fatality, the performance has not been good. What we are saying is this is where this exercise should concentrate on, the committee we would ask the MLAs to put together.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** Thank you, Mr. Chairman. In your presentation you say the board should be limited to two groups, the organized workers and employers, and you also mention that if the organized labour can effectively represent non-organized workers. However it will not seem to work the other way around. In Chesterfield Inlet the NWT Power Corporation regional supervisor has to go into Chesterfield Inlet every year to take over what they call "temporarily laid off" power plant operators. He has to be laid off for something like two months or 10 days - I am not sure which - because he is not a union member. I guess they term it as a casual. He has been doing that for quite some time, and he still has to be laid off every year because that is in the union collective agreement.

Here is a non-union member affected by the union's collective agreement. I know it is not your union. However, it is not necessarily so that a United Steelworkers union member will be sitting on WCB. That is no guarantee there. So how do you justify that union-organized worker's membership on the WCB will - how will you, in the act or in the policy or in the regulations of the WCB, see that non-union members will be protected? Where can you justify to me, other than that we are very good?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** In cases such as presented by the honourable Member, Mr. Arvaluk, the issue of layoff is one that is within - I am just giving this to you as information - within the collective bargaining agreement exercise. It is one of the places where an employer stresses the management's right component. It is an exercise and a power of the employer to hire, fire, lay off. It is not one that is privileged to the organized workers, or the unions that represent them. What unions try to do, speaking of the exercises that we participate in in our collective bargaining agreements, is we try

to minimize the impact upon casual workers or upon people who have lesser seniority in cases of layoff. So far, in collective bargaining exercises, this is how it has been going. So in essence, when we sit down with an employer, we try to whittle away a bit of that management rights, and, if we have justification because of abuses, we can achieve. But layoff is in the control of the employer.

**CHAIRMAN (Mr. Koe):** Mr. Arvaluk, please be quick.

**MR. ARVALUK:** Thank you Mr. Chairman. I know we are running out of time, but mostly just a statement, Mr. Chairman. Yes. Because that worker is not a union member, you have given the management the right to exercise laying off that person annually; whereas if he were a union member, you probably would have a different collective bargaining agreement there on that worker's behalf. This is my concern. When non-union members are not represented by unions, therefore, traditionally as well as today, the managers or owners of the company give them a kind of raw deal, of which this is an example.

So I do not know how the union members will be able to represent non-union members as we already have this kind of example in the Eastern Arctic. Thank you, Mr. Chairman.

**CHAIRMAN (Mr. Koe):** Fern, any comments?

**MR. DENAULT:** Yes, Mr. Chairman. I am unfamiliar with the collective bargaining agreement that exists in a particular municipality. However, as part of the collective bargaining exercise, a decision is made by a ratification vote of your entire membership. The entire membership decides based on issues that are raised by the employers - and the right to lay off is an issue that is always raised by the employer - and issues that the members have raised at the bargaining table. A ratification vote is held, and this is how people make the decision. The decisions, the agreements, are never perfect. Most of the cases where there is layoff, in the type of industrial setting that we are used to, even though people have lesser seniority, or they may be casual people, they still benefit from the agreement that is in place at that locality. So I am scrounging a bit here because I am not familiar with the scenario that the Member is bringing forward.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** Thank you Mr. Chairman. I would like to thank Fern Denault for your presentation. It was very informative, the historical aspect of the Workers' Compensation Board. I would just like to say that the fundamental principle that you mentioned, where the worker gives up his right to sue in an industrial accident - I take it that that was a mutually agreed principle between the employer and the workers. So the employer is involved historically in agreeing to such an arrangement. So the employers are off the hook from being sued. In exchange, they pay money to the compensation board. A lot of focus seems to be on this money and who controls it. It seems to me in the last little while here there has been a lot of energy being spent on how to protect that money and who is going to control it, like political manoeuvring, who is going to sit on the board, and so forth.

#### Rehabilitation For Injured Workers

But my main concern, I am glad that you answered Charles Dent here, saying that the focus should be on injured workers now more than anything else. I think I support that position that you are taking, because what we have done here is that we have heard from injured workers that have called, and they are having problems with the system. The system is not serving them. I know that being an injured worker is not a

planted thing. It is an accident, and you do not know whether you are going to get hurt or not. Then once you get hurt, then you are an injured worker.

Sitting here the last few days, I was thinking about what are the rights of these injured workers? Has anybody put any effort into trying to identify what their rights are of these injured workers? Here you are a union man; you represent people who pay you the dues; but once they are no longer working they do not pay the dues, and what happens to them? I am concerned about that.

One problem is that they have to go through the system to try to get some compensation, and there are some problems that I am hearing about: re-employment programs and retraining assistance. I know that the rehabilitation and so forth is done down in Edmonton and Vancouver and so forth, and I think that is one area where groups such as yourself -- you say that you represent everybody here, the workers; you are saying that the fundamental principle was arrived at between the organized workers and the employers -- so in your position here you are saying that organized labour should represent all the workers in the North, and my point here is that the main focus is on the injured worker. And what we have been hearing in the last few days is that nobody is helping them except for a workers' advisor. Some of these people have paid you their dues, and I am wondering how you are helping and assisting these people to get rehabilitated, and is there any program that you have to re-employ them? Do you have a program for re-employment and retraining?

**CHAIRMAN (Mr. Koe):** Fern.

**MR. DENAULT:** Mr. Chairman, I am happy to see that you have caught on to the pact, because we keep hearing a lot of frustrations about how the employer has to shoulder all the burden of compensation. We keep hearing it and hearing it, and it is not a true reflection of the pact. I am very happy to see that that is there and that you recognize that. Because the very important aspect of that pact is the workers' giving up their right to sue their employer. That only became a danger when the workers were in the position to actually do it. Because they could not afford it before they organized themselves.

On the concern about people who are no longer paying dues, go through a local. I can speak for our local. I would not be necessarily mandated to speak at large for other organizations, but I know that in most of the organizations the principles hold true, and they hold the same. When we have members and members have problems with Workers' Compensation, or other agencies, because there are other agencies that affect people also, we do act when approached by the members.

We do act in an advocacy position, helping our member to achieve a just settlement wherever the member is having a problem. We do extend that, also, to past members or anybody that walks off the street and need a hand. We have never limited the service that we provide. In fact, we enjoy when people come to us and say to us, "I have a problem here; can you help me out?" We enjoy it. And we do it. There are no charges, or anything like that. In fact, if anything, if we can look at it in a self-serving kind of way, the publicity is good for us when we help people. And I believe if you check, within the records of the board you will see that the union has represented both members, non-members, retired members, and people that have just walked off the street.

I know the Federation of Labour was helping people in the Simpson area a few years ago. It is the kind of relationship and the kind of work that we enjoy doing. So we do not close the door once a person does not pay dues. And when

the person is there and is a dues-paying member, the privilege that the person has for being a dues-paying member is that person can help us to make proper decisions within our locals. And that is what we try to motivate within our membership is to participate in the life and the decisions of the locals.

In dealing with the need in the rehab situation, it is pretty sad to us to see people have to go to Edmonton and Vancouver for rehabilitation, in many cases, in most cases, being taken away from their families for a month at a time and sometimes more. We would like to see proper rehab facilities in the North for people. Our people live here. We would like to see those kinds of services close to them. We believe that everybody would appreciate that in the Northwest Territories.

For re-employment, possibilities of coming back into the work force, that is what the last page of our presentation is, and that is how we have done it. Mr. Lewis, Mr. Chairman, a while ago pointed to it in the way of, what was the term, I am not thinking of the word but there is a privileged status that we provide in our collective bargaining agreement for an injured worker that got hurt at the place of employment where we are. That is as much as we can do.

**CHAIRMAN (Mr. Koe):** John, a final comment?

**MR. TODD:** Yes, if I may. You know, like Mr. Antoine, he says it much more eloquently than I do. When I look at what I now view as my peer group's presentations in the last two or three days, there certainly was a total preoccupation with the money, the make-up of the board, and very little reference to the injured worker, which really caused me some consternation. I have made notes to myself, and I said "preoccupation with the funds," "board appointments to the chair," "very little reference to the injured workers," and I put four organizations together and theoretically they are supposed to represent me I guess, as a businessman, and they do not. I put one together here, and that said, "This is the only presentation that has a primary focus on the injured worker," and that was the lady from the disabled workers. That is one point, so I agree with Mr. Antoine.

I think the other point that caused me some problem, if I may, in terms of when we talk about this money, is that there were distortions, in my opinion, being created, certainly by the NWT Chamber of Mines. They implied that this fund, if it was invested, was making 21.3 per cent. That is totally incorrect. If you average out the fund, and I want to get this in the record, because the implication was, do not put it in the North. In my opinion, that was the implication, and I am entitled to my opinion. Last year there was an 18.9 per cent average done. It is averaged out in the investment policy. The last four years there was 11.8 per cent average return, and in the last five years there was 9.8 average return, so for the record I want to get it in there. That is the figures provided by the investment group in the WCB. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, John. As Chairman I was put in this spot. I hate to be seen to cut off discussion. It is going quite well, but as a committee we have also set a fairly optimistic schedule. So far we have been doing well on the time lines. Fern, I would like to thank you for your presentation, and Members for the discussion. It has been quite a good morning so far, so thank you very much.

The next witness or person to make a presentation is Mary King. Mary is from Hay River and she is representing the auto body shops, so welcome, Mary, and please join us.

**Presentation By Ms. Mary King, Auto Body Shops**

**MS. KING:** I did not bring a formal presentation. I hope you

will get transcripts in case there is anything you find of interest that you would like to follow up. The reason I came occurred because, actually I was looking at the budget for the coming year and I saw what a high rate we had to pay for workers' compensation, and I have never been comfortable that the worker has actually got the best. You know, the news you hear is pretty well always negative from the Workers' Compensation. But just in the little group that I work with, I was not satisfied that of the fellows I work with, and I am particularly talking about the guys on the floor. I am not talking clerical so much. I was not sure they would get the best from the Workers' Compensation Board if anything should happen to them.

I have to say we have not experienced any problems, and I guess I was looking to the future. For the rate that we had to pay, I could not be certain without going out and getting a competitive pricing, that the fellows would be covered well. So I wrote a letter and asked if I could have permission to solicit, as I do with everything else. With insurance I ask to see if I can get a price comparison, what would the coverage be? I did not get a reply, and it rather irked me. I addressed this letter to the chairman and the board. Nothing happened. This was last August.

At that point, I was paying for six fellows, \$13,000 in one year. You have to pay that within the first four or five months of a year. For a small business, that is quite a drain. Sometimes you might make \$2000 in a month if you had a bad month, and this is gobbled up quite easily by a payment to the Workers' Compensation Board.

So when I heard this review committee was on, I thought that perhaps if you are reviewing your legislation - I am lost when you are talking unions and things like that because I am not familiar with that. I am just thinking of the coverage that the fellows I work for, and I have to say I work for them because I look after their interests as far as making sure they have got proper lighting, proper safety materials, and all that, and I was not sure they were getting the benefit of good coverage. When I look at the pension plan I have in place, it is quite a bit better, the pension plan that I have

What I was looking for was an opportunity to ask that the long-term disability and the life insurance portion, if anything should happen to them, be put out and, say, get it from an insurance company like Great West Life or any of them. And any of the short term - the cuts, the bumps and the bruises, the run down to the doctor and get something out of your eye type of thing, could be handled by the Workers' Compensation Board, but the very hard core thing that would affect them for a long, long time in their life, I wanted to be able to go out and solicit, and at least confirm that WCB coverage was good, but could I get better for the same dollars.

So then, along comes this year and now I am paying \$22,400, basically for the same crew, and I have had to fork out \$22,000 by the end of this month. We are a small company and that is a lot. So I asked, for my class what is your direct costs against the revenue that comes from my class? I found out that, for instance, the costs in 1988 were \$83,000. The revenue they generated was \$204,000. The costs of my class in 1989 was \$54,000. They generated \$393,000, and so on. In 1990, the costs for my class, and I am not saying my business, I am saying the class I am in, was \$23,900. They generated \$336,000 for that class. In just four years, my class cost \$218,649. They generated a total revenue of \$1,218,402. In four years that is in excess of a million dollars

Okay, so the rate goes up. Why is the rate going up? They are already generating a good revenue on my class. It jumps from six dollars to eight dollars. I know, for instance, in

Alberta the rate for the same class, the body shop class, was \$2.58 per hundred. It generates \$42,000. I am paying eight dollars. I realize part of the reason might be we are a smaller group and it cannot be spread so far, but when I look back at the revenue that was generated versus the costs of that class, I do not see why it has to be eight dollars. That was what I was trying to get at, and I would have done it by mail. I would have done it by correspondence, because I have no hatchet really with the WCB. I just get the sense that they do not look after the workers. I heard a little bit of it this morning.

They are more involved with money. They are more involved with the status of the WCB, and for me, because I come from a small town, I work and I know personally, I have lived many years with the same people I work with, I am more interested in what would benefit them. I know them all personally. If something happened to them and I did not provide them good coverage, and I did not see that something could have been better for them if, say, they lost an arm or a leg or something fell on them, I would feel better that I have made some effort to make sure they are well taken care of, and I have never had the sense that the workers are that well taken care of. That is hearsay, and I regret having to say something like that, but at the same time it gives me the sense, where I am coming from, that I have to look out for them.

My presentation would be, could you allow or could you recommend in the legislation that small companies that already have access to group plans that already give them good coverage, could we enhance that somehow, particularly for the long-term disability and that, which pays quite a bit better than what WCB would pay. These are often young men. They all have children - most of them do not even have children yet - they have two, three or four children. They are young. They need good stability, and \$42,000 is not going to look after that family.

The other thing that disturbed me, and I am still relating to the cost aspect of it. I see where it is 85 cents per hundred for government employees. I think they set aside several of them, but basically it is 85 cents per hundred for a government employee. When I look at the range of the staff in the private sector as compared to the range of the staff in government, why am I paying six and eight dollars and they are paying 85 cents? For instance, if you had a highway construction, a government employee in that section would be paying 85 cents per hundred - I mean the employer of the government employee. If I had a group of people on there, I would be paying six to eight dollars per hour for the same people to do the same thing. Why would something like that occur?

I am not looking for an answer here, but these are questions that have come to mind. I am not so sure there is a reasonable explanation why government employees would be 85 cents, whereas private sector has to be quite a bit more.

That relates particularly to the cost aspect of my concerns. I have to say that, for instance in 1991, the staff I have at the body shop had no claims whatsoever, and they had this jump - well, actually, by the end of the year it was \$15,000 and it jumped to \$22,400. Of course, there was a little bit of cost aspect in there because I did say that perhaps we have one extra fellow on hand. That is the cost aspect of it, and I cannot help but try to reinforce. Could you please see if there is some way that I can go out and solicit proper competitive pricing? I think if you had proper pricing in place, the rates would go down, the reviews of all the claims would be well looked after.

Again, I am talking from the sense of what I hear on the street. I am beginning to sense that there are some workers, and I have seen this only in Hay River, who are willing now to linger

on WCB if they can, much the same way that previously you may have heard that people go for UI. I am beginning to think that with such a large fund, and I have to say I heard on the radio this morning the fund that the WCB controls is \$123 million. If they have that much money, they are not going to be reviewing and making sure that the worker gets back on the work force quickly, and I would hate to see that WCB would be abused, because if an abuse takes place, then the fellows that really require the attention of the WCB would lose ultimately in the end.

The other part I was concerned about was the process. I guess what happened when I started asking people about – this has all been said before. I guess I wondered as I was flying over here this morning, is it worthwhile for me to even bother appearing here? I know there have been presentations from different groups, the same concerns, and I do not really get the feeling that there has been a response. Again, I have to say I think the WCB, the public image of it and all that, is on the downslide, and they have to begin to be more concerned with the individual person and what they can be doing for him, because if it goes to this business of money and all of that, the employee is going to suffer. I regret not having a major presentation to make. I guess I am more speaking from a very small business.

If you have any questions I would be happy to answer. Otherwise I thank you for your time and I do hope that you would consider something for the smaller business people. I heard the gentleman ahead of us and I suspect he represents union which is a large number of people and I represent just a small group.

**CHAIRMAN (Mr. Koe):** Thank you, Mary. You are the only one who has come from out of town. I understand you paid your own way to come before us and you are so far the only one representing an employer who contributes and cares – I guess all employers should care about their employees – but you have made a fairly good presentation and we appreciate your frankness. This is the forum to hear cases like yours and recommendations that you have made and we in turn will try to deal with them and be that voice in terms of changing legislation. Jeannie.

**MRS. MARIE-JEWELL:** Thank you, Mr. Chairman. I would like to thank Mrs. King for doing her presentation and I find it is a breath of fresh air for the committee Members to hear from small employers. All our hearings have been from organized labour, organized unions, individuals who represent a large body of members. Your concerns reinforce some of the concerns that I hear from small businesses in our community where the rates have incredibly increased to the point where many employers and small businesses are now considering doing sole source contracts with employees, just to avoid having to pay WCB premiums that have increased drastically over the time period.

I think that is one of the concerns we have come to recognize where WCB is starting to focus and orient themselves as an investment type of program as opposed to looking at injured workers and as opposed to utilizing their funds accordingly. As a result, inasmuch as their management was good, they do have \$125 million fund, but I believe they have focused away from their initial intent to ensure that a coverage was there at a reasonable rate. And now as someone commented yesterday, you pay your play, but you are paying a very heavy rate, forgetting about what you are paying for and the mandate of WCB is somewhat outdated.

And I believe our legislation – certainly I can assure you that we will be pressing for changes to legislation, but at the same time we do have to look at the rates. Because what has happened is that the rates in classification does not allow for

segregation of your employees in a small business and unfortunately your business would be looked at as an auto body shop, probably somewhat of a high risk and your rate would be high, whether it is for your clerk, whether it is for your body man and unfortunately you have to absorb the cost.

In this time of recession it is not only hurting the small business, it is hurting the total economy, because as a result you get your layoffs and other ramifications that have to be absorbed.

So I thank you very much, even though it is not a written brief. Small business people do not have the time to formulate briefs and whatnot; they are in there to provide a service to the public. I think your presentation is very well understood by Members and I especially thank you for coming from a community outside of Yellowknife, to give a different perspective from many of the small businesses across the Territories to the Members of the Assembly.

**CHAIRMAN (Mr. Koe):** John.

#### Alternate Ways Of Covering Employees

**MR. TODD:** Your comment about looking for alternative ways of covering employees, do you think that that thinking comes about because the rates are increasing? Is that kind of thinking done by more people? Is it a trend or is it just your particular opinion at this time?

**CHAIRMAN (Mr. Koe):** Mary.

**MS. KING:** Thank you. It is partially related to the increase in rates. When the rate was smaller I thought it was somewhat comparable. But as the rate increases, the benefit to the employee does not increase and I would like to go out and solicit, have it in the legislation that I can go out and solicit alternatives to WCB. That is the only reason I am here today, is to ask that that be part of the legislation. Then I can verify that yes, the rate I am paying is reasonable. I never want to be without coverage for our staff. We have a group policy that covers them 24 hours a day. WCB only covers you for eight hours a day. It is tied into the rate, unfortunately, but just by the fact that I think I can get something better for the same rate.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Within your peer group, are there others that feel the same way? I am curious because I am hearing the same thing in my riding.

**MS. KING:** Not particularly. I am quite competitive. We like to go out and look at things and I do not necessarily want to go to Alberta, to tell you the truth, I do not want to do that. But if it is going to benefit my staff, I will go.

What I am hearing from the other ones is negative. I talked to a fellow yesterday and he is extremely negative about it. And generally what I am hearing is not so much that they want to go out and solicit other rates, they think the system is going to be abused. I know of three cases right now where people, I suspect, are abusing the system. There is nothing there that would assist me or would assist the other employers to stop the abuse. You see that is where they are coming from more than negative aspects of it. They are not saying they do not want to be without WCB, but they want the coverage, but they think the money aspect is getting too high. The status of the fund and all that, it is not what people want. If you are a small town employer, you want your staff covered.

**CHAIRMAN (Mr. Koe):** Jeannie.

**MRS. MARIE-JEWELL:** I believe there is a fundamental principle here that Mrs. King is trying to bring forth to the Members and I have to fully agree with it. It is the principle of choice. We live in a society where we have the opportunity to choose accordingly and it appears now the legislation does not give any choice to small businesses or employers to look at alternatives. The act now just basically states that the coverage for your workers is through the Workers' Compensation Board because if you do not have your workers' compensation compliance form, you do not get a business licence in the communities. It is as simple as that. There is no choice in the matter. And that is basically – as our society grows people feel they have rights and people when they pay, they like to have the choice. And that is basically the concern.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** Any change in society and in an environment of a recession, people do look at how we can get productive costs and competitive costs. But Jeannie the fact of the matter is in the legislation we gave up the right to look for alternatives and the worker gave up the right to sue. I know a little bit about WCB. So if you need to seek what you believe is rightfully yours, an alternative, then we would have to take a hard look at legislation changes. Because the current legislation says we have given that right up and we pay to WCB to protect the injured worker.

It may be that in these changing times that we have to take a look at legislation and make some changes, I do not know, it would have to be debated. And I do not think we should be as stringent in our thinking as certainly some of our presenters are being. But I know it would require legislative change, for sure, and you would really raise the hackles. This is dynamite in the eyes of a lot of people. I am not making a judgment on it. I am merely telling you the facts the way I see it anyway. I know your frustration because I am in a similar situation when you look at the costs you know you can go and buy insurance cheaper than that.

**CHAIRMAN (Mr. Koe):** Mary.

**MS. KING:** I am not saying do away with workers' compensation coverage. I want the workers' comp. But the WCB could still send auditors in. I have only seen one auditor come in and he did the tire shop and it was just a local hire auditor. If WCB were caring, they would leave Yellowknife and get out into the communities. Now if I had the opportunity to solicit, they would have to come into my place and make sure I had the coverage and then they would see the conditions of the workers. They would have an opportunity to meet the fellows on the street. I do not see any reason. Your automobile coverage is legislated. You have to have insurance. It does not say you have to buy it from the GNWT or a board of the GNWT. You go out and solicit the best price possible. And there is an auditing system there, you have to provide your pink slip when you get your licence to operate that vehicle. If the auditors would come in, I could get a workers compliance, insurance compliance.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** I think you just said the magic word, you have to know your marketplace and your clients and it appears to me, and I sat on the board for eight years and I fought like hell to get into the communities and was not successful.

**MS. KING:** Well if you had auditors you could move around the communities easily.

**MR. TODD:** The magic word is to get to know your clients and that is what is not happening. You have an extremely

centralized organization, probably well intentioned, but extremely centralized that does not simply know its client base and it does not know the changing times that is going on, like you addressed this morning, which I think is excellent. So we have to get across to this group that they have to get out in the marketplace and talk to the client base.

One of the thing I was trying to address with the groups earlier is that big business and big unions have lobbying arms and administration to get out there and do their thing, because guys like you and me who are in the small business, do not. We sometimes use the chamber or stuff like that, and the influence within the WCB is lacking. There is a big influence of unions, which is perfectly understandable, and there is a big influence with the contributors – stakeholder. There is a bit of an imbalance. I am not discounting the fact that you need stakeholders there, absolutely, but there is a bit of an imbalance and in your type of thinking does not come to the fore on the regular basis because there is not a mechanism for it to happen. These guys have organizations that can state their point of view and lobby hard. We are talking about the NWT Chamber of Mines, the NWT Chamber of Commerce – I do not know if any of them ever get elected. I am elected and I represent my riding and I am going to represent it to the best of my ability and I think I also represent, to some extent, small business. And I think that is what is lacking in the equation. We are not clicked into the lobbying mechanism.

#### Phased Instalment Plan

**MS. KING:** When I mentioned that I had to pay \$22,000 within five months, that was a serious comment I made. There is one other thing I wish you would make a recommendation on; that it be tied into payment. I would not mind making monthly payments. If I have to continue with the WCB that is fine, but if I generate a certain payroll at the middle of the month, why can I not make a payment like I do to the tax department, GST, everything, do it once a month. Why do I have to do it all at the beginning of the year, the slowest season?

**MR. TODD:** That is the tragedy of the thing. If you can apply to say you do not have the cash flow to pay these dues on the front end, can I do it on an instalment basis and then they adjudicate it and say yes or no. I have done it for my own company and they give you a phased instalment plan. The problem is they are not out there telling people that.

**MS. KING:** Okay, but you also have to pay a penalty, you have to pay a service charge and it all adds up. I do not even bother to try, I just pay it. All of a sudden what if I have hired another 10 people. I am still paying my own rate, at the end of the year I might have to jump up – for some reason if I could ever have more staff I would. But that would work in month by month.

**CHAIRMAN (Mr. Koe):** Okay, we hear you and thank you very much for coming and being frank and straight forward.

#### Telecon With Mr. Tommy Wright, Gwich'in Hunters' And Trappers' Association

We have one more telephone call to Tommy Wright in Inuvik. Hello Tommy, this is Fred Koe. We are in session with the standing committee on agencies, boards and commissions and we are reviewing the Workers' Compensation Board and people want to get some reaction from people across the Territories on hunters' and trappers' coverage. With me are Members of the committee, there are six Members plus myself, representing various ridings across the North. There are also various members of the public here. So the process is that we wish to hear from you as a representative of a hunters and



trappers organization on some of the issues and concerns that you have in terms of dealing with workers' compensation and then we may have some questions.

**MR. WRIGHT:** First of all we have a thing from the Workers' Compensation Board here and it says income of at least \$10,000 from hunting and trapping activities. We have a lot of people who go into the bush and hunt and trap and want to live out there, but at the rate of fur prices now there was a concern that maybe people do not make that much money. So that has to be the minimum they make. So we thought if that could be lowered or some of the things could be changed.

A lot of the people who go out in the bush or like to go out in the bush, maybe they are not going out there to make big money but they would like to live off the land again. As I was talking with some of them, that is a pretty high number. If you do not make that, you do not get any compensation. So we thought if that could be lowered or the other option that they have here is say if somebody does not meet the criteria for this \$10,000, they could get their own, but it would be four dollars per hundred and again it is a pretty high coverage. Even in the work force there is a lot of places where you pay only \$3.50 per hundred and stuff like that.

I do not really know what the answer is, but some of these things could be lowered and maybe if it could be hunting and trapping in the winter, a few of those months they could be covered and maybe when they are fishing in the summertime they would not have to be covered. But I think something needs to be changed.

I do not think anybody is going out in the bush to plan on having an accident. But according to the criteria now, preceding the accident you have to have been trapping 12 months of the year. In this day and age there are a lot of people who work a little bit in town, get a little unemployment insurance, live off the land a little bit, really it kind of fouls them up. In a lot of cases you cannot just do one thing. So maybe you could think about that.

**CHAIRMAN (Mr. Koe):** Thank you, Tommy. What the committee is doing is hearing presentations from a wide variety of groups, organized labour, big business, small business, people who have been injured and we are hearing now from hunters and trappers organization. We will be taking recommendations and points of view that you present and take them into consideration and will be making recommendations to the Minister responsible for Workers' Compensation.

There are sections in the act that deal with hunters and trappers, so we want to hear recommendations or your viewpoints. Do you know how many people up in the Delta have benefitted from this coverage?

**MR. WRIGHT:** As far as I know in the last five years there has been one or two in Arctic Red - I think one guy lost his leg and he got compensated for that. I think there was another one for something else. Then there was one in the Delta here that had an accident and was covered and you know that really meant a lot for them.

**CHAIRMAN (Mr. Koe):** So you agree there should be coverage.

**MR. WRIGHT:** I do not know how but say if a guy is trapping and he does have an accident where it would stop him from trapping the rest of the year. It is really a good thing that he has some way of continued income. And maybe another thought would be that say he broke a leg or something that stopped him from getting any income, maybe

you could have to coverage just for something like that. Suppose it was just some little thing that stopped him from working for a month or less, maybe we could say we are not going to carry that. But have some kind of a thing that if it stopped him from working altogether, say for six months or a year or whatever, maybe that could be covered. Just an idea.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** Thank you, Mr. Chairman. I think I understand your point of view that the Workers' Compensation coverage criteria does not really represent today's situation. To live off the land traditionally 12 months of the year trapping and hunting and earning more than \$10,000 is kind of impossible for a couple of reasons. No matter how far away you are from the nearest community with the modern equipment like outboard motors and skidoos and speedboats, you are now today competing with other part-time hunters who are weekend hunters and they get into your camp every weekend - you cannot really compete using traditional methods of hunting and trapping.

For example in our case we could only use kayak or dog team only because you are competing with the nearest community. So you will need modern equipment to be a full-time hunter. Therefore you must work part-time in order to get your modern equipment that the fur prices is not paying for any more.

Are you suggesting then that the optional coverage for hunters and trappers of which is four dollars for every \$100 should be eliminated or at least reduced and have the coverage for hunters who are not necessarily full-time hunters but they are not working at the time. In other words, some construction labourers work in the summertime and they hunt for the rest of the winter. But they are not hunting and trapping 12 months of the year. You cannot anyway in reality. What are you suggesting on behalf of the hunters on this rate of the WCB coverage program, especially subclause 18?

**MR. WRIGHT:** I do not really know. I do not think we really need to worry about the part-time hunter because if he has a job and is doing this thing he can afford this coverage. But it is the ones that want to live off the land and stay out there, but maybe he is not going to make \$10,000. He is going to miss that one and he cannot afford the other one, so he is going to miss the whole boat. So if there was some kind of thing where he was covered six months of the year, in the trapping season. Again this is just a suggestion. There are so many different situations. Maybe this \$10,000 could be lowered and this would help this person who did want to live off the land and stay out there.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** You are suggesting that something must be done more relevant to the hunters' lifestyle. Weekend hunters are full-time workers, but I am talking about those trying to live off the land but cannot really afford to live off the land all year long because they need some other modern equipment in order to compete with the weekend hunters. But something has to be changed within the WCB.

**MR. WRIGHT:** Yes, maybe this will take a lot of thinking on whoever is doing the study, but it is something to look at. There might be a better way.

**CHAIRMAN (Mr. Koe):** Brian Lewis.

**MR. LEWIS:** I do not know much about hunting and trapping but this whole business of insurance interests me quite a bit. It seems to me that the hunting and trapping group do not fit in really well with the model that we have of workers'

compensation, because it was set up to deal with some other kind of problems where the employers and the employees did not want to be fighting each other in court all the time over big settlements. What about a plan which is separate from what they have right now in WCB? Where there is a separate insurance program set up through the hunters and trappers or through one of the departments of government, which would look at all these people who are self-employed and try to look after themselves in various pursuits. And then people could be compensated on the basis of real losses.

Because the problem that I see with the group is that they do not fit into any kind of salary level. Everybody sort of operates on a different basis. I was wondering if there was a possibility of having a separate sort of insurance plan funded by the government so that anyone who does have a loss can make a claim in a different way from what is done right now?

**MR. WRIGHT:** Okay, what about this one? I talked to the guy who is head of the tourists operators and the outfitters and fishing camps, all these people – I do not know if this has happened all over, but here in Inuvik if anybody has a fishing lodge or does something with tourists or an outfitter or stuff like that, they pay \$50 a year and they get a million dollar coverage. It is kind of PL and PD (sic). Maybe we can fit under that somehow or that kind of a framework.

**CHAIRMAN (Mr. Koe):** Brian.

**MR. LEWIS:** That would be a separate insurance policy which again has to do with employers and employees and there seems to me we have a large group of people who do not work for anybody. They work for themselves basically. The problem that I see is there is such a big range of levels at which people can support themselves in different ways and maybe we have to develop a more flexible plan so that people can get coverage, which is not going to be tied down with the rigid kind of system we have under WCB. It is a real problem because they do not seem to know where to fit everything in there.

**CHAIRMAN (Mr. Koe):** Okay Tommy, on behalf of the committee I thank you for being available. I know we gave you fairly short notice, but we wanted to hear from some community representatives and we will take into consideration the points that you raised in our deliberations and hopefully come up with some solutions to this issue.

**MR. WRIGHT:** Thank you.

**CHAIRMAN (Mr. Koe):** It is lunchtime. We are scheduled to come back at 1:30. We have two other groups that have indicated they want to make presentations and we are going to try to fit them in. Sam Gargan is one of them with some hunters and trappers from Providence and they will be in town shortly after lunch. We also have the Minister scheduled for 2:30. I do not propose that we meet tonight. We will take the evening off. We will recess until 1:30.

—SHORT RECESS

It is 1:30. I would like to resume this session of the standing committee on agencies, boards and commissions. Right now we have scheduled representatives from the Northwest Territories Federation of Labour. Mr. Jim Evoy, who is the president, is here. Jim, introduce your cohort and please proceed.

**MR. EVOY:** Thank you Mr. Chairman. To my right is Alex Lacroix. He is the chairman of our occupational safety committee at the Federation of Labour, and should I require assistance of a technical nature or documents that I cannot locate in my presentation in answer to your questions, I will

call upon brother Lacroix to assist me. If I might proceed.

**Presentation By Mr. Jim Evoy, NWT Federation Of Labour**

Certainly this is a timely review, and I am sure I am not the first person to say it, but with the tragedy in Pictou (sic) County, I guess a timely subject to be looking at in the Northwest Territories is workers' compensation; and the aftereffects, I guess poor workplace safety is really where the WCB comes into play. I believe they found some more miners at the Plymouth, Nova Scotia mine, and unfortunately when they found them they were deceased. So on that sombre tone, we will proceed with what we hope is a very brief presentation and some questions on the part of the committee, and we will leave you to your deliberations.

Briefly, the Federation of Labour represents over 9000 organized workers in the Northwest Territories. In case you did not know it, the Territories has one of the highest proportions of unionized workers in North America. We have members in all communities. Some work, for example, for the forestry companies in Providence; some are miners in Yellowknife; some fix houses in Inuvik; and some simply help load the barges in Hay River. But much to some people's displeasure, there are union members in all Northwest Territories communities; and to repeat, we have one of the highest percentages in this country of unionized work force in the North.

The federation helps keep the CBC on the air; it handles your mail; we install your phones; when you go to a government office, there are union members there, federally, territorially, municipally, the nurse, the carpenter, the clerk, the secretary, the cook and the janitor. I guess I could turn that into a song if given enough time to develop it. They are aboriginal, non-aboriginal, and as I said, they are in every community.

The Federation of Labour assists all workers, whether they are organized, unionized, non-unionized, aboriginal, Inuit, Dene, non-native. The biggest portion of our work in our office is assisting the drop-in traffic that either phone in or drop by our office with some of their problems. To sort of epitomize that philosophy that we have, we also hold a yearly barbecue for the unemployed in Yellowknife. We also work closely when families are bereaved by workplace deaths. We have gone as far as intervening and requesting coroner's inquests, and working directly with the family.

Our main job is to be a political voice of all the unions' in the Northwest Territories. We fight for better laws to protect workers in all the communities. We are the political voice of the unions.

Overall, the Territories' workplace laws are a national embarrassment. The government has created the most abysmal workplace laws in the country, bar none, and lack of enforcement only makes the situation deteriorate further. And on the raging debate that some of your committee members might have as to who should enforce the safety laws, quite frankly I do not give a damn. But somebody better start enforcing them. So take that to your deliberations. The NWT has a working fatality rate four times the national average. Maybe I could stop there.

I think further on, some of the people, apparently, you have questioned was to where safety should evolve to, who should look after safety, should WCB look after safety, I think over a five year period that astuteness and intelligence and politicians with foresight could prepare a five year plan where the safety inspectorates evolve into the same ministry and work much more closely with the WCB; and the five years is used, that the one million dollars – just for a figure I pluck out of the air – that it costs to administer Safety and Public Services now,

that in year five it is one million and in year four it is 800,000, and that the Government of the Northwest Territories decrease its financial commitment to the enforcement arms of Safety and Public Services. And after five years, in essence, by the two departments working closely together, the diminishment of accidents and the decrease in costs of those accidents should level out. If it does not level out, then I guess the assessment rates would have to be increase to employers. But, done on a five year scale, it would allow that transition not to be an immediate dumping of a heavy burden on territorial employers. Just a suggestion.

Backing up a bit, one of our major missions is to pave the way for people in the communities to understand labour better and the workplace better, and to be able to realize their potential in the wage economy. Another interesting topic that I understand your committee has been deliberating on is whether unionized workers, or people that are in unions, should represent non-union workers. I wonder, did you ask the Chamber of Commerce? Did you differentiate between which members belong to the Chamber of Commerce in the business community and which do not? Because I understand that almost two thirds of northern businesses do not belong to the chamber. So maybe we should have representation for them. But I notice you called upon the Chamber of Commerce here.

I get a little sick and tired when I hear businessmen saying that the non-union worker is not getting a fair shake. We have got to get out there and help represent the non-union worker. Well, if the little business guy would quit screwing him, he would not need no help. Even in Alberta, the home of the Aryan Nation and the Ku Klux Klan, and Jim Keegstra, their board is all union reps. So this new and innovative scheme that some people want to perpetrate on northern people by having so-called non-union workers representing workers, to me is a crock. It is just another way of management weakening labour's position or weakening the position of workers. And I cannot say that too strongly.

In the 1986 and 1989 ministerial reviews of the Workers' Compensation Board, both well-intentioned, well-heeled panels recommended equal representation of employers and workers. And there was no differentiation and specifics about the poor, downtrodden, non-union worker. We are all down-trodden. And I guess on that, you know, some of the other questions, and maybe I should not react to questions that were asked of other groups.

Some of the other things the Federation of Labour does is heavily involved in the coalition against pulp mill pollution. That is not a union/non-union issue. When I attended the Dene Assembly last summer at the invite of the national chief, that was not a union or non-union issue. That was flying the flag with the interests of all workers at heart. When we went in front of Jim Bourque's commission to add our views to what a constitution for Denendeh should be, nobody asked us if we were union or non-union. They knew that we represented the voice of working people in the Northwest Territories. That is why we went there; and that is why we are here today.

Coming from all that, I would just like to add that it is our very strong view that workers' representatives on any newly-composed Workers' Compensation Board should be from the organized sector, and they have to have equal seats. That does not preclude the fact that workers from the small communities, who may not be in unions, should not have some input and should not have some direct involvement. We could do many things. We could get committees with regional tribal councils; we could do all kinds of things where the labour reps and the board would have to work closely with the people in the communities. Or we could delve into

our union ranks and find Dene, Inuit, Inuvialuit people within the union ranks. We have, as union people, a legal obligation to represent people that come forward with their problems. If someone comes to me with a problem, and I do not represent them properly under the Canada Labour Code, I can be charged, taken to court, fined, or thrown in jail. So I do have a legal obligation to try, at least, to represent workers.

I apologize for the tone, maybe, of that part, but I become somewhat concerned when I hear businessmen and businessmen-turned-MLA concerned about workers. It just bothers me. I am concerned about workers. Let the business guys be concerned about business. Basically, the present structure of seven people on the Workers' Compensation Board, with three and three -- it is at times too big and at times too small, but it works. The old system, with 11 and 12 on there -- if we had had a few more we could have had a convention. As far as appointments go, I think they should be staggered: one business person at two years; another one at three years, or something like that. I challenge your thought processes and say that maybe a way to pick the chairperson is that the incumbent board of three and three should be assigned the task to pick a chairperson. If you pick competent people to a newly structured board; if you picked three and three, or whatever you come up with; if your selection processes were carefully done, perhaps you could do much like BC just recently went through. They picked their own chairperson. Granted, they did not do it in one day, but they did it; and I think they did a good job.

Accountability, I noticed in the initial letter from the Legislative Assembly, they want the people to speak to you a little bit about accountability. My understanding of workers' comp has always been very clear, that the system is accountable to the employers and the employees; and that the reporting system is through the Minister to the Legislative Assembly. I do not have a great problem with that. If some people do, well that is the way I understand it. The employers put the money into it and the workers take it out, and it is a historic relationship; and I am sure you have heard people more eloquent than I speak to those issues. But it is like apple pie. That is the way it is. And I do not see any other jurisdictions in Canada trying to get out of that or get away from it. It must remain independent. But it must understand at all times that it is accountable. Independence does not mean that it can start granting divorces. It has to be accountable.

The rates, just passing through some of these things, I understand a formula is in place, and it seems to be working. I think if government -- governments across Canada, from time to time; I cannot recall when this one did it, but maybe they did not -- they like to tinker with rates; they like to freeze rates; they like to selectively influence rates. I think if a rating system is in place that has been brought together by business and labour with actuarial and consulting advice, and if that rate system says it is fair and just and it will pay the bills, I think it has to stay like that. It should be closely scrutinized. But it should not be tinkered with.

The YMIR, years maximum insurable remuneration, and the SPI, I am sure by now everyone knows what those acronyms mean, and I am sure you know where we stand on them. One thing that this committee could do; it is all MLAs on that committee; I sincerely call upon your help when these things come in front of the Legislative Assembly. But when you are looking at helping boards and agencies and commissions, well you can certainly help workers in the Northwest Territories by voting in favour of the amendments that will come through to approve the insurable remuneration levels and the supplementary pension increases; and furthermore, at some point in time, have them enshrined in legislation so that it does not become political. I think the supplementary pension increases should be geared to the consumer price index, or

whatever, and it should be done automatically.

Lump sums. The ministerial review panel in 1989 said to the WCB, "You people had better get control of these lump sums. You had better quit handing them out just left and right." I, for one, and I have people within the labour community that differ with me quite strongly, but I have got the switch here today, and I, for one, do not believe in workers getting large lump sums of dollars. Call me biased if you like, but it is a pension scheme. You cannot go to the unemployment insurance in advance and draw your UI, and you cannot draw your Canada Pension in advance.

I can give you an example, and I will not use any names, but please do not doubt me when I tell you that this was a 56 year old worker. He worked in a mine. He had a lump sum three times. And it came to a total of 26 per cent. And he had cashed them all in. He did not do that stereotypical thing that people accuse workers of doing, blowing the money in doing all this. He spend the money over a period of time, and what we had eventually was a 56 year old worker that could no longer work in the mines and had no education, because 26 per cent disability to him was very debilitating.

I know that many people disagree with me on lump sums, but look at what compensation is. I mean, if we are going to do lump sums, let us get right down and dirty. Why have a compensation system? If you hurt yourself, you just get a cash payment. That is not what the system is there for. The system is there to protect earnings and to give you a pension over a period of time. But you will hear different views on that. And different provinces will give you different policies that they have in place.

I would like to go back to safety education and enforcement one more time. Again, there seems to be a bit of a contest between, maybe, a couple of government departments or quasi-government departments. Should I be a government Leader for a day, heaven forbid, I think I would call the two departments in and say, "Get back to me in a week and tell me how you are going to do this." If it was not done, then I would do something about it. Workers have to sit back while all these contests go on or the political will is there to do the enforcement. Talk about enforcement. You will hear eloquence on both sides about enforcement. Until the sixth floor says, the message goes down, "Start enforcing," it is not going to be done.

You know, we go down south to business conferences. "Come on up. We are looking for business." What we should tell them is, "We are open for business, but we are going to protect our workers. We are going to protect our communities. We are going to protect our people. We have got some fair but tough laws in the North that say you have got to work under these conditions." Much like Alaska. Alaska said, "Come on up. We are open for business." But they said, "We have got some tough rules about how you do business here. We want our people to benefit, not just the corporations."

The investments. I have heard that that question has arisen from time to time. I do believe there is an investment policy in place. It is certainly your prerogative, I guess, and I do not know how broad your mandate is, to scrutinize that investment policy. There are investment managers, hired for their ability and prowess to handle other people's money. I believe some of them handle 15 to 20 billion in other people's pension funds. It might seem somewhat of an evasive stance to take, but there is the policy; there are the managers. If the square peg fits into the square hole, that is it.

I have a request, that during your deliberations, your reports, even sometimes during the media coverage that we

differentiate when criticisms are made of the board or the institution. I think it is important that the general public know that we are not reflecting on the workers at the Workers' Compensation Board. Those people work in very stressful jobs. They deal with injury and carnage and death every day in their work in the workplace. They are paid the same scale as the rest of the government employees, and I think they work under, in most cases, much more stressful conditions than most government employees. They are union members, too.

What I see is that what happens in these situations is that while WCB makes the front page, and while criticisms are levied, some justified and some not, that it becomes hard on the staff. They really start to question their abilities, their support, and their commitment. So I think that we have to make it clear that it is too bad we could not have two different, distinctive names and to who we are really looking at here. I think the employees have to be commended for the job they do with the numbers they have.

As far as people who sit on the board or are in senior managerial positions, you live by the sword; you die by the sword. They are big boys. They will take their lumps. But please keep the staff of the WCB in mind when you write your report. I think if you really took a look at it, that they do a tremendous job.

I could go on and on and on, but I would probably just get myself in a bit of trouble. I would like to make a strong recommendation that one of the recommendations that comes out of your deliberations would be a bipartite review of the legislation that we presently work under, live under, and you people have to exist under. Two ministerial review panels in a row, 1986 and 1989, recommended the same. And nothing has been done with it. I mean, we are working with an archaic piece of legislation here. And really, the whole administration of the act is being run more on policies than it is on the act. You take a section of the act that does not really address something clearly, and then it is policies that sort of, I think, tell people how to deal with the act.

So if you really want to make what I believe would be a worthwhile recommendation, it would be to do just that. And give them a broad mandate. Do not constrain them with any agendas. Just give them a mandate to go out there. The closes review that would come to that, in my mind, would be the '86 review, which I believe had a much broader mandate than the '89 review. But somewhere in the terms of reference it has got to be a review that does something. It cannot just be put in the trash heap.

Another thing that hurts progress in the way of legislation advancement with WCB, with the act and the progression of it is that it seems to be a ministerial hot potato. It is flipped around a lot. It seems to be looked at as secondary, and it is flipped up all over the place. And it is not. It is very, very important. And when one Minister gets their teeth into it, they should leave it with that Minister. Hopefully, pick that Minister, get that commitment, and leave it there. I know the political realities of it maybe would not allow that to happen, but that is what should happen. It should be assigned to a Minister, and hopefully that Minister can stay with it.

That is about all I have to say. I guess I leave myself to questions.

CHAIRMAN (Mr. Koe): Thank you, Jim. Just a couple of points, I guess, to react to some of your statements. Our mandate is fairly broad. I realize this is new ground, new territory we are stepping into, but we have stepped into it with both feet, and I know I am thoroughly enjoying this week so far. As far as what the press says, they are public meetings.

We know how the press works, I think, and we cannot dictate to them what they print or put on the radio.

I think we all individually share your concerns regarding staff of Workers' Compensation, but we have to realize they are also part of the system and part of the whole environment that we are dealing with. So we do not want to differentiate between one individual or one clerical position or a board position. I think they are all part of this process, so we deal with them collectively. But we realize that individually they work and play and live with us, so we respect that.

The floor is open to Members. Mr. Lewis.

#### Statistics On NWT Accidents

**MR. LEWIS:** Just information, Mr. Chairman. We have a very, very high unemployment rate in the Territories, and we do not really have a bouncing economy. I was interested in the statistics that despite all that, the people that do work, we have four times the national level of accidents. I would be interested to know if there is a reference for that. What is the origin of that figure?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** I believe, Mr. Lewis, that figure referred to fatalities; and recession or not, the whole country is in a recession. We do have accident numbers that denote a couple of things. Number one, we are spread out. We are far apart, and we do not have as many inspectors, probably as we need. We do have a lot of accidents in the North, just by virtue of the distances and the conditions we work under. Combine that with not a hell of a lot of enforcement, and your numbers are going to go up.

I do not know if it has been pointed out to the committee yet or not, but I believe the latest statistic was the 67 per cent of our injured workers – their home base is southern Canada. Recession or not, there are a lot of projects that are going to go through this summer. And unfortunately, a lot of them are going to be manned by southern workers, and no matter what statistics you read in the paper or the government releases, my indicator of where the work force is coming from is where the claimants on WCB are coming from. Sixty-seven per cent of injured workers are from southern Canada.

**CHAIRMAN (Mr. Koe):** Mr. Lewis.

**MR. LEWIS:** Yes. I just am interested in the origin of the figure, though. Is this stats that are kept by our own government, this figure? Or is it a figure that is kept by the industry? Or is it a Stats Canada figure?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Stats Canada

**CHAIRMAN (Mr. Koe):** James

**MR. ARVALUK:** Thank you, Mr. Chairman. Throughout this presentation, especially on the Union of Northern Workers, I do not know how that is different from the Federation of Labour. Maybe it is an umbrella organization and is reckoned as such. But the presentations of those two are not really different. One page three of the previous presentation, "The union favours the trend over the last three years or so to have a smaller board. The present size of seven members is agreeable – as long as half are representatives of organized labour and half are management, with a neutral chair."

I have been going through the act, the Workers' Compensation Act. There is nothing in there promoting that

part of the board will consist of organized labour and part of the board would consist of management of the labour force. For example, the deputy ministers or managers of government or the companies. I think the whole spirit of the Workers' Compensation, as the speaker said, was to give the managers, to relax them a little bit so that they will not be sued by the workers; and the workers, in turn, will be assured, through this Workers' Compensation Act. Where do we get this whole idea of that they should be the managers and the organized workers rather than workers of the Northwest Territories regardless of whether they are union members or not?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Well, I thought I was quite clear on that. For example, in my situation, when I speak on behalf of workers. I was elected at a convention by workers from every community in the Northwest Territories. They were not only from Yellowknife. They were from Simpson; they were from Arviat; they were from Gjoa Haven. I guess, perhaps the committee might want to get – my opinion has been stated. I believe the board should be half organized workers because we have a legal responsibility to represent all workers. But I think that the board should call upon and look at Canadian practice. I mean, this is not some nefarious scheme on the part of these big unions to crap all over the guys in the communities. It is our job to look after everybody, and I will tell you right now, people that come to my office during the day, many people from the communities, they come to us for help because we are experienced in this field and we have spent a lot of time in the field representing workers. And we know how to get around the bureaucracy. We know how to cut through things to achieve things. It is as simple as that. If you want a doctor, you go get somebody out of the medical association.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** Thank you Mr. Chairman. I guess we are not too different from each other. I am, too, not from the organized labour, but as an MLA from Aivilik, I really strongly believe that we should build a road from Coral Harbour to Tikiraq Bay to start the tourism business there. We would also like to ship...(inaudible)...which everybody wants in the South and apparently it is better than Minneapolis. We need 156 new houses in Coral Harbour. We need a new school and five more teachers, according to government guidelines, ratio between teachers and students. But as a responsible citizen of the NWT I cannot do that. I have to look at all other areas of the NWT, all other communities. They also need the same or even maybe more requirements of these such services. That is why I stated that even though as a union representative, it is very important, I believe that, but because there is also other workers who are not union members I think that it would be, I do not know, respectful that this issue of union or non-union is not mentioned when you are dealing with the workers' compensation.

**CHAIRMAN (Mr. Koe):** Any comment, Jim?

**MR. EVOY:** No.

**CHAIRMAN (Mr. Koe):** Jim.

#### Unions' Position On Hunters And Trappers

**MR. ANTOINE:** Thank you, Mr. Chairman. Thank you, again, Jim Evoy, for your presentation. I understand that the NWT Federation of Labour represents all the unions in the North. You are the political voice of all the unions. There is one thing in this whole discussion on WCB that the unions have never mentioned on the hunters and trappers section of the WCB. I know that the organized employers would like to see

it removed out of WCB because they figure that they are not contributing to it, so they should not be involved in it. I would like to know the unions' position on hunters and trappers.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Thank you. I can say, and look you in the eye, Jim, that wearing a different hat when the issue arose, I voted against the diminishing of the coverage to the hunters and trappers in the Northwest Territories. I was on the losing side of that vote, but I did vote in support of the existing YMIR and the existing coverage that the hunters and trappers throughout all the communities had, and I fought strenuously to stop the diminishing of that. It just was not something that got anybody's attention when it happened, and I am supportive, and labour is supportive, of going back to the coverage that hunters and trappers had previous to that last change.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. ANTOINE:** I may suggest that Sam Gargan is going to be coming up here later on today, and as far as I am concerned, compared to me he is an expert in the WCB area, especially hunters and trappers, so it will be good to listen to what he has to say.

#### Safety

Just one thought I have is that the workers give up their right to sue the employers in exchange for WCB, and when it comes to safety, I am wondering if the employers also feel that WCB is taking care of the injured worker so they do not put that much effort into the safety of the workers, because they are off the hook because the workers give up their right to sue them if they get hurt. I was wondering if you have any thoughts on that.

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** I think the long-term employers in the Northwest Territories, the major companies, would not think in that manner. I think they know it is a long-term commitment and that inevitably they are going to have to pay these bills. Unfortunately, there are some employers that feel Workers' Compensation is just another cost of doing business. It is a license to kill and to hurt. I think where real dangers sometimes arise, is when southern consortiums, entrepreneurs, or joint ventures come into the North to do a major project. We could be saddled with some horrendous bills after that joint venture partnerships disbanded, because even after Norman Wells - and I have pulled out some stats - after the Norman Wells pipeline there are some contractors that are not even in business any more, and they have left guys in the communities where, a bad knee is not too bad to me although it is bothersome and painful and I do not want one. I know kids that cannot even go out and trap any more, but they are only getting a five or six per cent pension.

So the aftermath of mega projects is where I would have to agree with you, that you can come in and do it and get out, and the real WCB costs will not start to show up for three, four or five years, and the other employers in that industry group are going to be saddled with those costs.

**CHAIRMAN (Mr. Koe):** Mr. Antoine.

**MR. ANTOINE:** Thank you. You mentioned something in your presentation that safety has to be done, and you said something like, somebody should do it. If the strengthening of the safety area of the whole industry is done properly, I do not think there will be as many injured workers as we have today. Can you elaborate on that? Do you have any thoughts on that? I know you said somebody should do it,

you do not care who does it, but somebody should do it. Can you elaborate on that?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Well, I think the two are interconnected or interrelated. If we do not arrest the accidents, then the WCB rates are just going to keep going up. We are in tough budgetary times. I understand that in some of the departments responsible for enforcement they are facing things like cuts to PYs and cuts to budgets, and cuts to things like that. I think this is a thing that is driven from the top down, and I do not necessarily usually agree with things like that, but I think this is something cabinet has got to start with; the actual Executive Council has got to start it. If the MLAs are the ones that precipitate it or prompt it, that is great. But there is a message that is getting out from the Northwest Territories right now, that we are sort of an Alabama or a Louisiana. You can do whatever you want, whether or not you pay overtime, vacation pay, bang people up, we have a pretty cavalier attitude when it comes to our own people, and if we are going to promote northern employment, I am afraid people in the communities are a little bit too smart to be promoted into that type of employment. They are not going to go out there to be treated like a piece of shit and run over by a machine.

We have got to protect our own people, and I believe one place it has got to start - we all have a role to play in this, labour has a role, business has a role, but I think government has a major role. It is a philosophical decision as to whether or not we are going to start looking after people in the workplace. Who really benefits from lax labour laws?

Look at the embarrassment when we hit the Globe and Mail or we hit the Journal, another mine tragedy in the North. I mean, we went through one just a little while ago where the experts said it was a freak accident. A freak accident be damned. Twenty-six recommendations from the coroner's jury said it was no freak accident. We have got to overcome that, and by overcoming that and getting that message out that we are very serious about this issue, WCB hopefully can benefit from that.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** I think it has been recognized, if I can just summarize for a couple of minutes, that in the three or four presentations of what you would define as "the other side of the equation," there was no question there was a preoccupation with the funds, the make-up of the board, the chair, et cetera, and it seemed, to me at least, somewhat embarrassing. We had very little reference to the injured workers. We had a good presentation yesterday by Dale Robinson from the disabled group, that looked at injured workers, and of course the unions today are doing exactly the same thing. I think we all recognize there is a need for increased safety.

My concern would be, and I am wondering where you are coming from, is with respect to the fiscal responsibility of the Department of Safety. There is no question, if you look at the thing in the total equation, that if you get better safety you get lower claims, your rates and assessments should decrease, and it is in industry's as well as the unionized workers' interests to do that. But at the current time, all these inspectors, whether elevator inspectors or fire inspectors, are all funded through the operations and maintenance budget of GNWT, and I am wondering how you would see it working. Would you see it as a separate department under the auspices of the board, or what, and how is it going to get paid?

**CHAIRMAN (Mr. Koe):** Jim.

### Penalty Assessment Program

**MR. EVOY:** Let me make a recommendation, and please try to follow through with it, not because it is coming from my lips, but that it has come from lips much more intelligent and articulate than mine before, and it works. Please look to British Columbia to the penalty assessment program they have there. That just takes the enforcement arm of the inspectorate and puts it with the WCB. It is not a judicial system where you have to lay charges, and it goes through courts and people can get up and say, "Yes, he had his hard hat on. No, he did not." The penalty assessment system in British Columbia works and it works well, and workers and employers alike both support it. It quite simply works like this. The penalty assessment officer or safety officer sees an infraction. He immediately writes it up, and writes up the penalty assessment. Instead of a fine in court, it is an additional assessment against the employer. All the names of the employers are published. They do have the right to appeal. It works. It is quick.

You can get hold of their division there and I am sure they can send you information. What it does is, it takes it out of the court system and it is tied in with assessments on WCB. If you want to be a bad actor -- and some of the fines are severe, they are very severe -- that is one way I see around this dilemma. It is like the accusation we make when we are in the big cities. You know, you see the cop filling up his speeding book at the end of the week because he has got to get paid. Well, I think the penalty assessment division would pay for itself pretty soon. They have no lack of places to go up here.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** That is one side of the equation, Jim. What about the fact that what we need is, and we have said many times, even when I was on the board, a more financially funded educational program, and I do not say that in a flippant sense. We have got to get out there and educate people. You have to educate employers, but you also have to educate employees too. I did not see anything -- yes, let us get some more inspectors in there, more policemen in there, and let us collect some fines, and that is probably legitimate. But, you know, you have got to run something else parallel rather than just beating on people. Do you see the need for a more aggressive educational program on safety on the part of the Workers' Compensation Board? Do you see a need for that?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** Yes, I do. I would like to say something before that. I am sure we all know that the safety and responsibility in the workplace is the employers' responsibility. When I go into your home, you are responsible for my safety. When I go onto your worksite, you are responsible for my safety. Now, if you have a group of workers that are working under ignorance and it is an unsafe condition, it is not the responsibility of the Government of the Northwest Territories nor the Workers' Compensation Board to go and hold a course. It is the responsibility of the employer. I am strongly supportive of education for employers, workers, and let us get into the schools and go to regional council meetings, and let us get this thing going.

But what I would hate to see it turn into is that all of a sudden employers and employees start using safety education as an excuse. There is an onus on people when you work and when you employ people, to work safely and to run a safe shop. It is not up to the Government of the Northwest

Territories to be running around spending millions of dollars teaching people how to work safely, and I am speaking mostly in the context of employers. I think we should be into the Arctic Colleges; we should be into the high schools; we should be doing all those kinds of things.

But I go back to that original point -- I think this all should come from the sixth floor. A major decision has to be brought down that we have a serious commitment to this, and part of it is education. Part of that equation is education.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** I know that safety is a long outstanding issue in the WCB, away back from the Berezowski days. Just for clarification, you said that the fatalities were four times the national average, Jim. Have you got it broken down by industry? Is it the mining industry? Is it the construction industry, or is it just fatalities, period?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** I do not have them here in front of me. We have broken it down, and I am sure that WCB could assist you in breaking them out. I may use "fatalities" at times in a rhetoric sense. Fatalities are only a symptom of the overall disease. In some years you will get eight; in some years you will get three; in some years you will get ten. You have got to look at the other things. You have got to look at statistics contained in the WCB's annual report, all kinds of niggling little injuries; all kinds of eye injuries. We should not be getting a whole bunch of eye injuries, because there are all kinds of proprietors and entrepreneurs out there that sell safety glasses. You can tell by the type of injuries that there is really no advancement in the areas of safety and the restraint of accidents in those areas. The type of accidents that we have are the type that, a lot of them should never happen.

I would conservatively estimate, a word-I do not bandy around very often, that we could diminish the number of accidents by a third in a year should those things be arrested, just the simple things like hard hats, safety glasses, steel toed boots, and things of that nature. We are getting too many of those little piddly accidents. As far as the deaths go, I am sure your committee has the mandate to ask the WCB for a breakdown of the deaths and what industries they are in.

**CHAIRMAN (Mr. Koe):** John.

**MR. TODD:** The implication was, if I remember rightly the other day, that there was a greater degree of accidents by firms who were from the outside coming in, than there was from northern firms that are here. That was what was said the other day. Do you agree with that position or not?

**CHAIRMAN (Mr. Koe):** Jim.

**MR. EVOY:** I really do not know, John. I guess if I was running a business here, I would probably say the same thing.

**CHAIRMAN (Mr. Koe):** John.

### Appointment To Review Committee

**MR. TODD:** I do not know who it was, but I know somebody said it. Another bone of contention, I guess, by everybody, I mean everybody is bored on how you make it up, and the stakeholders should be involved, et cetera, you said you see the unions being a major stakeholder in this and they should be equally represented and should be consulted on the appointments. When they appointed the review committee, the recent two appointments of one labour and one

management, were you consulted, as the union, on those appointments?

**MR. EVOY:** No. My understanding is that those appointments were made directly, as per the act, by the board.

**MR. TODD:** There was no consultation took place?

**MR. EVOY:** None whatsoever that I know of.

**MR. TODD:** Do you feel consultation should have taken place with respect to the review committee?

**MR. EVOY:** The way the existing act reads, I do not see the requirement.

**CHAIRMAN (Mr. Koe):** John.

#### Lump Sum Payments

**MR. TODD:** Again, lump sum payments are very controversial. We all know that. I was a bit concerned, and maybe in retrospect there were too many in the 1980s, but the current position of some of the unions to suggest that there should not be any, I think, is a bit intransigent. I wondered how you felt. What happens if a guy has 10 per cent, you can take it out; but, if a guy has 11 per cent, you cannot pay it out. Do you not feel that there should be a little more flexibility, knowing you are a strong anti-lump sum payment?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** I am not strong anything, really. I do not want to be the guy that ruined Christmas or something like that. Lump sums are against the basic principles and philosophies of WCB. Right now, it reads 10 per cent. I heard of a worker that actually asked to have his pension decreased so that he can get his lump sum. He had to go pretty far to try to get it if he was not successful. I am saying that we have to draw the line somewhere. I think the Canada Pension comes at 65 years of age. Personally, I would rather see it – without revealing my age – kick in around 45. But you have to draw the line somewhere. I think this is the type of thing that people can work on and develop. Somewhere, someone has to deliver the bad news. You just cannot have injured workers lump summing their futures away. There are people in the work community that would probably – in a dark alley – take objection to what I say. That is where I stand.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** Jim, you said that the Workers' Compensation has to be accountable. To whom is it accountable to, in your eyes?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** It should be accountable – and I wish someone would find a better word to the stakeholders. The employers have to be satisfied that they have coverage, and the workers have to be satisfied that they are looked after.

The Legislative Assembly is responsible if things go wrong. I ask that you not use the WCB as a political football. But in a bad case scenario, when WCBs go bad – and in some jurisdictions they have gone bad – it is inevitably the politicians that will suffer the wrath of both sides. So there is some involvement, granted.

**MR. TODD:** And pay the bill if it does.

**MR. EVOY:** Yes, if it does.

**MR. TODD:** So we do have some – however minor – jurisdiction or responsibility for the Workers' Compensation because, ultimately, as elected leaders we are accountable. Is that correct?

**MR. JIM EVOY:** I agree.

**CHAIRMAN (Mr. Koe):** I have no more Members on my list. Jim, thank you very much for your presentation. Any last comments?

**MR. EVOY:** Just a couple, Fred, if I could beg the committee's indulgence. John, you mentioned that there was no sensitivity. We did not mention the injured worker. We have only 10 or 15 minutes to make a statement. I think you know where an organization would stand on most of these issues. We did not just start paying attention to WCB because the ABC committee was put together. It is a daily thing in our lives. WCB is probably the most talked about in workers' circles that there are.

Mentioning the disabled in the injured workers' groups so eloquently represented help carry our message. We are talking about some of the care so that these people can advance their causes. By not mentioning the disabled, we are not mentioning the Council for Disabled Persons and by not mentioning the thousands of injured workers on pension out there and the literally dozens of widows that have lost their partner does not mean that we do not care. It means that we are looking at some of the cares and some of the areas we think the ABC committee has a mandate. But if anyone in this room ever wants to get the true feeling of what workers think about WCB, come on over and see us and some of the results of the carnage in the work place and the unsafe work practices. Deal with a family that has just lost one of their kids.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** If you do not mind, I do want to get this on the record. One of the things I enjoyed yesterday in the report from the NWT Council for Disabled Persons was when they talked about the cost of rehab. I talked to some of these injured workers at the back today who talked about the tremendous cost of moving people to southern Canada. If we could find a way to bring this into Yellowknife and the North, would you guys support that kind of thing? Or is it necessary that these guys go south?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** We certainly would as long as it was not Tory retraining ink or something like that. In some of the federal scenes we see, it becomes a bit of a farce. We would, however, suggest that one of the recommendations this committee might make is maybe the GNWT Personnel Department and people like that be working with rehab, and that we all attempt to re-employ injured workers in the North. The strongest recommendation has to be to get the legislation changed to make the injury employer responsible for re-hiring the injured worker. In Ontario – I will say it – there are financial inducements to the employers to do that. There is help available to the employers to do that. Maybe that would address some of the concerns.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

#### Workers' Advisor Position

**MR. TODD:** When we talked to – and you missed some of the sessions which is unfortunate – a number of injured workers on the phone the other night. They all talked very highly of the workers' advisor for which I know, Jim, you are



instrumental in getting forward. There was some talk about that moving into a government department or something. How do you see the workers' advisor functioning? What kind of role do you see that as a spokesperson for organized labour?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** First of all, organized labour does not need advisors. We have lots of people with opinions just as I am sure the business community does. The workers' advisor moving in – I am in a bit of a conflict here because I recently studied that position. As far as the workers' advisor working in a government department is no different than 11 other jurisdictions in Canada. Some of those are very progressive jurisdictions with good socialist governments. In essence, it seems to be the norm; it seems to be Canadian practice.

**MR. TODD:** I am trying to think of one. You do not see it as an ombudsman role?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** The word has been used a lot lately in the North. It was used by us some years ago. The ombudsman would be above the workers' advisor. If the workers' advisor was having a rough time with the bureaucracy or a politician or Minister, they could go to the ombudsman. If a worker felt they were getting a poor shake by the advisor or even by a union, they could go to the ombudsman. If someone appealing a social services division, go to the ombudsman. We have so many different government departments that I think the ombudsman – yes, I agree with it – should be the top, and then the advisor with problems could go to the ombudsperson.

**MR. TODD:** I think we all recognize that a person cannot live on \$20,000 a year in Yellowknife, definitely not in Whale Cove, and even less in Grise Fiord. One of the things that came up yesterday was, should there be some benefits adjustments made to reflect the regional variations of the cost of living? Make the assumption that there is a change in YMIR based on the recommendations you bring forward. Let us assume for arguments sake that you get a satisfactory YMIR that we are all happy with. It is the same across the board, yet the cost of living is tremendously higher in Grise Fiord compared to Yellowknife. What kind of position do you think you would take as a spokesperson for the organized labour across the NWT?

**CHAIRMAN (Mr. Koe):** Mr. Evoy.

**MR. EVOY:** Very seldom do I come right off the wall, but let me try. I can see, for example, the Baffin itself only had 10 per cent of our injured workers so you still have the nucleus in the Fort Smith Region which is 67 per cent of injured workers. Built into the benefits paid to workers is a standard fee of \$5400 northern allowance. You could take that, and as it is expanded in the different regions by the GNWT, and use the same formula. But you would have to prove residency and things of that nature. If you want to tinker with it, you could do that. There is a Draconian way of tinkering with it that I should not even suggest to you people, but I know that you are of such – you are fair people – would be to have one for the North and one for the South. It is not fair that our southern injured workers would be treated differently. I do not think that is right. I think we use the basis that it is. I notice in government ads for jobs whenever the hiring flurry starts that certain regions of this territory have a higher isolated post allowance. If a worker was in Grise Fiord and he had a debilitating injury on pension, maybe he could be adjusted. In response to your question, this is a way it could be done.

**CHAIRMAN (Mr. Koe):** Thank you very much, Jim, again. That was a good presentation and good dialogue.

We have a couple of groups that we promised to fit in this afternoon. Maybe we can hear them before 3:00 before the Minister.

First, Dave Thompson will make a presentation. Welcome, Dave. Please, proceed.

**Presentation By Mr. Dave Thompson, On Behalf Of Injured Workers**

**MR. THOMPSON:** Thank you, Mr. Chairman. I am here on my own to represent myself a little bit, as well as possibly some of the other unorganized people other than what Mr. Evoy was saying.

I wrote something on what I heard yesterday, not too much on what I heard today. I was not present when the City of Yellowknife made their presentation, but I went through the papers rather quickly. The city is more concerned in saving a few dollars, even by being sued, than what this review should really be about. These items should be looked at a later date, but I think people like us are more interested in a WCB process between themselves and the employees. The NWT Chamber of Commerce says its whole income comes from the employer when, realistically, I believe the employers have this figured within the cost of their wages of the employee.

They also say WCB pays the injured worker approximately \$40,000 per year. Really, I do not quite figure this out because I do not get that much. Not even close. I get approximately \$25,800, not \$40,000. Where is \$14,200 going? I am not getting it. It is going to income tax because next year when I make out my income tax, I have nothing to file. How can I claim \$5400 for looking after my residence which I am still paying for? I am not paying anything to CPP. I am losing all these benefits. I have no more dental plan. Any dental work I have done has to be paid out of this little amount. How does one survive on that income when I am used to \$60,000, \$70,000, \$80,000? I live and spend all that money in the NWT. Now I have nothing left to spend because I just do not have it. I can live cheaper in the South. It has been proven; I just came from rehab in the South. I saw the government send down eight or 10 guys or more and spend approximately between \$200,000 to \$300,000 which could have been spent by having rehab right here or in Inuvik or a couple of different centres. But, you could stay here. We should look at a lot more things like this. I would not mind finding out where my \$14,200 has gone. This basically means that I am contributing even more than what the employers think I am contributing.

Also, workplace safety has been brought up by committees of the NWT Construction Association and say that safety is an issue. That is fine. But a lot of times they themselves, the employers, are at fault by telling employees it is okay and not to worry about it. They say they will fix it later. I must admit that some workers may take short cuts off and on. Sure, everybody has done that in their life. Sometimes, you need to finish a job better or faster for an employer. Realistically, who needs policing; the employer or the employee? It may be a little of each. It is working together.

They also said that the government should take total responsibility for safety when, in fact, I think that if they policed it between themselves or worked together as groups or however, they could come to a solution that would work for everybody. The cost of safety has to be borne a little by the government and a little by the contractor. The fact that these fly in and fly out contractors who are skipping out on the

safety standards, maybe raise the rates. And also raise rates of contractors with poor safety records. Have a base rate, but for ones with bad safety records really raise the rates. Give them something to think about. Make them think. Save us guys the injuries by doing something like this. That responsibility should also be absorbed by the contractors, employers, or whatever way you want to put it.

I like making \$60,000 or \$70,000 bucks a year. I do not want to sit around with a little piddly \$25,000. I am not into eating wieners every night. I like the odd steak once in a while.

Personally, I fully support the NWT Council for Disabled Persons presentation and encourage the board to seriously consider the full document, including the six points in their conclusion. They brought up some real good points that I think you guys really have got to think about in depth. Yesterday, other than the injured workers mentioning it, and also the Disabled Persons mentioned it because they talked about the employee - nowhere yesterday did I hear anybody else speak for the employee. The employers spoke for themselves. We feel like numbers.

When you are through the WCB process, you do not even feel like a person. You feel used, abused. You do not know who you are, what you are, where you are going, or what tomorrow is going to bring you. Your future is total uncertainty. When you go to WCB they sometimes tell you, "Well, mortgage your house, claim bankruptcy." They tell you lots of things. Too much has not happened to me yet, and the reason probably that a lot of it has not happened yet is because I am a very outspoken person and I do not take shit from nobody. I stick up for myself. Some people who do not have the ability to stand up and speak for themselves and say something, get walked over and do not get benefits.

When I was down south, I found out from other people that, hey, WCB has no information package to tell me I am entitled to this, to this, to this. Other people dug a little deeper. So I said to myself, I am going to start digging a little deeper, which I did. WCB, probably even to this day, will not compensate me for what they should be compensating me for, for items I spent money on. So WCB should also have an information package for employees.

I do not want to take up too much of the board's time. I thank you very much for this opportunity. I just hope that maybe a lot of other people could have come up singly and brought issues up as well. Thank you very much.

**CHAIRMAN (Mr. Koe):** Thank you, Dave. I think John has a question.

**MR. TODD:** We spoke a little bit yesterday on this rehab thing, and it has kind of got me charged up. From a northern perspective, if we can move it back up, there are some cost savings. Not only that, there is the net impact to the Territories. We talked about it yesterday. In your best estimation, when you went out for rehab, what do you think the costs were for that one trip that you made? I am not trying to put you on the spot, I am just wondering about your best estimation.

**MR. THOMPSON:** Well, Mr. Chairman, I was out for approximately eight weeks, and I expect the costs would be anywhere from \$20,000 to \$23,000. If I had been out for 12 weeks, it would have been in the \$30,000 range. Not only that, after four weeks they told me that there was nothing they could do for me, but they kept me anyway, maybe just to do a little bit more exercise and feel a little better. So that was more money wasted, in my estimation. The rehab should definitely be brought up here, and the money spent here. I think rehab, even privately and separate from WCB, would be

beneficial. It is beneficial to any community whether it would be here, Smith or Inuvik, or maybe have two or three of them across the Territories. Keep the money here.

Honest to God, even when I went down south - I have been up here 25 years - I went down south and I was down there for two months, and I will tell you the culture shock, for even me, was astronomical. The board paid me \$4800 a month to be down south. When I live here, the WCB gives me \$2150 to live. They just about doubled that down south. I did not need that extra money, although thank God they gave it to me, because it helped me pay some bills I could not afford to pay before on the money I was making.

**MR. TODD:** That was the point I wanted you to make. Thank you.

**MR. THOMPSON:** Oh, well I made it. Thank you.

**CHAIRMAN (Mr. Koe):** Jim, quickly.

**MR. ANTOINE:** Thank you for your presentation. Did you use the appeal process?

**MR. THOMPSON:** No, I have not needed to use any appeal process yet, because I refuse to sit back and let somebody run me over. I probably am a little bit stronger minded than a lot of other people, and I will stick up for myself, but I also stick up for the guys behind me as well. So I am not only looking out for myself for today, I am looking out for my fellow workers later on, not only here but across the North, whether they are organized or not I am trying to help look after them as well as myself.

**MR. ANTOINE:** Just one more. Through these hearings, we hear a lot from the employers, organized labour, and different interest groups make presentations, but the main purpose of the Workers' Compensation Board is for the injured worker, to help them recover from their injuries, or if there is a fatality to take care of the family, and that sort of thing. I am wondering if the rights of injured workers are that well protected. Do you think there is a need to identify the rights of the injured workers?

**CHAIRMAN (Mr. Koe):** Dave.

**MR. THOMPSON:** Mr. Chairman, yes, there is a definite need for that. Whenever I go in and see somebody, whether it be here or down south, I obviously have been told by my doctors that I have to change professions. After 25 years of doing something that I like, and being of the temperament that I am and the personality that I am, which is quite different than other people, and maybe there are some people the same as me. We are not all the same. So I have to look at a total completely different work environment, but it is not something that I can turn around and decide that I want to do tomorrow. They are pushing me, like, "Decide what you want to do. Do you want to be an airplane pilot? Do you want to push a pencil, or do you want to be an MLA?" I do not know yet. After 25 years of doing something I really enjoy, I have to change. To change in mid-stride and decide just like that, some people can and some people cannot. To decide instantly is an impossibility. Did you guys decide to be an MLA just like that, or did you take it under consideration over a time period, or did you decide to become an MLA because over a period of time you got pissed off at something, and said, "Ah, I am going to run and do this or that." It takes time.

**CHAIRMAN (Mr. Koe):** Thank you very much, Dave, for coming forward. Jeannie wants to make a comment. Hang on.

**MRS. MARIE-JEWELL:** I just wanted to thank Dave for

advising us of some of the information that we needed in respect to rehabilitation costs in comparison to the costs as a WCB client. Mr. Chairman, it is unfortunate that there were not more individuals that were able to advise us of their processes and some of their concerns in respect to the process of WCB. I cannot emphasize too much the positive aspect of hearing these types of concerns.

I guess one point I want to make, and particularly for the record, Mr. Chairman, is the fact that these individuals, first of all, they are not used to the public process and it takes a lot out of them to be able to present themselves accordingly, particularly when there is the press and everything here. We are used to that type of environment. If you notice, in comparison to organized labour that come in with their big ten or fifteen page presentation all typed up and everything, some of the fundamental concerns are left out. This is where these people bring in the realities of life to us, and make us recognize what some of the fundamental problems are.

The other point that I want to make is, with these organized groups in Yellowknife, it is very, very frustrating at times, because they are so organized that they have the ability to get to the people, to the Ministers, to politicians, to make their point on what they want to see done, and these individuals do not. I think this is the reason it is really unfortunate that we did not have more individuals that had to go through the WCB process to bring forth their concerns to us. So I would like to thank Dave for advising us of his concerns, and the recommendations of the Council for the Disabled Persons emphasizing how important they are and something we should consider looking at when we are deliberating our recommendations. So thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Jeannie. And again, Dave, thank you very much.

**MR. THOMPSON:** Thank you.

**CHAIRMAN (Mr. Koe):** We have one more before we take a quick break. Sam Gargan has come in from Fort Providence, our resident expert on WCB for hunters and trappers. Sam, if you are prepared you are welcome to address the committee.

**Presentation By Mr. Sam Gargan, On Behalf Of Hunters And Trappers**

**MR. GARGAN:** Thank you, Mr. Chairman. I travelled to Hay River this morning, and then on to here. My plane is waiting for me at the airport as soon as my presentation is made. The only reason why I came here is that Mr. Hamilton reminded me there was a hearing on WCB, and that if I had a presentation I wanted to do, I would do it at that time.

One of the things that is in the act itself is with regard to "principally engaged." I have been working on two occasions, with two hunters and trappers that were injured on the trap line. One of the biggest problems that those people had with regard to their occupation as hunters and trappers, was their lack of being able to speak or write in English, so when things are brought to my attention - I am not saying that the adjudicators are misleading the hunters and trappers, but it would seem that it has been happening.

One of the reasons I got caught up with this whole section 10(1) of the Workers' Compensation Act is basically on the definition of "principally engaged" being defined in policy by the adjudicators. One of the definitions is that you have to make \$10,000 in order to be compensated. When I first saw a letter written to Mr. Landry, what they said is that under section 10(1) of the WCB Act, you do not qualify for compensation because you do not make over \$10,000. One

of the arguments I have used with regard to putting a number on the principally engaged is that it is contrary to what the principle of the section is. They have admitted to that. Whether or not they are still going to use the adjudicator using the \$10,000 from here on in, I am not too sure. Certainly, they are suggesting that they should not have defined it in numbers - \$10,000.

One of the arguments I have used to the WCB - and I have worked on each case for two years - is we have appealed and won most of our cases because of the principally engaged and the \$10,000 number is like asking the aboriginal people to exploit animals in order to meet a certain quota. I am suggesting that is not the Dene way - to meet a certain quota and exploiting animals. With the fur price as it is, you have to kill a lot of animals to make \$10,000. This is my argument.

The workers have won another case like for Mr. Landry. One of the things they said with regard to the definition of "principally engaged" was that they agree with me in that the policy is going against the principle of section 10(1).

The thing is that there is another area in the Workers' Compensation Act with regard to definitions. I find some problems with parents or children that are custom adopted. What happens is that it is the natural mother that gets compensation as opposed to the custom adopting parents. You might want to look at that too. You should have definitions on that. I have written a letter to Dennis Patterson to suggest that they should get rid of that policy.

Mr. Chairman, this is my presentation. I do not wish to see that hunters and trappers principally engaged, deleted from the Workers' Compensation Act itself. I wish it could be in there. The definition is too broad, but the two cases I have worked on are not similar. One, Ted Landry, is a full-time hunter and trapper. In the other case, the guy was out there and was transporting gasoline for his brother. A 45 gallon barrel rolled on him and broke his leg. He was not really a hunter or a trapper, but he was compensated. Perhaps we should be very clear on who we determine are hunters and trappers. I do not know whether hobby hunters and trappers qualify as opposed to full-time hunters and trappers.

This is one area when people in my constituency ask me for help in dealing with WCB or the adjudicator, I do it without questioning their motives. I could very well - even though I have been successful in gaining compensation for those individuals - sit back and ask whether or not this person really is a hunter or a trapper. Kathe helped me with winning some of those cases without really being too clear on the circumstances.

**CHAIRMAN (Mr. Koe):** Is optional coverage available for hobby hunters and trappers? It is like me. I like to go hunting and fishing.

**MR. GARGAN:** The Department of Renewable Resources pays the premium for hunters and trappers to the WCB. For myself, I do hunt and trap, but I do not consider myself a hunter or a trapper. I think we really have to be clear on this.

**CHAIRMAN (Mr. Koe):** Mr. Arvaluk.

**MR. ARVALUK:** Thank you, Mr. Chairman. I am probably going to get myself lost in this one, but I will do my best. First of all, in the Eastern Arctic, most of the workers are sewage truck drivers or water truck drivers, et cetera, and the wages they make cannot support a family for groceries, et cetera. Hunting supplements that income or ability to get more meat for the family. Otherwise, they would go hungry. The wages are not that low; however, the price of goods is so

much more expensive. We have a very good example in Pelly Bay where everything has to be flown in, including houses, because they do not have sealift. I think this would be like a single mother in the West that has to take evening jobs if she is not well trained in a profession. For example, if she is a waitress, that one job will not support her family. Therefore, she has to have another job in the evening to supplement her day job. We do exactly the same thing in the Eastern Arctic except we hunt on the weekend in order to supplement. I do not know if you want to call it hobby hunter; we call it a supplementary income to hunting. It is absolutely necessary. I do not know how this would be done.

My question would be, keep the WCB coverage for employees of the labour force only, but cover section 10(1) for other income earners such as hunters, outpost campers, fishermen and traditional camps; whatever is not covered under the labour code. I do not know how you, as a hunter and trapper, would see that. Do you want to see separate agencies to look after the non or self-employed or those who are not employed by an employer? I do not know how to ask that properly. Do you know what I mean?

**CHAIRMAN (Mr. Koe):** Mr. Gargan.

**MR. GARGAN:** Mr. Chairman, I am a Member, but I do quite a bit of hunting and trapping. It is like I said before; I do not consider myself a hunter and trapper as defined under the Workers' Compensation Act because I am not a full-time hunter and trapper. Just because I do that, I am one. I think the definition of "principally engaged" is so broad that it is open for abuse. What I am suggesting is that two very similar circumstances except that I would consider one of them a hunter and trapper. The other person went out there one night and was delivering gas. The 45 gallon drum dropped on his leg and broke his leg. He stayed there for 48 hours before someone finally found him. The guy was getting \$40,000 per year from WCB. There is one person that I would have to suggest is not qualified for that compensation. It is so broad.

I fight all my cases with equal force. I have pretty successful, Mr. Chairman, to date with all the claims that were made under the "principally engaged" definition. I have won all the cases either through appeals or regular correspondence.

**CHAIRMAN (Mr. Koe):** We will start calling you "lawyer." Thank you very much, Sam, for coming back to make your presentation. We will take a 10 minute break and resume at 3:15 p.m.

—SHORT RECESS

**Hon. Dennis Patterson, Minister, WCB And Mr. Bryan Roberts, Chairman, WCB**

The committee will come to order. We have with us the Hon. Dennis Patterson, Minister responsible for the Workers' Compensation Board and Bryan Roberts, chairman of the Workers' Compensation Board. When we started the session on Monday these two gentlemen appeared before us. We have been at this for a couple of days and heard presentations from a wide range of groups and individuals, respecting their interaction or experiences with the Workers' Compensation Board. Before we get into questions, do either of you gentlemen have any comments.

#### Minister's Comments

**HON. DENNIS PATTERSON:** Thank you, Mr. Chairman. We both have some brief comments but primarily I am here to hear from the committee questions and comments you wish to make to me.

I have had some opportunity to be briefed on the wide ranging and intense and thoughtful presentations that your committee has received over the last couple of days. I certainly will want to take much more time to become familiar with what was said and the dialogue that occurred with Members of your committee and yourself. But I do want to congratulate your committee for having taken this initiative to hold these hearings. I think the interest and response demonstrates that there was a need; there is a lot of concern about the many issues that were raised. And from what I understand, there has been quite a lot of effort put into submissions by people, some of whom are represented in this room.

I think that is very useful and will be very helpful to me as Minister responsible for the board and it will be helpful to the chairman and members of the board and of course I know will be carefully considered by your committee as well. So I would like to say that I look on this as an opportunity to become better informed about issues and to tackle the issues that have to be dealt with and I will consider the results of these hearings very carefully, along with your recommendations in moving to improve workers' compensation in areas that are identified.

I do understand there have been a number of submissions received from individual workers who have undoubtedly with great difficulty in some cases have conveyed their own very difficult pressing personal circumstances and the frustrations that they have experienced with being unable to work and on occasions with the policies or even the personnel they have had to deal with in the Workers' Compensation Board. I think it is appropriate that I ask Mr. Roberts to comment briefly on some of those issues, since he is more directly responsible for those aspects of the operation of the board.

Mr. Chairman, there was an issue raised and a sharp discussion on the role of the Minister in Workers' Compensation matters. I have had a chance to reflect a bit on those discussions since Monday. I would like to state that my own personal philosophy that quite apart from the legal constraints that may limit the power of a Minister to get involved with Workers' Compensation Board matters and those legal limits undoubtedly should be reviewed, but quite apart from those legal and jurisdictional issues that lawyers will provide advice on, my own personal philosophy is that open communications between the board and the Minister responsible and communications of the kind that have occurred through your committee this week, are probably the very best way of dealing with concerns and issues and problems, so as to avoid confrontations which I know have occurred in the past.

I have looked at the Financial Administration Act, the Legislative Assembly and Executive Council Act, at the Workers' Compensation Board Act, and I do believe there are some tools that the Minister can use, even without changes to any of those pieces of legislation.

For example, the Financial Administration Act, sections 91 and 92 require that every territorial corporation including the Workers' Compensation Board, file a corporate plan and annual operation budget for the approval of the Minister each year. That appears to be a tool that could be used. I believe that it may not have been used in the past. It may be a provision that your committee may want to examine or you may want to recommend be examined in a legislative review as to its usefulness. But there are provisions that would seem to give the Minister some powers and of course the power of appointment and the fact that the chairman and members of the board are appointments at pleasure. I think this is quite clear from the Workers' Compensation Act, would also be powers available to a Minister who may want to have a

change in the approach taken by this board.

There are constraints on the power of the Minister as laid out in the Workers' Compensation Act itself, particular sections 78(5), which makes this position of funds in the accident fund something within the exclusive jurisdiction of the board.

As I say, Mr. Chairman, I do not want to get into that question in detail today, except to note that it is obviously a strong concern of your committee. I think it is something that should be reviewed. Perhaps the legislation is not as clear as it might be and undoubtedly there are some ambiguities that should be looked at. But I do believe, and I will say it again, that this kind of communication that is under way here through your committee should be taking place on a regular and open basis between the Minister and the person of the board and for that matter, between the Minister and Members of the Legislature, is probably the best way of tackling issues of concern and problems and avoiding confrontation.

So in closing I would repeat again that my impression of the submissions and discussions that have gone on this week is that your committee should be commended for initiating this process. I am not sure where it is going to lead, but I do look forward to working with you to implement and act on your recommendations and deal with the issues of public concern that have been so clearly raised in the course of the hearings so far this week.

I am available for questions or to hear any comments you might have, but I would ask Mr. Roberts to address some of the specific issues relating to the issue of sensitivity and the way the board deals with workers and their claims. Thank you.

**CHAIRMAN (Mr. Koe):** Thank you, Mr. Patterson. Mr. Roberts.

#### Board Chairman's Comments

**MR. ROBERTS:** Thank you, Mr. Chairman. Firstly on behalf of the board I would also like to express our welcome of this review. I thank you and the Members of your committee of affording us the opportunity to appear before you. We certainly look forward to your recommendations.

We have listened very closely to the concerns and recommendations of all those who have appeared before you and who have communicated with you by telephone and we certainly thank them for their efforts. There is one area of great concern to myself and members of the board, is the issue of the insensitivity of staff. I know every one of those people over there, they work in very difficult situations, they are working with people who have been traumatized and who are having an awful problem. Actually I have never seen a more caring staff for a number of years there.

In listening to a number of the concerns that were expressed and in reference to the insensitivity involved, I found that much of it dealt with more of an insensitive policy, provisions of an act that is outdated and does not meet the requirements and the needs of the injured workers. I think this got turned into the fact that our staff are insensitive and that simply is not fact.

There is no doubt that with some of the policies they have to enforce, some of the provisions of the act that they have to carry out, they have to make some very difficult decisions in not granting things from time and time and they do not enjoy that part of their job.

We listened to a number of workers last evening. I certainly appreciate their concerns, do not get me wrong on that, but

just with the type of cases that they were stating and raising concerns about, it seemed quite consistent. I am not sure what the process was in establishing those contacts, I was wondering if the committee could give us some direction on how that was done. We could certainly provide a random selection of names for you at any time.

I would also like to draw your attention to the Kellogg report which was an independent client service audit that was done by the firm and it shows again that we have to make improvements, you know you always have to improve your system, but it shows that the client service component of the Workers' Compensation Board was very good. So again I believe and I sincerely hope that this insensitivity that has been referred to, has been clarified that it is insensitive policy and problems with the legislation. We have some very dedicated staff there and it is very unfair for them to sit and get that type of criticism, which we do not think is fact.

As a point of interest, I would like to give you some figures on claims for 1990 and 1991 and we have copies of the sheet here for your records. In 1990 there was 3498 filed with the board. Fifty-two of these cases went to the review committee, which is the first avenue of appeal. From those 52, eight went on to the appeals tribunal. The workers' advisor stated she has worked the following number of hours helping injured workers and for 1990 it was 1100 hours.

In 1991 there was 3457 claims filed. Fifty-eight of those claims went to the review committee requesting a review of the adjudicators initial decisions. From those 58, six cases were heard by the appeals tribunal. The workers' advisor spent 1400 in 1991 assisting workers with their problems with the compensation board. This information is available and we will have it for you.

We certainly realize we have improvements to make and we are certainly willing and prepared and will be implementing some changes that will help that. Some of the situation is with policy, some is with the physical layout of the building which I do believe causes some concerns to injured workers coming in. In those situations where the board of directors have the authority to improve the system, they will.

A closing comment on this. We believe that the outdated legislation, which I think we all agree does not meet the needs and requirements of the injured workers, and this contributes to a high level of frustration and dissatisfaction with the system and I think tends to bring on this insensitivity, it is not because they are not being dealt with properly by the staff but are just totally frustrated with the system.

I thank you very much for the opportunity to speak to you.

**CHAIRMAN (Mr. Koe):** On behalf of the committee I would like to thank both of you and your respective staff. Every since we scheduled this review the staff have been very cooperative and information has been given to us, a fair exchange of information. So on behalf of the committee and our staff I would like to thank you gentlemen. The floor is open. Mr. Dent.

#### Review Of Workers' Compensation Act

**MR. DENT:** Thank you, Mr. Chairman. During the past few days one of the most comment recurrent themes from almost every presentation has been a concern that the act is perhaps outdated in some areas and has led to problems with policy. I know the reviews earlier, 1986 and 1989 recommended that periodic reviews be conducted. Has the Minister given any thought to a process to review the act and can he let us know what his plans might be in that area?

**CHAIRMAN (Mr. Koe):** Mr. Patterson.

**HON. DENNIS PATTERSON:** Thank you, Mr. Chairman. I certainly have given some thought to a legislative review and I have had discussions with the Workers' Compensation Board about that issue. As I said on Monday, I felt that knowing your work was going to focus on the board, it might be premature to actually initiate anything until we hear your recommendations, which might touch on how a legislative review should be done. But I can tell you what we have discussed so far.

Firstly, of all the board has agreed that they will largely underwrite the costs of such a review. They feel it is appropriate and something that could be underwritten by the board.

Secondly, our discussions have centred on the need to have an independent chairperson of such a review and indeed a process that is independent, even though it might be funded through the Workers' Compensation Board.

Thirdly, the review should represent – the people doing the review should be reflective of the interests concerned with the WCB and obviously starting with the employers and workers.

So those are basic principles that would govern this review. I think that we should take a close look at the process that was recently followed in the Yukon. I was quite impressed with the fact that a neighbouring jurisdiction with a somewhat similar situation, although not identical to ours, has just done a legislative review, that by all accounts, has met the expectations of all the stakeholders. And if you can get both labour and employers agreeing that a process and an end result is more or less satisfactory, then you have a process that is worthwhile examining.

One thing about the Yukon process that appealed to me was that a lot of the support to the review committee was actually provided by the Workers' Compensation Board itself. So by asking the board and its staff to undertake research and to provide information to the independent review committee, you had a way of plugging the existing board staff corporate memory into the process and giving them some sense of ownership if not participation in the process. That feature as well struck me as being worth considering.

I should say that the Minister of the Yukon and the chairperson and the staff of that board have offered to provide assistance to us or advice to us, should we wish to undertake such a review or take advantage of their experience.

So I think that is as far as I can go right now. But I will assure you that since I think many submissions are pointing to a need for a legislative review, we should be prepared to initiate this quite urgently. The one point I would make is that there may be some matters that should be dealt with in advance of a legislative review and your committee may wish to make some recommendations on that. One that I know is a concern of many people and many Members and undoubtedly your committee, is the issue of the YMIR. That matter could be dealt with in advance of a review. I am not suggesting every change has to be held up while we do a review that realistically will not produce results for some months. So with that qualifier I would like to say that I am ready to respond and get something under way, especially if your committee may recommend it.

**CHAIRMAN (Mr. Koe):** Charles.

**Increase in YMIR**

**MR. DENT:** Thank you, Mr. Chairman. I am heartened to

hear that the Minister does not feel it is necessary to prolong the consideration of an increase to the YMIR. We did not have one presentation that suggested it should not be raised. Some presentations were silent on it, but by far the largest number did suggest that it should be raised.

The range for suggested increases was all the way up to no cap. I was just wondering if the Minister has given any thought to how we could move forward with coming up with an acceptable figure for an increase in the YMIR so that we can deal with it at the next session of the House or is he expecting this committee to try and come up with the process?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, no, I would not expect your committee to come up with detailed recommendations on that issue. My view is that because there are fairly complicated calculations involved in increasing the YMIR and it has to do with the adequacy of the accident fund to bear the increased costs and the actuarial advice. The appropriate route is to seek advice from the Workers' Compensation Board itself on that issue and I can tell you that considerable work has been done on that issue. And then as I see it, I will take their recommendations to cabinet and then proceed with the usual process through legislation.

If your committee believes that this is a matter of urgency then perhaps your recommendations could assist speedy consideration of this in the Legislature, since the normal legislative process can slow things down. Thank you.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** You stated that there is a provision in the WCB Act that the WCB shall submit a report to the Minister and apparently it has not been done and it should be done. I thought in the law the difference between "should" and "shall," I thought that when it says "shall" I thought it has to be done. Why is it not being done?

**CHAIRMAN (Mr. Koe):** I believe you may be confusing two acts, the Financial Administration Act which the Minister quoted today versus the Workers' Compensation Act. If the Minister wants to respond.

**HON. DENNIS PATTERSON:** Thank you, Mr. Chairman. It is sections 91 and 92 of the Financial Administration Act and I think the Member is correct, it is mandatory and something that should be done. Your committee may be interested to find out how many corporations meet that section because I believe it applies to every territorial corporation. As I said, since we talked on Monday I have learned that at least last year such a corporate plan and annual operating budget – well I should say since my time anyway – such a corporate plan and annual operating budget has not been submitted for my approval. I have talked with Mr. Roberts to make sure that situation now changes. But it is the Financial Administration Act.

**CHAIRMAN (Mr. Koe):** James.

**Workload Of Workers' Advisor**

**MR. ARVALUK:** Thank you for clarifying that, hopefully it will be abided by. My next question is to Mr. Roberts. When they passed the client statistics 1990-91, I am shocked that the workers' advisor has stated she has worked the following hours, 1100 in 1990 and 1400 in 1991. A normal week of approximately 50 hours a year. The WCB has the claims personnel that they deal with. Why is the workers' advisor having to work 68 per cent of those claimants when they have

their own claims officers? What went wrong? To me it is high?

**CHAIRMAN (Mr. Koe):** Bryan.

**MR. ROBERTS:** Thank you, Mr. Chairman. I do not have the breakdown of all the work that was done. The assistance provided by the workers' advisor is for workers having problems getting their claim through the system or requiring different information or requiring assistance to get their case ready to appear before the review committee or the appeals tribunal. Some of these cases are very complicated and it takes quite a while to get the information and get it explained to the worker so they understand exactly where they are.

**CHAIRMAN (Mr. Koe):** James.

**MR. ARVALUK:** Thank you, Mr. Chairman. Would you consider reviewing your operation, since these claimants require a lot of time of the workers' advisor anyway, that you would amalgamate or restructure so the claims officer from WCB works in the same way - I do not know how you categorize it - what I am understanding is that the claims officer does the paper work according to the application, but when there is a problem then the workers' advisor then has to go into something that the claims officer cannot help the claimant to do, which is more complicated and quite similar to that of the psychologist or comforter or social worker type of approach. If 68 per cent of the claimants are having a hard time to the point where they have to go to the workers' advisor, then there is something wrong somewhere with the process. Are you going to look into whether somehow that reflects more on the claimants rather than on the administration or bureaucracy of the WCB claims procedure?

**CHAIRMAN (Mr. Koe):** Mr. Roberts.

**MR. ROBERTS:** Thank you Mr. Chairman. Firstly I would like to point out that it is not 68 per cent of the claims that require the work done on them. For 1990, for the total of claims under review and appeal, there were 60 claims; and the workers' advisor has to go through all of the records, and their job there is to ensure that there were no errors made and to ensure that the injured worker receives assistance for which to go on with their appeal. We have noted the recommendation of the workers' advisor for better access to the files and the adjudicators, and this will certainly help speed up the process.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** Mr. Patterson. All this week we have heard different sides of the equation expressing their opinions. One side all within the same room when they wrote their proposals, and the other side were all within the same room when they wrote their proposals. They are all claiming to be accountable. Who, in your opinion, is ultimately accountable for the Workers' Compensation Board? Who has to take the final decision on the Workers' Compensation Board?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Well, the Minister responsible, and ultimately, the Legislative Assembly.

**CHAIRMAN (Mr. Koe):** Mr. Todd.

**MR. TODD:** Good. Thank you. Good. Then we should be telling a few people that. We are ultimately accountable for the WCB, the elected representatives of the Northwest Territories. That is the first thing.

### Act Versus Policy

I wonder if I can address my comment to Mr. Roberts. Maybe you have actually hit on the source of the insensitivity. You could be right. I wonder if you could elaborate a little more. I mean, does the act contradict policy? I had written here two days ago, "Act versus policy." Whenever we have talked about insensitivity, I just wrote it in the corner of my paper. I thought, well, if we are just literally translating the act, then maybe that is what is causing the problems in the ability for us to respond to an injured worker. Maybe, in fact, it is not a human fault problem, as I had thought it was. In fact, it is an act and policy problem. Could you give me a little more detail on it? Give me some examples of where that is affecting some of the decisions and some of the cries for help that we have heard this last five or six days?

**CHAIRMAN (Mr. Koe):** Mr. Roberts.

**MR. ROBERTS:** Thank you Mr. Chairman. I had probably better try to illustrate this with examples, if I could. Our current benefits are based on \$40,000 per year, and we have many, many injured workers who are earning substantially more than that. They cannot understand why they cannot be compensated for their loss of earning. This sets up a very frustrating situation between them and their workers.

The funeral expenses is another example. It is based on a percentage of \$40,000. It is right in the act. The current situation just does not even close to help paying for the average funeral. And when you are dealing with people like that, it is very difficult to give a rational answer as to why the benefit is so low. People are under a tremendous amount of pressure in those situations. That is some of it.

You can go through a number of different things in the act which I think were quite fine in 1977, but they do not address the issues of 1990. And the board must operate within the act and do their policies within it. So you try to go as far as you can with the policy...

**CHAIRMAN (Mr. Koe):** So then when something is not working, you create a new policy or change a policy to make it work?

**MR. ROBERTS:** We try to get as far with the policy as we can, of course, but there are just certain things where the board has some discretion. Then they can do that. There are other situations in the act that do not allow discretion, such as the benefits, the funeral, transportation of the body, et cetera. The provision of clothing for people who have to wear prosthetic appliances is in there at \$100. You really cannot get too much for \$100 today.

**CHAIRMAN (Mr. Koe):** Just to follow up on that issue, are those costs indexed? Funeral costs, or prosthetics, or clothing?

**MR. ROBERTS:** No, sir. They are not.

**CHAIRMAN (Mr. Koe):** John.

### Workers' Advisor

**MR. TODD:** You know, in the presentations that were made to us - and it is unfortunate, you were not here the other night when we heard these guys on the phone. I just simply cannot believe that they are all lying. I just do not believe it. Some of them have to be telling the truth. And on that assumption, I heard this sort of cry for help, and the only help that they have really got, rightly or wrongly, or they viewed, was the workers' advisor. That seemed to be a real serious instrument of communication. And I am wondering. There

are some rumours afoot – I missed the first day – or somebody said something about the fact that the workers' advisor may be linked into a government department or be part of a new ombudsman, et cetera. I wonder, Mr. Patterson, what your views are on this worker advisor that WCB has now had for the last two years.

**HON. DENNIS PATTERSON:** Thank you Mr. Chairman. First of all, I think the workers' advisor is essential. I think that one of the obvious changes required in the legislation is that this position should be recognized and given statutory protection and recognition. As I understand it, because the act does not provide for a workers' advisor, there have been some frustrations of the kind Mr. Roberts has outlined. I think Ms. Pagonis referred to them in her presentation. She has to get certain authorizations to get into a file directly from the worker; there are time and geographical barriers to doing that. When I asked the board about that, they said that it was because of provisions of confidentiality in the act which never contemplated a workers' advisor. So for reasons like that, the position should be put in the act and recognized.

Finally, I would comment about rumours of changes, and the like. Because the workers' advisor position really is an ad hoc arrangement now, created by, I think you could say, a policy of the Workers' Compensation Board, this individual is basically working, as I understand it, presently on a month-to-month contractual basis, with no real security; with no benefits of the kind that are normally available to government employees; and housed in an office which, although it is independent from the board and the government, is kind of a lone office without much support. When she is away, the answering machine is all that is there. When she is on holidays, there is no back-up. There are all kinds of – I do not even know where she gets her typing done. There are all kinds of problems of that nature.

I had asked the Workers' Compensation Board to look at the workers' advisor position because of my concern and, I believe, the incumbent's concern about some of these unsatisfactory arrangements that are now in place. I have received some recommendations from the board, and I am still evaluating them. But one of the things I can say here now that I want to see done is I believe that position should be established as a permanent position, even in advance of changes to the legislation. I think it can be classified and established as an indeterminate government position so that the individual can have more security than in the present, very ad hoc arrangement.

It also seems to me – and this observation was made by the board in looking at that position – that without compromising the independence of the office, it may be easier on that individual if they can be physically located in a department of the government so that support systems in the way of telephone answering service, secretarial back-up, and even collegiality, maybe, could be provided, so that the person is not completely isolated.

But I want to assure the board that if we look at that option – and I have not taken a final decision on that – but if we look at that option, the arrangements will in no way be designed to impair the independence of the workers' advisor. The reporting relationship will remain with the Minister and to the Minister, and if there is an arrangement made to establish the office within a department, it will only be for logistical purposes and not in any way to compromise that independence.

So I hope that answers the Member's question, that yes, some consideration is being given to changes of that nature, but the integrity of the office and its mandate and its importance will not be compromised. Thank you.

**CHAIRMAN (Mr. Koe):** John.

#### Representation On The Board

**MR. TODD:** One bone of contention, as they would say, by all groups, particularly the contributing group – that is the employers' organizations – was on board appointments. And they were quite clear that we were to make sure that we had highly dedicated, highly competent people. And I asked them the question, what do they see, what kind of expertise do they see sitting on this board? I did not get an answer. I wonder how you feel about your definition of what kind of representation we should have on the territorial Workers' Compensation Board.

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**MR. TODD:** I am getting angry now, because I just read the NWT Chamber of Commerce's crap that we got.

**HON. DENNIS PATTERSON:** Thank you Mr. Chairman. Well, I think there is no question that so-called "stakeholders" – and I do not really like that word any more; it gets used so much, but – the obvious interests of workers who suffer accidents and the consequences and employers who contribute to the accident fund, obviously you have got to have a balanced representation of those so-called stakeholders. But I also believe that the board should try as well to represent the people of the Northwest Territories. It should, wherever possible, be reflective of the geographical, human diversity of the Territories – gender, representation of the sexes. So it has to be much more than representing the persons with a stake in the operation of the board. You can have that, but you can also reflect the territory at the same time. So, for example, I think it is very important that people on the board be northern residents, have northern experience; if they are representing employers and workers, have experience in as broad a range of activities as possible.

While I do believe the board's work is complicated, that it is one of our most complex boards, I think there are actuaries and lawyers and professionals who can provide advice to the chairman of the board. So we do not necessarily have to have actuaries sitting on the board to take advantage of sound actuarial advice. Thank you.

**CHAIRMAN (Mr. Koe):** John.

#### Fiscal Responsibility For Safety

**MR. TODD:** I am glad to hear you say that, Mr. Patterson, because the other four organizations, I think, do not think that way. Anyway. The issue, particularly with the organized labour, and understandably so, on safety and what they view and, I suspect, why we saw an increase in terms of the kinds of injured workers, et cetera, and the lack of the policing component to it – it is my understanding that they are advocating that this come under the Workers' Compensation Board. At least, that is what they imply in these proposals they are making. How are we going to pay for this, if that takes place? Where is the money going to come from? Who is going to be fiscally responsible if cabinet and the government decides to move the safety, fire, elevator guys, et cetera, over to the Workers' Compensation Board? Who is going to be fiscally responsible?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, that, as Mr. Ballantyne used to say, that is a very good question. I am not trying to dodge it, but to me that is one of the fundamental questions that should be examined in a broader review that might be recommended and a review of the legislation. I tried



to say on Monday that I think there are two approached that can be taken. There are pros and cons with each.

Mr. Todd has raised a concern about costs. I guess as the Minister of a department that is suffering restraint along with other departments, as I said on Monday, if costs in the safety area can be borne by the board, then this may be an advantage to the government. Obviously, people who pay for the consequences of accidents have an interest in investing in safety. So that makes some sense. On the other hand, I think it has also been pointed out to your committee that there may possibly be some inherent conflicts in having the insurers also be the policemen, as I think one person submitting put it.

I have not made up my mind on this question, Mr. Chairman. I will be direct with the Member. Right now, we have a compromise. We have aspects of safety education under the responsibility for the WCB. The inspection side of it remains with my Department of Safety and Public Services. My philosophy, as I said earlier, has been to at least ensure that these two activities are done consistently and co-operatively as much as possible. Where we go from here, I have no clear ideas. I think it is a complicated question. There are many factors. There is experience in other jurisdictions that we may want to look at. I believe in Yukon they have gone the direction of all under the board. As I said, Yukon has just undergone a major overhaul of the act and structure of the board. It may well be helpful for us to take advantage of that work. I cannot answer the Member's question today. I have not considered all the arguments. It is a question we will have to face but, today, I have no quick fixes to offer on that point, Mr. Chairman.

**CHAIRMAN (Mr. Koe):** Point, John. You refer a couple of times to a review in Yukon. My understanding is that the review in Yukon was an initiative by the Minister responsible. It was directly driven by that Minister. I guess, as Minister responsible here, are you willing to take that type of leadership and direct this review of safety and education enforcement?

**HON. DENNIS PATTERSON:** The short answer, Mr. Chairman, is, "yes." I do welcome the advice of your committee on these matters. Frankly, I am awaiting the advice of your committee before undertaking major initiatives of that kind. Clearly, a legislative review is a major issue that should be dealt with. You may also recommend that there are other matters such as occupational health and safety that should logically be looked at alongside or at the same time as the legislative review. Thank you.

**CHAIRMAN (Mr. Koe):** Remember, legislative review is only one component of the whole system that we are dealing with. Obviously, the problem is that somebody has to be responsible and take control and say, as Mr. Evoy mentioned, "Do it." That is my point. John.

**MR. TODD:** For the record, I did not talk about cost. I talked about fiscal responsibility. I asked, "Who was going to pay the price?" I was not talking about how much it was going to cost. Is this trend or this train of thought with respect to safety and everything going under WCB being discussed with cabinet as it relates to Strength at Two Levels? Would there be ways and means of saving, theoretically, this government money? And, if I may, has any discussion taken place with the business community on this issue. You are obviously in a discussion, Mr. Patterson. This is not a new idea. It is an old idea. It is on the agenda again. Has there been any discussion on this issue with the stakeholders who pay the bill?

**CHAIRMAN (Mr. Koe):** Mr. Minister.

**HON. DENNIS PATTERSON:** Mr. Chairman, to answer the first question, yes, there has been discussion at cabinet. I do not want to give the impression that the decision has been taken, but there has been discussion of that issue. I also have had discussions with the employers' counsel on workers' compensation on that issue.

To answer Mr. Todd's question about whether I think it is appropriate that I discuss this with stakeholders, yes, it is absolutely appropriate. I am suggesting that this is a matter that should be reviewed. If it is reviewed, it should be done in a manner that will allow public input so that we get the best possible advice on how to deal with the issue. Thank you.

**CHAIRMAN (Mr. Koe):** Do any other Members have comments or questions? Jeannie.

**MRS. MARIE-JEWELL:** Mr. Chairman, I believe we have heard many recommendations and concerns expressed over the past few days. I do not feel it is our - right now to question the Minister accordingly with respect to what we want to see done. It is now our responsibility for formulate and consolidate those recommendations and present them to the Legislative Assembly. Thank you.

**CHAIRMAN (Mr. Koe):** Shall we report progress, then? Jim.

#### Political Interference With Operation Of The Board

**MR. ANTOINE:** Thank you, Mr. Chairman. Mr. Patterson, we heard from a group called the NECWC, Northern Employers' Council on Workers' Compensation. In their presentation, they said they met with you. I know there is a lot of discussion about the employers saying they have a big stake in the WCB because they contribute a lot of money to it so they have an interest in it. They said they are happy to report that they have met with you and that they have begun a process of providing informed input into the WCB process. They talk about no political interference. I am wondering if you can explain that to me. Thank you.

**CHAIRMAN (Mr. Koe):** Mr. Patterson.

**HON. DENNIS PATTERSON:** Mr. Chairman, the group met with the politicians. They tell me, among other things, that they do not want to see the politicians interfering unduly with the operations of the board. This group was formed quite recently as a result of the attention being paid to workers' compensation issues by the new Legislature. I think, as well, the Injured, Disabled and Discarded Workers group was formed as a result of strong concerns as well. My feeling is that, as Minister responsible, I should make myself accessible to such groups as they request meetings. I think I should be open to receiving advice. It does not mean I have to take the advice, but my feeling was that I should be accessible to such groups. There is obviously a lot of frustration and concern. In some cases, it is possible to provide information which alleviates concerns through these meetings. I have only met with them once.

I feel that primary contacts would be the NWT Chamber of Commerce, the Construction Association, the Chamber of Mines and, as well, organized labour. I feel that as long as it is made clear that I am simply considering representations, there is no reason why I should not keep my doors as open as possible. That is what I did. Thank you.

**CHAIRMAN (Mr. Koe):** Any other comments? Do either of you gentlemen have any closing remarks you wish to make?

**HON. DENNIS PATTERSON:** Mr. Chairman, I will just make one comment about process. I would ask that if your

committee, in its deliberations on the results of this week, has recommendations that you feel are urgent, I would be grateful to hear them as soon as possible perhaps through yourself, orally or otherwise, in advance of a public report. I think that if you are expecting some action prior to the next session of the Legislature, I would appreciate getting early notice on the areas that are considered priorities. I ask that the committee consider, even informally, an arrangement of that kind. Having said that, I will just say that I look forward to your recommendations, and I look forward to continuing to work with your committee to improve the workers' compensation system in the NWT. Thank you.

#### Chairman's Closing Remarks

**CHAIRMAN (Mr. Koe):** I think throughout the last couple of days there were certain very key focal points and key issues that were raised. In some cases, notice was given that Members will be pursuing certain recommendations. I think those were adequately discussed. I, as Chair, because we are a committee, we will take direction from the group and I will act on that advice and direction. I thank both gentlemen very much for coming. I wish you well and, hopefully, if we do come up with recommendations, that we act expeditiously in the best interests of the people that we represent. Thank you.

For committee and public, I can say this is the last of the people to respond to our request to appear before us. Advertisements were put out to the press through press releases asking people if they were interested in making a presentation to us to please come forward. The people that have made submissions, either in person, in writing or by telephone, were the ones that responded to our advertising. That is how people got on the list. We phoned Sam because he was interested in certain issues. I make a plea now that if there are any members of the public who wish to make a statement may do so now. We have a few minutes. The opportunity is available. We are not a closed shop here. Is there anybody else that has not registered who wishes to make a statement?

Okay, if not, then as chairman of the committee, as I mentioned, this ends our public session of this committee. I would like to again thank all of the people who made presentations to us, in whatever form they did. We have a fair stack of information, or written material, and then what we heard verbally, that we will be considering. The committee's work is not done, because tomorrow and on Friday we will be going in camera, sorting all the information we have out, and the process now is to - again, I assume we will be, it is part of the formal process of committees to make a report to the Legislative Assembly. So we will be targeting some kind of report for this June session.

More than likely, after deliberations this week, there will be certain other aspects of this review that we have to look at more in depth. One is the legislation. That obviously is going to take considerably longer than a month. So that is probably something that will be done over this summer, which means that probably there will be a more in-depth report in September. But those are things that we have to discuss.

So again, on behalf of the committee, I thank all the members of the public for being here, for participating, and the information that we receive is fruitful. A lot of thought and a lot of preparation went into the submissions. We will consider all the material very carefully and, hopefully, come up with some good recommendations. Thank you very much.

For committee Members, we will resume tomorrow at 9:00 a.m.

—ADJOURNMENT







