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STANDING COMMITTEE ON LAW & JUSTICE

PROCEEDINGS OF THE PUBLIC SEMINAR ON

WORKPLACE SAFETY

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Terms of Reference

That the Standing Committee on Law and Justice inquire into and report on workplace safety matters, with particular reference to:

- a) integrating management systems and risk management approaches aimed at reducing death and injury in the workplace;
- b) social and economic costs to the community of death and injury in the workplace; and
- c) the development of an appropriate legislative framework for regulatory reform and/or codes of practice in relation to occupational, health and safety in the workplace.

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Committee Membership

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Chairman's Foreword

There can be very few inquiries which are as important as one into workplace safety. More people die as a result of workplace accidents and occupational illness than are killed on the roads. The Committee is determined to see significant and long lasting improvements in the safety of the State's workers.

The public seminar held at Parliament House on Tuesday 18 February 1997 was the first step in the Committee's inquiry. The seminar enabled representatives of Government, business, the union movement, victims of workplace accidents and academic experts in the field of occupational health and safety, to clearly state what they see as the issues which need to be addressed by the Committee during the course of the inquiry.

The Committee will shortly be calling for public submissions to this inquiry. It is intended that this report will provoke discussion and assist individuals and organisations in the preparation of their submissions. The Committee will then be conducting public hearings and undertaking visits to a range of work places throughout the State.

On behalf of the Committee, I would like to thank all those who contributed to the success of the seminar: that is, all those who spoke and all those who listened. I look forward to the contribution they will make to this important inquiry.

HON. BRYAN VAUGHAN MLC
CHAIRMAN

WELCOME AND OPENING REMARKS

THE HON BRYAN VAUGHAN, MLC
CHAIRMAN
STANDING COMMITTEE ON LAW AND JUSTICE

CHAIRMAN: Good morning, ladies and gentlemen. My name is Bryan Vaughan. I am Chairman of the Law and Justice Committee. The task of the Committee is to conduct an inquiry into workplace safety. The inquiry will be carried out in the context of vast and growing concern in Australia about the nation's poor workplace safety record—and poor it is. The idea that workplace safety in Australia must be improved is here and it is unstoppable, we believe. The object of the Committee is that the result of its inquiry will see in place practical, intelligent and effective reforms aimed at fully realising the idea of improved workplace safety. The seminar today is intended to provide an opportunity for those with an interest in the issue to state very clearly and publicly at the start of the inquiry what they see as the key issues that have to be examined.

The Committee will publish the transcript of today's seminar within the next several weeks and everyone attending here today will receive a copy of the transcript. This should act as a discussion starter for the inquiry. Following the publication of the transcript, the Committee will advertise for public submissions, and will hold public hearings throughout the second half of this year. I would like to emphasise a few points in relation to submissions. The terms of reference for the inquiry are broad and will enable the Committee to consider legal, social and economic issues which are fundamental to the improvement of workplace safety in this State, and indeed in Australia.

The Committee is undoubtedly interested in individual stories which may point to the strengths or weaknesses in the current systems for the management of workplace safety. However, the Committee is not a grievance resolution body, and has no power to resolve individual cases. Further, as a general rule written submissions to the Committee will be public documents and published as such. While submissions are protected by parliamentary privilege, which of course protects the author primarily against liability for defamation, if a particular submission contains sensitive or confidential material it is important that the Committee is notified of this, and the particular submission or parts of that submission can, upon request, remain confidential to the Committee.

Today we have 19 guest speakers with a broad range of perspectives on the issue of workplace safety. You will no doubt have read the Committee's terms of reference for this inquiry, which will enable it to inquire generally into workplace safety matters. The particular terms of reference also direct the Committee to consider the following issues: first the integration of management systems and risk management approaches aimed at reducing death and injury in the workplace; second, the social and economic cost to the community of death and injury in the workplace; and third, the development of an appropriate legislative framework for regulatory reform and/or

codes of practice in relation to occupational health and safety.

The Committee understands that this inquiry will be complex and may at times reveal shocking details about current practices in relation to the implementation of occupational health and safety standards. The Committee also understands that certain corporations and organisations in Australia are leading the international field in best practice workplace safety management. The Committee will be keen to hear about both the failures and successes in workplace safety management and the reasons, real or perceived, for such outcomes. Further, the inquiry will involve a range of interests. Therefore, we would hope for the full cooperation of all parties involved in this inquiry over the coming months. I notify everyone here today that the focus of the Committee's work on this reference will squarely be on the pursuit of information and ideas that will result in the saving of lives and the prevention of physical and mental injury in the workplace.

PROFESSOR RON McCALLUM

BLAKE DAWSON WALDRON
PROFESSOR OF INDUSTRIAL LAW
FACULTY OF LAW
THE UNIVERSITY OF SYDNEY

"Reflections on the role of the Panel which reviewed the OH&S Act 1983"

HON BRYAN VAUGHAN: May I now introduce the first speaker of the day, Professor Ron McCallum. He is the Blake Dawson Waldron Professor of Industrial Law, Faculty of Law University of Sydney. Professor McCallum is an eminent academic with practical experience of industrial relations dispute resolution, both in the State and Federal jurisdictions. Professor McCallum has lectured extensively in industrial law in Melbourne and Sydney and at leading law schools in the United States and Canada.

He has a special interest in comparative industrial relations law and is among 16 specialists from around the world who have been selected by the American National Academy of Arbitrators to report upon global and national changes in industrial law.

In particular, many of you will know Professor McCallum as the Chair of the panel of review appointed in 1996 by the Attorney General of this State, and Minister for industrial Relations, the Hon. Jeff Shaw. His job then was to conduct an independent review of the New South Wales *Occupational Health and Safety Act 1983*. Would you welcome Professor McCallum.

PROFESSOR RON MCCALLUM: Mr Vaughan, Mr Nile, other members of the Standing Committee on Law and Justice, parliamentary staff, ladies and gentlemen, friends. My brief talk this morning consists of some reflections on the panel of review which inquired into the *Occupational Health and Safety Act 1983*.

Workplace death is a serious and important matter, and I am delighted to have played a small part in helping this inquiry get going, by providing it with a legal brief, and I am delighted to be here today after Mr Vaughan, opening this seminar of some 19 speakers. I thank you all despite your busy lives for coming.

On 5 July 1996, the Premier announced, with the concurrence of the Legislative Council, that the Standing Committee on Law and Justice would hold an inquiry into workplace death. Mr Vaughan has read out to you the terms of reference of that inquiry, which I believe you have in your information material.

At the same time the Attorney General, and Minister for Industrial Relations, the Hon JW Shaw QC, announced that he was establishing a panel of review to inquire into the *Occupational Health and Safety Act 1983*. He did me the great honour of asking me to chair this panel of review.

Let me put my cards on the table straight away. As a disabled person who was disabled several hours after my birth, I am more fully aware than are most from first-hand experience of the suffering and dismay which disability causes to families, and especially to women, who, in our society, pick up the pieces. Although I have not suffered, like very many of the injured, from work injuries and diseases, the limitations of my body daily remind me of the less than full place which disabled people have and can have in our society. Just crossing the road on my part has an element of guess work and chance. Disablement, I can say, is no joke when you live with it day after day—and I have not suffered work injuries or death. So it was a great honour to play a very small part.

The panel of review had rather narrow terms of reference, as befitted its role. Our task as I perceived it from discussions with the Attorney General and also from very helpful discussions with Mr Vaughan, Mr Nile and other members of the Standing Committee several months ago, was, if you like, to provide a legal brief on the *Occupational Health and Safety Act 1983*. It was our task to forward it to the Minister for his subsequent transmission to the standing committee and thence to the public at large. Some of you may not be familiar with the terms of reference. Let me please read them. We were asked:

to consider and report to the Minister for Industrial Relations on:

- (a) the validity of criticisms of the *Occupational Health and Safety Act 1983* in terms of its objects;
- (b) provisions of the Act which could be improved to better facilitate achievement of the objects of the Act; and
- (c) elimination of any complexities within the Act.

As you can see, we were really asked to examine the *Occupational Health and Safety Act* to see how it could be modernised, how it could play its legal role in eliminating and redressing workplace injuries and accidents. We were not asked to examine in any great detail the associated legislation such as the *Factories, Shops and Industries Act 1962*, nor to discuss, again in any detail, codes of practice and details on risk management processes. Our task was to examine the law, the major safety statute, as it exists in New South Wales and to see what we could do about modernising it and making it more fitting for this State, which has always been, in this Commonwealth, at the cutting edge of safety and health reform.

The panel comprised a group of experts. I do not know that I would give that appellation to myself; I happened to be Chair. Other expert members of the panel were Ms Sylvia Kidziak, the Chair of the Occupational Health, Safety and Rehabilitation Council of New South Wales, which does enormously fine work; Mr Garry Brack, Executive Director of the Employers Federation of New South Wales; and Mr Mark Fogarty, Executive Manager of the Chamber of Manufactures (New South Wales Branch). There were two members of the Labor Council of New South Wales, Ms Mary Yaager and Mr Terry Hannan; Wendy Thompson, who is in charge of the prosecution branch of WorkCover New South Wales; and Ms Suzanne Jamieson, senior lecturer in industrial relations, Department of Industrial Relations, University of Sydney. The panel was ably assisted by Mr Peter Smith from WorkCover, who acted as secretary to the panel. As I do not have vision, Peter acted as my eyes during various tense and interesting meetings. Peter is present today. Public servants do not often receive thanks but are generally criticised in the press and expected to do their work. Peter worked with diligence and the personnel at WorkCover, from the Director down, gave us every courtesy and assistance.

The operations of the panel of review: The panel of review met formally on seven occasions over the past four and a half months. Other working groups of the panel—not all of which were attended by every member—met at informal gatherings throughout the period of review. The panel also held discussions with Mr Justice Fisher, President of the Industrial Relations Commission of New South Wales, Mr David Caple of David Caple and Associates, my good friend Professor Breen Creighton, then of LaTrobe University, and selected members of the Labor Council of New South Wales and the combined employers group. In response to advertisements in local and statewide newspapers, 27 submissions were received. Let me place on record that all of them, without fail, were of assistance. The submissions are set out in appendix 1 to our report and are available if you wish to look at them.

The status of the report: The Minister requested my panel of review to supply him with the report by February. On Monday, 3 February, at approximately 3.50 pm, I had great pleasure in physically handing the almost 200-page report to the Minister. The Minister and, as I understand, Cabinet, are considering the report and their response before transmission to the Standing Committee on Law and Justice, for which the report was intended. The Minister will be speaking this afternoon and no doubt will elaborate on the position. What can I say about the report? The report has not been released publicly but the Attorney General gave me permission to make general

remarks. In doing so I am conscious of the fact it is not proper to go into great detail until a report is made public. I do not believe in selectivity in reports, which seems to be very much in the political wind at the moment, so I will keep my remarks general.

The report is aimed squarely at all members of the Standing Committee on Law and Justice conducting this inquiry and at interested members of the public. I earnestly hope that the Committee members give long and careful consideration to the report because it was arrived at after much forethought and soul-searching. Chapter 2 sets out 42 recommendations relating to the *Occupational Health and Safety Act* and I hope, in fact I am sure, that our recommendations will be considered by the Standing Committee and commented on in its final report. Given the make-up of the panel of review, and its respective interest groups, total unanimity was not possible, and one would not expect it, but the discussions were frank and clear. Mr Garry Brack and Mr Mark Fogarty have placed separate comments in an addendum to the report. I prefer to think of them as comments, qualifications and elaborations. They can speak for themselves but I do not take their views as dissents; rather, that they wish to elaborate their views on various aspects of the recommendations.

In total, the report reached a remarkable degree of unanimity. It is not my place to cross swords with the addendum commentators until the report is made public. I hope when the report is made public I am given the opportunity to appear before the Standing Committee on Law and Justice to answer questions. I am happy to forensically or otherwise defend the positions of myself and the majority of panel members. Let me give you a taste of the report within the fetters that the Attorney General has allowed me to operate. I hope that here I am not doing injustice to any panel member. The report argues for a modernisation of the *Occupational Health and Safety Act 1983*. The Act was one of the foremost pieces of Roben's-style legislation in Australia at the time. It was cutting edge legislation. Since then all States and Territories other than Tasmania have written more modern and up-to-date statutes. It is the panel's unanimous view that the Act needs to be modernised and written for the twenty-first century. It needs to be written in clear and plain English so that people, from managing directors to apprentices on the shop floor, know their legal rights.

The panel examined in some detail the rules of criminal procedure which have been applied in prosecutions under the Act. Some rules contain technical loopholes. In part this is due to marrying some civil legal concepts in the Act with the criminal process. The panel has argued for a reduction of technicalities to limit duplicity of pleas and to try to facilitate the prosecution process and not get bogged down in legal technicalities. In the thickets of legal technicalities I am a forester and I can assure you that the panel has done its very best. The report also asserts that the Act is too closely focused upon monetary penalties per se. I am on dangerous territory here. There seems to be a belief amongst politicians that raising the penalty—and America is a classic example—will solve the problem. We do not argue about the levels of penalties per se but we assert that the Act needs to focus more upon preventative, remedial and ameliorative action, particularly after the commencement of a prosecution, so that accidents do not recur.

The panel of review report argues for enhanced workplace consultation. At present the only people who have legally enforceable rights to consult are workers in a workplace with 20 or more people who may request the formation of a safety and health committee. Let me add that many workplaces with less than 20 employees have established such committees with the concurrence of employers. This was an area on which there was not total unanimity. The roads by which greater consultation should be reached were a matter of contention. In fairness to my addendum commentator colleagues, the entire panel argued that the Act needed a greater focus upon consultation. The panel also asserts that the needs of women, the disabled, young persons and people of Aboriginal and Torres Strait Islander origin should be acknowledged in the statute. Prosecution rates differ for female and male accidents. The injuries are different. If the statute is to be modernised it should examine these matters, be conscious of them and be open to the differing accident and injury rates of women, disabled and other groups.

My final comment, lobbying. No doubt there will be many who will seek to lobby, not only during this Standing Committee's hearing but afterwards if legislation follows. I am confident that after my report and the Standing Committee's report the Government and the Parliament will enact legislation through both Houses. I am sure lobbying will occur right up until the door knocker. There seems to be a habit in the Legislative Council, if I might say from my time with the *Industrial Relations Act*, of midnight lobbying. Trade unions and employers associations naturally must speak out on safety and health issues. They would be doing their respective members an injustice if they kept silent. I encourage them to speak out. But I say seriously that

this matter is too important to be solely the province of government bureaucrats, trade unions and employer associations. Workplace safety touches us all.

I welcome and applaud this inquiry. It gives the chance for various people from all walks of life to put their views before a democratically elected and deliberative body such as the Standing Committee. It is no good sitting on your hands—or to use an old workers' expression, being asleep at the switch. Lobby groups will operate as they have a right and duty to do. But it is up to those of us who are concerned about death and injury to be vigilant and to make sure we are heard when laws are framed. Thank you very much.

HON JANELLE SAFFIN: Thank you, Professor McCallum. I look forward to reading the panel of review report.

MR PETER SAMS

SECRETARY
LABOR COUNCIL OF NSW

HON JANELLE SAFFIN: I would like to introduce Peter Sams. Peter Sams has been secretary of the Labor Council of New South Wales since May 1994, an organisation which has a very keen interest in workplace safety. His industrial responsibilities include major civil construction projects, State wage cases and other test cases, the oil and brewing industries and superannuation and he has a general overview of all major disputes. Amongst other things, Peter is a director of Worksafe Australia, chair of the Australian Labor Party's Industrial Relations and Employment Committee and Chair of the Labor Management Studies Foundation. Prior to his appointment to the Labor Council, Peter was an advocate before the Australian Conciliation and Arbitration Commission on behalf of the Australian Workers Union, dealing mainly with rural awards. That is an area that interests me because I have always lived in rural areas. Peter is also an accomplished musician. I know that that is not in his curriculum vitae, but he is a graduate from the Conservatorium of Music.

MR SAMS: I assure you that I am not going to do a little performance today, musically. I thank you for the opportunity to put a few views to you about the Labor Council's involvement in occupational health and safety and what we believe should be the future. In doing so, can I say that it is terribly important for New South Wales to lead the way, as we did in 1983 through a legislative framework that was established then, and also now as I detect as being on the Occupational Health and Safety Commission at the national level, a shift identifiable over recent years back to State jurisdictions, back to States doing their own thing. I think it is the deliberate policy of the Commonwealth Government also to shift back to the States some of its responsibilities in occupational health and safety. New South Wales stands out as a beacon of reform, change and improvement. Hopefully, we will see workplace injuries and deaths reduced.

As you would all appreciate, the statistics are very alarming. In this country more people are killed as a result of workplace injury and disease than are killed on Australian roads. Yet we pour billions of dollars into campaigns to reduce the road toll. But what happens at the Federal level in respect of Commonwealth funding for occupational health and safety through Worksafe? There is a one-third reduction, or a one-third cut, in its funding, resulting in some of its major programs having to be slashed or abolished. I think what is very important for New South Wales, and the fact that the New South Wales Government and the Minister have been very committed to the process, is that we do lead the way. Just as we have done in industrial relations reform, we can similarly do so in respect of occupational health

and safety.

As far as the union movement is concerned, again in recent years I have detected a move, as union membership has declined and costs are rising for all organisations, that the first thing a union looks to, in terms of cut-backs or reducing its role, is occupational health and safety. It is certainly something that we did at the Labor Council a number of years ago when we were facing some funding problems. We looked at reducing our role in occupational health and safety. I think that was a very shortsighted view. In fact, I reversed that when I became Secretary of the Labor Council by re-establishing the occupational health and safety unit, by securing funding through the Commonwealth and from the State Government to see our role as the peak union body representing employees in New South Wales, having been at the vanguard of not only policy and strategy development but providing training for our own people in terms of their responsibilities.

We did a number of other things in terms of New South Wales occupational health and safety which I have been very proud of. One of those was supporting Fran Kavanagh's group, Advocates for Workplace Safety. We have been involved in a number of other initiatives, both of Worksafe and of WorkCover in New South Wales, to ensure that we see an improvement in occupational health and safety. But, of course, we have not been terribly good at it. The reality of the statistics shows that the enormous cost to Australian business and the enormous personal costs associated with workplace injury and death continue to rise.

You will see from the papers—and I am sure you are aware of it—that if only employers would realise that this is not only a question of responsibility and moral obligation to protect their employees, but there are also cost benefits for them in improving occupational health and safety. If you look at some of the best companies in the world, they are at the cutting edge of occupational health and safety practices which have seen massive improvements in productivity, cost savings, reductions in absenteeism, and a commitment from the work force in recognising that their boss actually does have some concerns for them. I think it is very important that we get the message out to the wider community, but most particularly to the employers, that there are some real benefits for them if they address these issues.

I have been concerned for some time that while deterrents, fines and penalties are not the only answer, it has been abundantly clear that even with a doubling of the fines in recent years for breaches of occupational health and safety legislation, the fines are still manifestly inadequate and are being applied by our judiciary in a very meagre way. You will recall a very celebrated case last year in which the Attorney General himself appeared in the Industrial Relations Commission to appeal against a decision of a single member of the court, which imposed a fine of \$70,000 on a particular company for the death of two individuals. In that case the company actually admitted liability, or said it had done the wrong thing, and the fine was \$70,000. We were very concerned about that, and, as I recall, as a consequence of an appeal by the Attorney General, that fine was more than doubled.

While it is all very well to say that deterrents are not the answer, you only have to look at what is now happening in corporate and trustee law, and if any of you are on superannuation trusts, for example. The requirements that you go to to ensure that you honour your fiduciary responsibilities are such that you do not want to end up in gaol. I think that the same sort of level of deterrent might well be available, and I hope that one of the recommendations will be that where there is a flagrant breach of responsibility by an employer, whoever is responsible, there should be a capacity for our courts to impose a gaol sentence. I believe that that would be a massive deterrent, just as it is in terms of corporation and trustee law where there is the prospect that if you do the wrong thing when you are looking after people's money, let alone their lives, you will go to gaol. I think there is an opportunity for us here to really show to New South Wales employers that they do have a fundamental responsibility.

One other area of concern for the Labor Council, which was mentioned by Ron, is that we have made a number of recommendations which I believe may have found favour with the Standing Committee's inquiry and with Ron's report, and that is that we have been concerned about the level of consultation at the workplace. We believe that within the legislation there should be a very strong definition of consultation so as to require employers to consult with their employees, through their unions, regarding issues which affect their occupational health and safety at work, and that it should ensure that that consultation occurs in respect of persons from non-English speaking backgrounds, disabled persons and Aboriginal persons, in such a way as to ensure that they are properly consulted about their daily working arrangements. We are also very concerned about the level of training provided by employers. In the paper we have distributed you will see three cases which have

been before the Industrial Relations Court in which the lack of training, or indeed no training at all, was the contributory factor to very serious injuries at the workplace, which has been commented upon by the judicial member hearing those particular matters. It is a very important area of reform that we believe employers have an absolute obligation to train their employees so that they are able to competently and safely perform their tasks. We believe that mandatory provisions should be in the legislation to see that that occurs.

Another related issue is our concern at the current shift in employment practices which we have variously described as out sourcing or subcontracting. You would be aware that many of these higher agencies have been established not only in the clerical sector but are now emerging in the wider sector of more dangerous industries. In the construction and metal manufacturing industries we are seeing more of this occurring. I think that it does place additional difficulties on the system where an agency has particular persons on its books who are moved around different workplaces, sometimes as many as three or four workplaces in a day, as to who has responsibility for ensuring that that employee is properly protected. Certainly it is the agency that takes on that employee and utilises those services, but how does that agency manage the occupational health and safety difficulties that would no doubt emerge in those areas of changing alternative arrangements at the workplace? I think it is an area that we have to focus very closely on as more of this out sourcing and contracting out is occurring in the general industrial community.

One other area that we have been concerned about is young people. Surveys have shown that one in three inexperienced young people suffer some form of injury, sometimes fatal, at the workplace. I think that is a very sad indictment on the level of training that is available to young people. Part of our response in the Labor Council has been to establish a committee. Dare I say that when you say "establish a committee" you might have a view about that, but this committee we have established is called the Youthsafe committee. It will not be a committee of people of my vintage or older, but we want to gather together union officials and union delegates under the age of 25 to look at the particular issues that affect young people and occupational health and safety. We want to be able to develop programs and material that can be distributed at workplaces, particularly in areas where young people predominate the workplace—for example, in the hospitality sector—and we want to be able to provide that material to acquaint not only the employees with the responsibilities that they have but also the protections that are available to them in respect of their employers' responsibilities. That committee is up and running now.

We are looking also, in the course of the Standing Committee's inquiry, to provide a submission particularly related to occupational health and safety issues affecting young people. You will see in the papers our Youthsafe vision statement, which seeks to empower young and vulnerable workers to allow the prevention of occupational health and safety risks to them in the workplace. We hope that that will provide a focus for what we are doing, particularly in respect to improving opportunities for young people and ensuring their protection in the workplace.

Finally, and coming back to where I began, in the union movement, as the first thing when we had cut backs, we tended to cut back our occupational health and safety services. I am glad now that we are seeing that that is not the case and that we recognise that it is so critically important. Nothing can be more important for a union than to be there to protect its members against loss of life or injury. There can be no greater responsibility for a union. One of the issues that emerged in surveys that we conducted last year as to what workers expected from unions was that they thought unions should do more about a number of things: protecting them from dismissal, and improving wages and conditions, but one thing that stuck out in my mind was that they were concerned about occupational health and safety. They did not express it in those terms, but they were concerned about their safety at work. I think that if we can do anything as a union movement to ensure that we have a future, but more importantly to protect our members, we must focus on the issues of occupational health and safety in all the policies and strategies that we develop, and, as we have done at the Labor Council, integrate our own general industrial responsibilities with occupational health and safety considerations.

Thank you for the opportunity of being able to speak to you today. I know that this seminar, with so many people in attendance, and the work of the Government will see New South Wales leading the way in respect to occupational health and safety policy and strategy development for the future, but will, more importantly, see a reduction in workplace injury and death in the future.

HON HELEN SHAM-HO: My parliamentary colleagues, ladies and gentlemen, my name is Helen Sham-Ho, Deputy Chair of the Law and Justice Committee. I personally welcome you all to this very important workplace safety seminar. In particular I thank Professor McCallum and look forward to his report. Of course, our committee will consider his recommendations seriously and carefully. I thank Peter Sams for his exposure of the concern and work of the Labor Council. I also thank him for his zeal.

MS FRAN KAVANAGH

CHIEF EXECUTIVE OFFICER
ADVOCATES FOR WORKPLACE SAFETY

“The Human Factor”

HON HELEN SHAM HO: I now have the pleasure of introducing Fran Kavanagh, Chief Executive Officer of Advocates for Workplace Safety, which is a national lobby and support group launched by Premier Bob Carr in the middle of last year.

The first priority of the organisation is the prevention of accidents through community awareness programs and education strategies as well as the establishment of comprehensive support and referral services for families.

Fran is not only the chief executive officer but also a founding director of Advocates for Workplace Safety. Fran felt compelled to initiate the formation of a lobby and support group following the death of her daughter Maggie in an accident at Sydney University in October 1994. She feels passionately that something must be done to combat the appalling death and injury rate in Australian workplaces. We all share her passion. In previous informal discussions, Fran's energy and clarity of vision have impressed us all. Now please welcome Fran Kavanagh.

MS FRAN KAVANAGH: Good morning everyone. Thank you for coming along today. I think that Pete Sams and I should have compared speeches: we are going to overlap on quite a number of issues.

Some of you may or may not be aware that Advocates for Workplace Safety lobbied the Minister, the Hon Jeff Shaw, for the establishment of this parliamentary inquiry. We also suggested the terms of reference to the Government.

The reference to inquire into and report on workplace safety matters is one of the most important decisions to be made during the Carr Labor administration. We must remember that the key principle that should guide the deliberations of the Standing Committee on Law and Justice is to reduce workplace trauma and work-related diseases. Achieving the goal of zero death and injury in the workplace will require some fundamental reassessments. Let me talk about some specific issues.

The Australian Chamber of Commerce and Industry states in its occupational health and safety policy that effective OH&S management should be an integral element of the role and responsibilities of all workplace managers. We would go further than that and say that it is an integral part of policy-making of boards. Annual reports these days reflect a company's philosophy and are considered more than just balance sheets.

We are calling for companies' occupational health and safety records to be included in their annual reports and to be made a requirement of the Australian Securities Commission's reporting provisions. At a minimum, the reporting of occupational health and safety should encompass a company's basic philosophy as well as the number and type of traumatic injuries and the number and categories of workers compensation claims.

We are not asking boards to take an active role in management procedures but to embrace the philosophy that OH&S is an integral part of their public face, in much the same way that they report on environmental policies. The Business Council of Australia has said, "Annual reports comment on issues which are seen to be the most important to shareholders for that year. They may or may not include safety."

Shareholders are not only increasingly more interested in ethical investing today but would be very interested to note company losses that equate to accidents and injuries in the company. It is an established fact that companies with good health and safety practices are more competitive and efficient and save considerably on workers compensation payouts.

Advocates is also concerned about the potential breakdown of safety procedures and practices between a principal contractor and its subcontractors. The principal contractor should, in all cases, expect an OH&S report from its subcontractors in the tendering process, and factors to be considered should be the safety record and the effectiveness and efficiency of the safety procedures in place. Every workplace accident is preventable. A workplace accident represents a breakdown of control and lack of management of work systems. Luck may play a part in the outcome of a workplace accident but it has no part to play in the lead-up to the accident. We must concentrate on the trauma incident and the precursors to the incident, not just on the outcomes—remembering that I fully appreciate and understand the utter devastation of the outcome itself.

AWS believes that coroners can have a greater role to play in identifying workplace hazards and dangerous situations and in making public recommendations accordingly. There are models in other jurisdictions that have merit. In Victoria, for example, the State coroners department offers a model that the rest of Australia should be following. There the coroner commonly compares similar incidents that have been subject to separate inquests and then publishes a collective document of findings and recommendations. The motto of all coroners should be TO SPEAK FOR

THE DEAD, TO PROTECT THE LIVING.

Is there still a perception that workplace trauma and occupational illness are only union issues, or that we should be concerned only with construction workers or miners or those industries which conduct dangerous activities? That is not the reality of the workplace. The reality is that the workplace can be a multitude of environments—not just factories but also farms, offices, schoolrooms, vehicles and homes. All places of work are potentially dangerous. We recognise that white collar workers typically consider themselves safe but they are also at risk. One of the other issues we would like to highlight is: what is the role of the media? Why don't the media pick up on issues of workplace trauma and occupational illnesses? Why are reports of workplace deaths and injuries relegated to a couple of paragraphs on the inside pages of the daily newspapers? With the exception of explosions and fires and mining disasters the reporting of workplace incidents by the media is very low key.

I am constantly struck by the similarities with the 1990s situation of workplace trauma and the situation applying to the reporting of road trauma in the late 1960s and early 1970s. Then road death or injury was reported as a commonplace. As we have seen over the last two decades, road death and injury became and has remained a significant political issue and a major source of community concern. The media have proven to be not only responsive to road trauma issues but an active catalyst for change to traffic and criminal law and to safer policies and practices in road safety.

Workplace safety should and can become just as significant an issue in media reporting. This contrast in media reporting and community knowledge and attention between workplace trauma and road trauma allows for the interesting question to be raised: of the more than 2,000 road deaths in Australia each year, how many are work related? For example, it seems reasonable to assume that all truck crashes are work related. After all, truck drivers do not tend to take the truck out for a Sunday drive or to do the shopping. Trucks are by their nature not used for personal or leisure purposes.

The same can be said in relation to bus drivers and the drivers of taxis. But what of the crashes that involve courier drivers or those people who during the performance of work drive a motor vehicle? Premier Bob Carr, when launching Advocates for Safety last year, said that workplace accidents had surpassed homicide and road

accidents as a cause of death in Australia. He went on to say that if these statistics related to road deaths or violent crime we would be up in arms, but how many of these road deaths are also attributable as workplace trauma?

What role does the Federal Government see for itself in workplace safety? One of Peter Reith's first decisions upon being appointed Federal Minister for Industrial Relations was to slash Worksafe Australia's budget by a third and cut staff numbers by half. Worksafe's annual budget is now around \$14 million, down from \$20 million. Yet at the same time the Federal Government, through Transport Minister John Sharp, is pouring \$36 million per year over three years into its black spot road improvement program, with another \$4 million a year for further research and development. If more people die in the workplace through accidents and illness, where is the Federal Government commitment to saving lives? Where is the government funding to put towards our workplace black spots? Why doesn't this Government embrace national workplace safety campaigns on the scale of road safety campaigns?

Worksafe Australia was forced to drop its "Don't let their first day be their worst day" campaign during the March 1996 election. Workers under 25 years make up about one-third of all deaths and injuries. And this campaign which was to target the safety risk of young workers has not reappeared. More must be done to protect workers, especially when they start a new job. It is a matter of life and death. Although OH&S legislation is State-based, the Federal Government could encourage State and Territory Ministers to get together and find solutions to any anomalies across their borders.

One issue that does arise when discussing the adequacy of laws relating to workplace safety is the question of the uniformity and consistency of laws across the States and Territories. Preventing accidents before they occur is our number one priority and our proactive strategies have proven this to be so. Nonetheless, we do not shy away from saying that legislation needs to encompass the fact that workplace accidents are not simply unfortunate or freakish or unlucky.

Penalties need to send a clear message that blatant disregard for the health and safety of workers will not be tolerated. It is not acceptable for companies to regard prosecution as just one more cost of doing business. Some employers and corporations will not reassess their position until they are made clearly responsible for maintaining a safe workplace. One suggestion that is gaining currency overseas

is the creation of an offence of occupational manslaughter or corporate killing, a crime which would have parallels with the New South Wales criminal offence of dangerous driving causing death.

Workplace trauma and occupational illness have a hidden personal and social cost. Families are left to cope with the shock and the grief and the trauma of the accident as well as the seemingly endless days, weeks and even years of mentions, hearings and court dates for coronial, industrial and compensation courts. It is the families who have to live with the consequences of workplace trauma. The ramifications are far reaching, not only for the families but also for the workmates involved at the time. Workplace deaths and injuries are not accidents; they are a life-long legacy.

In our consideration of appropriate and adequate law, and our search for best occupational health and safety practice, we must be careful not to reduce human beings to dollars. The safety of workers and visitors to workplaces is as much a moral and ethical issue as it is an economic matter. At the same time, economic considerations are necessary if we are going to make the best possible decisions about how we are going to spend our dollars to improve safety. Saving lives can often mean applying very simple low-cost solutions and using a bit of commonsense.

A major issue in workplace safety is the need to convey adequate, timely and relevant information to workers and management. Across the ambit of workplace injury the same story is repeated over and over: workers did not receive the safety information they needed, even on jobs involving dangerous equipment where training is clearly essential. Despite the vast amount of safety information that has been made available to both employers and employees over the last few years, death and injury rates in the workplace have not declined. Obviously information alone is not the key. Advocates believe that a cultural and attitudinal change is required to address Australia's appalling record of workplace deaths and injuries.

This cultural change will necessitate a two-tier approach. The first is in the workplace involving a collaborative approach between employers, unions, workers and regulatory bodies. The second, and the one which we believe will have the most far-reaching impact, needs to begin well before young people even enter the work force. To this end Advocates has established a working party in New South Wales with business, government and unions to develop safety management and occupational health and safety curricula for both primary and secondary schools, with particular emphasis on vocational education and training.

Some of the initiatives include: empowering school leavers to take responsibility for their own safety; learning to be assertive and raise matters of concern; encouraging student involvement in designing codes of behaviour instead of having rules imposed upon them; understanding the requirements of the Occupational Health and Safety Act; and developing effective resource material for teachers. Industry involvement is crucial. For instance, Worksafe WA has developed an internet program which aims to raise secondary students' awareness of occupational health and safety issues. Students must achieve a 75 per cent pass mark to receive a certificate. This certificate is rapidly becoming a requirement of employers prior to young people commencing work experience. There are many examples where cultural and attitudinal changes will make a significant difference to the welfare, health and safety of young people in the workplace.

To conclude, I suggest that there are a number of questions that must be considered by the Standing Committee on Law and Justice and the speakers and participants who are here today. In fact, some of the speakers may care to address or respond to these questions today:

1. What developments are necessary in company operations and company reporting requirements to better focus on workplace safety? What are the costs and the practical implications for company management and boards of directors?
2. What developments are required in industrial and criminal law to better focus responsibility for workplace safety on the management and boards of directors?
3. In the 1990s, what is the role and responsibility of the union movement in developing and promoting workplace safety?
4. How can the investigative and reporting responsibilities relating to workplace safety be further developed? In particular I am thinking here of the specific role and responsibilities of coroners regarding workplace deaths.

5. What should be the regulatory role of government in workplace safety? In particular, is national uniformity of legislation a practical objective?
6. How can the media be an active catalyst in promoting better workplace safety?

Advocates will be following today's proceedings with great interest. We look forward to hearing the responses to our questions throughout this inquiry.

MR WARREN HAYNES

MANAGING DIRECTOR
ICI AUSTRALIA OPERATIONS PTY LTD

"No Injuries to Anyone - Ever"

HON HELEN SHAM-HO: It is my pleasure to introduce Mr Warren Haynes who was appointed as Managing Director of ICI Australia Limited in September 1992. Since 1986 he has been Executive Director of ICI Australia Limited. He is Chairman of Dulux and has functional responsibility for personnel, explosives and advanced sciences. His career with ICI has included time working in Canada, Germany and Great Britain. He is a member of the Business Council of Australia and Chairman of the Council's economic and financial panel. He is a director of the Australian Quality Council. He is here today to speak on behalf of a major manufacturing company and employer that is improving its workplace safety record. We look forward to hearing from him on the topic *No Injuries to Anyone—Ever*.

MR HAYNES: Good morning to the Hon BH Vaughan, members of the Standing Committee, ladies and gentlemen. The chemical industry, by its very nature, of course, is a dangerous industry and for many years therefore we have had an attitude of improving the safety of our employees and our plants. For the last 15 years ICI has had safety as its own corporate value and that being its first and primary corporate value. Our corporate value is that we should not be considering employing anybody if there is a chance of injuring that employee. So we are not driven by law in this respect, we are driven by our own corporate values. In other words we care about our employees.

That has led us to have our current safety vision which is the title of my address this morning, *No Injuries to Anyone—Ever*, and that is the vision of where we want to get to. I will be telling you this morning how we are going and what we are doing to achieve that vision. We believe it is possible. We asked our employees when we first set out that vision in 1995 whether they thought it was possible. Only 55 per cent said that they did. Towards the end of last year, 1996, we surveyed them again and by that time 78 per cent of our employees believe that it is possible. That is the result of the program that we have been implementing and the progress that has been made has convinced people that the vision is possible.

How are we going about this? I have to tell you, of course, that it is not simple as there are no overnight quick fixes, no silver bullets. There are three key areas and

we have got to get them all right. The first area is the hardware—the equipment that we have in our plants, offices and everywhere else. Second, the safety systems and training and our work procedures that we need to get right. Third and above all, and the one I will be stressing most of all, is our culture and behaviours. Indeed I would like to start with talking about our culture and behaviours because I think that they are the ones that are going to have the biggest effect.

Our culture is built on the belief that all injuries are preventable and hence a culture that says 'nothing is more important than safety'. If you cannot do a job safely then you do not do it at all. This responsibility for safety is shared right through the organisation, and I stress that. It is not just a leadership issue; it is leadership right through the organisation, but it is also an employee responsibility. Let me start by talking about leadership. Leadership must provide the resources and the support and lead by example. There are plenty of things that leadership can do to stress the role of safety in the workplace where there is a corporate value.

For example, it is a prime accountability in the description we have of all job positions. It is written in to all managers as their prime responsibility and, indeed, it is written into their current objectives for each year and their performance is measured at the end of each year, and the remuneration is effected to the extent to which they do or do not perform in terms of safety. It is the first item on any team meeting whether that be our board meetings, meetings of the executive team or meetings in factories and workplaces.

In the event of an injury, senior management lead the investigation to understand not only the immediate cause of a medical treatment injury, but also to peel back the onion and find the underlying causes. Was it a cultural problem? Is there a hardware problem? Were the procedures being followed? I involve myself in the safety charter that we have for the company and also involve myself in safety audits that we run around the company on a regular basis throughout the year. Every leader in the company has personal responsibilities for safety and we have established a safety charter. The safety charter sets out the responsibilities of individuals as leaders but also sets out responsibilities for individuals as employees in the company.

Let me stress again that individual employees also have responsibility for safety. That responsibility is for safety of themselves in the way they carry out their work, but also responsibility for their fellow employees, for their safety and the way in which the individual carries out their work. The safety charter that we have is discussed on a one-on-one basis between a supervisor and each individual employee, at the end of which they have the opportunity to sign on to that charter to say that they understand and accept those responsibilities. I think that is one of the key parts of establishing the culture and responsibilities within the organisation.

Moving on to systems and training. We have a very extensive set of safety, health and environment systems. In fact there are 121 of them. These tell every employee and every leader how we go about doing various aspects of our work safely with regard to health and environment. It is no good having these sitting on the shelf, they have to be living documents, they have to be clearly comprehensive to suit the particular plant, they need to be respected by the people and understood by the people so education and training on those systems is absolutely vital and clearly they need to be enforced again. There is no point having systems which people are trained in but then not implemented. Finally, they need to be audited for compliance.

Everybody gets training for the appropriate position. We emphasise on-the-job training and we also emphasise job checks. We make sure that people are actually implementing the procedures that they have been trained in as they go on year after year doing those procedures. We have a training and a procedure called unsafe acts prevention, UAP. This comes from our understanding that 95 per cent of all injuries arise from unsafe acts committed by employees. Therefore unsafe acts prevention training is carried through all employees in the organisation. Unsafe acts prevention is a very simple procedure. It has three steps to it.

Before starting anything ask yourself 'what am I about to do? What could go wrong? How should I do it safely?' We have had many examples where unsafe acts prevention training has made a huge difference. One recent one at Botany, New South Wales, is where we were shutting down a plant in six months time finally after 30 years of service, but it needed to have a final shutdown for safety reasons. That involved all the employees working for that shutdown without any injuries, and only one first-aid injury for the contractor.

The third area is hardware. We must get our hardware correct right at the very start in planning and building a plant designed in safety. We run five levels of hazard and safety operabilities studies right from the very beginning of designing the plant, building it and before starting it up. Whenever a plant gets modified the redesign must be the subject of the same rigour of hazard and operability studies as the original design. Again, maintenance must be done on the same basis.

We emphasise that preventive maintenance produces the safest plants and the most productive plants when they are operated in a planned way and not under a situation of emergency maintenance. I stress again audits. We have to keep checking to make sure we are doing things the way we said. Measurement is absolutely vital in safety. Anything that is not measured is not monitored so measurement and reporting must be based on the objectives we have set ourselves to track our progress. To recognise achievement for extremely good work, and to identify opportunities for improvement.

ICI Australia's performance in this regard is shown on the next slide. Over the past 15 years we have had a static performance at the top of the graph showing about 20 medical treatment injuries per million man hours; we then attacked it and got it down—it started to flatten out in 1994—to about eight medical injuries per million man hours. More recently—with the latest vision of 'no injuries to anyone ever'—we have moved down to three medical injuries per million man hours.

The next slide puts into perspective where we are. The red bar, which is manufacturing industry generally, is running at about 50 medical treatment injuries or higher per million man hours. The chemical industry, which is intrinsically a safer industry, is running at about 20 medical treatment injuries per million man hours. We are down at three. The world's best is Dupont in the United States at 0.3.

I do not think that aiming to be the world's best is good enough, because they still have 0.3—our aim is 'no injuries to anyone ever'. This requires a long-term view, consistency and constancy of delivery in order to get the result that we want. From our point of view, safety is absolutely essential: it is good for our people and good for our business. I wish the Committee all the best in its deliberations.

HON JOHN RYAN: I am one of the seven members of the Committee who is listening to the submissions being made this morning. We have the responsibility, on behalf of the Parliament, to inquire into work safety. I have found all of the addresses so far very stimulating—and I will be wildly stimulated at the end of the day if they continue to be of such quality. Thank you, for your address, Mr Haynes. I have no doubt that most of the members of the Committee have taken note of the last graph that you showed us, which shows us how far away we are from world's best practice, and we thank you for that.

MR MARK FOGARTY

EXECUTIVE MANAGER
AUSTRALIAN CHAMBER OF MANUFACTURES

“Occupational Health and Safety in the Manufacturing Sector”

HON JOHN RYAN: Our next speaker is Mr Mark Fogarty, the Executive Manager of the Australian Chamber of Manufactures. The Australian Chamber of Manufactures is Australia's largest multi-industry employer association, with 6,000 members nationally. The ACM offers a wide range of comprehensive services to the manufacturing sector, particularly in human resource management, environment, energy, training, and trade and commercial services. It would be fair to say that there are very few pieces of legislation that go through this Parliament that affect those areas in which the views of the Australian Chamber of Manufactures are not sought.

As has already been pointed out this morning, Mark was one of the members of the review panel that was appointed by the Attorney General to review the 1983 *Occupational Health and Safety Act*. Prior to joining the Australian Chamber of Manufactures, Mark worked in the transport and broadcasting sectors. He is legally qualified, which would enhance his qualifications, no doubt, to many of you present and he has been admitted to practice as a solicitor in New South Wales. He is currently completing his masters in management at Macquarie University. I ask you to welcome Mr Fogarty.

MR FOGARTY: Chairman, members of the Standing Committee, ladies and gentleman, I would like to thank the Committee for providing me with the opportunity to address this seminar on the important issue of occupational health and safety in the workplace. I would like to indicate that, as indicated by John, we represent the Australian manufacturing industry. As we all appreciate—I guess by our attendance here today—occupational health and safety is never too far from being a major issue of social reform agenda in Australia. From the employers' perspective, we must accept the need to embrace a process of continual improvement to ensure that our commitment promotes and fosters an environment that is becoming increasingly injury and fatality-free.

It goes without saying that there are two important drivers to improving our track record on occupational health and safety. Firstly, and most importantly, is our moral responsibility to ensure that we are adequately providing safe and secure places for work. Secondly, there is very much an important commercial driver to achieving improvement. From the moral perspective, I do not think that Australia boasts an occupational health and safety record—apart from initiatives that Warren has outlined—that is the envy of the industrial world. As we are aware, in Australia 500 employees suffer a traumatic death in the workplace every year and a large

number—estimated to be 2,200—die of work-related cancers each year. Given that there are approximately 2,000 road deaths each year, safety at work may be more important than road safety.

I wish I was in a position to report that there have been strong improvement trends in terms of New South Wales manufacturing. While they are improving, overall there are still far too many fatalities. Between 1993 and 1995, the total number of employment injuries increased by about 10.2 per cent. Between 1989-90 and 1994, an average of 32 employees died in the manufacturing sector each year. This is a reflection on manufacturing's 12.8 per cent contribution to total employment injury costs in New South Wales. As employers, we are becoming increasingly and patently aware of the commercial drivers as we attempt to achieve better outcomes, and more tangibly for those of us who are currently involved in the Government's proactive overhaul of the workers' compensation system.

It goes without saying that any deterioration in the level of employment injuries has a negative impact on the premiums employers pay. As recent events have confirmed, in order to fund WorkCover claims in New South Wales we have had to embrace premium increases of 1.8 per cent in March 1995 to an increase of 2.8 per cent on average across industries. Obviously, these premium levels vary from industry to industry. This is a disturbing increase and it is finally dawning on employers that, as major stakeholders in the system, we have to inject more control, particularly in terms of the relationship between promoting improved occupational health and safety outcomes and lower workers' compensation premiums. This has not always been the case in the past. Hopefully, we will develop more sensible causal relationships between these commercial outcomes and these moral responsibilities.

This commercial driver is something that New South Wales in general needs to be conscious of. We have a State that is intent on bench marking with other States and countries as an attractive place to do business, as a place to set up regional head quarters. It would be disastrous for the manufacturing sector to return to the early 1980s when employment costs were a contributing factor, particularly workers' compensation, to driving businesses out of the State or offshore.

From the manufacturing industry perspective, we are obviously going through a period of significant change and rationalisation. In some sectors, survival is a real issue; in others, green field sites and offshore markets are strategic issues facing organisations. As we approach the twenty-first century, the speed and radicalism of the change will escalate. The trends continue to reflect that the market is becoming increasingly global, that there is increasing fragmentation of all markets, that customers are requiring smaller quantities and more customised products, that mass production continues to decline, that most companies have wider product ranges and are introducing products more quickly and are focussing on marketing attempts. In addition, we have the challenges of technology and we are on the cusp of the information age. Workplaces are changing. Increasingly, they are not as centralised as they used to be, they are embracing job sharing scenarios and working from home concepts.

All of these challenges confirm the need to develop HR strategies that promote effective and economical manufacturing environments and, very importantly, ones that allow employees not to be exposed to workplace-related injuries or illnesses. If we are to effectively embrace these challenges, we need to invest time and money in ensuring that employees are adequately trained and resourced. This is an ongoing and expensive process.

Notwithstanding the fundamental moral onus that is on us, from a commercial perspective we are no longer in a position to allow our employees to be exposed to environments that may render, through workplace injury or worse, our most important asset inoperative. The vast majority of employers are not only committed to the important moral obligation, but are also educated and aware of the commercial value in ensuring better outcomes in respect of occupational health and safety in New South Wales workplaces.

As we see the debate at the moment, the important question for the Standing Committee, the Government and the other stakeholders is what role do we fashion for modern legislation with respect to workplace safety? The answer will not be forthcoming today, but forums such as this provide important opportunities for us to process and review ideas for change. In respect of legislation, I have not heard anybody abdicating from the need for some modification to the existing 1983 legislation. The Minister, in his Opposition policy, highlighted a need for some finetuning, which is consistent with the views of most commentators. In fact, the panel of review established by the Minister and chaired by Professor

McCallum—which we have heard about this morning, and which I was pleased to be a party to—has embraced by way of its terms of reference perhaps a somewhat conservative but realistic ambition in terms of this finetuning process.

In terms of this panel of review, the Australian Chamber of Manufactures was pleased to facilitate, as coordinator, a cross-section of employers in New South Wales. In fact, the final employers' submission received the input and endorsement from 25 industry associations, including the ACM. This process of employers' solidarity and commitment to the consultation being offered by the Government is an encouraging demonstration of the employers' interest in achieving better occupational health and safety outcomes. Employers embraced the philosophy of the terms of reference and conceded that the 1983 legislation needed fundamental surgery.

However, balance was of interest to the employers—balance in terms of achieving better workplace safety and, importantly, equilibrium in terms of upgrading education, workplace safety, culture and sufficient regulatory stick, if you like, for those organisations or companies that are slower, reluctant or not as vigilant as they should be in terms of workplace safety.

The employers' submission was aimed at providing equity incentives in the legislation in order to achieve a new culture of occupational health and safety. It is time to build on what has been achieved under the 1983 Act and to move forward to a system that is seen as fair in the workplace and that provides genuine and positive encouragement to improving health and safety. This point was recognised by the Minister and his Chief of Staff, Adam Searle, in reviewing the 1983 legislation in a document entitled "Challenges for the future" when they commented:

To be fair to those who drafted the 1983 Act, it was supposed to be a beginning, not the end of the process of streamlining the laws in this area.

The employer's view is that the optimum standards for occupational health and safety will be achieved through more collaborative arrangements between employers and employees. In this regard it is not a one-way street, as both employers and employees have duties and obligations. The present scheme of the Act is that the employer occupier has an absolute duty to provide a workplace which is safe and without risk to health. If there is an accident, the employer has breached the Act. The Act allows defences for the company in that it may not have been reasonably practical to comply, or that the employer occupier had no control over causes of the

breach. However, these are defences when there is already a breach of the Act because there has been an accident. As identified by one of the speakers we will hear from this afternoon, Professor Michael Quinlan, employers can no longer rely on a legal compliance model of occupational health and management. This was never effective in the past, and ongoing changes in the workplace and work force make it even less acceptable today. There is no guarantee that decisions based on compliance with existing regulatory practices will avoid significant legal liability. Employers should be encouraged to adopt an organisational approach which is systematic and takes specific account of changes to their workplace and work systems. Justice Marks of the New South Wales Industrial Commission, in "Understanding the New South Wales *Occupational Health and Safety Act*" stated:

Whereas safety legislation which exists in the United Kingdom and other States of Australia presumes like most criminal legislation that a person is innocent until proven guilty, the manner in which this Act is framed will have the effect of assuming that a person is guilty until proved innocent.

When compared to other States the current New South Wales legislation is unique, and places an almost impossible burden on the employer. The Act requires absolute safety, whereas in reality all that employers can reasonably be called on to do is to manage the risk. In addition, the burden of proof in such instances is often insurmountable as the legislation is structured in such a manner as to prevent that test from being satisfied regardless of the equipment, training and information provided by the employer. In other words, an employer is found liable whenever an accident occurs in the workplace, regardless of the causal factors involved. The Act requires employers to ensure safety rather than to minimise the risk in the workplace. On the other hand the employee's responsibility is under prescribed. It is obvious that employees do not determine the system of work, plant layout and procedures, machines, materials or what is to be done. Accordingly, an employee suing the State can often be linked to an inadequate system of work.

The Act requires employers to take reasonable care for the safety and health of others. There is no emphasis on the obligation of employees to take reasonable care for their personal safety and health. This imbalance needs to be considered and addressed. The Act works on the basis of increasing penalties, and is directed towards compliance rather than ongoing improvement. Again, the potential for improvement in occupational health and safety is by way of cultural factors and reducing the burden of fines over which employers have no control. The current system could encourage an inspectorate which would see its advisory role as being a lesser part of its job, with the major influence being the enforcement of the Act.

Although this situation does not occur in the majority of instances, the system allows the opportunity for enforcement to be the most efficient and quickest outcome. Therefore, one of the real problems with the Act is that it is unbalanced and does not contribute to the problem of managing the risk of occupational health and safety, let alone encouraging a workplace culture of safety awareness or safety optimism.

The continued emphasis of prescriptive legislation over the past few years has increased the cost of occupational health and safety whilst, in our opinion, providing only a limited contribution to healthier and safer workplaces. Occupational health and safety in New South Wales requires a substantial cultural change whereby all parties have involvement in the sensible management of risk, commitment and ownership of occupational health and safety matters, and individuals as well as managers develop a pro-active approach to work-related injuries. By "culture" we mean commitment by management in writing; recognition by all employees that occupational health and safety is an integral part of all workplace activities; budgeted allocations for occupational health and safety; clear and documented procedures which outline the areas of production, quality assurance, and occupational health and safety allowing the best product to be produced at an economical price and without any injury or illness to employees.

"Culture" also means a regular and structured communication between management and employees; understanding the concept that everyone is responsible for occupational health and safety; employees to work safely and report hazards, and management to react positively to prevent injury and illness by providing resources in the form of time, manpower and money. Occupational health and safety issues are to form part of management's daily activities and legislative requirements that insist on systems rather than non-compliance with prescriptive legislation. Employers believe that there is a need for individual enterprise occupational health and safety plans whereby financial incentives for the development of such plans and the adherence to such plans can be incorporated into associated legislation, such as the *Workers Compensation Act*, possibly in the form of premium reductions.

With statutes such as the *Occupational Health and Safety Act* and the *Workers Compensation Act* being essentially penalty based, the need for positive reinforcement and financial incentives is greater than ever to reinforce the pro-active approach rather than the negative and counterproductive alternative. We believe that legislation can be improved by changes in relation to training and consultation at the workplace. We have also recommended changes to some penalties with a view

to achieving some consistencies. In respect to training and consultation we would like to explore with the Government and the unions the need for training to be driven by all stakeholders. The Minister and Adam Searle, when reflecting on the recommendations of Adrian Brooks when she recognised the need for education and training and the provision of highly developed infrastructure services, concluded that although previously not stated, it may be assumed that the last two points related to services that would be provided by government, unions and employers. We see it very much as part and parcel of the major stakeholders in the system.

The key principles to the submission we have made is to have due regard to the reasonableness in respect to the duty of care; a party suspected of a breach of the Act remain innocent until proven guilty; the Act to encourage employer-employee relationships which provide for consultation and training to the individual workplace; the obligations of both employers and employees be recognised; a balanced and equitable system of penalties; the Act be modernised and rewritten in plain English; and the Act incorporate a system of incentives which recognises a commitment to implementation of best practices. In respect of the McCallum panel of review, which Ron introduced this morning, I confirm that we have been very pleased to be part of it. Very good ground has been made in addressing the terms of reference given to us by the Minister. I am sure that Professor McCallum has highlighted some of the successes of the process.

A particular aspect which confirms the ongoing nature of this exercise concerns consultation and training. Both I and my colleagues who have been party to discussions with Labor Council believe that common ground exists on which we can continue to develop our ideas and processes that may be reflected in any new legislation. Both unions and employers obviously have a common interest in improving occupational health and safety outcomes, with the common belief that these outcomes will obviously advance the commercial interests of New South Wales. We believe we must approach consultation with these objectives in mind to ensure that we maintain adequate protection and a derivative of that is an improved culture. To reflect on what Warren Haynes said, it should be very much driven from the top down and the bottom up. The issues of leadership reflected in that culture and employee recognition of their employment situations and control over certain safety situations is important. On that note I conclude our address to the Committee. As did Warren, I wish you all the best. We look forward to being involved in the ongoing process. Thank you ladies and gentlemen.

MR ROBERT KIRKBY

GROUP GENERAL MANAGER AND CHIEF OPERATING OFFICER
LONG PRODUCTS DIVISION
BHP STEEL NEWCASTLE

"Pursuing Excellence in Safety"

HON JOHN RYAN: Our next speaker this morning is Mr Robert Kirkby, Group General Manager and Chief Operating Officer, Long Products Division, BHP Steel, Newcastle. Mr Kirkby is a civil engineer, and as I was an arts student that makes him a greater mortal than me. He has been involved in the mining industry since 1971 and is currently a director of both Queensland BHP Steel and New South Wales BHP Steel. He is also a director of the Hunter Economic Development Corporation, a councillor at the University of Newcastle and a member of the Australasian Institute of Mining and Metallurgy. We look forward to hearing from Mr Kirkby.

MR KIRKBY: Good morning Mr Chairman, members of the Committee, ladies and gentlemen. It is a pleasure to speak to you this morning. BHP applauds this initiative of the New South Wales Government to inquire into workplace safety. BHP, as you all know, is a large Australian company which now operates in many countries around the world, with operations in all States of Australia. The major operations which occur in New South Wales are related to our steel activities. This morning I would like to tell you what we have been doing in BHP Steel with respect to safety, and some of the things we have learnt over the last couple of years so that others can consider them.

I have a number of slides, which I hope you can see. [Slide 1] Although the majority of BHP Steel's 30,000 employees work in New South Wales, a considerable number of employees work throughout the world under various occupational health and safety regimes and laws. We operate in 25 countries. In terms of steel companies our output is rated about 14 in the world; our profitability is higher than that, thankfully. It is a large group in its own right, with many operations throughout the world.

[Slide 2] We have had a dramatic improvement in our safety performance in the last few years, and this has come about by a focus on improvement after some unfortunate events in the early 1990s, and in a recognition that we needed to rebuild something that we had in our company for many years but had lost somehow in the 1980s. In the 1990s across the whole company we have driven right from the top of the organisation that the safety of our employees is our pre-eminent value. In BHP Steel that has translated to a significant improvement in our safety performance. The lost-time industry frequency rate is one of the measures we use. All the other measures that people generally use have shown the same sort of improvement.

In 1993 and 1994 we had a lost-time injury frequency rate of about 30. In the last

three months for the whole 30,000 people it is down to below five. The groups I look after are mainly the Newcastle steelworks and the Whyalla steelworks. The Whyalla steelworks has run for over 100 days without one lost time injury. Three or four years ago an injury a day was the sort of thing we experienced. In the very short time I have, I would like to talk about some of the things we have done to achieve this result.

The first thing we did was look around the world to find out who was the best in safety in a comparable company. I was very pleased this morning when the Managing Director of ICI Australia identified Du Pont America as the world's best. We came to that same conclusion and have had that company as a partner in our organisation for over three years. Du Pont has introduced us to many new and different techniques to improve our safety performance and has trained all 30,000 people in our organisation in various techniques. To understand how good Du Pont is, for 50 years they have maintained a frequency rate which we have only achieved for the last three months. In fact, Du Pont's current frequency rate is still about 20 times better than ours. So even though we have improved, through that company we can see many areas where we can continue to improve our performance.

Du Pont brought to us 12 key things [Slide 3] which we needed to concentrate on. Some of these we had in place; others we did not have in place. They start, as the Managing Director of ICI said, with a vision of what the company should be trying to achieve. Ours is exactly the same as theirs. We believe you can operate an organisation like BHP without injuring anybody. We have a number of management documents which make that visible throughout the whole company and we have a team that is committed to it. In terms of principles, it is very important to make safety a part of your daily business, so when I have talked about an integrated organisation for safety, that is what I mean.

We have it as our first topic at all meetings. It is just as important to us as the dollars and cents that run through the business. We clearly make it a line responsibility. Every line manager is responsible for ensuring that he has a safe operation. It is not some group of specialists sitting to the side advising people. It is important to have working policies and rules, and we have done a lot of work to improve those. It is also important to have very challenging goals, and we have set our goal at zero injuries in our group by the year 2000.

As far as management is concerned, a very important thing to do is set and demand

high standards for everyone who works in the workplace, and also work to those standards themselves. We have found that motivation of the workforce, every single person in our organisation, is the key to achieving this goal. Better systems and better equipment, as you will see later in my presentation, are secondary in our view to getting the attitudes and behaviour of our whole group headed in the right direction. People do need training. They need specific training for the work they are asked to do every day. In addition, they need training just in the general theory and concepts behind safety. We have done all of that.

Ensuring that the standards you think are in place are actually being adhered to is very important for every single person in the company, not only for management. I will talk a little bit more about that later. One area in which we needed to improve our performance was the way we looked at accidents and to understand what has caused them. We have done a lot of work to understand what causes accidents and incidents. I would like to mention a few things we have done to improve our performance over this period of time.

First of all [Slide 4], we now have what we call safety observations or safety audits in the workplace. They are done by everyone and they are done on a daily basis. In the old days we spent a lot of time worrying about the state of our equipment and the state of handrails, and whether things were painted or not, but we did not actually observe what people did with them. Most of our workforce now participates to ensure that they look at how they and others in their work group actually do their jobs. It is a focus on people; it is no longer a focus on equipment and plant as we had done previously.

We have introduced new techniques for accident investigation. You need an atmosphere and an environment of openness and honesty to get to the bottom of what has caused an incident. You need also to recognise that in our view, similar to ICI's view, 90 per cent of the injuries that occur at the workplace are because of what people do. Only 10 per cent are because of equipment or the conditions that exist. We have statistics to verify that. You need an environment which is open. This at times is a problem for us, with legislation the way it is today, because there is a tendency, with the threat of penalties and prosecution, for people not to be as open as they might be. We need somehow to get around that, to get to the bottom of these things. Standards and compliance are very important. The best way to achieve this is by example from the top and to set the necessary standards, which should be checked and audited all the time, to enable people to go home safely at the end of

every day. Communicating the message and motivating people are very important. The company achieves these by daily contact with every single person within our organisation. Specifically training people to do the job they are working on or the next job is very important to ensure that the jobs can be done safely.

I will now talk about the way BHP Steel views improving safety [Slide 5]. We consider ourselves on a journey and various steps need to be taken to reach our goal of zero injuries in the workplace. People have a natural instinct to preserve themselves but, unfortunately, we are high risk takers. If just left to our natural instincts our work safety record would be very bad. One of the first things that needs to be done, and which our company has done, is for management to become committed to improving performance in the workplace. Applying rules and procedures, edict and control, policing and discipline, and training resources—which are all generally part of a program—will certainly improve safety performance dramatically but there is a limit to how effective they will be. Doing those sorts of things better and harder will not give adequate safety performance. At the end of the day, individuals need to be committed to the safety program, to have an understanding that it is in their interest to be safe and to work safely in an unpoliced manner.

The last step, which is a very important step, is to get to a stage where everyone looks after each other and no stigma is involved in telling other people how to safely carry out their jobs. This is not just a management role but a role for everyone in the workplace. That is what BHP is working towards. As with a couple of earlier speakers, it is the company's opinion that the way people behave and think is the key to improving safety performance. As I have said, 90 per cent of all accidents are basically caused by unsafe acts [Slide 6]. The slide shows a triangle which represents the frequency of various events. Safety theoreticians and professionals have different ratios but for every fatality a certain number of lost time injuries occur and so on for medical treatments and near misses. Underlying all of that is unsafe behaviour.

People behave unsafely generally because of the way they think. Changing the way they think and their behaviour is the key to improving the top of the triangle.

[Slide 7] Once there is unsafe behaviour the outcome is a matter of luck. This slide graphically highlights that point. A 150-metre pipe full of high pressure chemicals fell down onto the middle of a truck. The incident was caused by the truck in the background driving underneath a pipe bridge and pulling down the pipes. In this incident neither the driver nor the passenger were injured; they walked away. The root cause of the accident was the behaviour of the driver of the other truck. To solve the problem we would now work on trying to change that person's behaviour. In days gone by we might have built guards but we believe we get a far better result by working on the person's behaviour.

[Slide 8] Over the past couple of years we have crystallised our thinking in terms of safety in our group and have formulated the principles shown on slide 8, which we expect everyone to know. Employees cannot know all the rules and regulations—it is bad enough trying to know them in your own area—but we expect everyone to know these principles to guide their behaviour. The company is of the opinion that all injuries can be prevented. We now have plants that have run for a considerable period of time where working safely has now become a condition of employment. The company does not want people, whether a manager or a worker, who will not work safely. Employee involvement is essential which goes to the full range of activities, whether analysing risks, analysing how to do a job, or checking that others are doing their job properly. All of these activities need to be done by everyone.

Everyone is responsible for safety but at the end of the day management is accountable. The company does not have any qualms with that. Operating exposures can be safeguarded. If enough effort and time is put in, all areas can be engineered to be safe. Quite often, money is not needed; it is effort and time. Training employees to work safely is essential. People by natural instinct do not want to work safely and need to be trained how to do it specifically and generally. The company needs to spend time and resources doing that.

[Slide 9] From the company's point of view, safety impacts on our people, our profit as a company and our image. A legal liability is attached and generally safety impacts on our community licence to operate—that is, how we are accepted in the community. We believe it is good business to run a safe operation. Our goal is to have no injuries at work. Thank you, Mr Chairman and ladies and gentlemen.

HON PETER PRIMROSE: Thank you, Mr Kirkby, for that presentation from the perspective of BHP.

MR ANDREW FERGUSON

STATE SECRETARY
CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION

HON PETER PRIMROSE: As a member of the Standing Committee on Law and Justice, it is my great pleasure to introduce our next speaker, Andrew Ferguson. Andrew is the State Secretary of the Construction, Forestry, Mining and Energy Union—CFMEU. Andrew commenced employment with the then Building Workers Industrial Union, now part of the CFMEU, in January 1980. He is currently the elected State Secretary of the New South Wales Construction and General Division of the CFMEU. He holds a Master’s degree in economics, a diploma of urban studies and a diploma of industrial law. Andrew has worked on a range of committees with various organisations including WorkCover New South Wales and the Building, Construction and Training Council. He is here today to speak on behalf of a union whose members are exposed to some of the most serious physical dangers in the workplace. Please welcome Andrew Ferguson.

MR FERGUSON: Thank you, Peter, and members of the Standing Committee. This is my first opportunity to address a Standing Committee. Past opportunities have been with a megaphone in Macquarie Street. I hope to have further opportunities in future years to come back. The CFMEU represents workers in a physically arduous and dangerous industry. That danger was highlighted at Christmas last year when two workers were killed in two minutes on a Tweed Heads building site. Dozens of workers are killed each year and hundreds are totally and permanently disabled. Our organisation regards safety as very much part of union business. The overwhelming majority of workers in the building industry who are killed or totally and permanently disabled are non-unionists. Unionised building sites have better safety standards and the union will continue to play its role to unionise sites so as to improve occupational health and safety standards in the building industry.

The last time I was arrested was two years ago on a Darlinghurst building site. Under the previous Liberal Government I was arrested for trespass. Eventually the immigration department raided that job and dealt with the issue of illegal immigrants and the safety issues on the site were settled by WorkCover and the union. I am pleased that the New South Wales Labor Government has addressed the issue of right of entry by unionists to tackle the issue of poor safety practices in the building industry and other industries. There are those who are seeking to destroy the rights and legitimacy of trade unionism and there are governments, like the New South Wales Government, which recognise the importance, relevance and the role of trade unions.

In terms of other State Government initiatives, we welcome in particular greater

government regulation. Of particular importance to building workers was the issue of greater regulation of the asbestos removal industry last year and the licensing of the demolition industry. Over decades scores of workers in the industry were killed on demolition sites where there were no safety standards and contracts were awarded to companies which quoted the cheapest prices. The same lack of safety standards applied in the asbestos removal industry. In future decades the end result will be hundreds of workers dying from asbestosis and other similar diseases. The union welcomes the initiatives of right of entry, greater government regulation and, in particular, licensing of demolition and asbestos removal companies.

Historically, building unions have fought hard for workers' rights, in particular in relation to safety. Some of our fiercest strikes and campaigns have been about the issue of safety and the rights of injured workers. Many noisy protests have taken place outside this Parliament about occupational health and safety and workers compensation issues. We will continue to vigorously campaign to defend the rights of men and women in the workplace. However, the union also recognises the importance of education and training. In recent years we have initiated an ambitious drug and alcohol program in the building industry. Control over counselling of building workers with drug and alcohol problems has been taken out of the hands of health professionals. The union is achieving enormous successes with workers who are now starting to deal with the problems of drug and alcohol abuse. Unions are relevant and can play a meaningful role if given the opportunity.

Our union has produced videos on occupational health and safety, skin cancer prevention and safe removal practices of asbestos and has many other initiatives under way. At the moment there are more stop-work meetings on building sites organised by the union about health and safety than campaigns for wage increases. We will continue to place a high priority on educating the industry work force about health and safety. Of major importance is a project we currently have under way for young workers in the industry. We are in the process of developing an occupational health and safety training package and video for young workers. It is essential that training and education in the industry is relevant to sections of the workforce who have special needs, for example, young workers and workers from a non-English speaking background. More work needs to be done by government, industry and unions to communicate effectively with young workers and migrant workers.

As a further demonstration to our commitment to education and training, last year the union established a company in the building industry called COMET Training.

This company was formed in association with the peak employer body, the Master Builders Association. We are resisting efforts by employers who want to attack and destroy unions and define our role as being exclusively adversarial. We are demonstrating our commitment to a working partnership with responsible employers to improve occupational health and safety. Our training company will be the largest provider of occupational health and safety training in the building industry within 12 months. The company will provide occupational health and safety induction training, site specific occupational training, company specific training, safety code training and, in particular, training packages for young people and migrant workers. COMET Training provides a model for other industries. The union intends to take occupational health and safety training out of the hands of academics and consultants who do not work in the industry to make sure it is training by the industry for the industry. We intend to place occupational health and safety training in the hands of responsible employers and working people.

Finally, I would like to focus on the issue of occupational health and safety training. Presently, despite the duty of care obligations in State legislation, not some, but the overwhelming majority of building workers receive no occupational health and safety induction, instruction or training. Many workers are picked up from pubs and clubs in the evening, or from car parks early in the morning, and they are placed on sites for a day, or, if they are lucky, they get a week's work. We are appealing to the State Government and WorkCover to address this issue as a priority to ensure that there are mandatory requirements in respect of induction training rather than just a duty of care, which is more often not complied with than complied with.

In 1995, 10 building workers were killed. In 1996, 16 workers were killed. We are on the verge of a major building boom, and in every building boom we have an influx of unqualified workers from many other industries, from panel beaters to hairdressers, who have no qualification, let alone any training in terms of occupational health and safety. We intend to ensure, by strike action if necessary, but preferably by agreement, for Government to deal with the issue of occupational health and safety induction training, to make it mandatory so that we do not have a legacy from the Olympics building boom of more bloodshed and tragedy on building sites.

HON JANELLE SAFFIN: Thank you, Andrew. I can assure you that you are a good advocate for working men and women, whether you are outside with your megaphone or in here with the microphone.

MR GEOFF KELLS

MANAGING DIRECTOR
CSR LIMITED

HON JANELLE SAFFIN: I would like to introduce to you Mr Geoff Kells, who is the Managing Director of CSR Limited. Geoff Kells holds a Masters Degree in Economics, and was appointed Managing Director of CSR Limited in July 1993 after holding a number of senior management positions in the sugar division and corporate head office, as well as general management positions in the building materials division. In January 1990 he joined the CSR board, where his responsibilities spanned building and construction materials and timber products operations in Australia, New Zealand, Europe and Asia. Over a 20 year period he has served on various Commonwealth Government inquiries and sugar industry working parties. Please welcome Geoff Kells, who will be speaking on behalf of another major Australian manufacturing corporation and employer, which, according to its last annual report, has managed to reduce the number of serious workplace injuries by two-thirds over the past five years.

MR KELLS: Mr Vaughan, members of the Standing Committee, ladies and gentlemen, and friends. If you go to any CSR operation you will see the same sign at every operation, normally near the place where we all enter. The sign says, "No job is so important and no task so urgent that we cannot take time to perform our work safely. The safety of our people must come first." I think they are good words, and the challenge for all of us is to make them real and to convince everybody who is employed by, in this case, CSR, or whoever the employer is, that that is a genuine statement of the beliefs of that organisation. That is a very big ask, particularly for large companies and those, like ours, with a lot of operations geographically diverse.

I have only three points that I would like to make. I think that they are the heart and soul of what we at CSR are trying to do to make that statement real. Before I start, I would like to show a slide showing our credentials. It is a slide that I take a great deal of pride in as being one of the best measures of how a company is improving. Compared to about 10 years ago, there has been, as of today, almost an 80 per cent reduction in our lost-time accidents. Furthermore, we used to have a severity rate that was about 850, and today it is under 200. I will agree that that is not world class, and we need to get that lost-time injury frequency rate of 7½ down into the twos and threes before we can be proud to say that this is as good as many companies in the world can get. However, those are some credentials.

My first point has to be: how do we actually build leadership and commitment of everybody into the priority of stopping people from being hurt? I am absolutely

convinced that unless we can do that, we will not make the progress that we all want. Listening to the last speaker, there is obviously a real challenge when some companies do not believe that they even have a responsibility. But our task is to get the leaders of the organisation to actually focus on their people and the safety responsibilities that they have for them. That is the task. It must start at the top.

In our case, we set up a board committee. That committee has now visited 100 sites since 1991 when it was created. Safety statistics are reported at every board meeting, and the 10 worst sites and the 10 best sites in CSR make reports to me on a monthly basis. We have programs for concentrating our managers' minds on this, until there is a cultural change, by including their safety performance in reward mechanisms and promotion mechanisms, and we do provide a system which absolutely must be followed. It is not a matter of a manager in our company choosing which system he thinks is the best, but, rather, there is a CSR system which is mandatory and must be in place. One feature—but only one feature—of that system must be some proper analysis of the cause of accidents, the type of accidents being incurred, and having a program to address them. I do think that many safety programs tend to be all things to all people. You only drive reductions like that, and stop people from being hurt, by concentrating firstly on the big issues and not actually frittering away our activities on everything. But once we have addressed the big issues, we move on to the next. That involves a discipline on a system in place, led from the top, reinforced in the middle by both sticks and carrots, until there is actually a cultural change in the organisation. I would simply say to you, if you pick out one ingredient in that and ignore the rest, I really do not think we will stop people from hurting themselves.

My first point is: please think through, as a committee, the way in which an organisation—and I am addressing my comments here to largish organisations—can bring about that cultural change and work through all aspects of it, rather than pick just one or two and think that you will get that type of dramatic change. That is my first point: please think through and concentrate on the way in which you get organisations' leadership engaged, and then have a commitment that spins down through everybody in that organisation, and work through a whole series of devices to bring about cultural change in that organisation.

My second point adds to that, rather than being a totally separate point. I think we all must have quite realistic expectations of each individual and the role that they have in a company as regards safety. If you pick CSR, we have over 500 sites in Australia

and we have 15,000 or so people working for the company. I happen to think that what is expected of the directors of such an organisation would differ very considerably from those directors who may be hands-on in a quite small organisation and have much more direct responsibility. As to a large company, which I will just touch on, I think that directors must be held responsible for ensuring just two things. They must be held accountable for ensuring that there is a proper safety management system in that organisation, that there is a system which has certain ingredients to it which is in place, and I believe they have a responsibility for ensuring that that system is in good health.

I think that if you go beyond that, you are actually not achieving what we really want. What we really want is to stop people from hurting themselves, and I think that is the bounds of what is reasonable in a large company. However, I then go on to say, but of course there are other players in those organisations, which may start at the managing director, with particular responsibilities too, and will then spin down into middle management, direct foremen and direct supervisors through to people at the workforce. I think a simple solution is not the appropriate solution for trying to work out the accountability of each person in that chain. If you get that wrong, I think you may in fact distort the process and you will not get those end results. I encourage you, as a committee, to think about differences in scale, and therefore the differences in what you really do expect from each person. Hands-on managers and hands-on directors are different from non-executive directors who are in fairly removed positions. Even working in a very diligent fashion, we, as a committee of the board, have managed just 100 site visits out of those 500 sites that we have got.

The other side of that issue is, having the system of accountability down through each layer—and I think that is a difficult but not impossible task—I think we also should be clear on what are the few key components of a good safety record. There are only four, and we can all actually answer and solve all four; there is nothing magical about it other than our will to do it. Firstly, we must have safe equipment. That is a responsibility for line managers. Secondly, we must have safe working practices. Once again, that is a matter to do with line management. Thirdly, we must skill our people in the way in which they should carry out those safe working practices and use that safe equipment. Fourthly, we need an organisation where people actually care for each other. Therefore, in transitory organisations I think the Committee would do well to think of the different interpersonal relations, as compared to an industry such as ours where there is a much lower labour turnover, and we should actually build, and expect to build, particular relationships between

our people. Our own safety system is based on the responsibility that each person has, not only for themselves but for their workmates. I think in Australia we underplay the importance of such relationships because it is somehow not the done thing to talk about them. My second point then is: please think through the particular responsibilities and accountabilities that we really want to have, and expect each layer in a large organisation to have, and hopefully do not go for a simplistic approach—which may be right in small organisations, but I do not know whether it is right in big organisations.

My third and last point is: we must work to have some consistency of approach across Australia. There are many, many employers who have people working in more than just New South Wales. Perpetuating the differences between the States is inefficient, and I think leads to people having more accidents, not fewer accidents. I would give a premium to trying to work through, at least in a few States, if not nationally, some way of getting a uniform approach on safety. It is expensive if we have different systems, it is inefficient, and both the effort and finances should be given to stop people from being hurt, rather than from trying to work through most detailed and complex legislative requirements. I know that is not easy. Some uniformity, even if it is between a couple of States, really would have a significant benefit. One way in which we could do that, even if the States cannot agree on the detail, is to at least agree on some of the general processes, which I have tried to explain, as to accountability at certain levels in the organisation. At least we could do that, even if, in a more prescriptive sense (if that is the way the Government in this State would like to go) there may be differences between the States.

They are my three points. How do we build leadership and commitment of everybody? I have given a few ideas on that. I have given some ideas on the way in which you hold different people accountable and provide a quite disciplined approach on safety. The last piece is really to try to remove complexity from something that is too important for us simply to get into detailed legislative minutiae. I think that if we do that we can actually make those words real, which is what we struggle with each day, namely, that we should have as our goal a little vision statement, if you like, for New South Wales: 'There is no job so important, no task so urgent, that we cannot take time to perform our work safely. The safety of our people must come first.' That is our goal, and we look forward to any help we can get in achieving it.

HON JOHN RYAN: Thank you very much, Geoff. As a member of the Committee I have appreciated a great deal the hands-on experience which has been given to us by so many senior executives of companies who have been able to demonstrate to the Committee and to the State generally that a better record in work safety is possible provided there is commitment. I suppose that one of the other questions I have been posing for myself is that culture seems to be a very important ingredient. You wonder how to achieve cultural change in the very blokey, risk-taking atmosphere of the workplace. We appreciate the insights that we have been given.

MR RUSS COLLISON

JOINT BRANCH SECRETARY
AUSTRALIAN WORKERS' UNION (NSW BRANCH)

"How Safe is Safe Enough?"

HON JOHN RYAN: Our next speaker is the Joint Branch Secretary of the Australian Workers' Union, New South Wales Branch, Mr Russ Collison. Russ has held a number of positions in the union movement, including Assistant Branch Secretary of the Federated Ironworkers' Union of Australia in 1990. He was Branch Secretary of the Federation of Industrial and Manufacturing and Engineering Employees in 1993, and then New South Wales State Secretary of the AWU-FIME amalgamated union, which goes to show that he has the skill of surviving restructures. Membership of the AWU covers a vast range of occupations. I had the opportunity to see Russ' paper on a confidential basis earlier. An important theme he will be bringing to us is the rural perspective of worker safety. We often associate rural work with being bronzed, muscle-toned, wholesome and in a fresh-air environment. The paper has convinced me beyond a doubt that that is not necessarily an accurate view of the rural working environment. I am sure that what Russ will say to us today will be well worth listening to.

MR COLLISON: Mr Chairman, members of the Standing Committee, and ladies and gentlemen, what I have to say today is somewhat topical, I am sure, but it is extremely important at a forum such as this that not only major companies but also senior trade union officials can put a perspective on occupational health and safety. I appreciate having the opportunity today to address the Committee and this group. Our union has a vast diversity in its constitutional coverage and the time available today would not allow me to do justice to all our members but I will target the rural, country and regional areas. Our workers are exposed in the workplace to enormous dangers in relation to chemical substances, toxins and other materials that have an effect on their health and welfare. Being on the highest rate of pay with the best conditions means nothing if the task you are performing will dramatically reduce your working life.

Today I shall make a range of points so that people understand what our members are exposed to. Because of the factors I have mentioned a trade union such as ours must have a wider agenda than industrial matters. We have a responsibility to make sure that we look after the interests of our members and their families in rural and country areas. Employers should understand the significant role they have to play in favouring more humane and less hazardous substances and products in carrying out their business operations. There can be no denial of the hazards and dangers in industries such as construction—as was pointed out earlier—transport, metal engineering, manufacturing and mining; however, some of the most dangerous and

hazardous industries are in the rural sector. They encompass a wide range of activities including those associated with the pastoral, agricultural, horticultural, forestry and viticultural industries.

Farmers and other workers should understand the range of hazards in their industry. They also need a broad range of mechanical, horticultural and other skills and knowledge. It is said that rural work is naturally safe, healthy and wholesome. However, statistics do not confirm such perceptions. Researchers at the John Hopkins University at Baltimore, USA found that agriculture is now the most hazardous occupation in America, a frightening finding. Finnish studies show that one in five males and one in five females report no health problems. Data from American and French studies show a higher death rate from respiratory diseases amongst agricultural workers than amongst city dwellers. Australian studies have shown that 27 per cent of adult male deaths and 35 per cent of child deaths are caused by accidents involving tractors.

Sadly, the rural sector in New South Wales has a death approximately every 26 days, and rural workers are experiencing horrific injuries. Rural work revolves around seasonal conditions with peak periods of activity such as shearing, sowing and harvesting. It is characterised by a diversity of unpredictability. A feature is that irregular hours are worked, thus giving rise to a series of hazards which include, but are not limited to chemicals, pesticides, lung complaints, organic dust, animal handling and diseases, unguarded power take-offs, noise and vibration, heat and exposure. All hazards and health problems are unwelcome and unwanted in the workplace. And they certainly concern our union greatly. Yet employers and employers' associations frown upon regulatory controls and regulations. There is opposition from farmers' representatives to basic safeguards such as the provision of personal protective equipment. Scant regard is given to toxic and agricultural chemicals and pesticides, which is misguided.

We hear statement such as, "Imposing statutory authority around here is nothing but a hindrance. Don't come in here and push your safety agenda or your regulations on us. We have a five-star national safety accreditation. That means we must be doing it right." How wrong these people are. Significant improvements will come only with a change in attitudes and culture among those actively involved in farming. The basic and fundamental right of workers to decent accommodation is neglected. For example, the *Rural Workers Accommodation Act* has been repealed, leaving workers living in condemned and pest-infested premises.

The comments I am making today are factual. We have had our people out in the workplace to inspect conditions and I can back up my submission with fact. In some cases the floorboards are rotten; in others there are no floorboards at all. There are fleas in the mattresses. Outside toilets are fly-blown. Rats and other vermin run riot. Water tanks are rusty and the water is discoloured. At the end of a hard day's work, workers experience overcrowding as well. All these issues should be addressed and need to be. However, the apparent overuse, misuse and abuse of agricultural chemicals and pesticides is a serious problem affecting farmers, farm workers, the community, the environment and all of us. Animal life is disappearing; plant life is being destroyed; human life experiences medical problems.

When complaints are raised in some places physical threats occur. This is a major concern and needs addressing. It is an issue that goes beyond the workplace. The issue of indirect harm is highlighted when, for example, field workers take chemical-laden clothing home to be washed. Spray drift and over spraying from aerial application affects those nearby, thus impacting on neighbours in the community. Concerns about potential crop losses and insect and pest attacks must be weighed against the trauma suffered by the increasing number of people exposed to pesticides through food, air and water contamination. However this is not the case: preliminary investigations by my union, the AWU, into the use of chemicals and pesticides have uncovered some alarming statistics. For example, endosulfan, an organochlorine, has shown up in rainwater tanks.

While driving along we have observed that cars and in particular school buses have been extensively covered with a sticky substance. Women working in the cotton industry, who are traditionally called chippers, have been out in the fields wearing bikini tops. It may be a pleasant sight but it is not something we would recommend people do in that industry. I suppose they are more concerned about their suntan than protecting themselves against the sun and the chemical residues on the plants. Another example is the case of an 18-year-old boy employed as a marker, a person out in the field to indicate where the spray should occur. He was going home of an evening absolutely soaked in chemicals. Markers are expected to work upwind of the aerial spray to avoid contamination and to move smartly away when the plane is within a couple of hundred metres. This is outrageous and it is occurring on a daily basis.

The personal protection equipment supplied by employers to this young man was a pair of overalls. The only instruction was, "When the plane comes, get on your bike and start moving, son." These are very serious offences. In another case blood

analysis revealed the presence of organic sulphate pesticides in shearers. Workers exposed will tend to do nothing about it because of their fear of loss of employment. Take the case of four young women working in the agricultural industry innocently going about their work in the field. The next minute an aerial top-dresser sprayed the field nearby. Within half an hour one of the young ladies was violently sick. Soon after the employer observed that the work had ceased he went over and informed the four workers that if they did not return to work they would have to leave the property. At the end of the day the comment was made that if you go from the property today and you start talking about this incident with other people do not bother coming back tomorrow. That is how serious these offences are.

A study of the quality of water has shown that endosulfan concentrates were higher in 1996 than in previous years, 73 per cent of those samples which took place between November and March showed endosulfan, 32 per cent of the samples failed the drinking water guidelines and 19 per cent of samples exceeded drinking water guidelines for the pesticide of atrazine thereby impacting on the towns which take water supplies from the rivers in question. It is really a scary problem.

The study shows that during the rain in 1996 that there were peaks of instantaneous loads of 7.5 kilos a day of endosulfan and 120 kilos a day of atrazine. Further, to cut costs, more and more employers are tending to mix chemicals thereby creating a lethal cocktail and unknown dangers, thus exposing workers to adverse health effects that may emerge long after the exposure. At times, the effect of mixing two chemicals together can neutralise each other any way, but when two organic chlorine pesticides are applied in combination their activity increased between 160 and 1,600 fold.

It is difficult to establish how many chemicals are in existence but the American chemical abstract service identified several million distinct chemical compounds and that the total increases at an average rate of 6,000 per week. Current estimates from the Environment Protection Agency in the USA indicate that there may be as many as 70,000 considered chemicals in everyday use. According to authors Cindy Deuhring and Cynthia Wilson there is no toxicity data available in the US for 80 per cent of the 49,000 chemicals in commercial use daily, and of more than the 70,000 chemicals in daily use complete toxicity data is available for only two per cent—outrageous.

The National Industry for Chemical Notification Assessment System annual report

for 1995-96 stated that information in Australia about existing chemicals is commonly fragmented, scarce and sometimes conflicting. Most of the 38,000 existing chemicals have never had an independent assessment of their risks. This means that most of the substances now in use have not been tested over long periods of time and their long-term effects are virtually unknown. The ultimate objective for testing chemicals is to obtain the information needed to form a sound basis for recommending the term "safe levels of exposure" for humans in contact with them.

Safe is a relevant term and no matter what adverse effect is associated with a chemical, absolute safety for that chemical can never be assured. Another area of concern is the re-entry period if a field has been sprayed. That re-entry period is designed to protect workers. It is aimed to prevent absorption through the skin by indicating when it is safe to go back into the field that has been sprayed. The standard is rarely enforceable, in part because pesticides have not been given an assigned re-entry period. Government brochures have previously put it this way. As a general rule it is wise to wait a full day before entering a sprayed crop area unless the label states otherwise. However, with the least toxic pesticides it is safe to enter once the spray has dried thoroughly on the plants. It merely notes that a re-entry period of up to five days is specified on the label of the more toxic insecticides.

Data from the Californian Department of Agriculture suggests that up to 30 days re-entry period may be appropriate for certain highly toxic specific chemicals and pesticides. Written information downplays the issue. A pamphlet available for workers advises a no-entry period of 24 hours for most pesticides but it fails to mention that exposure may be possible and may cause allergies commonly suffered. There is no information on the symptoms of pesticide exposure. Allergies and rashes are said to be possibly caused by weeds and crops.

The risk to workers to re-enter the field is a major problem. Research results indicate that there is enough evidence to conclude that a proportion of the workers are exposed to significant pesticide residue in the course of their work to cause detectable levels. Furthermore, the pattern of disposition over the body appears to be consistent with direct contact with the plants. The differences in pattern reflect the different crop heights and working practices at the time of this study. It is noted that more people are poisoned through skin contact than breathing the fumes or swallowing some of the pesticides.

Strict use of recommended protective clothing minimises exposure. Unprotected users are more sensitive to pesticide poisoning if they have been exposed to that pesticide previously. It is important to understand that a person so affected cannot develop immunity to pesticides. The impact of the variety of chemicals and pesticides on ill-informed users and mostly unsuspecting workers is alarming and shocking.

There is considerable ignorance of the effect that one can expect from chemicals. To take the words of recent times of an industrial leader, well aware of the dangers, who said, "Yes, we realise that one of the chemicals we use was used by the Nazis." A very harsh statement in the context. Chemical damage can be insidious especially where it is long-term low dosage. It can also be underrated where initial symptoms of physical irritation such as skin rash, itchiness, runny nose, slight headaches and other indicators may be discarded as being unconnected with chemical exposure. Thus the effects of chemical poisoning can include: multiple chemical sensitivity; brain damage; nervous system disorder; chronic fatigue; chronic headache; nausea; various kinds of cancer; Parkinson's disease; subclinical changes in sensory thresholds; sleep disorder; spontaneous abortion; renal disease; liver disease and cardiovascular disorders.

A philosophy of maximum yield for maximum profit cannot be the only guide in the industry. The over-use, misuse and abuse must cease. Therefore we call for strategies to be implemented through enforceable regulations and government controls under the WorkCover Authority. Exemptions from certain regulations for agriculture and horticulture must be abolished. Everyone has a right to have the same conditions to be required and guidelines for their working environment. There must be regular control for pesticide reduction. Regulations, controls and authority must be governed by a single statutory body.

There must be an introduction of a separate specific and consolidated rural Occupational Health and Safety Act incorporating aspects of the *Pesticides Act*, hazardous substance regulations, the now repealed *Rural Workers Accommodation Act*, the *Occupational Health and Safety Act* and other specific areas including agriculture and veterinary chemicals. This Act must be administered and enforced by the WorkCover Authority.

I would like to wind up my submission to the Committee today and say that as a trade union official, I believe if the union, in conjunction with its members, can do

three things right then most workers will believe the union is doing a fair job. Those three things are basically fundamental to myself and I often use them at delegates meetings and meetings that I address. The first, is to have people on reasonable wages and conditions. Second, is to secure jobs for the future by security of employment and doing your best as a trade union to do that. Third and probably the most important, is to make sure that people are working in a healthy and safe working environment. I believe if you do that you are not on a bad track for success for the future. Thank you very much for the opportunity to address you today.

THE SEMINAR ADJOURNED FOR LUNCH

MR JIM WHITING

CHIEF EXECUTIVE OFFICER
NATIONAL SAFETY COUNCIL OF AUSTRALIA LTD

“Safety is minimal acceptable risk to people and profit”

* Mr Whiting was the first of two luncheon speakers. He also provided a detailed written paper which is reproduced on the following pages, as his contribution to the seminar proceedings.

MR DERRICK HAND

NSW STATE CORONER

“Workplace Safety: The Coroner’s Perspective”

HON BRYAN VAUGHAN: The next speaker is the New South Wales State Coroner. I am prepared to bet that very few people present have had lunch with a coroner. I thought that Shakespeare or Charles Dickens might have had something to say about coroners, but I am able to tell you that, after some thorough research—conducted by people other than myself—Shakespeare had nothing to say about coroners, and I apologise for that. My instincts were not too bad because Charles Dickens did have something to say about coroners, and I would not be surprised if Derrick did not know that. If you read *Bleak House*, you will find the following reference:

The Coroner frequents more public-houses than any man alive. The smell of sawdust, beer, tobacco-smoke, and spirits, is inseparable in his vocation from death in its most awful shapes.

Derrick was appointed to the position of State Coroner in February 1995, after 11 years as a magistrate, four years as a coroner in the Westmead Coroner's Court, five years as Deputy State Coroner and two years as local court magistrate on the north coast. He has conducted a number of coronial inquests into deaths in the workplace, including the Rhodes industrial accident in which six people were killed.

MR HAND: When I drive into the car park below the complex at Glebe every morning, I walk up a few short flights of stairs. After listening to Jim Whiting, I am going to get the Attorney General to carpet those stairs because I think I will slip one day. I did not realise that it was such a dangerous occupation going up those stairs.

I will tell you a little bit about coroner's matters, particularly in relation to deaths in the workplace. We only see these types of accidents when death occurs—there are thousands of accidents where people are injured, but you never hear about them. Please bear in mind that when I speak about this I am referring only to deaths in the workplace. The accidental death of any person, whether it is in the workplace or anywhere else, is a matter that has to be investigated by the coroner. The coroner is required to ascertain the manner and cause of death, but also to look at why it happened and what we can do to prevent this type of accident happening again.

Prior to February 1994, the coroner had only a common law power to make recommendations to various authorities regarding ways to prevent further deaths or accidents of this nature. In February 1994 section 22A of the *Coroner's Act* was inserted, which gave us a statutory duty to look at recommendations. It provides for public health and safety as examples of matters that we look into. When we make

recommendations, we send them to the appropriate Minister for further action to be taken. We follow them up periodically to see what has happened. Generally, I am happy to say, most recommendations are adopted in whole or in part.

I impress upon the hundred or so coroners that we have in New South Wales that in considering whether a recommendation is appropriate they have to look at whether it is reasonable and practicable. It is useless making recommendations that are fanciful and have no hope of implementation—and believe you me, I have had some fanciful recommendations put to me in court by lawyers and their clients. If you took them up and tried to put them in place, the Minister would just laugh at you because there would be no way in the world that such a recommendation could get off the ground and work. We have to cull them to that extent, look at whether they are reasonable and whether they are practicable.

WorkCover assists us in this regard to a great extent. I have had cases where WorkCover has suggested possible recommendations that would assist in preventing this type of accident again. In considering the recommendations in respect of safety in the workplace, we rely heavily on WorkCover. WorkCover does a report for us—industrial actions in the workplace—and I have a police officer who investigates it as well. We can then make a decision as to what to do with the matter—whether to hold a full inquest or to dispense with it.

There are a number of cases where the breach of workplace safety is localised; that is, it pertains only to the particular workplace and it is not the type of accident that would lend to a general recommendation covering the whole of the industry. Generally, by the time we consider whether we should hold a full-blown inquiry, dispense with holding an inquest or make recommendations the management of the workplace in question has recognised the problem that was instrumental in causing the accident. This is quite common. The majority of workplace accidents that we get are in this vein—management has fixed it up, WorkCover has informed us of this, and there is no point making a recommendation to cover the whole industry because it pertained to the local firm at the time. It would be inappropriate, in those circumstances, for the coroner to make a general recommendation.

Even though we might not hold an inquest, we can still make recommendations. In New South Wales there are approximately 7,000 or 8,000 deaths a year that are coroner's matters, out of a total of about 46,000 deaths. About 95 per cent of those do not go to a full hearing; we dispense with them, but only after an investigation.

We do not have a full investigation in cases of natural causes. In relation to accidents, we have a full investigation, we get the police and WorkCover to investigate it, we get statements from the witnesses, we see whether it is necessary—in the interests of the public and to clear up any other matters—to have an inquest, call witnesses and have a full-blown inquest.

In only 5 per cent of all cases that we deal with do we have a full-blown inquest. In the other 95 per cent, we dispense with the hearing of an inquest, but that does not mean to say that at a later stage I can not direct a coroner to hold an inquest. The fact that we dispense with it does not stop it forever being heard. Since February 1994 I have had the power to direct a fresh inquest in a matter that has already had an inquest, provided that there is fresh evidence that would, in some way, alter the findings of the first inquest. I can quash that inquest and direct the fresh inquest.

Even if we dispense with an inquest, we can still make recommendations. For example, we have done that in industrial accidents. Some of you might have been involved in the ADI one at St Mary's. Despite pressure from various people to have an inquest, I decided that the inquiry that was carried out by the police and by Comcare was fully and properly done, that there was nothing to be gained by having an inquest, and that Comcare had made certain recommendations that I concurred with. The prospect of going to the expense and the time of calling all the witnesses, who would tell us the same thing that is in the statements, is just not on.

We do not have inquests for the sake of having them, we have them to gain something. If we can gain the same thing from the brief, dispense with the inquest and still make recommendations, what is the point of people coming to court? It is time, it is money, and most people get legal advice—the lawyers make money. It is a waste of time and money when such a situation occurs. In that matter, I dispensed with holding an inquest, but I concurred with the recommendations of Comcare and I sent them off to the relevant Minister. In an endeavour to prevent accidents like this happening again, those recommendations may be made irrespective of whether you hold an inquest or not. In deciding the manner and cause of death, the coroner has to consider whether an offence is indictable, that is a case of culpable negligence arising to manslaughter or culpable negligence by a known person causing death. If, during the course of the investigation or the course of the hearing, it becomes apparent that sufficient evidence is available for an indictable offence against a known person being involved in causing the death, the coroner is required to terminate the investigation, even at the end of having heard all the evidence, and

does not bring in a finding as to the cause of death, but refers the matter to the Director of Public Prosecutions, who will determine whether such a person will be charged. In my 12 years of dealing with coronial matters practically full time, I cannot recall an industrial case in which that has occurred.

I have in the back of my mind that the coroner at Westmead might have dealt with such a case at some stage, but that does not mean to say that even if the coroner finds there is not sufficient evidence for a criminal charge, the coroner cannot be critical and make comments about any person, management, company or whatever involved in the accident. The coroner can make such comments, he can be critical and he can refer the matter to other people. In the medical or the nursing profession, for example, there have been occasions when, although there has been no criminal negligence by a nurse or a doctor, a matter has been referred to the medical complaints commission to review the actions of a doctor or nurse to decide whether that doctor or nurse should be dealt with for dereliction or neglect of duty. That sort of matter can arise in industrial accidents, but I just cannot put my finger on any occasion when it has happened.

One of the problems with next of kin and lawyers is that they try to use the coroners inquest as a means of obtaining evidence for civil actions. It has been held more than once that coroners inquests or inquiries should not be used as springboards to launch civil actions. Coroners take a tough line in that regard. Years ago, insurance companies always wanted inquiries in the event of fires. I can remember back in the 1980s when Kevin Waller and I were first at Glebe we took the line that in the case of a fire we would say to the representative of the insurance company, "Do you have any further evidence, other than what is in the brief, pointing a finger at somebody?" The insurance company representative would say, "No." Our response would be, "What is the point of holding an inquiry?" Eventually insurance companies rarely asked for fire inquiries once the matter had been fully investigated.

The matter is always fully investigated, the same as industrial accidents are fully investigated. But whether we should allow a fuller inquiry and allow witnesses to be called remains a decision for the coroner. Inquiries are not held to enable people to obtain ammunition for civil action. They can have a copy of the brief, which contains all the evidence, that is not a problem. Lawyers can have a copy of the brief. But coroners will not be used as springboards for people to take later action. The same applies to WorkCover: coroners do not and will not allow WorkCover to use their inquests in industrial actions to provide further evidence to take action for breaches

of the WorkCover regulations or work safety regulations. That is not the role of coroners. Their role is to ascertain the manner and cause of death, decide whether any culpable negligence is involved and consider what coroners can do to try to prevent similar things from happening again. The role of coroners is not to assist people to prosecute others; they may be critical, but it is not their duty to lay blame on any particular person.

Over the years coroners have made many recommendations, and it is very pleasing to know that the greater majority of them have been adopted either wholly or in part. Some of the recommendations involve the workplace: safety in mines, safe loading of heavy vehicles, safe working procedures for electrical workers, safe working practices in hospitals, and even police training in dealing with siege situations. The case that always sticks in my mind occurred many years ago in the 1980s when I was at Westmead and conducted an inquest into the death of a master electrician of 20-years-plus experience. He went under a house and did not come out. It was a moment of carelessness. It does not matter how many rules and regulations exist regarding safety in the workplace, workers must be educated. The human factor always comes into it. We have had a number of cases over the years which have involved the human factor—a moment of human carelessness.

We are all guilty of being careless at some stage, but when you are in a dangerous workplace you have to take that extra care. I firmly believe that education of not only employers, but also employees as to work safety is vital, so that eventually the incidence of accidents in the workplace will be reduced. Prior to lunch I was listening to Mr Collison talking about dangers in the rural sector. I was born and raised in the country, and my wife's family are all from farms. I saw it as a kid and I have seen it in later life, and I could not agree with him more: the rural sector is one of the greatest sources of potential danger. Every now and again we have a case in which a tractor overturns, or a reversing truck runs over someone. Such incidents are not uncommon. Each day I get a copy of the paperwork of every coronial death in the State, so I am up to date with what is going on.

I could not agree more with Mr Collison: the rural sector is a minefield of dangerous work practices. He also raised the question of insecticides, et cetera. I have seen people affected by and die from the effects of insecticide. I used to be a believer in self-regulation of industries. Years ago, when I conducted inquests and I was asked to make recommendations about regulations, my attitude was that it is better to be self-regulatory, but I have since changed my mind. Over the past few years it has

become quite obvious to me that you have to start with rules and regulations; you cannot rely on industry to make its rules and regulations. A uniform law must exist in regard to safety in the workplace, and that applies not only to New South Wales but all over Australia. I am a member of the Australian Coroners Society, and by 1 January next year we hope that the National Coronial Database, which will contain most coronial matters throughout Australia, will be up and running. A number of people in industry and Federal areas have already expressed their interest in using the database so that they can keep track of trends of the various causes of death, including industrial accidents.

Industrial and motor vehicle accidents will be two of the biggest features included on the database. It will also assist in trying to combat and update legislation, procedures, et cetera. For as long as I can remember coroners have made many recommendations to various Ministers and organisations regarding the use of child safety lighters, the installation of smoke alarms, fire safety in hostel style-type accommodation, and safety in recreational sport such as scuba diving and skydiving. Child safety lighters and smoke alarms have now taken off. I know that the wheels of government turn slowly. As governments change and things get pushed aside you look at priorities. But at least child safety lighters and smoke detectors have taken off. In dealing with industrial accidents coroners are very mindful that they have to consider what they can do to try to ensure that the same type of accident does not happen again. It is always impressed upon coroners to consider that aspect of the matter. We will continue to add our voices to the consideration of workplace safety and assist in that regard in respect of a particular industry, or industry generally.

THE HON JEFF SHAW QC MLC

MINISTER FOR INDUSTRIAL RELATIONS AND ATTORNEY GENERAL

HON BRYAN VAUGHAN: It is my task to now introduce the Attorney General, Jeff Shaw. The Attorney was admitted to the bar in 1976 and to the inner bar in 1986. He entered the upper House in 1990, filling a casual vacancy, and was re-elected in 1991. Following the election of the Labor Government in March last year he was allocated the Ministry of Industrial Relations and Attorney General and has achieved, most successfully, one of the Labor Government's key election promises, namely the overhaul of the State's industrial relations law, when he introduced in 1996 the *Industrial Relations Act*. We are very pleased to have him here. He has had a heavy morning in a Cabinet meeting, but would have preferred to attend lunch with us.

HON JEFF SHAW MLC: Thank you, Bryan, and thank you, ladies and gentlemen. You are showing, by your presence here, an interest in what I believe is a vital topic—workplace safety. It is good to see this seminar so well attended and by such a representative and diverse audience. As Bryan said, I was detained this morning at a Cabinet meeting in the city of Holroyd, so unfortunately I could not hear the speakers. I assure you I will be interested to read the record of these proceedings and to take the diverse ideas on board.

I would like to outline this afternoon some of the themes, some of the ideas, that would be at least relevant for the Committee to take into account and might be in some way helpful. I would like to make the basic point, a simple point, but to make it starkly. That is, we are facing an epidemic of injury, and indeed death, in our workplaces. When we have a situation in which we lose the lives of one of the State's workers every two days it must be candidly accepted that we have a problem. All too often the victims are young and inexperienced, unaware of the dangers they are facing. That is a very good reason to congratulate the Labor Council on focusing on youth safety in the workplace.

Statistics available from WorkCover Authority show that there are no average victims. The deaths occur across industry groups and across all levels of seniority. For example, according to preliminary figures from the WorkCover Authority, 181 deaths occurred in New South Wales in 1995-96 attributable to the workplace either through workplace accidents, occupational illnesses or other incidents. Of those deaths, 10 were in agriculture, five in mining, 33 in manufacturing, 24 in construction, 28 in the wholesale and retail sector, and 29 in transport and storage. Those figures show that any approach to arresting the number of deaths needs a broad focus which cuts across industry and occupational boundaries.

Those WorkCover statistics also show that a staggering 62,509 major claims for compensation for workplace injuries were lodged in 1995-96. That is nearly 200 claims each day. Any untimely death is self-evidently a tragedy, but the bitter reality that the families of victims of workplace accidents must face is that the deaths are often preventable. That is the irony and the tragedy of the matter. Too often the death is the result of a lapse in routine safety procedures. To make matters worse for those families, there is the perception that no-one, or few, care about that loss. There is a justifiable public outrage about road deaths and about homicide, but the relentless rise in workplace deaths seems to continue, with minimal public attention and debate.

It is not only the human cost of that epidemic that we as a society must face. In a very tangible sense the levels of workplace deaths and injuries also have an impact on the State's economy through workers compensation premiums, lost time and the like, so there is the human dimension and the financial dimension arising from workplace injury and death. It is estimated that if we were to reduce workplace deaths and injuries by just 10 per cent, businesses would save more than \$150 million in premiums. Those savings would represent money that stayed in businesses, providing capital to create new jobs for the State's workers. So there are compelling reasons, both moral and economic, why governments should place greater emphasis on occupational health and safety. It is somewhat mysterious that up until now governments have not done so.

I will now list some of the things the Carr Government has endeavoured to do in the last two years and to argue that we have taken an active role in promoting workplace safety during that period. We have a positive record in the field and the achievements include increasing penalties under the *Occupational Health and Safety Act* to better reflect the seriousness of safety breaches. Under those changes the maximum penalties have increased to \$500,000, and courts have been given the discretion to commit people to gaol in exceptional cases. We have introduced licensing for demolition contractors and asbestos removal contractors to address special concerns about safety in those industries.

We have introduced tougher standards for the labelling of hazardous substances used in the workplace, such as chemicals in the agriculture industry. We have empowered authorised union officials to enter workplaces to investigate legitimate safety concerns, and we have established an occupational safety code for HIV and hepatitis. Those changes have had a tangible effect on the culture of New South Wales workplaces but, as statistics show, much more needs to be done.

I will now reflect briefly on the inquiry by the Committee of the Legislative Council. The need to continue to push for cultural change in relation to workplace safety is the basic reason I welcome this inquiry by an upper House committee, the Standing Committee on Law and Justice. I pay particular tribute to Advocates for Workplace Safety, the group formed by Fran Kavanagh following the tragic death of her daughter, Maggie, for first putting the idea of a parliamentary inquiry to me when we met midway through last year. Fran's idea was the genesis of this inquiry and it is a positive and constructive way forward to take a rational, serious and informed look at what can be done about workplace safety. The Standing Committee is an appropriate forum to deal with this issue because it provides members on the Committee from across the political spectrum to grapple with the issue. In other words, it opens up the prospect of a bipartisan series of solutions. Obviously the Committee will confront a vast amount of information, conflicting views, material and submissions. I envisage that recommendations of great importance and utility will emerge from that process.

I next refer to the report which is forthcoming from Professor Ron McCallum of the University of Sydney. I intend to present Professor McCallum's report to the upper House committee and, as you know from this morning's proceedings, that amounts to a review of the current *Occupational Health and Safety Act* conducted by a committee chaired by Ron McCallum. That report will be released to the Committee during its deliberations and will provide, as I understand it, some concrete suggestions for upgrading and improving this important legislation covering workplace safety. Harking back to 1983, it is fair to say that the *Occupational Health and Safety Act* was, at its inception, pioneer legislation passed by a Labor Government which replaced outdated prescriptive rules with a general duty of care on the part of employers to provide a safe working environment.

The legislation has subsequently become a model for legislation in other Australian States and Territories, but as the nature of work has changed over the last 14 years, so have the requirements of health and safety legislation. In that context, the

McCallum report will be a valuable resource in promoting safe workplaces into the next century and will be of assistance or value to this Committee in its important work.

I now wish to say something about the idea of cultural change. While the shape of any legislation is obviously fundamental to improvements in safety, it is not the be all and end all; it is not the end of the story. Not every problem can be solved by legislative intervention or prescription. I respectfully urge the Committee to consider ways of facilitating a cultural change in the workplace, a change in the way all workers and employers treat or regard the workplace. The analogy that springs to mind is the effort to reduce the road toll which was vigorously conducted during the 1980s. Faced with unacceptably high road death tolls, State authorities pursued a vigorous campaign combining legislative initiatives, such as random breath testing, with a vigorous public awareness campaign.

Through this integrated approach, pursued over the long-term, there has been, I think we would all recognise, a change in culture relating to drinking and driving, which has clearly made our roads safer. I say that despite the recent disturbing statistics. Everyone who has driven on the roads for the last 20 or 30 years will know there has been a change in mind-set, a cultural change, in that respect. By analogy, we should strive towards a changing culture at the workplace. One of the committee's key challenges will be to consider how a similar shift in the culture towards workplace safety can be promoted.

Ladies and gentlemen, it is a statement of the obvious, but an important statement to make nonetheless, that fewer people should die at work. The corollary of that, the inevitable next statement is fewer people should be injured at work. Sometimes self-evident statements need to be made and need to be stated simply. The real challenge for all of us—political leaders, employers and workers—is to embrace changes in culture that are required to treat this current epidemic. It is in this light that the Standing Committee's inquiry can have a tangible impact on the lives of all New South Wales workers. Much of the political process seems a little aloof, theoretical and abstract from day-to-day concerns. This Committee's work can have a concrete and practical impact upon the conditions in New South Wales workplaces. After all, the idea that a person can feel safe at work is a litmus test of our quality of life. It is a litmus test of the degree of sophistication of our society that people can go to work without being in significant fear of their life or limb. For all of those reasons, ladies and gentlemen, I wish the Committee, led by its distinguished

Chair, the Hon BH Vaughan, a fruitful investigation and look forward to receiving its final report.

MR IAN RAMSAY

GENERAL MANAGER
WORKCOVER NSW

“OHS - The Role of WorkCover”

HON HELEN SHAM-HO: I am Helen Sham-Ho, Deputy Chair of the Committee. I am a Coalition member and I hope that we do have a bipartisan approach on this very important issue. I welcome you to this important seminar on workplace safety. It is my pleasure to welcome the next speaker, Ian Ramsay. Ian was appointed to the position of General Manager, WorkCover New South Wales, in 1989. He is a lawyer with extensive experience in the New South Wales public sector including experience with the Premier's Department and the Department of Industrial Relations and Employment. Ian has been involved in the development of legislation, policy formulation and senior management. He has served on many committees such as the Occupational Health, Safety and Rehabilitation Council, is currently the chairperson of the Dust Diseases Board and is the New South Wales representative on the National Occupational Health and Safety Commission. I am sure we will all benefit from Ian's address. Please welcome Ian Ramsay.

MR RAMSAY: Chairman, members of the upper House Standing Committee, ladies and gentlemen. I will give you an outline of how WorkCover operates, its responsibilities and its aims in respect of workplace health and safety. WorkCover is the government agency concerned with the prevention and management of work-related injury and disease. While the workers compensation side of our business, particularly in recent times, has attracted most of the publicity, we are actively involved in and committed to the prevention of work-related illness and injury and the achievement of the early return to work of injured workers. The greater the gains we make in these two areas the less the financial pressure there will be on the workers compensation system and the employers who fund it.

With WorkCover support, innovative approaches to occupational health and safety have the potential to reduce workers compensation costs to industry. Most importantly, however, the greater the success in these areas the less pain, suffering and cost will be experienced by the working community. In the context of today's seminar and this inquiry, it is appropriate that I focus on WorkCover's role in the prevention of work-related injury and disease. New South Wales is the most populous and industrialised State in Australia with the greatest diversity and geographical spread of industries. WorkCover's charter is to address work, health and safety issues across the full range of these industries throughout the State.

To do this WorkCover has a regionalised inspectorate of over 250 inspectors supported by over 200 occupational health and safety specialists together with a range of legal, policy and administration staff. WorkCover's role in relation to work, health and safety has quite a number of elements. We develop, review and refine the regulatory framework of Acts, regulations and codes of practice; we participate in the development of standards; and we undertake a wide range of activities to raise awareness of work health and safety issues and responsibilities. We develop and provide education programs to assist the working community to carry out their responsibilities and develop and distribute a comprehensive range of information products and guidance materials. We provide a wide range of testing, approval and licensing services relating to the safety of plant and equipment, work practices and the work environment and we assess and certify the competency of workers in relation to a number of hazardous occupations and processes.

Needless to say, our 254 inspectors inspect workplaces and audit health and management safety systems. We investigate incidents and accidents at work that are referred to the Coroner. We enforce compliance with legislation through the use of prohibition and improvement notices which we believe are an effective preventative tool and on-the-spot fines. Finally, we prosecute those responsible for serious breaches of the legislation either in the magistrates' courts or in the industrial court for the more serious offences. In all our activities we consult and seek to work in active partnership with those in the working community through a range of formal and tripartite committees and formal and informal working parties, as well as directly with individual employers and workers and with manufacturers, suppliers and service providers.

Traditionally, occupational health and safety has been identified with hazardous plant and equipment and overtly dangerous occupations. However, in recent years the field of occupational health and safety has widened enormously and has become in the process much more complex. Many issues are now quite properly recognised as work health and safety issues. This has been referred to by earlier speakers. The ill-effects of exposure to hazardous substance is one such area. Other examples of these more recently recognised threats to workplace health and safety include stress and hearing loss, and violence in the workplace. Particularly in recent years this has occupied the time and attention of the inspectorate. This rapidly expanding range of occupational health and safety issues requires our attention not at the expense of but in addition to the more traditional focus on work safety, that is on traumatic injury and death.

I will give greater detail of some of our activities. Under our charter WorkCover is

committed to achieving world-class standards of workplace health and safety and the return to work of injured workers. We do not apologise for that standard. People who have listened to the speakers and the seriousness of the issue would agree we need that sort of vision. We aim to do this through an integrated WorkCover scheme which has a primary focus on occupational health and safety. The scheme is designed to assist employers and workers to prevent workplace injuries and illness, to encourage and facilitate the return to work of injured workers and to compensate injured workers and their families. The integration of occupational health and safety, workers compensation and rehabilitation is our keystone.

WorkCover's mission is to provide leadership by working in partnership with the industry, a particularly important concept, to achieve best practice in workplace health and safety—which is how we reach world-class standards—and to aim for the care, support and early return to work of injured workers. Our approach extends across a range of initiatives and programs, the most important of which are national uniformity and regulatory reform. WorkCover is committed to regulatory reform at both the national and State level. The adoption of new national occupational health and safety standards involves a fundamental change in the traditional approach to occupational health and safety regulation. WorkCover is moving from a prescriptive and largely industry-based approach to one that is hazard and performance-based. This approach is dependent on industry introducing occupational health and safety risk management techniques in their workplaces. This will enable employers to implement risk management strategies which are most appropriate to their particular operation and change the strategies as their work processes and practices develop and change. WorkCover will provide support and assistance to industry to effectively apply those principles in managing safety in the workplace.

WorkCover views national uniformity initiatives as an excellent vehicle for changing workplace culture by encouraging employers and employees to assume greater responsibility for safety. Industry needs to understand and act on its primary accountability to provide safe workplaces. Recent initiatives to assist industry include implementation of the certificates of competency regulation, noise regulation and hazardous substances regulation and the development and implementation of the plant regulation. Quite a significant parcel of reform which has been developed at the national level is now being implemented at the State level. WorkCover's regulation implementation program has included the development, production and promotion of support material including codes of practice, guidance material and information leaflets. This is all to broadcast the message and move away from the

gazette and forget syndrome of say 10 or 15 years ago to gazette and care, do something about it.

Seminars and focus groups have been designed to involve and support industry and regulation implementation. WorkCover has worked closely with unions and employer organisations to develop seminars throughout New South Wales providing industry with the opportunity to learn about their obligations under the new regulatory approach which focuses on the adoption of sound risk management principles. To facilitate a systematic approach to risk management, WorkCover is presently developing a single consolidated occupational health and safety regulation under the *Occupational Health and Safety Act*. This consolidated regulation will replace all Occupational Health and Safety Act regulations as well as the Construction Safety Act and regulations and the Factories, Shops and Industries Act and regulations—a significant reform. Many people would say it was well and truly due given that the Act, as the Attorney General said, was brought down in 1983. This new consolidated regulation will streamline and clarify the regulation of workplace health and safety allowing industry the flexibility to develop solutions that are appropriate to the individual workplace, removing unnecessary costs and enhancing compliance. A draft of the consolidated regulation will be released for public comment later this year.

Under our Industry partnership and BackWatch program WorkCover has built meaningful partnerships with employers and employees. This ideal of partnership derives from two underlying principles of the *Occupational Health and Safety Act*—self-management and tripartism. Industry partnerships have been the cornerstone of WorkCover's BackWatch initiative with links being developed throughout targeted industries to reduce the incidence and workers compensation claims costs of back injuries. Ten high risk target industry groups have been chosen on the basis of injury claims data. BackWatch action committees are the focus for active partnerships between industry and WorkCover to deal with the work-related back injuries. BackWatch action committees are small working groups made up of people who actually work in the particular industry. Their role is to identify problems associated with preventing and managing occupational back injury, investigate practical solutions to these problems and promote these as best practice models. This is a model that we believe will work and we will be applying it beyond the back injury area. It is a real model for working with industry to get results and making a difference.

"Targeted Programs. High-risk Industries". The construction industry is a prime example of WorkCover's commitment to building a partnership with industry to address fundamental occupational health and safety reform. An important aspect of WorkCover's construction strategy is to promote world's best practice through working closely with principal contractors to make the major construction sites in New South Wales model work sites. This offers the opportunity to help drive industry-wide reform and raise industry awareness of the importance of occupational health and safety. WorkCover is currently negotiating with the principal contractors on a range of major construction projects, including the Olympic Games facilities. WorkCover has in place a broad mix of programs to promote occupational health and safety reform in the industry. We have commenced a series of consultations with this industry, seeking comment on these programs and their views as to occupational health and safety priorities.

Another major part of WorkCover's strategy has been to work with industry representatives in developing a range of codes of practice for the building and construction industry. We had a very ambitious program involving 11 codes of practice, and 2 regulations which the Minister mentioned, the asbestos removal regulation and demolition regulation. A very committed working group worked on that program, and quite a number of codes of practice have been finalised in the last two years. These codes of practice are designed to provide practical guidance on how standards of health, safety and welfare required by the *Occupational Health and Safety Act* can be achieved in the hazardous areas of the construction industry. An important feature of this program is the high level of involvement of building industry employer groups and unions.

Turning now to compliance and enforcement, WorkCover's preferred attitude and approach is to assist employers and employees to meet their occupational health and safety obligations to achieve compliance through the provision of advice, education and technical assistance. That is the first port of call: to try to achieve compliance through that means. WorkCover's Techsource services allow business, industry and government to measure and accurately assess the safety and suitability of equipment, materials and processes. The service, therefore, focuses on risk identification and assessment processes, control measures and prevention techniques. It is very important in the prevention area and in helping industry to achieve compliance. We produce a diverse range of information products, including computer programs, CD-ROMs and printed publications. These are widely available to industry. WorkCover inspectors also provide a significant advisory service. They

are increasingly being called upon to provide advice on a range of non-traditional areas, such as violence in the workplace and occupational stress, as well as assisting employers to implement the new national standards and regulations I mentioned earlier.

Where measures to promote voluntary compliance with occupational health and safety obligations fail, WorkCover has a strong commitment to enforcement. WorkCover's hierarchy of enforcement measures ranges from prohibition and improvement notices and on-the-spot fines to prosecution, which attracts monetary penalties and terms of imprisonment. New South Wales is the only State in Australia to adopt on-the-spot fines which are issued for less serious breaches of the legislation. In New South Wales, the occupational health and safety penalties send an important signal to industry and the community that breaches of the law will not be tolerated and will not go unpunished. Maximum fines for workplace safety offences under the *Occupational Health and Safety Act* now stand at \$500,000 for corporations and \$50,000 for individuals. An additional provision for repeat offenders is now a maximum penalty of \$750,000. The increases in penalty levels will ensure that adequate penalties are available to the courts to address breaches of the legislation. In addition, the courts, as well as imposing fines, may order employers convicted of workplace safety offences to rectify unsafe working conditions. They can also now impose a prison sentence for a repeat offence.

Clearly, breaches of legislation are taken seriously by WorkCover and the Government, with a significant number of prosecutions being taken each year. When you compare our record around the country, you will see that this is particularly true, because we take prosecutions in the case of death and serious injury, where there is a serious breach of the safety legislation, and that gives you the 300 to 400 prosecutions a year. They are taken against both private companies and individuals, and we are the only agency in the country that takes these cases against government bodies to any significant degree.

WorkCover, of course, can only achieve the prevention of workplace injury and disease by working together with industry. We can bring our expert resources to work in partnership with employers, employees and unions to achieve best practice in workplace health and safety. The personal, social and financial costs of every single failure are simply unacceptable. Prevention is paramount. It is challenging, but it must be done. What we can do by working together is to develop in New South Wales a working community where every employer runs a business where safety is of prime importance and where every employee enjoys a working life that is free from injury and disease.

MR GARRY BRACK

EXECUTIVE DIRECTOR
EMPLOYERS' FEDERATION OF NSW

HON PETER PRIMROSE: It is now my pleasure to introduce Garry Brack, the Executive Director of the Employers' Federation of New South Wales. Garry Brack has held the position of Executive Director of the Employers' Federation of New South Wales since 1985. The Employers' Federation is the largest multi-industry business organisation in New South Wales and one of the largest in Australia. Garry is also joint director of the National Employers' Federation of Australia. Before joining the Employers' Federation he worked with industry-specific employer organisations in the manufacturing and construction sectors. Garry Brack has had over 25 years experience at national and State levels in practical industrial relations policy and business policy, and he has represented Australian employers at the International Labour Organisation in Geneva and the OECD in Paris.

MR BRACK: Thank you indeed for the opportunity to be here at what I think is clearly a very important launch of this exercise. I think it is unarguable that everybody will accept that we should be striving to improve our occupational health and safety performance. I certainly do, and my organisation does. Indeed, we endorse the sorts of comments and the thrust of the things that Ian Ramsay was talking about in his address to you just moments ago, especially the cooperative and educative approach that he has talked about. But I do have reservations about the question of the role of inspectors, on-the-spot fines, and the extent to which fines are seen as a way of encouraging business to achieve the kind of potential that I think we can achieve.

Undoubtedly, the ideal goal is an injury-free workplace. I think Warren Haynes talked to you about the goal of ICI this morning. If you look at Nippon Steel, some years ago there was some puzzlement in Australia about the incredible performance of Nippon Steel in going down to almost zero accidents in the workplace, until Australian businesses went over there and found that what they had done was essentially to design employees out of the process, so they removed employees from the product. On the other hand, ICI has invested very significantly in expert resources and has given occupational health and safety an exceptionally high profile within that organisation. The level of training it puts into the workforce, into its supervisors and into its specialist resources is very significant indeed.

Resources on these sorts of scales—Nippon Steel, and ICI in the end—have produced good occupational health and safety results in those two businesses. In the end, one might question whether we want a perfectly safe workplace of the

Nippon Steel type if, in the end, you have no people actually working there, except occasionally the odd button pusher. But I think, undoubtedly, they are beyond the capacity of many businesses in this country. We need to find other solutions besides those that require investment to that extent. But first we need to understand the dimensions of the problem that we are actually dealing with when it comes to our own Australian perspective. If one looks at the statistics, I must say I am exceptionally critical of the nature of statistics in this country. The best statistics in Australia have always been those developed by WorkCover, and I think while it has been in existence, and perhaps even before that, by the government agency then responsible. I think WorkCover is to be commended for the nature of the statistics that it has developed because they have been vastly better than anything else that is available in the country. Subsequently, Worksafe adopted its own models, and perhaps there has been a bit of learning from one another from those kinds of collections.

If you look at the injury statistics, in 1991-92 back injuries and injuries from sprains and strains—for example, for backs—accounted for about 28 per cent of all the injuries resulting from accidents. Neck and shoulder injuries accounted for another 6 per cent, injuries to limbs accounted for 16.8 per cent, and other sprains and strains accounted for another 3.3 per cent. A total of 54 per cent of all injuries that we were talking about which resulted from accidents were in that category. By 1994-95, 58.7 per cent were accounted for in those four groupings, and backs moved up slightly to 29.4 per cent from 27.9 per cent. So of all the injuries that we are talking about, very significant numbers fall in those areas. Inevitably, some of them, undoubtedly, will be relatively serious, and some will be relatively minor in all of that. But it demonstrates, I think, that when the media—and indeed politicians and others—come to talk about statistics, there tends to be a collectivisation of all the data so that high numbers tend to be seen as gross employer failures. Indeed, there are gross employer failures—we have to accept that, and there needs to be strategies to address those gross failures. On the other hand, there are many things that occur day by day which do not represent gross failures, which may be somebody turning in exactly the way he or she has done many times in the past for many years and then suddenly he or she gets a twinge which results in a back injury. WorkCover has already launched a particular program aimed at backs, the BackWatch program, in order to try to diminish those figures because of the very significance that they represent. Overall injury by accident statistics are coming down. I think the nature of these statistics is very important, when we see the trend of data over a period of time.

If you look at the illness statistics, there are a number of key areas there that are very significant—for example, industrial deafness, which has gone from 60.5 per cent of all injuries claimed in 1991-92 to 66.7 per cent of all those claims in 1994-95. This demonstrates what has recently, as we all know, become something of a trend, with the advertising by various firms of a capacity to represent people at no fee if they lose or at a fee if they win. But recent law changes, I think in 1995 and 1996, should have a significant impact on those statistics. When they do have that impact, presumably we will be told, one would hope, that there has been a sudden improvement in occupational health and safety performance. Whereas, in fact, it merely becomes a definitional question, I think: with a proper definition you will get a proper set of numbers; with a different definition you will get a different set of numbers. As we all know from experience, the occupational overuse syndromes—RSI, carpal tunnel syndrome, and so on—were very fashionable for a while. Obviously, there were genuine claims. There were other people who—genuinely, I am sure—thought that they had the syndrome, whereas they may not have had it, and then there were other hangers-on in the process. In 1991-92, 12.1 per cent of claims fell into that category, but by 1994-95 there has been a continuous decline in the numbers as the fad ceases to have such relevance, and in 1994-95 it stood at 7 per cent. So the changing fashions produce changes in the numbers. If one then takes up the question of mental disorders et cetera one can see a rapidly increasing set of statistics in that quarter: from 4.8 per cent in 1981-82 with a continuous rise to 9.5 per cent in 1994-95. Perhaps definitional changes will also lead to significant adjustments in that regard.

The workers compensation system has often gone through those fads—the RSI, hearing loss, backs and stress. Even relatively significant issues like hearing loss can be an area that can change the economics, as marginal as it might have been from time to time, of the whole system. The injury statistics then become incorporated into the published figures and show, ostensibly, a deteriorating performance by business when it comes to its attention to occupational health and safety, thus sending bureaucrats and politicians off in a frenzy looking for fairly neat legislative solutions. I suppose there are some in some circumstances. The approach to hearing loss and stress might represent one of those: we will see from the future statistics whether indeed that is the case. Others may not be so simple—for example, the belief that consultation through committees or occupational health and safety representatives will necessarily produce improvements in occupational health and safety performance through measured statistics.

There could be a useful reaction to the apparent surge in occupational disease through some of those definitional changes, but on the other hand if we look at the statistics we can see what looks like deteriorating performance on the part of business in that even though the number of injuries resulting from accidents declined from 48,841 in 1990-91 to 42,505 in 1994-95, diseases on the other hand were rising in the opposite direction, from about 8,500 in 1991 through to 16,800 in 1994-95. Again, when we look at the content of those statistics perhaps we can see that there is a real picture underneath them that does not support the argument that Australian business is doing so badly, being so inattentive to its occupational health and safety that there should be the approach of the big stick, or of legislated forms of consultation as are presently under contemplation.

Based on the published figures, proposals being advanced for occupational health and safety committees to be established by smaller and smaller employers with fewer and fewer employees or occupational health and safety representatives are seen as a way of addressing what is said to be the failure of the employers. Fatality figures are equally confusing. The Industry Commission, in its report on occupational health and safety, published a table which showed that Australian statistics were up to three times worse than those of a number of other countries. It referred to Japan, the United Kingdom and the USA, which I might add have completely different measurement systems. At the same time it was clear that there was a question mark about the sourcing of the table. It referred to a 1989 ILO source, but the ILO does not have any knowledge of it. So I think that it is at least a little confusing that Australia is said to have poor performance in that area as well, and changes are said to be justified based on that poor performance, yet we cannot find what the data actually represents.

Other figures suggest that there are problems in Australia, but on the other hand the workplace fatalities per million workers published by the Australian Bureau of Statistics show that Australia, compared with Canada, Austria, France, Germany, the United Kingdom and New Zealand, is broadly in the same region. The United Kingdom has 12 deaths per million as against Australia's 70. The New Zealand figure is 53 per million and the other figures are 75 for Austria, 74 for France and 80 for Germany, with 78 for Canada. This shows that Australia's performance is within the same realm. By the way, one could not accept that these figures should be regarded as reasonable in any circumstances. We obviously have to take steps to avoid any deaths in the workplace, but we also have to be clear about what we can achieve and what the data is actually telling us.

Figures show that New South Wales statistics are in the middle of, equal to or better than the statistics of overseas nations. For example, New South Wales had 46 deaths per million workers, which might be compared with New Zealand at 53, Italy at 45 and Germany at 80. This again shows that our performance, even though not acceptable in absolute terms, is still measurable against the performance of other nations. Figures released today by the Minister also highlight the problem of relatively superficial statistics. There were 181 occupational deaths in the preceding financial year, against the year before that, which had 177 deaths. Adjusted for population, those figures are roughly equal. But what they do not explain, and indeed what none of the published statistics explain, is how you can have a figure for agriculture, fishing and hunting in 1995-96 of 10 employees yet the year before there were 20 fatalities. Wholesale-retail trade had 28 fatalities in the most recent year and 12 in the preceding financial year. Public administration and defence had 12, and six in the previous year. Community services had 11, and in the previous year 20. Nothing in any of the published data explains the real causation.

Indeed, about two years ago we went to significant lengths to try to find out why we had a particular level of performance and what might practically be done about it. What was found from a lot of the data was that it was aggregated together with non-work-caused injuries, including those where deaths occurred on the way to or from work et cetera, where deaths are caused in work breaks where the employer had no control over it, or during other absences from the workplace. In order to understand it and to try to find solutions we went to WorkCover to see whether it could give us details about the data but it could not give us any. We went to Worksafe Australia to see whether it had any details of actual causation, the real life circumstances, et cetera: what had gone wrong, what was the nature of the failure, had the employer been negligent, had the employee done something that he or she had been told not to do, or was there a failure of training, experience, et cetera?

Because Worksafe said it did not have any data we went to see the coroner. He said, "I cannot give you those figures. We don't have any aggregated data. You would have to go through each case independently, thousands of files, and goodness knows what." The point that I am trying to draw from all of this is that none of that data actually provides any kind of detailed analyses from which anybody else can learn. If you have a very large company with, say, 50 machines of a specific type, the likelihood is that with 50 operators on those machines—assuming they are fully occupied at the time—it will produce experience from which that company learns through its corporate life. It can use that learning in order to inform its future

training programs, its practices and its procedures. On the other hand, a small business which may have only one of those machines is likely to take 50 times as long to gain the same kind of experiences, if they are gained at all. Yet none of the data actually focuses on the real practical situation so that the information can be passed on to others. Indeed, the WorkCover Authority, even though I accept the role that it has now garnered for itself in trying to work together with industry to produce that kind of experience in programs like BackWatch and others so that the accumulated understanding of things can then be passed on in education programs, I think is forsaking part of that role through the on-the-spot-fine approach.

Inspectors are seeing themselves more as policemen and parking police rather than educators who go out into business. I might add that this is not a cry for businesses to be treated lightly if they persistently fail; rather a cry to recognise the realities that consultation in this kind of educative role is likely to have a vastly more productive outcome than a system that has people walking in the door and around the factory who are determined to find something for which an on-the-spot-fine can be issued. There are many workplaces where employers have the feeling that they are going to get done for something so they might as well lie back and enjoy it—in the same way that when the auditor comes around at the end of each financial year you know that when you get the management letter there has got to be something that the auditor will find was wrong in the establishment, however impracticable it might have been, to justify the fee.

We are not arguing against the notion of improvement; we are arguing in favour of a system that produces practical outcomes and which strives for a change of culture in the workplace through a means that is actually going to be effective. It takes me back to the question of consultation. There are larger businesses that invest significant resources that, by and large, smaller businesses do not have, that produce very effective health and safety environments. The larger businesses would have committees and some of them conform with the *Occupational Health and Safety Act*; others do not, and they deliberately move around some of the restrictions in the legislation so that they can have a practical outcome. Because of the approach that they have taken to occupational health and safety and because it has become inculcated in the culture that everybody is watching, looking and learning and passing on the experience, the effective results are startling. I am sure that ICI is a very good example of that. The Borals and James Hardies of this world are very experienced and they have the resources and are producing results, even though occasionally something might blow up along the way to lead them off the track.

In all of this what I think we need to do first is understand the statistics. Indeed, if the statistics have failed, which I think they have very significantly, we need to find a new method of measurement. Let me just read to you some of the headings so that those of you in business and those of you who have anything to do with improving occupational health and safety will understand the kinds of headings that are currently supposed to assist you along the way to an understanding of what has gone wrong and how many times it has happened. "Falls, trips and slips of a person" I am sure everybody is conscious of but "hitting objects with a part of the body" cannot be of much use in particular industries to understand how things have gone wrong, when and why. "Being hit by moving objects", "sound and pressure", "body stress" and "other unspecified mechanisms" are a statistician's delight I am sure. They break things up into measurable chunks in the way statisticians like to do. But in the end they do not provide for business people or occupational health and safety specialists the kind of understanding of practical issues that we need in order to improve conditions. Indeed, I believe they divert the WorkCover Authority away from the very practical kind of initiatives which it is now pursuing more and more, the BackWatch program. If the statistics were more practical in their orientation, if they were more analytical and more narrative in the way the information was presented, perhaps individual industries would be guided more to look to the things that occur most frequently, the circumstances in which they go wrong, and therefore acquire an understanding of those things without having to go through the pain themselves.

In my view, without proper statistics we cannot target proper solutions. We need to see how injuries occur in particular industries, in particular occupations, on particular machines, in particular work situations at particular times. I guess the BackWatch approach is indicative of what is being attempted there. That kind of methodical, analytical approach I think will lead to effective change. But will consultation, if it is simply prescribed legislatively—and there are proposals abroad now to prescribe consultation legislatively—and an increase in fines automatically lead to the kind of changes that we are after? I think the answer is unarguably no, they will not. They will lead to some change but in many cases, as we already know, the existence of occupational health and safety committees is a once-a-month, or other period, necessity at which there is a set agenda and people meet briefly and they talk over issues. But on the other hand there is not the depth of culture that is necessary in order to usher in the appropriate changes.

Something else is needed in order to get us down that particular track in the way we would want to go there. The development of culture in the workplace is something

that will not be prescribed by legislators but I am sure that it is capable of being delivered by a much more cooperative approach perhaps between WorkCover and employers out there. We need to be informed by a set of statistics that assists us to better understand what is actually happening so that we do not get caught up in believing that because there is an increase in the number of reported injuries that things have necessarily become a lot worse. When you look behind the figures and you see the number of hearing claims or RSI claims et cetera, it becomes demonstrable that there are solutions out there. Sometimes those solutions are definitional, and other times we have simply got to work together rather than have legislation which foists a new level of bureaucracy upon business without achieving practical results.

MR BOB CHARLES MP

FEDERAL MEMBER FOR LA TROBE &
CHAIRMAN OF THE GOVERNMENT'S
INDUSTRIAL RELATIONS POLICY COMMITTEE

"An introduction to the new Workplace Relations Act"

REVEREND THE HON FRED NILE: It is my pleasure to introduce Mr Bob Charles, MP. It is a pity that this gentleman and earlier speakers talk about the need for national uniformity concerning occupational health and safety education and legislation. Bob Charles came to Australia from the United States in 1965 as international marketing manager for a large instrument firm. Prior to entering Federal Parliament in 1990 he had his own construction company. Practical experience of industrial relations issues persuaded him that he could improve the system by becoming politically active.

In 1990 Mr Charles was elected as member for La Trobe and since that time he has been actively involved in industrial relations policy. In addition to being chairman of the Government's committee on industrial relations, Bob Charles is chairman of the House of Representatives Standing Committee on Employment, Education and Training. For a Federal perspective on workplace safety please welcome Bob Charles.

MR CHARLES: Ladies and gentlemen, I am very pleased to have been asked to address the launch of this inquiry into workplace safety. The Standing Committee is to be congratulated on initiating the inquiry and the work that they are doing. It provides an excellent opportunity for me as Chairman of our industrial relations backbench committee to speak to you about the Commonwealth perspective and issues which we consider the Committee will be confronted with in its inquiry.

I started my working life on the floor of a blast furnace in one of the world's largest, and at the time, newest and most integrated steel mills. From day one, safety was pounded into me as a significant and important issue, if not more important, than production outcomes, efficiency and general working relationship on the furnace. In something over three decades of my working life in industry spanning from very major industry to a one-man band with a hammer, a nail bag and a Black and Decker, I have come to the conclusion that it is all about culture, this issue of occupational health and safety. I applaud Jeff Shaw's comments in that regard because I think he hit the nail on the head.

Until we convince managements that they have an absolute responsibility to provide a safe working environment for everyone who works in the workplace, and until we convince the people who work in the workplace that each of them has an individual and collective responsibility to help maintain that safe environment, and to help

themselves and their colleagues remain injury and disease free, then we will continue to fail. It is not all that complicated. Remember, sometimes it is as simple as not forgetting to close the bottom drawer of the four-drawer filing cabinet so your colleague does not fall over it.

I would like to make the general comment that the Commonwealth considers the inquiry into workplace safety matters to be timely. The Committee's work can only give more focus to this important matter. Workplace safety is an important issue facing Australia today. I want to make it clear that the Commonwealth Government is fully committed to helping improve the current record. Today I would like to focus on the Commonwealth's view on the need for improved outcomes in drawing on the findings of the Industry Commission and the small business deregulation task force report. The message that Ministers are receiving is on the consequences of lack of national consistency.

In concluding my talk today I will briefly outline current initiatives at the national level aimed at improving our national performance and workplace health and safety. One could ask why is it necessary for governments and the community to address this issue of workplace health and safety. The Industry Commission's Report *Work, Health and Safety*, with which I am sure you are familiar, provides a graphic summary of the scale of the problem in Australia. Each year 500 Australian workers suffer a fatal accident. Each year 2,200 people die from work-related diseases. Each year 160,000 workers are compensated for work-related injury or illness requiring at least five days off work. Each year an estimated 650,000 people are injured or become ill as a result of their work—assuming, Steve, that the statistics are correct.

The Industry Commission report put the costs in the range of \$20 billion annually. That is the problem as we know it. The question is how do we find ways to reduce the human and economic costs associated with injury and disease at work? The Industry Commission acknowledges that there is no single panacea, no quick fix to the problem and concluded that the whole community, employers, employees and their associations and trade unions as well as governments can play an important role in improving occupational health and safety.

How then can the regulators play their role? From the Commonwealth perspective the answer lies in setting a framework that allows national standards to be applied in the States and Territory in a way that is readily understood, applicable and results oriented. It would be fair to say that one of the major findings of the Industry Commission report related to the different obligations on employers and employees, and to the different level of protection existing for employees doing the same work in various jurisdictions. Exposure limits for some hazards, rules for hazardous plant and equipment vary across all the jurisdictions. These differences have major cost implications for employers operating in more than one State or more than one jurisdiction.

The recent report of the Government small business deregulation task force *Time for Business* also identified the lack of national consistency in OHS as a major area of concern for small business. I will return to this report briefly. In respect of the existing regulatory framework the Industry Commission recommended that a three-tier regulatory structure be implemented based on the premise of encouraging those in the workplace to take greater responsibility for the management of risks to health and safety. Such an approach constitutes a move from direct imposition of the workplace solutions to providing an informed choice by those at work.

This approach is consistent with a demonstrated need to reform workplaces by providing a greater choice in the organisation and manner in which work is performed in line with the provisions and the Government's new *Workplace Relations Act*. The consequences of detailed regulatory OHS standards is that workplaces are unable to easily understand them, nevertheless implement them. This is particularly so in respect of small businesses that do not have the necessary expertise or time to come to grips with some of the myriad of requirements. What is needed is practical material to assist workplaces identify and prevent workplace injury and disease.

I am pleased to see that the development of an appropriate legislative framework for the regulatory regime and codes of practice in relation to OHS and the workplace is included in your terms of reference. Whilst nationally agreed standards that the National Occupational Health and Safety Commission has developed have been adopted at jurisdictional level, implementation of the standards has been inconsistent across the jurisdictions. This raises questions about the applicability and responsiveness of nationally consistent efforts to meet industry's needs, particularly small business.

The Industry Commission found that, firstly, jurisdictions have legislated national standards in various ways with different effects. Secondly, that the content of the standards implemented can differ to a significant degree from those declared by the National Occupational Health and Safety Commission. Thirdly, that not one of the priorities standards has been fully implemented across the country. The law relating to occupational health and safety has dual objectives. Firstly, it seeks to prevent industrial injury or disease. Secondly, it aims to compensate persons who suffer industrial injuries or contract an industrial disease.

Recently, the following example of rollover protective structures on tractors was related to me. The various plant safety regulations released by the States are all similar but contain variations of detail, and it is these variations that manufacturers and farm machinery dealers must understand at the point of product transfer. So far the Tractor and Machinery Association of Australia has examined four different State regulations in detail. Differences exist between the States in relation to mandatory regulations applying to the minimum and maximum weight and age of tractors. In Victoria the supplier, the employer or the self-employed user—the subcontractor—is required to ensure that a ROPS is fitted, whereas in other States the requirement is only on the employer.

States without mandatory requirements place the onus of decision upon the end user. However, depending on the circumstances known at the time of the sale the manufacturer or the supplier might also logically be implicated. A preliminary look at a fifth set of draft PRATT regulations appears to present yet another set of variables. So despite the agreement on a national standard there are no common requirements at a State level on the starting date of the regulations or the minimum or maximum tractor rate for ROPS. This is but one example, but identifies a source of infinite frustration for the agricultural machinery manufacturing industry that is now forced to devote more resources to trying to understand the many different regulations and codes of practice relevant to their industry. I am sure all of us are well aware of the inherent dangers of tractors and how important it is that we help farmers to get it right.

As I mentioned earlier, the recent report by the small business deregulation task force identified problems with existing occupational health and safety arrangements. Business, especially small business, tells us there is still a need for a different approach to ensure improved OHS outcomes. Criticism was levelled at the many layers involved and the complexity and cost associated with OHS legislation. In

terms of OHS requirements they tell us that they want assistance which is practical and which is easily applicable to their workplaces rather than overtly proscriptive and technically focused as it has generally tended to be.

The task force found that small businesses are concerned that they do not have the expertise to deal with technically complex OHS regulations. The findings of the task force are largely consistent with those of the Industry Commission as they related to unclear rights and duties, too much legislation, inflexible regulation, inconsistency between jurisdictions, inefficient mandated standards and inadequate and unhelpful codes of practice. The task force drew attention to surveys undertaken by the Australian Chamber of Commerce and Industry and the South Australian Government which, in its view, confirmed that most small businesses have difficulty understanding OHS requirements.

The surveys found that small business, first, has a low understanding of the contemporary approach of OHS; second, has little knowledge of the legislative responsibilities and practical ways of meeting them; third, prefers practical advice and written information which should be hazard or task specific and which should demonstrate how to control the major hazards in the workplace; and, finally, prefers face to face contact either with OHS agencies and specialists or through networking and strategic alliances.

A recent meeting of Labour Ministers from all jurisdictions agreed to take on a more direct leadership role, complementing the work already undertaken by the National Occupational Health and Safety Commission. The Labour Ministers Council will continue to be involved in the general approach and future direction of National Occupational Health and Safety Commission activity, including the development of practical materials for small business. There is a need for a national commission to gain a better understanding of the interests and concerns of the States and Territories to enable it to focus its activities to assist the States and Territories.

Recently, the commission has undergone a number of changes. Priorities for the commission include the need to address the problems identified by small business, in that small business should not be heavily regulated but needs access to common sense and accessible resources; and playing a facilitative role in keeping the States and Territories up to date in new developments in OHS—this means administrative, technical and legislative—which will help spread knowledge as widely as possible across the system.

In closing, I commend the inquiry into workplace health and safety and I look forward with a great deal of interest to its findings and results.

PROFESSOR DENNIS ELSE

CHAIRMAN
WORKSAFE AUSTRALIA

HON PETER PRIMROSE: It is my pleasure to introduce Professor Dennis Else, the Chairman of Worksafe Australia. Professor Else was appointed Chairman of the National Occupational Health and Safety Commission—otherwise known as Worksafe Australia—at the end of 1996. Professor Else has a long history of academic and practical involvement in occupational health and safety: he helped to establish the first university department of occupational health and safety in the United Kingdom; from 1984 to 1991, he was a member of the Victorian Occupational Health and Safety Commission; from 1991 to 1994, he was dean of the division of engineering and science; and he is currently the professor of occupational health and safety at the University of Ballarat. Please welcome Professor Dennis Else.

PROFESSOR ELSE: I would like to use this opportunity to reflect on a few aspects that I would like to see raised during the review process in the hope that they do not get forgotten. On reflecting on the speeches today, there has been a lot said about cultural change and road safety. It is really quite amazing, when you stop to think, how far we have changed in our paradigms for road safety. For example, when my 18-year-old and his friends go out in the car, they elect who is going to drive for the night—which is very different from my childhood. However, I must say that my behaviour changed dramatically when I was about 21 and I visited an open prison to measure the noise levels associated with a particular process in the prison. One of the guards was alleging that they had suffered occupational deafness. When I went walking around the corner, I ran into a former colleague from my undergraduate university course who had committed manslaughter while driving over a hill with far too much alcohol in him. Coming to terms with the fact that there were, a couple of children who no longer had a father, and a wife who no longer had a partner, was far more important to him than his time inside sewing—which is what he was doing when I ran into him.

The changes in road safety have not just been changes in behaviour in the way we drive, but in the way we design cars, design our roads, and the amount of commitment and media time that we give to road safety.

To contrast that strongly with occupational health and safety, I would like to read you something which is from the United States. It is from Ralph Nader's 1965 book entitled *Unsafe at Any Speed*. It is a letter from a banker in New York who owned a Buick and wrote to General Motors suggesting that the dashboards were dangerous in accident conditions. He said:

The other day I had to step quickly on the brake to avoid hitting a little kitten and in so doing my son, 8, was thrown against the dash and broke off a front second tooth. If some padding can be applied it will help save faces and maybe lives. This is just a suggestion for safer motoring for all.

The letter was given to Mr Howard Gandelot, the company's vehicle safety engineer, for reply. He displayed sympathy with his correspondent's predicament when he said:

Driving with young children in an automobile always presents some problems. As soon as youngsters get large enough to be able to see out when standing up, that is what they want to do and I do not blame them. When this time arrived with both our boys, I made it a practice to train them so that at the command "hands" they would immediately place their hands on the instrument panel if standing in the front compartment or on the front seat.

He suggested that a little bit of training in this endeavour keeps people focussed. I do not raise that just so we can have a little laugh. There has been a dramatic change in the culture and in our thinking because that seems silly to us now—it obviously did not seem silly to people in 1954.

[Slide 1] The first slide depicts historical changes in our workplace: The agricultural era and with feudal arrangements where land was the source of wealth; the early industrial era with labour as the source of wealth through to the period of late industrial era where capital was the source of wealth and steep hierarchies became commonplace in our organisations. It is often said that we are now entering the era in which knowledge will be the source of wealth.

There have been dramatic changes in our society. Some of the speakers from earlier today would suggest that they are dealing with organisations that are still locked in a feudal relationships, but there are others, and we have seen examples of them from ICI, where they are attempting to move into a knowledge era with a way of structuring their workplace relationships to be appropriate to this era. I think it is a great challenge for this review to be able to reflect on the way in which the reforms will impact over such a wide range of changing workplace cultures.

If we were to take ICI as an example, it does not train everyone throughout the organisation to deal with every hazard. It is able to filter down the information and bring to the attention of the managers and the work force in localised areas that which is most important to them. The challenge is to filter and bring focus for all managers and workers throughout industry.

If we look at the success stories that were presented this morning in terms of ICI, CSR, BHP there was a strong focus on leadership that had to be provided from the top of the organisation. Underpinning the efforts were design for a safe place of work, safe systems of work and the education, training and behaviour changes. Success required a mix of all three and it is vitally important that we ensure that that balance is maintained between:

- * safe place of work
- * safe system of work
- * adequate education, training and behaviours.

In the legislation that we have now managed to implement throughout Australia, there are consistent principles. We also have consistent principles in the codes and the regulations that underpin them with an emphasis on being able to identify, assess and control, and also a focus on a hierarchy of controls.

That hierarchy of control attempts to ensure that we put the maximum effort into finding safe place controls which eliminate the hazards at source wherever possible or engineer them out. Usage of personal protective equipment is avoided whenever we can. It is a move to a safe place of work, rather than heavy reliance on the behaviour of the exposed person. Yes, we have to change behaviours, we have to change behaviours throughout the management structure and the leadership of our organisations along with the behaviours of the workforce.

[Slide 2] Organisations have all sorts of drivers. Cost was often the driver in the 1980s; quality has been the driver in the 1990s. It is widely suggested that the era of innovation and creativity will, in the next decade, provide the competitive edge for this nation. Therefore, we have to put in context everything we do in health and safety to also increase the opportunity to be more competitive and more creative.

One of the things that I was very impressed with in Sweden many years ago was the way in which they had managed to reach the point where engineers did not throw up their hands and say, "Health and safety is too difficult"; they responded with, "There is an opportunity here. If we can build health and safety into our products, somewhere in the world people will pay more for them than they will pay for other unsafe products". The whole of South-east Asia with its growing health and social expectations is not very far away from us. We should also look at how we can build health and safety into our products.

[Slide 3] A growing number of organisations are realising the commonalities between quality, health and safety, the environment, and examining whether the continuous improvement processes can be applied to them simultaneously. We also have a recognition that we need the smallest chock in terms of the quality assurance controls and the paperwork to ensure that performance does not decrease over time. Once gains are made they are to be locked in.

[Slide 4] However, during the quality activities in recent years many companies have, perhaps, been more characterised by the next slide and I am sure that is not what we want to happen in terms of health and safety. Finding that mix between the maximum advancement and the minimum size of chock is the challenge we face.

A challenge for the committee is to be able to look at the impact that the reforms will have, given that the drivers for different parts of industry and at different times will vary. It may be a mixture of ethics, economics or enforcement that will be the drivers for different parts of industry at different times. If legislation is to be reformed it must reflect those different drivers, and also stimulate dramatic change in the culture of health and safety in this country.

I would like to encourage a focus on design and purchasing control and a balance between a safe place, the safe systems and the adequate training and education. We should set some pretty high ideals in terms of cultural change so that in future when people buy plant and equipment they incorporate health and safety in their design decisions, when they design systems of work they build health and safety into those systems, and when they employ people they look for those managers who have the understandings of occupational health and safety to provide the bold leadership needed to deliver us a healthier and safer state of NSW.

HON JANELLE SAFFIN: Thank you, Professor Else, for your contribution.

MS BARBARA GAUDRY

RESEARCH/TRAINING OFFICER
NEWCASTLE WORKERS' HEALTH CENTRE

"The Failure of the Manual Handling Legislation"

HON JANELLE SAFFIN: It is my pleasure to introduce to you Barbara Gaudry who is a research and training officer at Newcastle Workers' Health Centre. Barbara Gaudry has worked as research and training officer at the health centre since 1988. She is currently working on an information and training package on manual handling, injury prevention in the cleaning industry for the Miscellaneous Workers Division of the Liquor, Hospitality and Miscellaneous Workers Union. She is the principal author of the "Occupational Health and Safety Manual" for the maritime industry and author and producer of a book and video for the rail industry on manual handling for track workers. It looks as though Barbara gets to put into practice a lot of the things we are talking about today and the things we hope to achieve. For a unique, practical perspective, please welcome Barbara Gaudry.

MS GAUDRY: I am very pleased to have the opportunity to take part in this seminar today. I had intended to concentrate on the manual handling legislation and look at why it has failed, but in response to what I have heard I have changed direction and now want to make some comments that I think are important. Firstly, we must not neglect occupational health and only look at safety. When we are talking about the impact of the workplace on people and their families, one of the things that comes to mind is a phone call I received at the Workers Health Centre from a mesothelioma victim a few weeks before he died. He was trying to track down the products he had used as an electrician over the years. He was having great difficulty in getting the name of one product in particular that he felt had contributed to his mesothelioma. When he spoke to me he had great difficulty breathing. Our few subsequent contacts were through his wife, because he could not continue. He was dying.

The man died shortly after his workers compensation case was heard. Immediately prior to his death he was a gravely ill man who continued his battle to win his workers compensation case to provide for his much younger wife and two teenage children. The judge conducted a hearing in the hospital over Easter and awarded in favour of the dying man. Immediately after the man's death the insurance companies launched a counterclaim disputing the results of the judgment.

The next thing that comes to mind occurred a couple of years ago. Newcastle City Council had a seminar for the building industry. This involved building inspectors, building tradespeople and pest control operators who were invited to examine the proposed ban on organochlorine pesticides: chemicals like dieldrin, aldrin,

heptachlor and chlordane. The executive head of the Master Builders' Association in Newcastle, who got good media coverage, objected strenuously to the introduction of such a ban on the basis that it would increase the cost of a house for new home owners and discourage building in the Hunter region.

He would not recognise the hazardous nature of these chemicals, and stated that nothing had been shown to him to prove their hazardous nature. The fact that these chemicals caused cancer in more than two species of mammals (which is the test for a potential human carcinogen) was ignored. That these chemicals caused cancer, leukemia, spontaneous abortions, birth defects, liver damage, heart damage, lung damage, brain problems et cetera, was irrelevant. He was interested only in the economics. I pointed out to him that I had experienced leukemia. Certainly one of the risks that I had been exposed to was organochlorin pesticides. We had a timber house, and when we were young and foolish. Companies such as Flick told us that we had to have the house sprayed each year, otherwise we would have problems with termites. I believed it. The fact that those workers administering the chemicals were working unprotected was, to the relevant companies, entirely irrelevant. Their occupational health was ignored.

I know the economic costs of having leukemia, as well as the trauma such an illness causes to the sufferer and the sufferer's family. I am one of the lucky ones who got out of the hospital ward; many leukemia patients do not. The economic cost was pretty high for my family. I was out of work for 18 months, but we had made our financial commitments based on two incomes, and at that stage my husband was not a politician and was not on the wage level that he is now. We need to widen the definition of economic impact. In no way am I saying that my leukemia was caused by such pesticides, but it was certainly one of the risk factors to which I was exposed, year after year when I was the woman at home. I am sure that, if mothers were able to consider the risks to their unborn children and the mutations caused by such chemicals, most mothers would be willing to spend an extra \$1,000 or \$2,000 to have their homes protected against white ants by methods other than using dangerous chemicals. If they were given the correct information about the hazardous nature of such chemicals and the much safer alternatives, they would be able to make an informed choice. So would workers who are exposed in the workplace.

In my early days at the Workers' Health Centre, in about 1989, a young fitter from a well-known Newcastle company, which I will mention to the Committee, but I will not state publicly because I am unsure of the defamation rules, visited me. It is a

company that you would all know well. This young fellow had a wife and baby at home. He came to Newcastle for a four-day tutor occupational health and safety committee training course and he had been made aware of the problems with asbestos. He had been told by management to remove all the lagging around the pipes throughout that company without any protective equipment, et cetera. The fact that it was against the Asbestos Removal Regulation was irrelevant to the company at that time. Subsequently he had a number of arguments with management. He tried to deal with it on his own. He could not get support from his fellow workers who said to him, "We have been using this stuff for years and it hasn't hurt us."

People were working below the fitter when he was removing the asbestos. Eventually he gave up because his boss had started to threaten him. He realised that he was last on and that therefore he would be first off. It was during a time of economic contraction and his job was at risk. He also knew how the system operated. He would be known as a troublemaker if he was forced to leave that employment and sought a job somewhere else. Those are the kinds of issues the Committee should consider. In Newcastle recently I have twice had occasion to ring the WorkCover Authority during my lunch hour because two very well-known companies in Newcastle on major building sites—the Store site in Newcastle and the Civic development site—had workers working underneath cranes without any protection. I walked through one of the sites because the road had been closed and the pathway led through the site.

When the site manager saw me standing there as a portable building was lowered over the top of a worker who was totally unprotected, he yelled at me, "What are you doing in here? Get out. This is unsafe." I said, "Why is that man working in that way? I am sorry that I walked in here. I didn't mean to put myself at risk", although I was well back from the fall zone. "Why, as site manager, are you allowing that worker to work in that way?" And he said, "They are not our employees." I subsequently found out that when the WorkCover Authority inspected the site he denied that such an event had occurred.

Today the Australian Workers' Union spoke about the health effects of chemicals on workers in rural areas. I want to talk about a particular workplace in Newcastle that is now out of business. I received calls from a number of women who, had they been in a union, would have been covered by the AWU. They were concerned because they were working in big glasshouses and the pesticides and herbicides were being sprayed inside those glasshouses while they worked there. They were worried about

the effects that might have on their health.

When I asked them had they been given any information about the chemicals or about protective measures—let alone the fact that that practice should not have taken place—I was told they had no such information. I asked one of them did she know the names of the chemicals, and she said no. I said, "Can you get them?" and she said, "I will try to sneak into the storeroom but I know if I get caught I am going to be in big trouble and I am scared of losing my job because it is the only employment in the area. They are telling us they are going through tough times and they are facing possible closure." That company subsequently closed. We don't know the long term health effects for these workers.

I was pleased today to hear Mr Geoff Kells, Managing Director of CSR, who highlighted issues—rather than blaming the worker—of providing safe equipment, safe work practices, safe work organisation, skilling people in safe work practices, using equipment safely, and the consultation process. I hope that might be picked up by other business groups as well.

I want to give an example of the frustration associated with trying to improve health and safety in the cleaning industry. One of the unsafe actions cleaners are performing—although employers will deny this—is trying to empty big wheelie bins, or Sulo bins as you might call them, into industrial waste bins. They are full of all kinds of loads, including clay from the art room and material from the industrial arts area. The cleaners are attempting to tip the contents into very high industrial waste bins because they are told to empty the bins. This is a hazardous activity.

In June last year as a result of action from the LHMU, it was decided that as an interim measure before risk assessment was carried out—which is compulsory under the manual handling legislation—stickers would be produced and put onto the bins. Those stickers had a safety sign which showed "No lifting". This sign recognised that many of the workers in the industry are from a non-English speaking background. First there was an argument between the employers, WorkCover, the education department, and TAFE, as to who would pay for the stickers. It was decided after some time that WorkCover would pay for them. Finally the argument got around to who had the responsibility of putting the stickers on the bins so that the cleaners would know that lifting them is banned. At this stage the bureaucratic tangle still goes on and the stickers are still not on the bins. A number of cleaners have hurt their backs over the years carrying out that activity. The fact that it is totally

against the manual handling regulation and code of practice, as well as the Occupational Health and Safety Act, seems to be irrelevant.

As part of my project—we are talking about trying to improve workplace culture—I have almost finished developing an information and training package for cleaners. Despite the manual handling legislation and the *Occupational Health and Safety Act*, I knew through long experience, particularly from working with fitters on State Rail, that it was fairly unlikely that the companies would pick up the training package which I am producing for the WorkCover Authority. It is not actually costing employers anything for this case study for the industry to be developed. I knew there was very little chance that the companies would do the training that is required under the manual handling regulation and code of practice. They are not doing so at this stage.

To get around this obstacle, I decided to produce material to go directly to the cleaners. This consists of a book on manual handling injury prevention and a fact sheet on occupational overuse syndrome—or RSI. Despite Garry Brack's opinions, today it is a serious and under-reported problem in the cleaning industry. I decided to also produce a fact sheet on exercises to prevent back injuries. Employers are very keen on that, because it still seems that after more than a year of meetings, with overheads and videos which demonstrate the risks in the industry and risk controls, the current view still seems to be that cleaners are getting hurt because they are fat and unfit. I know they are both risk factors, but they are only one part of the overall problem in the industry and of the many risk factors which have been identified and assessed in terms of the work I am doing. The risk controls are often quite simple and inexpensive.

The training package is virtually ready to go, but WorkCover says it has to be trialed, and that was the agreement. I am supposed to be running the pilot training courses before it becomes part of WorkCover's accredited package on their manual handling injury prevention training course. I had a session with the workers from one of the three contract companies. I said I wanted no more than 12 workers because it becomes difficult for a group to work well if it is too big. I had seven workers for the first training session, and they were to do a full day with me. Three of them were going to sleep fairly early because they had started their day at 4 a.m. for a 5 a.m. to 9 a.m. shift before the training session began.

I asked them why they were there and what they hoped to get out of the day. One

person thought she was there to learn about chemical safety, another fellow thought he was there to learn about safe lifting techniques, and another thought he was there to learn about first aid. They were there because shortly before the session they were told they were to attend, but they did not know why they were attending. When it came to the day for management to attend, the training session had to be cancelled. Although I came down from Newcastle the day before so that we were ready to trial the program, out of the seven managers who were supposed to come—and hopefully there would have been more—only three turned up. In terms of workplace culture and commitment to doing something about the bad record in the industry, that is an indication of poor performance.

To come back to Garry Brack's comments: there are solutions to the RSI problem. One of them is better equipment. Instead of people mopping for long periods, a repetitive task which leads to occupational overuse syndrome, better equipment can be used. Instead of having people carrying out the repetitive movement of bending and vacuuming for three hours day after day, there are power-driven vacuum cleaners. You walk along behind them and do not perform any of those repetitive actions. There is window-cleaning equipment which is far better than the equipment in schools at the moment, and there are better things than a millet broom for sweeping a whole playground day after day. They are the kinds of things that lead to occupational overuse syndrome.

So, too, is bad work organisation. If you do not have things such as task rotation, rest breaks and recovery times, realistic work rates and realistic demands on people, they are liable to get occupational overuse syndrome. People who make easy judgments about the difficulties of other people's jobs should have to do the job perhaps for a month in a fairly powerless position, scared of losing their jobs, scared stiff of the monitoring teams that come around to make sure the schools and TAFEs are clean enough. People in those jobs often have difficulty with the English language.

If you have been in that position you can make more informed judgments about whether things like occupational overuse syndrome are a problem or an invention of mad statisticians or people who have a vested interest in these kinds of figures.

During the break I assembled overheads to illustrate the type of poor equipment that is being used in schools and TAFE. They are overheads that I have used in the training sessions. They refer to inadequate equipment, poor work organisation, and

lack of storage, with things being stored unsafely and in unsafe positions. For example, heavy rotary polishing machines that women are lifting into awkward positions or up stairs because there is not the equipment on each level, or dragging through a school playground and up the steps of demountable buildings because they are told to buff the surface in those areas.

There is a need to change work organisation, workplace layout and work environment, but we do not have time to look at those problems. The illustrations also show the failure of the employers to meet their legal responsibilities under the *Occupational Health and Safety Act* and the manual handling legislation, which has been in force since 1991. They also show how schools and TAFE, under section 17 of the *Occupational Health and Safety Act*, are abrogating their responsibilities because they are not providing safe access. It may relate to cleaners trying to stretch over benches in laboratories to close windows that are jammed because they require maintenance, putting enormous pressure on their backs, shoulders and necks; or a cleaner who is trying to get the rubbish trolley—if they are lucky enough to have one—or the wheelie bin to the industrial waste bin over unsafe surfaces and lift them without having a flat, stable platform to work from.

Problems like that are the responsibilities of schools and TAFE. In one TAFE I attended, men are pushing the industrial waste bins out to the garbage truck because the principal does not want the truck to come on to her new paving. In another area she shut down the site where the truck had access to the industrial waste bin because she wanted the area landscaped. The fellows are now pushing the industrial waste bin out to the trucks. That is a problem in terms of back injuries and the manual handling legislation. I want to refer to the role of the government body which lets contracts to major contractors, to the very poor requirements in terms of occupational health and safety in those contracts, and to the need for something to be done to address that problem. Government is also contributing to the types of back injuries and occupational overuse injuries that are such a problem in the industry.

Government has not given adequate resources to WorkCover to be able to act in a proactive way to ensure that the occupational health and safety legislation is being put in place. Under Labor we have a new group of inspectors back on the job but I believe that only brings WorkCover back to the level it had before the numbers were slashed by the previous Government. The inspectors are so busy investigating accidents that they have not got time to be proactive about prevention and enforcing

compliance.

Government also has slashed the cleaning staff levels, first of all under the Government Cleaning Service and then under the contracts, so that the numbers have been cut in some high schools from 10 cleaners to three. Under the current system the cleaners have been given extra duties. It is impossible for them to do the work required in the time available and they are working very unsafely. So when making budget cuts government needs to look at the impact on the workers who are the ones who bear the brunt. Their health and safety suffers.

The last point for now. When selecting companies the Government needs to look at their occupational health and safety performance record and write strong OH&S requirements into the contracts. As is happening in the construction industry, the call for tenders should indicate that contracts will only be awarded to companies with proper and regularly audited occupational health and safety systems in place. If a contract is awarded on the cheapest price we all pay for it in the long run.

The cleaners pay for it with back injuries and other injuries to their bodies like occupational overuse syndrome and the pain and suffering which also impacts on their families. We all pay for it because the workers compensation payouts are so high. Employers complain about the costs of their premiums but so often do little about prevention. All of us are paying for it. We are certainly paying for the medical costs, et cetera, associated with the injury of workers on the job.

My speech has been a circuit which is not what I originally intended. I will put my planned submission down on paper. They are some matters that we need to think about—rather than just looking at the actions of workers and whether they are fit or unfit. We need to look at the real causes of the problem and how the injuries can be prevented. One-third of all workers compensation costs are due to manual handling injuries. In 1994-95, new back injury claims cost \$199 million in NSW.

REVEREND THE HON FRED NILE: Thank you, Barbara, for that information about the many experiences and disappointments you have seen first-hand from I was going to say the coalface in Newcastle but perhaps I will say the workplace.

DR IAN GARDNER

PRESIDENT
THE AUSTRALASIAN FACULTY OF OCCUPATIONAL MEDICINE

“Occupational Health and Safety—The Way Forward—A Medical Perspective”

REVEREND THE HON FRED NILE: Our next speaker is Dr Ian Gardner, President of the Australasian Faculty of Occupational Medicine. Dr Gardner is an Australian physician who has a group-wide responsibility for occupational health and safety and medical programs throughout IBM operations in 23 countries in the Asia-Pacific with special responsibility for the IBM—Lend Lease joint venture in Australia. Dr Gardner received his fellowship of the Australasian Faculty of Occupational Medicine in 1984 and the fellowship of the American College of Occupational and Environmental Medicine in 1991. He is President of the Australasian Faculty of Occupational Medicine and the Royal Australasian College of Physicians and a board member of the American College of Occupational and Environmental Medicine. His special areas of interest include international health issues, the use of technology in the health industry and the broader aspects of management. Please welcome Dr Ian Gardner.

DR GARDNER: Reverend Nile, Mr Chairman, members of the Standing Committee, ladies and gentlemen. Thank you for the opportunity to address your Committee and this public meeting today on matters that our faculty finds important in relationship to the health and safety of all working Australians. Starting with the next slide, I will say briefly who the faculty of occupational medicine is. We are one of three specialist faculties of the Royal Australasian College of Physicians which is the non-surgical specialist body in Australia. Our faculty has a special role mandated by the Federal Government and approved by a group called the National Specialist Qualifications Advisory Committee to be the specialist training and certification body for occupational medicine specialists in both New Zealand and Australia.

What kinds of things are we interested in from an occupational health and safety perspective and what sort of factors should this Committee consider? We have had many previous speakers, so I will not cover the same matters again. One thing that is clear is that the true cost of occupational illness and accidents in this country is absolutely unknown; at best it is a guess. The other point that is important is that in any individual workplace although incidents are common disabling accidents are rare. This is both good and bad. It is good, of course, for the country from an economic, productivity and morality viewpoint as far as not injuring workers but it is bad from the perspective that in a particular workplace a supervisor, manager or other employee may have no experience of the dire consequences of unsafe equipment and actions. As was said earlier, a company with 50 machines all doing the same thing is likely to have significant experience of problems that occur with

that machine. If a company only has one machine, especially if it does not have specialist trained staff available to help the management and employees to work safely, then incidents will occur even though at an individual working site they are quite rare.

In the chemical, mining and manufacturing industries there has been a strong focus on occupational health and safety practices in the past 15 to 20 years. As so much of Australia's manufacturing base has been sold off and moved overseas, the service industry is the fastest growing area. This again has two sides. One, it is a high value-added, knowledge-based service industry which is well regarded internationally and allows us to compete. The negative side is that people who work in this industry assume that because it is white collar it is therefore safe. There is little experience in health and safety management and a false perception of safety. There is almost no understanding of the hazards of new technology. Certainly in my company's environment the most dangerous place for our employees is not in our workplace but in the customer's location. This is a problem which the committee needs to consider—that a workplace is not only the workplace where a company's workers are normally based but also where they work in the general community.

White collar compensation claims cost more. The figures produced by the national report into workers compensation in 1994 or the industry commission inquiry in 1995 showed in the stress area that white collar industrial disease costs more because, first of all, the workers are higher paid and, secondly, they are off work for a longer period of time. For the future the Committee needs to consider seriously the impact on Australia of the ageing of the work force. As it is now, more and more people are having difficulty finding jobs when leaving school. Globally, in all the Organisation for Economic Co-operation and Development countries the average age of workers in the traditional manufacturing and old-style low-skilled jobs is increasing. This means that manual handling accidents and injuries and accidents due to the wear and tear of ageing workers will increase.

Also in future workers will no longer have cradle-to-grave job security people and will have multiple employers. It will be difficult to determine which one of many employers is responsible for a condition which may arise 15, 20 or 30 years after the workplace exposure. It will be almost impossible to assess causation. Some countries, for example the United Kingdom, got around the system in the 1947-48 time frame by abolishing the arbitrary distinction between workplace injuries and accidents and putting it all into the national health system. Under the Australian

system, a person who claims to have been injured through a work-related accident is immediately outside the national health insurance system and the case is handled through a separate work-cover type arrangement in every State.

A huge amount of safety information is available but is not always accessible, not only to young people, people from non-English speaking backgrounds or people with disabilities but also to people who do not have access to the technology. Most small workplaces do not have a live internet link site where employees can search the world for the current best practice for the handling of chemicals. All the information is available out there and the vast amount of it is free. One of the few good things I will say about the United States of America Government is that on all of its web sites—such as CDC, NIOSH, OSHA—and other bodies there is no copyright claimed on any US Government publications. So anything that has been published by the US Government is basically free and available for all to use worldwide. It is always caveat emptor but, by and large, because the US is driven by litigation, the bulk of the information on the US Government agency web sites is factual and correct.

As was highlighted in the industry commission inquiry and the previous commission inquiry into workers compensation, Australia's workers compensation system is flawed. As many speakers in this seminar have said, the number of reported and compensatable injuries in this country is just the tip of the iceberg. No one really knows what the number is. A large company with which I have dealt has a policy of giving people up to one year's sick leave in any two-year period, which is great for workers with genuine illnesses. From a management control point of view, a small work-related injury would never get into the reporting system. Unless the worker has incurred medical costs or other costs that are not otherwise covered, a workers compensation claim would never be lodged and it is just logged into the system as a day off on sick leave. So there is a significant amount of unreporting.

For the future, especially because I have been asked to consider this from a medical perspective, one of the serious flaws in our system is the fact that there is virtually no undergraduate training of doctors in this country in health and safety matters. A couple of years ago we conducted a review for the University of Sydney of occupational health and safety training in Australian medical schools. We went back to one of the source documents, which was mentioned earlier, from the International Labour Organisation. About 18 years ago the ILO recommended a minimum of 15 hours of occupational health and safety training in the five or six years of an undergraduate medical degree training program.

I was lucky enough to attend the University of Queensland for my undergraduate degree. That university had three months of social and preventative medicine, which is basically occupational health and safety, in the fifth year. This fair city's university, which regards itself as the premier medical institution in Australia, has three hours. If the people in this country and especially the workers compensation authorities are by and large unhappy with the quality of medical treatment of injured workers, and the injured workers are unhappy with the treatment, the problem goes back to undergraduate training.

Although I do not want to dump too much on my legal colleagues, points 9 and 10 are important because in our system there is too much incentive not to return to work and to full pre-injury status because of legal and other issues. If a worker gets well too quickly it is said that clearly he is not injured, which works against his claim. Also there is a problem on the medical side. People visit their doctor with a sore back and the doctor prescribes two, three or four weeks off. Sometimes it is appropriate to take time off but in many cases a speedy return to work on restricted or alternate duties integrated into a proper rehabilitation program is the right way to manage the injury both for the worker and the community.

It is a common misconception that it is the employer who pays for industrial accidents. If you look at the Industry Commission inquiry report, basically it says that only one-third of the total costs of workplace injuries are paid through the WorkCover or equivalent system. Another third is paid by the injured worker himself, either directly or indirectly, especially in relation to lost overtime, lost bonuses, payments, et cetera. The other third is picked up by leakage to the Federal system through the national health insurance system and the pharmaceutical benefits system. So our whole community pays, and the employer actually only pays about one-third of the total cost.

One of the things that the Faculty of Occupational Medicine has been doing recently in relation to health and safety in Australia as our major activity in the last ten years has been the development of what we call competencies, which is a set of agreed professional standards which have been agreed with by all State bodies and with the Federal body through the old College of Occupational Medicine, now the Faculty of Occupational Medicine, and reviewed and endorsed by the Commonwealth Government's national specialist qualifications advisory committee. Basically, these competencies say: if you meet all the standards here, we will give you a tick in the box and you can become, and be called, a consultant in occupational medicine, and

this is an external, verifiable, quality-endorsed standard.

We have put major inputs into various Government inquiries, and we seek opportunities to provide either private briefings or additional advice to your Committee, to help resolve issues, and to provide additional facts. We made six separate submissions to the Industry Commission, including two formal ones and four extensive phone discussions with industry staff to help them to understand some of the conflicting advice that they received.

We have issued a few major publications and press releases. Our most recent press release was just last week, on the very contentious issue of electromagnetic fields and health and where we should be going in relation to research on this matter in Australia. Luckily, it has not been terribly hot over in the eastern States, but in Adelaide and Darwin it is a major issue and was a lead story in ABC news in Darwin and on all the talk-back stations in Adelaide last week.

We can also provide advice to industry unions, employers and Government. We can provide lists of recommended people who, by and large, would have international reputations, and certainly we can provide a balance of views to help your workplace and your workers to come up with good, practical industrial relations and occupational health and safety policies.

The major activity which we are undertaking at the moment is that we have put in a submission to the heads of workers compensation authorities, called HWCA. This is the national body of all the WorkCover authorities throughout Australia. Together with the Royal Australasian College of General Practitioners, we have proposed a modular course for training for general practitioners in injury management. This is a big problem for the country, because, although we have this small body of 400 or so specialist occupational physicians, more than 95 per cent of all the occupational medicine services in this country are in fact delivered by general practitioners, the bulk of whom have never been to a workplace and have had no training in occupational medicine ever in their undergraduate courses.

Mr Chairman, our fervent wish is that in your Committee's deliberations you would consider strongly the role of prevention in any restructure and how it would apply in this State. The reason we raise that is that in almost all Australian State WorkCover authorities there is a requirement in their Act that they fund prevention activities. In most cases they spend less than 3 per cent of their total premium incomes on

prevention. Certainly, it is good to do better workplace management and proper post-injury treatment, but the real solution is to prevent the injuries, and we believe that the WorkCover authorities in this State and others can make a very substantial contribution in that area. Finally, we look forward to working with your Committee in any way possible to provide additional professional input, and we look forward to being involved in the consultation process later on.

REVEREND THE HON FRED NILE: I am sure our Committee appreciates Dr Gardner's offer to assist the Committee in its investigations and inquiries. I am sure that our Chairman, the Hon. Bryan Vaughan, will take up Dr Gardner's offer and that we will be seeing Dr Gardner more in the future.

PROFESSOR MICHAEL QUINLAN

HEAD OF SCHOOL
SCHOOL OF INDUSTRIAL RELATIONS
AND ORGANISATIONAL BEHAVIOUR
THE UNIVERSITY OF NEW SOUTH WALES

"The Reform of Workplace Safety: An Overview"

REVEREND THE HON FRED NILE: Our next speaker is Professor Michael Quinlan, the Head of School, School of Industrial Relations and Organisational Behaviour, the University of New South Wales. Professor Michael Quinlan has been involved in occupational health and safety education, research, practice and policy advice for almost 20 years. He is a widely published and influential author in the field of occupational health and safety and a pioneer of occupational health and safety education at a number of universities. He has been involved in administering occupational health and safety programs and providing advice to employers, trade unions and professional bodies. He has also acted as a policy adviser to both State and Federal governments for over 10 years, and he is currently an expert member of the WorkSafe Australia research standing committee and the WorkSafe steering committee on the evaluation of national standards.

His particular interests include management systems, work organisation and occupational health and safety, production, enterprise bargaining and the legal regulation of occupational health and safety. At present Professor Quinlan is involved in both supervising and undertaking research on the occupational health and safety performance of small business and subcontractors, which has been referred to earlier. As a final speaker, I am sure you will agree that Professor Quinlan is eminently qualified to provide a commentary on the vast range of information that has been presented at today's seminar.

PROFESSOR QUINLAN: I hate to admit it, but I am a graduate of Sydney University—not in medicine, and I actually feel a great sense of regret about that, but all my degrees are actually from Sydney University. I am very pleased to be able to address you. After the last speaker, I have the great problem, of course, that the ranks have grown thin, and also those of you who have not left are suffering from fatigue. I will hopefully not add to your fatigue too much.

Today I will try to address some of the issues that have been raised here and then hopefully suggest some things that might be of value. In the talks today we have heard the issues of integrated management systems, subcontracting, young workers, small business, change in the workplace and workplace organisation, the call for a more uniform approach to occupational health and safety in Australia—as a member of several WorkSafe committees, I can probably endorse that—hazardous substances, and the importance of a more collaborative approach. I think they are all important issues. I will try to indicate briefly some ways in which I think those issues

need to be brought forward and thought about in terms of regulation.

Over the next 10 to 20 years we are going to face major changes in Australian workplaces. Even in the last 10 years we have probably witnessed more change in workplaces and the workforce than in any comparable period for at least the last 100 years. Those changes present a very profound challenge to occupational health and safety. In particular, there are three sets of changes which I think we need to address. The first is that there has been a significant change in employment and employment relationships within Australia, New South Wales and internationally over the last decade. Let me mention just some of those changes. Some of the most important changes that have occurred are the growth of subcontracting and out sourcing in the workplace, self employment, part-time and casual labour. More than 15 per cent of the work force in New South Wales, and in every other State of Australia, is self-employed. Self-employment has been the fastest growing category of employment in the last decade. In the 1990s, most of the jobs that have been created have been part-time jobs. Australia has one of the highest levels of part-time and casual labour of any country in the OECD. This is particularly significant for women and young workers, who make up a very significant proportion of casual part-time workers.

Further, I might mention that more than 95 per cent of businesses in Australia are small businesses, and they employ more than half the work force. What relevance does this have in terms of regulation? It has a lot of relevance really, because in the past legislation has tended to focus on full-time employees in large industrial enterprises, which have a well-defined workplace, but this is no longer the case. Many people do not work in large enterprises; they work in trucks, at home, or in a range of small environments which are difficult for the old system of regulation to cope with. For example, as far as I am aware, no government agency in Australia has produced guidance material for employers using contractors (aside from those found in building industry codes).

This is also important when we start to talk about statistics, about which there has been a lot of discussion in this seminar today. The New South Wales Government, through WorkCover, undertook its own review of workers compensation statistics. I think it found that only 47 per cent of illnesses and injuries in the workplace resulted in a workers compensation claim. This has significance, firstly, because it does not mean that we should not use workers compensation statistics to drive a prevention strategy but we should be very aware of what is missing from that data. One of the

major omissions is self-employed workers. Virtually no self-employed workers are covered, in practice, by workers compensation. And yet, self-employed workers—and many subcontractors are self-employed—are killed at more than twice the rate of employees and operate in some of the most dangerous industries, such as forestry, farming, fishing, construction and road transport.

The young are also especially at risk. We have been doing a lot of research on subcontractors in the building, clothing, transport, child care, tourism and cleaning industries. Most of these workers are quite beyond regulation. From what we can work out, there is no regulation for home-based clothing workers. And yet, the gap between the number of clothing workers who are working at home and the number who are actually working in factories has been opening up at a huge rate over the last decade—as a direct result of Federal Government policy, I might say, on tariff protection.

Another point I might make for a plug here is that, as far as I know, Worksafe is the only body in Australia that is funding research into subcontracting and other major structural changes in the workplace which have implications for health and safety. The New South Wales Government has been funding research into small business. Worksafe has been doing the same, and a number of other State governments have been doing some important work in the area of small businesses, which I will come back to. But only the tip of the iceberg of these problems has started to be addressed. It is an international problem. Recently I attended a conference of the European Union on health and safety regulatory systems in Dublin. They are having a major problem in terms of addressing the growth of health and safety problems as a result of out sourcing and other structural changes.

The second area of significant change in the workplace is the growth of hazardous substances. According to the ILO, it is estimated that there are now more than seven million chemicals in existence and literally thousands being added every year. In addition to that, we are becoming aware that there are biological agents in the workplace which pose a major risk to particular groups of workers. You may recall a recent article in the *Sydney Morning Herald* about an outbreak of Q fever in Young which affected 26 workers. We are also looking at a rising toll from other hazardous substances, such as asbestos.

Disease at work kills 4½ times as many people as those that are killed by injury. This is not a figure that is just relevant for Australia. If you look at the international data,

you will find similar sets of figures. Again, we are only looking at the tip of the iceberg here, because the health effects from exposure to hazardous substances—as anybody with a medical background or an epidemiological background will tell you—is difficult to measure, there is a long latency period, and there are complex concomitant effects from exposure to multiple hazardous substances and the interaction of that with other hazardous features of the workplace, such as noise, heat and other factors.

I would like to remind the Committee that I do not think health gets a big enough mention in the terms of reference. After body stressing problems, I think health effects from exposure to hazardous substances is the major threat in the workplace over the next 10 to 20 years; it is the hazard that will affect most workers. I was most disturbed when I sat on an accreditation body for the training of inspectors of WorkCover in New South Wales, evaluating a new training module they put up. When I went through and calculated it, I worked out that 3 per cent of the training time of those inspectors would be spent on hazardous substances or disease. I must say that I believe that one reason for this was that prevention was being driven through the workers compensation arm, and disease is not the major issue in the workers compensation system. This is a problem with having a workers compensation driven prevention agenda, resulting from merging the compensation and prevention agencies. I must raise this as an issue. I know that it is not part of your brief but I will do it anyway. That is one of the little perks that academics have, raising issues out of left field.

Worksafe and some of the State agencies such as FarmSafe in New South Wales have started to do some very important work on traumatic injury threats to rural workers and hazardous substances. Obviously there are community groups that we can tap into such as the Country Women's Associations, because their members have a vested interest in not wanting their children or families to be affected by exposure to dieldrin and other pesticides.

The last area of change I want to raise is the complex and rapidly changing workplace itself. To some extent it is a combination of the previous two factors but it involves other things as well. I will refer to downsizing, restructuring of the workplace. If I asked how many people here have been in a workplace that has been restructured in the past 12 months or two years, how many people would put their hand up? You do not have to be Einstein to know that some of the changes have had health and safety implications. There have been new machines. Computers

have revolutionised the workplace. They have set up quite complex interactions. We are still working through, for instance, the implications of having computer safety systems in aircraft. Yesterday I was in a plane that landed from Melbourne. I was cheerfully told by the pilot that it was their regular testing and they were landing entirely under the automatic pilot. Apparently every 35 days they test the automatic landing system. Fortunately, obviously, we got down. They are only working out now the complex interactions between human and complex technological systems.

The workplace is becoming increasingly complex and we need better ways of addressing this. We need to make sure that management has a more systematic approach to health and safety and we need a regulatory system that tries to foster this. That is why I turn to the last bit of my talk today: how do we meet the sort of challenges that I have just identified? First, as a number of speakers have mentioned, we need to encourage an integrated approach to OHS management. We need to encourage firms and managers to think about health and safety systematically and think about it as part of their normal production or service delivery activities. We need to help design regulatory systems that promote this sort of approach. That is very much what the talk was about in Dublin.

I would also suggest that we look at the experience of other countries. The Norwegians and the Swedish have gone much further down this path in terms of systems and they are aware of some of the problems. Moreover, it is interesting to note that we have basically taken this European path ourselves. In fact systems such as the safety map system in Victoria and the auditing system in Queensland are pushing a safety system approach here. So we are on a parallel line. Some of the American companies such as Du Pont also operate a systems approach but that is not the OSHA approach. That is not the approach of the American regulatory system or the Canadian regulatory system, although they are starting to twig. We have much to benefit from countries such as Norway and Sweden. By interacting with them they can learn from us and we can learn from them. They have small populations so there are similarities. They are also aware that the safety system approach has benefits and weaknesses.

For instance, the Norwegians have found that the safety systems approach certainly encourages greater safety awareness and it encourages a more systematic approach to problem solving. And in a changing work environment you have to have a system approach. You have to have a system in place by which you anticipate occupational risks and, if possible, get them out of the workplace before they arise

through hazardous substance purchasing committees, et cetera, et cetera. These countries also are aware of the downsides of this approach. Dennis Else from Worksafe alluded to these in his paper. If you are not careful you can end up with paper compliance. Companies spend a lot of time proving that, in writing, they have complied with the system but whether it works is another issue. We also need to make sure that designers and suppliers become involved in the process.

There has been a lot of talk about safe work organisation today but a lot of that has consisted of talking about safe equipment and then having safe work practices. It ain't enough; you need safe work systems. You need a safe process of organising the workplace. You can have a workplace where the forklift trucks perfectly comply with every requirement that WorkCover sets, where all the drivers have been fully trained and everybody in the workplace knows about forklifts and forklift safety. But if you have too many forklifts—I have been to workplaces like this—moving goods in a confined space, the fact that you have complied with the equipment side and the behaviour side still does not result in safe workplace organisation.

I am on the national manual handling standards evaluation committee and one of the positive outcomes of it is that many employers now recognise that it is not simply a matter of getting awareness in the workplace; it is promoting management to think about safe work systems.

Finally, if you employ a subcontractor on a site effectively on the basis that they do the job and are paid for it there is an inbuilt incentive for them to do the job as quickly as possible. If that means cutting corners, they will cut corners. So if you are employing subcontractors on site you need a control system in place which anticipates those sorts of problems. In my view—I think this came through in the ICI presentation—safe work behaviour will flow as a logical follow-on from establishing a safe workplace organisation in the first place. If you do not have a safe system, no amount of awareness raising will work in the end.

The other point that needs to be raised about the systems approach is that there is a strong argument that you cannot make it work for small business. As the Danish delegate to the Dublin conference put it, there are four categories of companies: companies that want to comply and can comply; companies that can comply but do not want to comply; companies that want to comply but cannot comply; and companies that cannot comply and do not want to comply. The Danish have a strategic approach to enforcement which recognises this. You can talk about safety systems with small business; the problem is that small businesses do not have a system for any form of decision making. So there is a major problem with talking to small business about safety systems. You are going to have to work on generic packages to deal with specific sets of hazards which have sneaked into them strategic approaches and systems ways of thinking, but which are at a level that means that they will do it without realising they are systematic.

In Queensland they have just developed a machine guarding guidance note for the metal manufacturing industry. It is on A4 paper, not glossy, and 20 pages. It can be faxed and it can be torn up and bits of it can be pinned on a wall. It has all the systems stuff in it but it is extremely practical. It is cleverly built so that if you do not go looking for it you do not even realise the sort of program message that is in it. In Queensland and some of the other States all documentation is written for small business, on the basis that small business can only understand documents written for it and it cannot understand documents written for large business. Big business can usually work out documents written for small business. So writing all documents for small business is one of the solutions we need to look at.

We also need an innovative approach to particular issues such as small business and the problems of young workers and women workers. I do not think they have had enough recognition today. Women take work in particular jobs with a particular array of hazards. Most of the emphasis on occupational health and safety has been on the so-called obvious and major risk categories in the mining and manufacturing industries. Those are not the risks faced by women because they are not usually employed in those industries. So we need to focus some of our research and regulatory activities in that area. With regard to small business and smaller operators—I suggested this in my recommendation on NSW legislation that they follow the Queensland model of having a health and safety management system. (There are things wrong with the Queensland legislation but I will not bore you by telling you about them) This Queensland provision is unique. Every workplace with more than 30 employees has to have a health and safety officer, and those officers

have to be trained.

One of the things that the Industry Commission found was that in a number of small workplaces employers tended to take on that role (ie workplace health and safety officer) and get that training. This resulted in a lot of small to medium businesses having a person who knew something about health and safety in those places for the first time. Another point is that small business deals with only one professional grouping—accountants. So if you want to get at small business go through the accountants. They are the people to hit. The other suggestion I would make based on the Queensland legislation is that it offers a guide in having 12 industry committees covering the State. They are composed of people from industry, unions and experts with practical knowledge of the industry. They develop things such as the machine guarding guidance note. At present they are working on a practical guide to the handling of hazardous substances. A medium firm may have dozens, if not hundreds, of MSDs, but how do they go about handling hazardous substances in the workplace? These are just some of the very basic things they can do. Again, this is the sort of thing I would suggest. In some ways it parallels the things that are going on with the BackWatch initiative here, which I think is very good.

The third area is that we need a targeted and strategic compliance strategy. We need to use both positive and negative forms of inducement. It is not an either-or situation. Some employers will respond to positive help, and with small business we need to provide all the help we can. On the other hand, some business will respond only to the incentive that is provided by prosecution. I am afraid that is the case. Most level-headed employers, if you sit them down in a group, will admit that as well. So you need a variety of packages of inducements. I would also suggest that you need the maximum array of sanctions as well. Do not just think about fines, because fines have limited behavioural change potential.

Some of the things that might be worth thinking about are using targeted publicity campaigns in conjunction with on-the-spot fines, saying you are going to target an industry, providing a lot of advice to those employers that want to get advice then, and only then, going in and doing a targeted blitz of a particular region of New South Wales and issuing on-the-spot fines. So you try to mix the positive and the negative sides. And you publicise all this. Publicity is very powerful, particularly with big companies. No-one wants to be named adversely.

I also suggest the use of probation. A construction contractor in Victoria issued a

truck without brakes to a driver, who was killed. The contractor was charged with industrial manslaughter and fined \$70,000. The company then went bankrupt and is now operating under another name. A much more effective solution in that case would have been to ban that manager from holding any managerial position in the construction industry for a period of five years. On the other hand, if a big company has a bad OH&S performance you would say, "You are under probation for 12 months. You will have to demonstrate to the WorkCover Authority that you are serious about improving your health and safety. We are going to monitor this over the next 12 months. You will be listed in our official report as under probation." No company is going to want to be listed as under probation and anyone listed in that way will try to get out of it as quickly as possible.

The last area I want to raise is the need for a participatory and collaborative approach. That was raised by a number of speakers. I am in total agreement with that. We need the total involvement of workers, managers, unions, governments and community groups to make health and safety work. We need to pick the right groups. In the country district it may be the Country Women's Association of Australia, the Advocates for Workplace Safety, or asbestos sufferers associations that have been formed of those particular people in the community.

One critical thing that was discussed in the European (Dublin) conference that raises a broader issue is that with bigger companies making safety systems work, the role of unions in an auditing capacity is absolutely critical. That is an important factor that has to be addressed. The EU delegates realised that one of the key things in making sure these management systems do not become paper compliance systems is to have a party involved which has a vested interest in making sure it is something more than that.

That is basically all I want to say. There are a number of major changes in the workplace. In 1983 the New South Wales Act was a piece of pioneering legislation. We have the opportunity to take the lead again by anticipating some of the problems which are going to become more manifest in the workplace over the next 10-15 years and again show a lead to the rest of Australia.

HON BRYAN VAUGHAN: Thank you, Michael. You have demonstrated something that has happened all day and I refer to the enthusiasm displayed by those who have spoken here today. That enthusiasm for their subject has been quite inspirational.

I would like all participants to consider their submissions and to remind them that evidence given before the Committee attracts parliamentary privilege, so much more can be said there than in a forum such as this. The Committee has been through procedures like this before and has found that in formal hearings one can refer to matters that might be termed close to the bone—matters no-one dares to refer to in this sort of gathering. So come and enjoy parliamentary privilege.

I thank all those who have spoken at this seminar today and all those who have listened.

AT 5.03 PM THE SEMINAR CONCLUDED

APPENDIX

**WORKPLACE SAFETY
PUBLIC SEMINAR**

REGISTERED PARTICIPANTS

SEMINAR HELD AT

PARLIAMENT HOUSE, SYDNEY ON
TUESDAY 18 FEBRUARY 1997

STANDING COMMITTEE ON LAW AND JUSTICE

- WORKPLACE SAFETY PUBLIC SEMINAR -

REGISTERED PARTICIPANTS

NAME	COMPANY/ORGANISATION	POSITION
Abrahams, Peter	CSR Limited	Company Secretary
Adams, Denise	WorkCover NSW	Manager, Policy, Legislation and Conciliation Division
Alagan, Jack	NSW Fire Brigades	OHS Co-ordinator
Amour, Julie	Working Armour	Consultant
Armstrong, Therese	AGED Services Association of NSW	Employee Relations Advisor
Ayers, Gerry	CFMEU	Union Officer (OHS)
Baker, Lea	HIH Winterthur Workers Compensation	Risk Manager
Balint, Judy	Optus Vision	Manager, OHS
Bennett, Jack	WorkCover NSW	Project Officer
Bennett, John	Compsys Australia	Manager, Business Development
Berghofer, Sandra	HIH Winterthur Workers Compensation	Manager: Corporate Policy
Bestre, Raymond	Private individual	
Blythe, Jeff	Advocates for Workplace Safety	Director
Boccalatte, Patricia	WorkCover NSW	Project Officer
Brack, Garry	Employers' Federation of NSW	Executive Director Guest Speaker
Bradshaw, Ted	CSR Limited	General Manager, People and Quality
Brady, Sue-Anne	Shoalhaven City Council	Human Resources Officer
Bray, Christine	South Eastern Sydney Area Health Service	OHS Consultant
Bryce, Martin	Dept of Public Works and Services	Administrative Officer
Burghardt, Elfriede	Newcastle Workers Health Centre	Voluntary Worker
Butrej, Trish	NSW Nurses Association	OHS Officer
Buxbaum, Michael	University of NSW	Manager, Workers Compensation and Rehabilitation
Cahill, Stephen	Taylor & Scott Solicitors	Partner
Chadwick, Trish	Australian Taxation Office	National OHS Manager

NAME	COMPANY/ORGANISATION	POSITION
Chadwick , Christopher	WorkCover NSW	Senior Inspector
Charles, MP , Bob	Federal Member for La Trobe, Chairman of the Government's Industrial Relations Policy Committee	Guest Speaker
Chin , David	NSW Department of Industrial Relations	Senior Policy Officer
Clancy , John	Insurance Council of Australia	Manager, Technical Services
Collins , Mark	National Occupational Health and Safety Commission	Information Services Manager
Collison , Russ	Australian Workers' Union, NSW Branch	Joint Branch Secretary Guest Speaker
Cowell , Doug	Premier's Department	Manager, Management and Legal Services
Cox , Jim	WorkCover NSW	Manager, Regional Operations Division
Cumberland , John	Police Association	
Cuttell , Barbara	Advocates for Workplace Safety	Director
Dally , Prue	Railway Services Authority	OHS and Rehabilitation Risk Manager
Darras , Mark	Goodman Fielder (Quality Bakers)	Lawyer
Disney , Simon	Legislative Council	Research Assistant
Dowse , Frederick	Transfield Pty Ltd	OHS and Rehabilitation Manager
Egan , Gerard		Solicitor
Else , Professor Dennis	Worksafe Australia	Chairman Guest Speaker
Faulks , Ian	Advocates for Workplace Safety	Director
Fegan , John	Barker Gosling Solicitors	Associate
Ferguson , Andrew	Construction, Forestry, Mining and Energy Union	State Secretary Guest Speaker
Finlay , Bruce	Private individual	----
Fisher , Mary Jo	NSW Farmers' Association	Industrial Director
Fisher , Tom	Department of Industrial Relations	Assistant Secretary Standard Policy Branch
Fletcher , Jim	NSW Dept of School Education	Staff Welfare Officer
Fogarty , Mark	Australian Chamber of Manufactures	Executive Manager Guest Speaker
Gardner , Dr Ian	Australasian Faculty of Occupational Medicine	President Guest Speaker

NAME	COMPANY/ORGANISATION	POSITION
Gaudry , Barbara	Newcastle Workers' Health Centre	Research/Training Officer Guest Speaker
Gavin , Ian	BTG OHS	
George , Wendy	Premier's Office	
Gething , Bryan	Finemores Pty Ltd	National Workers Compensation Manager
Gibson , John	Gibson Robinson Solicitors	Partner
Gilley , Richard	Pure Risk Management Pty Ltd	Consultant
Giryn , Regina	WorkCover NSW	Administrative Officer
Glass , Warren	Comcare	OHS Advisor
Goldfinch , Con	WorkCover NSW	Manager, Occupational Medicine Branch
Grace , Rod	Motor Traders Association of NSW	Manager, Industrial Relations
Granland , Alan	CPOA	Executive Member
Grimshaw , Bruce	Office of the Minister for Industrial Relations and the Attorney General	Senior Policy Officer
Hadjimichael , Noel	Legislative Council	Research Assistant
Hamilton , Stephen	Port Botany Container Services	OHS Manager
Hand , Derrick	NSW State Coroner	Guest Speaker
Hannan , Terry	Public Service Association of NSW	Industrial Officer
Harris , Colleen	WorkCover NSW	Manager - Information Centre
Hartcher , Chris	NSW Shadow Minister for Industrial Relations	
Haynes , Warren	ICI Australia Operations Pty Ltd	Managing Director Guest Speaker
Heath , Malcolm	Sedgwick Limited	Senior Consultant
Hicks , Christine	WorkCover NSW	Manager, Grants Secretariat
Honeyman , Robert	Sutherland Shire Council	Direct Corporate Services
Hooper , Jodie	Bonds Industries Limited	OHS Co-ordinator
Hubbord , Julie	Sydney Opera House Trust	Occupational Health Nurse
Hughes , Gary	BHP Co Ltd	Workers Compensation Manager
Humpherson , Andrew	Member for Davidson NSW Parliament	
Iskander , Iman	GIO Australia	OHS Manager
Jamieson , Suzanne	University of Sydney	Senior Lecturer

NAME	COMPANY/ORGANISATION	POSITION
Jones, Genieveve	CSR Limited	
Jones, Helen	Newsletter Information Services	Editor, Occupational Health Newsletter
Kavanagh, Fran	Advocates for Workplace Safety	Chief Executive Officer Guest Speaker
Keelty, Ron	WorkCover NSW	Manager
Kells, Geoff	CSR Limited	Managing Director Guest Speaker
Kelman, Ken	CSR Limited	General Manager, Safety Systems
Kenna, Tom	Department of Industrial Relations	Director, Standards Policy Branch
Kidziak, Sylvia	Occupational Health, Safety and Rehabilitation Council	Chairperson
Kirkby, Robert	Long Products Division, BHP Steel Newcastle	Group General Manager and Chief Operating Officer Guest Speaker
Lansley, Geoff	WorkCover NSW	Manager, Corporate Policy
Lemaire, Joan	Teachers Federation	Industrial Officer
Lewis, Peter	Office of the Minister for Industrial Relations and the Attorney General	Media Adviser
Lightbody, David	Hyne & Son Pty Ltd	Manager, Environment, Safety and Quality
Lincoln, Adam	CFMEU - Forestry Division	OHS Officer
Lindberg, Andrew	Victorian WorkCover Authority	Chief Executive
L'Orange, Helen	Worksafe Australia	Chief Executive
Lyons, Pat	Private Individual	
McCafferty, Brian	Dept of Public Works and Services	OHS & R Policy Manager
McCallum, Professor Ron	Faculty of Law, University of Sydney	Blake, Dawson, Waldron Professor of Industrial Law Guest Speaker
McCarthy, Maryanne	WorkCover NSW	Senior Legal Officer
McClenahan, Ray	Taylor & Scott Solicitors	
McDiarmid, Anne	Private individual	-----
McDonald, Catherine	Sedgwick Limited	Principal Consultant
McDonald, Darren	WorkCover NSW	Principal Industry Coordinator
McIntyre, Alexander	Amatek Ltd	Group Risk Manager
Mackay, John	WorkCover NSW	Senior Project Officer

NAME	COMPANY/ORGANISATION	POSITION
Macken , Hon Dr James		
McLachlan , Murray	Occupational Health, Safety and Rehabilitation Council of NSW	Executive Officer
McSorley , Louise	WorkCover NSW	Project Officer
Mansell , Geoff	WorkCover NSW	Regional Manager
Morgan , Shaughn	Advocates for Workplace Safety	Director
Morton , James	Timber Trade Industrial Association	Workers Compensation/OHS Advisory Officer
Muhlbauer , Michael	GIO	Manager, Treasury Managed Fund
Murphy , Leo	Energy Australia	Safety Risk Manager
Naidu , Ananda	Police Service	Senior OHS Officer
Navin , Sheryl	CSR Limited	OHS & Environment Manager
Nemeth De Bikal , Louise	Health Care of Australia	OHS Development Manager
Nicholls , Michael	NSW Farmers' Association	General Councillor
O'Rourke , Kate	Office of the Minister for Industrial Relations and the Attorney General	Research Officer
Pascall , Dr Virginia	UniLever Australia Ltd	Senior Medical Advisor
Peacock , Trevor	Private individual	
Poole , Grant	Sutherland Shire Council	OHS Co-ordinator
Quinlan , Professor Michael	School of Industrial Relations and Organisational Behaviour University of NSW	Head of School Guest Speaker
Quinn , Janette	Energy Australia	Health and Rehabilitation Manager
Raineri , Also	Workplace Health and Safety QLD	
Ramsay , Ian	WorkCover NSW	General Manager Guest Speaker
Richardson , Louise	Victorian WorkCover Authority	
Riese , Gregor	WorkCover NSW	Project Officer
Royle , John	AMWU	National Organiser
Russell , Bryan	WorkCover NSW	Manager, National Programs Unit
Salomon , Alexander	ANZ Bank	OHS Manager
Sampson , John	WorkCover NSW	
Sams , Peter	Labor Council of NSW	Secretary Guest Speaker

NAME	COMPANY/ORGANISATION	POSITION
Savage, Roz	WorkCover NSW	Senior Project Officer
Secord, Walter	Premier's Office	
Sevastos, Helen	Labor Council	Youth Officer
Sexton, Peter	Bonds Industries Limited	Risk Manager
Shaw, Hon Jeff	NSW Minister for Industrial Relations and Attorney General	Guest Speaker
Shaw-Francis, Brenda	WorkCover NSW	Project Officer
Shears, Margaret	WorkCover NSW	Project Officer
Smith, David	Shoalhaven City Council	OHS & Rehabilitation Manager
Smith, Michael	Esso Australia Ltd	Safety Advisor
Smith, Peter	WorkCover NSW	Manager, Administration
Smith, Rosemary	CCH Australia Ltd	Editor
Stacey, John	Private individual	-----
Stevens, Erinn	Comcare Australia	OHS Advisor
Stewart, Elizabeth	WorkCover NSW	Senior Legal Officer
Stiller, Laurie	NSW Minerals Council	OHS Manager
Stone, Vera	Private Individual	
Summers, Gary	ETC Services Pty Ltd	
Szafraniec, Ted	WorkCover NSW	Project Team Leader
Thompson, Wendy	WorkCover NSW	Manager, OHS Prosecutions Branch
Trenerry, Marian	Office of the Minister for Industrial Relations and the Attorney General	Media Adviser
Trezise, Colin	WorkCover NSW	Education Officer
Underhill, Peter	WorkCover NSW	Project Officer
Van Brakel, Bill	Coal Compensation Board	OHS Committee Chair
Varnier, Claude	Port Botany Consumer Services	General Manager
Vermeesch, Jeremy	Australian Associated Press	AAP Industrial Correspondent
Wakefield, Douglas	Dougherty Apartments	OHS Coordinator
Wand, Adam	Labor Council of NSW	Assistant Industrial Officer and Youth OHS Committee Chair
Wessel, Peter	Workers Compensation Action Group NSW	Secretary
West, Ian	Miscellaneous Workers Union	NSW Assistant Secretary

NAME	COMPANY/ORGANISATION	POSITION
Weston, Bill	Workers Compensation Action Group NSW	President
Whelan, John	Premier's Office	
Whelan, Judy	WorkCover NSW	Clerical Officer
Whiting, Jim	National Safety Council of Australia Ltd	Chief Executive Officer Guest Speaker
Wilkie, Rob	Australian Workers Union	Senior Health and Safety Officer
Wilson, Stephen	University of New South Wales	Barrister at Law Visiting Lecturer in Workplace Safety Law
Wyld, Ray	Eso Australia Ltd	State Government Affairs Advisor
Yaager, Mary	Labor Council of NSW	Training Co-ordinator
Yoo, Richard	HIH Winterthur Workers Compensation	
Young, Ken	Sydney Water	Workers Compensation Administrator