

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 1

**INQUIRY INTO DEATH AND SERIOUS INJURY IN THE
WORKPLACE**

At Sydney on Monday 16 February 2004

The Committee met at 2.00 p.m.

PRESENT

Reverend the Hon. F. J. Nile (Chair)

The Hon. D. Clarke
The Hon. C. E. Cusack
The Hon. K. F. Griffin
The Hon. P. T. Primrose
Ms L. Rhiannon
The Hon. I. W. West

CHAIR: I declare this hearing opened. First, I welcome Anthony Hampson, Sue Baxter, Robyn McGoldrick and Tim McGoldrick, who will be assisting. I would like to welcome everyone to this first public hearing of the inquiry into serious injury and death in the workplace by General Purpose Standing Committee No. 1. Before we commence, I must place some formal matters on the record and briefly outline some issues before this inquiry. This may be a very difficult inquiry for many of the people who give evidence to it. This afternoon the Committee is hearing evidence about the two cases named in the terms of reference. The Committee will hear evidence from Mr Hampson, Mrs McGoldrick, Dean McGoldrick's mother, Mrs Baxter, the mother of Joel Exner, as well as relatives of other victims of serious industrial accidents. I acknowledge that Joel's two brothers, Ashley and Brendan, and his friends and family are here today. We thank them for attending. I also acknowledge that the Dean McGoldrick's father, Tim, is now sitting at the table.

The Committee is conscious of the sensitive nature of this inquiry and respects the personal pain that witnesses may face giving evidence about the death of close relatives. I ask that the media and any other persons in the audience show sensitivity in any approach made to witnesses during this inquiry, particularly immediately after the giving of evidence.

The evidence in this inquiry is likely to include material that could be seen to adversely reflect on other persons or organisations such as employers, WorkCover employees and others. The Committee believes it is important that the evidence of this inquiry is heard in public as far as is possible. However, the Committee is also mindful of the need to ensure procedural fairness for all participants in this inquiry. It is important that witnesses be aware that the Committee will review any evidence that may contain adverse reflection and invite the persons mentioned to reply, either in writing or as a witness before the Committee. Therefore, I ask witnesses to try to minimise the mention of individuals and companies where possible unless it is essential to address the terms of reference of this inquiry.

Witnesses before committees enjoy the same freedom of speech that members of Parliament enjoy when participating in parliamentary proceedings. The purpose of the freedom is to provide protection against action being taken in the courts, or other external bodies, in relation to statements made in the House or in committees. However, just as members are expected to use this freedom responsibly, the freedom of speech granted to witnesses is not intended to provide a protected forum for the making of adverse statements about others. Witnesses are expected to exercise restraint and judgment in presenting their views to a committee. The making of adverse reflections can divert the focus of an inquiry away from the terms of reference and is usually not constructive.

Parliamentary privilege, which now will apply to your evidence and applies to all committee proceedings, is not intended to provide a forum for people to make adverse reflections about others. If it becomes necessary, the Committee may stop witnesses if their evidence about another person is not necessary to address the issues in the terms of reference. At all times the Committee will try to be sensitive to balancing the public interest in ensuring that the terms of reference are fully examined in an open and transparent manner with the need for procedural fairness to all inquiry participants. If you wish to give evidence adversely reflecting on named individuals, it may be appropriate for the Committee to hear this evidence in camera, which means that all members of public will be required to leave the room during the giving of that evidence.

Please also remember that any comments made to the media or others after the hearing are not covered by parliamentary privilege, even though they may be made in this room. Individuals will only be afforded protection under parliamentary privilege when giving evidence during the inquiry. I ask also that all mobile phones be turned off during the proceedings.

The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing broadcast of the proceedings are available from the table by the door. The Committee has also given permission for a documentary to be made of the inquiry and for those concerned to take extracts during the hearing. I point out that in accordance with Legislative Council guidelines for the broadcast of proceedings, only members of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. This is particularly important in the context of today's hearing and this inquiry generally. In reporting the proceedings of this Committee, the media must take responsibility for what they publish or what interpretation is placed on anything that is said

before the Committee. Witnesses, members and their staff are advised that any messages should be delivered through the attendant on duty or through the Committee clerks. The hearing will now commence.

ANTHONY JOHN HAMPSON, Former Roof Labourer and Injured Worker;

SUSAN ANN BAXTER, Home Duties;

KIM ANN-MARIE WILLIAMS, Unemployed, and

ROBYN BERNADETTE McGOLDRICK, Assistant in Nursing, Aged Care, sworn and examined:

TIMOTHY McGOLDRICK appeared before the Committee.

CHAIR: Are you appearing before the Committee as individuals?

Mr HAMPSON: Yes.

Ms BAXTER: Yes.

Mrs McGOLDRICK: Yes.

CHAIR: The Committee has received a submission from you. Would any of you like to make an opening statement?

Mrs McGOLDRICK: I thank everyone here for taking the time and for having this inquiry. I think four years down the track after an accident is too long and we need the support of this inquiry to try to help solve these accidents and deaths in a quicker manner than they have been in the past.

CHAIR: Is there anything else you want to say at this stage?

Mrs McGOLDRICK: No.

CHAIR: Anthony, do you want to make a statement?

Mr HAMPSON: No. I am just pleased to be here and pleased to see something being done.

CHAIR: Perhaps we will start with Anthony. Will you explain to us your situation and what happened in your case?

Mr HAMPSON: I am 42 years old. I have two children aged eight and 10. I am currently unemployed due to an accident I had on 10 June 2001 at Gosford High School. My employer was Garry Denson Metal Roofing Pty Ltd. In this accident I fell some six metres from a roof. I was employed as a roofing labourer by Garry Denson Metal Roofing Pty Ltd from October 2000 to March 2001, when I was made redundant for a period of approximately three months. At no time during this employment was I given any induction, information, training or supervision to do my job safely. I had stated clearly to my employer that I was not experienced in working on roofs, and this did concern me. Despite my lack of training, experience and supervision Garry Denson put me on a high roof on my first day at work. I had to carry 25-metre sheets while walking on three-inch purlins. No fall protection was provided. This practice continued for another six weeks, when I was transferred to work in the cottage industry. This is a hazardous industry, and during this time I had a number of falls due to wet roofs. These incidents were never discussed by Garry Denson. Again, there was no instruction or supervision. I was sometimes left alone to work on roofs.

On 18 June 2001 I was employed by Garry Denson as a roofing labourer on a 15-storey block of flats in Parramatta—again, no training, supervision or fall protection. One of the other subcontractors on that job offered me one of their harnesses. As I had no training in wearing a harness, it spent most of the time on the roof. It was never hooked up, anyway. On 19 June 2001 I was working for Garry Denson at Gosford High School, a public works site. I was working on the auditorium roof. At approximately 7.20 I fell from the roof and landed on a concrete apron some six metres below. I lost consciousness initially. I had no fall protection. The school gardener first approached me, and I waved him away. I was fairly shaken at this time. A subcontractor—a roof plumber I believed to be

my site boss for the day—approached me after he came down from the roof. This man transported me to Gosford hospital in his own vehicle, the hospital being across the road.

I sustained the following injuries: two broken heels, an injured right shoulder and an injured spine, with the medical diagnosis being pinched or bruised spinal column. I also had two plates, eight pins, two screws, three bone grafts and a fusion. My ongoing symptoms as a direct result of this workplace accident are incontinence, progressive disintegration of both ankles and knees with increasing pain levels initiated by the impact shock and ongoing pain and severe discomfort due to bone grafts from the right hip. Medical opinions are that the pain levels will become progressively worse through time due to breakdown of the joints, and no medical treatment is recommended at the present time. I was confined to a wheelchair for approximately six months and now walk with the aid of a walking stick. This is a permanent arrangement.

At no time during my employment did my employer provide me or any of my work colleagues with any induction, information, training, supervision or personal protective equipment, including fall protection. There was no scaffold, perimeter fencing or fall-arrest system. My accident at Gosford was not reported to WorkCover by my employer. My accident was not reported to WorkCover by the Department of Public Works, the principal contractor. Due to my incapacitation and pain thresholds at the time of my accident I did not give WorkCover any consideration. It was my employer's and public works' responsibility to notify WorkCover. The Construction, Forestry, Mining and Energy Union [CFMEU] first approached me in October 2003, after hearing about my circumstances. A few days later, and after an investigation by the union, I learnt that WorkCover had never been informed of my accident. My accident was reported to WorkCover by Andrew Ferguson from the union in October 2003.

My employer never contacted me after the day of the accident. The only occasional contact was by the secretary, who would ring me every few months to see if my pay was coming through. My employment was terminated on 19 December 2002 after the company insurer, QBE, instructed the company to do so and it would take over paying weekly wages as it believed I was being overpaid. I have been assessed as fit to return to work as of 19 January 2004. Work restrictions placed on me: not allowed to lift more than five kilograms; not allowed to walk further than 50 metres; cannot stand longer than 15 minutes; cannot sit longer than 20 minutes; cannot work on a roof and cannot work for previous employer. Due to my accident I will have great difficulty in gaining any meaningful and financially rewarding work. My employer, Garry Denson Metal Roofing Pty Ltd, continues to run a business, while continuing to injure and kill workers due to his lack of implementing a safe system of work.

It has been demonstrated by WorkCover that it is not capable of policing or fully prosecuting this employer. I fully support the introduction of industrial manslaughter. The present legal system is a joke. I have to carry my injuries with me for the rest of my life. My freedom is limited. Under the current legal system, my employer it is still operating and has not been asked to be accountable for his actions. My employer did not take reasonable steps to ensure my safety. He deliberately set out knowing that he was putting me at great risk. Since my accident, a young 16-year-old boy, Joel Exner, was killed in a fall from a roof in Sydney. His employer was also Garry Denson, the same employer who injured me. Garry Denson should be made to stand up and be made accountable in a court of law for the charge of manslaughter. The current system for prosecutions is flawed, the fines do not reflect the charge, fines are not always collected and employers reoffend again. If the charge of industrial manslaughter is not introduced, then employers will continue to show a blatant disregard for the laws and safety in New South Wales, resulting in more deaths, more injuries and more grieving families.

CHAIR: I understand, Robyn, you have a statement to present to the inquiry. Will you proceed, then?

Mrs McGOLDRICK: Yes. My name is Robyn McGoldrick. My current address is 8 Hilton Street Tamworth. I am employed as a nurse in an aged care facility and my husband, Tim, is a bricklayer. Until February 2000 we were the parents of two beautiful boys. On 1 February, my son Dean, aged 17, fell to his death from the top of a 12-metre building in Sydney. Dean had only been working as an apprentice roofer on building sites in Sydney for 11 days since he moved down from Tamworth. Dean had no prior experience in the building industry. Dean's employer was Tamworth Metal Roofing Facia and Guttering. The owner of this company is John Poleviak. Dean's employer,

John Poleviak, failed to induct, instruct, train, inform and supervise Dean. This is a legal obligation under the Occupational Health and Safety Act in New South Wales. John Poleviak had an absolute duty of care to provide a safe workplace for Dean. As Dean was only 17 and totally inexperienced, his employer had an additional responsibility to look after his safety. John Poleviak informed us that Dean would be wearing a safety harness, which was untrue. Dean was provided with no safe system of work and no fall protection. The building did not have any scaffold or other form of fall protection. I firmly believe that Dean's tragic death was preventable. If Dean had been inducted, informed, trained and supervised he would be alive today and I would have two sons and would not be making this statement. John Poleviak failed to comply with the law in providing a safe workplace for my son. He should have been gaoled for his negligence that led to Dean's death.

The result of the WorkCover prosecution was that John Poleviak was fined a miserable \$20,000 by the chief industrial magistrates court. This was cheaper than providing a fall protection system. How fair is that? My son lost the rest of his life and John Poleviak still has his freedom. The court result is a joke. I have since been informed that John Poleviak has only paid a paltry \$1,800 towards the fine. He has since declared himself bankrupt. This is one of the reasons I fully support the charge of industrial manslaughter. What hope do we have of natural justice when this situation is allowed to happen? WorkCover did not do its job properly to achieve the fairest and just outcome. Why was Dean's case only heard in the chief industrial magistrates court, where the fines are limited? WorkCover knew there was a death involved here and still proceeded to have it heard in this court.

The newspapers inform me that John Poleviak appears to be doing okay. He has a brand new Harley-Davidson motorbike—a gift from his wife. He is also noted to have been working around the Tamworth area. He is obviously drawing some sort of income and does not appear to be in financial difficulty. I am informed this is not the first time that John Poleviak has been prosecuted by WorkCover New South Wales. While Dean was in hospital John Poleviak admitted to me that he had been previously fined \$2,000 by WorkCover for a breach of safety. This fine was under a different company name, but it was still John Poleviak's company. Here is another example of WorkCover not doing relevant research. This was the second offence of this employer, but he was charged as the first.

The prosecution outcome of Dean's death clearly demonstrates an unfair and unjust system. Fining employers who fail to provide a safe workplace is inadequate and does not stop them or others reoffending. The ease in which companies can declare bankruptcy and then reopen again with no safe systems in place for the workers has to be stopped. The only way to stop this and make bosses accountable and take health and safety seriously is to make them face the possibility of going to gaol. Let them lose their freedom. My son lost his. I totally support industrial manslaughter legislation and have been campaigning for it since Dean's death. The ACT has introduced it and I ask that the New South Wales Government look at that model and start doing something to introduce it in New South Wales. The deaths in workplace cannot be allowed to continue and employers cannot be allowed to walk away from their responsibilities.

From my experience I believe there is not enough action taken against employers who breach safety laws and there are not enough inspectors in the workplace visiting sites and policing employers. The only people out there who are really trying to protect the workers' health and safety are the unions. The Construction, Forestry, Mining and Engineering Union [CFMEU] has been the one that has stood by me and supported me since Dean's death. The same support or any support has not come from WorkCover or any other government agency. The biggest improvement that could be made to the Australian building industry would be to improve health and safety by ensuring employers' compliance with legislation and policing workplaces. This would help to ensure that no other parent or family has to go through what my family and I have suffered.

CHAIR: Thank you very much for presenting that to us. We know it is very difficult. We thank you for doing it. You are doing it for Dean's memory.

Sue, I understand you have a statement you would like to present to us now.

Ms BAXTER: My name is Susan Baxter. My current address is 1 Burwood Avenue, Doonside, New South Wales. Until October 2003 I was the mother of three sons. On 15 October 2003 my son, Joel Exner, aged 16, fell to his death from a roof at his workplace at Eastern Creek, Sydney. This was Joel's third day of work. He was so pleased to find employment that he could come to work

to enjoy. My son's employer was Garry Denson Roofing Pty Ltd. My son was in his third day of employment when he died. He had no experience in the building industry and was not experienced working on roofs. On Joel's first day of work Garry Denson put him up on a 15-metre roof. Joel had not been given any training or supervision. Joel was not supplied with any fall protection. Garry Denson had deemed Joel competent to do his job, without providing any information, instruction, induction training or supervision. This is an absolute breach of Garry Denson's absolute duty of care to ensure Joel had a safe workplace.

Some time after 8 a.m. on 15 October 2003 my son Joel fell some 11 metres from the roof. Joel was transported to Nepean hospital by ambulance where he subsequently died from his injuries at 12.10 p.m. the same day. Garry Denson had not provided a safe system of work and Joel had no fall protection. The principal contract for the site was Australand. At no time did either Garry Denson or a representative from Australand contact me to inform me of the accident. I was contacted by one of Joel's workmates and told to go to Nepean hospital. At this stage I was unaware of the seriousness of Joel's injuries.

On arriving at the hospital I was given the news that every parent dreads to hear: Joel was not going to survive the injuries he received from this fall. He subsequently passed away at 12 p.m. the same day. Garry Denson did make initial contact with me following Joel's death but he has made no contact with me since. Australand has not kept me informed of any procedures happening. The CFMEU have been the ones who have totally supported me financially and emotionally. They have been there for me since the day of Joel's death, supporting me through the next few days of the funeral, and have been there ever since. To the current date I have not seen or heard from WorkCover, Garry Denson or Australand, although WorkCover did ring me up last Thursday the 12th.

CHAIR: Would that have been the first contact with WorkCover, last Thursday?

Ms BAXTER: Yes, WorkCover. They made contact with me last Thursday about six o'clock in the evening. I have been informed by the CFMEU and the media that the Australand site at Eastern Creek where Joel died still has safety problems, including employees being put at risk from working at heights. This is almost four months since Joel's death. What does it take to make these people wake up and accept their responsibilities? I fully support the charge of industrial manslaughter being introduced in New South Wales. Had Joel been killed outside the workplace I would have seen the responsible person face some form of justice already—either the police or the courts. Why is my son's life so worthless? Why is Garry Denson still operating a business, and why does Garry Denson still have people working on roofs without fall protection? What has WorkCover done to prevent this accident happening again? Daily I see workers on roofs with no protection. I have been informed that neither Garry Denson nor Australand have complied with WorkCover notices issued to them. Why? Employers will not comply unless they are made to, and this is the job of WorkCover to ensure this happens.

The heartbreak I feel over Joel's death is only increased when I realised that Garry Denson will not be punished. If WorkCover manages to issue a prosecution against him what chance is there of recovering anything? He has already gone bankrupt. This is the same employer responsible for permanently injuring another employee, Anthony Hampson, at Gosford High School in June 2001. I understand that no action was taken against Garry Denson by WorkCover for this accident. Why? Anthony was in a wheelchair for six months and now he has a permanent disability and a walking stick. His life's activities are very limited. My son's life is over. And Garry Denson's life goes on without any limitations.

I fully support industrial manslaughter for employers who fail to provide a safe workplace and who kill workers. The fines issued by the courts are inadequate and do nothing to prevent accidents and deaths continuing to happen on a daily basis in workplaces. I would like to see my son's employer face a gaol sentence for failing to look after Joel while he was in his employ.

CHAIR: Thank you very much for that. I know it is very difficult for you. Again, we appreciate your willingness to come. You are doing this for your son and for other mother's sons and daughters too.

For Committee members' attention, I was introduced to Ms Kim Williams just before the hearing started and she advised me that she has about 4,000 signatures on a petition she would like to present to the Committee. The petition relates to our inquiry and she is ready to present a petition to the Committee now if the committee members are happy with that. She also wants to say a few words.

Kim, you have presented me with the petition. Could you explain what is in those documents?

Ms WILLIAMS: I have been a friend of Joel Exner and the family for 13 years and I have just got a little message here to say. In memory of Joel Exner I will today present thousands of signatures to the parliamentary inquiry into serious injury and death in the workplace. We are demanding justice to many young workers who are killed and injured at the workplace. We want to see new laws that provide a greater deterrent to substandard workplace safety like negligence, and car drivers who drink-drive and kill and employers who cut corners for profit and kill must be held accountable.

CHAIR: Thank you very much, Kim, you did that very well. Do any members of the Committee have any questions they would like to ask the witnesses? One which occurred to me: I noticed in your evidence, Anthony, you said that the actual place at which the work was going on was by the Department of Public Works at a school, was it?

Mr HAMPSON: Yes.

CHAIR: So I assume you would agree that there should be even greater care of workers if it is occurring on a government site?

Mr HAMPSON: When I found out it was the main client on that site, yes. I was offended that they had not reported anything to WorkCover. I just naturally assumed that someone in the school—the principal, anybody—could have reported that accident.

The Hon. DAVID CLARKE: Ms Baxter, you said that WorkCover only contacted you a few days ago.

Ms BAXTER: Yes.

The Hon. DAVID CLARKE: And this is some three months or so after this tragedy. Why did they contact you? Was it by telephone or was it by letter?

Ms BAXTER: Telephone. It was about six o'clock in the evening and they rang up and he introduced himself as John Watson from WorkCover and was just ringing up to see how things were going and to inform me of what is going to be happening in the near future.

The Hon. DAVID CLARKE: What did they inform you would be happening?

Ms BAXTER: That they had been to Australand and were supposed to be checking there every second day for safety; and about the coronial herring coming up and all different stuff, and court and about them taking him to court. I do not know. That was towards Australand.

CHAIR: Ms Baxter, I assume you would agree that in the case of a death or an accident someone from WorkCover should go to see you officially. Would you have expected that?

Ms BAXTER: Definitely. Aren't they there for the protection of people? There are families to those people, they have all got feelings. They have to go and speak to people, to relate to people and tell them what is going on.

CHAIR: There probably needs to be a counselling department or relatives department at WorkCover that specialises in providing that support for relatives.

Ms BAXTER: Yes, definitely.

CHAIR: With a road accident the police would visit the family straightaway to inform them. With the death of a serviceman the Army would send someone to visit the home.

Ms BAXTER: That is right. So why cannot WorkCover do the same thing!

The Hon. DAVID CLARKE: Do you have any idea of when WorkCover was first advised of this tragedy?

Ms BAXTER: I imagine it was the first day; I cannot be quite sure.

Ms LEE RHIANNON: When representatives from WorkCover spoke to you last week, did they indicate that they would be speaking to you closer to the inquiry? Did they indicate any further communication with you? Or did you get the impression that it was a one-off visit and you were not clear of their association with you in the future?

Ms BAXTER: He did give me his name and phone number and said that if I had any questions I could contact him. He asked me if I would go to the coronial hearing and did I need someone such as the Salvation Army to be there with me. I vaguely remember him saying that he would keep in contact, but I cannot be too sure.

Ms LEE RHIANNON: Do you think that if this inquiry was not being held this week he would have gone to you last Thursday?

CHAIR: He did not visit her, he called on the phone.

Ms BAXTER: No, I do not think so. It was strange.

CHAIR: Your point is that this inquiry appears to have prompted WorkCover to act.

Ms LEE RHIANNON: Ms Baxter, is that your impression? Has this inquiry prompted WorkCover to phone you?

Ms BAXTER: Definitely. I had not heard from them until then, so that is the only thing that I could think of. They had not done so before.

The Hon. DAVID CLARKE: Did he mention this inquiry during the course of his telephone conversation with you?

Ms BAXTER: This inquiry?

The Hon. DAVID CLARKE: Yes.

Ms BAXTER: No.

The Hon. DAVID CLARKE: Did you attend the coronial inquiry?

Ms BAXTER: There has not been one.

The Hon. DAVID CLARKE: It has not been held?

Ms BAXTER: No.

CHAIR: Robyn, did you have the same experience?

Mrs McGOLDRICK: I am glad you have asked me that, Reverend. In early 2001 a WorkCover ad was made about a boy falling off a roof. WorkCover never ever contacted Tim or me to give us the courtesy, or warn us, that that ad would be on TV. Last Sunday night I received a phone call from WorkCover, from head office in Gosford, to give me the courtesy of warning me that the ad would run in regional Australia for two weeks from the 22nd. They did not give us that courtesy three years ago, but they did last week.

CHAIR: Was that the first time WorkCover had contacted you?

Mrs McGOLDRICK: I contacted WorkCover a lot, with not much satisfaction. Early on in Dean's case I reached out to them.

CHAIR: WorkCover did not approach you initially to offer help or assistance?

Mrs McGOLDRICK: No. We were never informed of Dean's accident by WorkCover, the police or the employers. We were actually telephoned from Prince Alfred hospital by Dean's workmate.

Ms LEE RHIANNON: When the ads ran the first time, they never contacted you?

Mrs McGOLDRICK: No.

Ms LEE RHIANNON: But they contacted you last week. Do you think the fact that this inquiry was being held this week prompted WorkCover to ring you?

Mrs McGOLDRICK: Yes, I do.

The Hon. PETER PRIMROSE: From your experiences in the building or construction industry would each of you describe the actions of the employers as reckless?

Mr HAMPSON: Yes.

Mrs McGOLDRICK: Definitely.

Ms BAXTER: Yes, they definitely are, because they go ahead. They know what they are doing, they know the difference between safety and cutting corners. That is all it comes to. They do not want to pay the extra money to get these things to keep them safe. Even the older ones are used to working the way they are working. Joel went up there and he did not know he had to wear a harness—or I doubt whether he did, because he never mentioned it to me.

CHAIR: Were any harnesses supplied?

Ms BAXTER: Apparently there were four harnesses on site.

CHAIR: On site but not actually used?

Mr HAMPSON: I have never seen one issued.

The Hon. PETER PRIMROSE: Again from your experiences, and I imagine you have spoken to a number of people, how common was that reckless behaviour in that industry? Are we talking about a couple of bad apples in the barrel or is it a very common experience of workers in the industry to have reckless employers?

Mrs McGOLDRICK: The year that Dean died, and that was 1 February, he was the fifth to die in the building industry in that year.

Mr HAMPSON: I have been in the building industry for 20 years. I would say at least 80 per cent of employers cut corners, do whatever they can to save a dollar. It is a lot cheaper to pay a fine than to put scaffolding around a high building.

Mrs McGOLDRICK: And, again, the harnesses were in the work truck, on site.

CHAIR: But never taken out of the truck?

Mrs McGOLDRICK: The boys have never had them on. And why put the youngest person on the roof, on the wall edge, with the length of sheets like Anthony was working with—tin

sheeting—and Dean was on the precipice edge. He was the youngest worker. And the supervisor was in the middle of the building.

Mr HAMPSON: The times that I had seen harnesses worn over the 20 years, never once have I seen them hooked up. They are just worn loose, with a rope trailing behind. From the ground it looks like they are hooked up.

CHAIR: So they would not do any good, anyhow?

Mr HAMPSON: No, it was only for show. None of the inspectors are going to climb up on the roof. I have never seen a WorkCover inspector on site in 20 years. I have seen a lot of accidents, but never seen one report, never seen an inspector, until Andrew Ferguson took me down and introduced me to them. That was the first time I have ever met one.

The Hon. IAN WEST: How much would a harness cost? What possible reason would there be for not hooking up a harness?

Mr HAMPSON: A harness varies between \$450 and \$800. The reason for not hooking up a harness is that you cannot work as fast.

The Hon. IAN WEST: How much slower would you be?

Mr HAMPSON: Very much slower, a third slower.

CHAIR: It would make you work more carefully, not so much slower.

Mr HAMPSON: More carefully because you are trailing a rope, which tends to catch. There is no roof on these places so you have to have an eye on the rope and an eye on what you are doing. A lot of pot to not hook up the rope.

The Hon. KAYEE GRIFFIN: Mr Hampson, I refer to the lack of training, which all witnesses have mentioned. When you were asked to go up on a high roof to work on your first day, as you said in your submission, basically you said you had not done that work before. Was there any discussion in the time that you were working, or did you try to get further information, about occupational health and safety issues and safe working in the job you were doing? Was there any discussion by your supervisors or employer about that?

Mr HAMPSON: There was no supervisor.

The Hon. KAYEE GRIFFIN: No supervisors?

Mr HAMPSON: I have never had a supervisor on any roofing job. There was never any discussion on safety matters. The only time we ever discussed safety matters was when you had a fall or a close call, and we discussed the fact that we nearly came off. That was all.

The Hon. KAYEE GRIFFIN: Obviously there is an obligation on the employer that if an employee has a workplace accident that certain forms have to be filled in as soon as possible and sent to WorkCover to advise that there has been an injury to an employee. Do you know when the notification of your injuries went to WorkCover, how long after your accident?

Mr HAMPSON: Yes, it was last October. Andrew Ferguson took me to the office and reported it to them. We waited a month for them to contact me and then we went to the office again. They said that they had no way of contacting me, although I have lived in the same house for seven years and had the same phone number for nine years. They told me they were on the verge of seeing the police to put out a police bulletin to locate me.

The Hon. KAYEE GRIFFIN: Ms Baxter and Mrs McGoldrick, do either of you know when any notification went to WorkCover about your son's accidents?

Mrs McGOLDRICK: WorkCover were on site more or less straightaway after Dean's accident. The union was also there. On the harnesses that they had, the roads were frayed. WorkCover was not going to investigate that, until pressure was put on it by the unions. Brian Miller followed that up for us. The harnesses would have been useless anyway. On that 12-metre roof they were passing materials up and down, with multigrips hooked onto a bit of rope into a public lane. WorkCover did not bother to investigate that either. It was pointed out by the union and it was not until it was publicised by the union that WorkCover went back and confiscated those harnesses and had them checked.

Ms BAXTER: The only reason that WorkCover came to the site was because of the union. The union brought it to their attention to do it.

The Hon. KAYEE GRIFFIN: Do you know when WorkCover was advised about your son's accident?

Ms BAXTER: I cannot be sure, it is pretty cloudy.

The Hon. CATHERINE CUSACK: Mr Hampson, what was your employment status? Were you a contractor?

Mr HAMPSON: No, I was a roofing labourer employed by Garry Denson.

The Hon. CATHERINE CUSACK: After your accident your salary continued to be paid. Was it paid by the employer or by an insurance company?

Mr HAMPSON: They are under an obligation to pay your base wage for the first year, and it goes to half after that.

The Hon. CATHERINE CUSACK: They must have notified the insurance company of the incident?

Mr HAMPSON: Yes, the insurance company wrote me a letter within a week, admitting full responsibility.

The Hon. CATHERINE CUSACK: How could WorkCover not have been informed?

Mr HAMPSON: Apparently none of those people, medical or legal, are under an obligation to notify WorkCover of anything.

The Hon. CATHERINE CUSACK: How were your medical bills paid? Were they paid by the insurance company?

Mr HAMPSON: The bulk were, yes. I bear the day-to-day costs and pass them on.

The Hon. DAVID CLARKE: Ms Baxter, you said your son was 16. How long had he been out of school?

Ms BAXTER: He left school around June. I knew he wanted to leave school and I ended up letting him leave around June.

The Hon. DAVID CLARKE: Was this his first job?

Ms BAXTER: He tried a couple of other jobs, but he would work for only a day and decide it was not his type of job.

The Hon. DAVID CLARKE: What was his job description? What sort of a job did he think he was applying for?

Ms BAXTER: He was actually rung up by his friend who works with them and asked did he want to start working that morning. Joel already knew what they did and he just jumped up and wanted to go, and I said "Okay", you know.

CHAIR: Was the job a builder's labourer?

Ms BAXTER: Roofing labourer.

The Hon. DAVID CLARKE: From the first day he was put up on this high level?

Ms BAXTER: Yes.

The Hon. DAVID CLARKE: How many metres up?

Ms BAXTER: As far as I know around 15 metres.

The Hon. DAVID CLARKE: That is two or three storeys?

Ms BAXTER: It's high.

The Hon. DAVID CLARKE: As far as you are aware he was given no instruction?

Ms BAXTER: No.

The Hon. DAVID CLARKE: No instruction as to safety?

Ms BAXTER: All I am aware of is he did sign papers, but if I know Joel he does not read anything.

The Hon. DAVID CLARKE: You are saying there is something wrong in a system where a 16-year-old boy has just gone to work virtually for the first time in his life and is put up there with no safety precautions? You are saying it appears that the only involvement of the law was to impose a fine, which I do not think has even been paid?

Ms BAXTER: No, nothing. It has still got to go through yet.

The Hon. DAVID CLARKE: Mrs McGoldrick, it is a similar situation with your son. He was 17 years old?

Mrs McGOLDRICK: He turned 17 the three weeks he was in Sydney.

The Hon. DAVID CLARKE: This was one of his first jobs?

Mrs McGOLDRICK: It was his third job. He had worked in a truss factory for nine months before he moved to Sydney.

The Hon. DAVID CLARKE: This was basically a job as a builders labourer?

Mrs McGOLDRICK: No, he was a trainee roofer.

The Hon. DAVID CLARKE: You are fairly certain that he was given no instruction?

Mrs McGOLDRICK: He was given no instruction. His employer went for seven counts of criminal negligence—no risk assessments.

The Hon. DAVID CLARKE: You are here today suggesting that there is something wrong in a situation where a 17-year-old boy loses his life and all that appears to happen is a monetary penalty is imposed?

Mrs McGOLDRICK: He didn't pay it anyway.

The Hon. DAVID CLARKE: It was imposed but has not been paid in full.

Mrs McGOLDRICK: If we can't clear Dean's case up, how is the system going to deal with Joel's?

The Hon. DAVID CLARKE: You are saying that there needs to be a better system whereby employers have to answer if there is shown to be gross negligence and a 16- or 17-year-old boy loses his life.

Mrs McGOLDRICK: They need legislation for manslaughter so that people know they will be in trouble if they do not follow OH and S.

Ms BAXTER: They go out there aware of what they are doing. They know that it's not safe for them.

CHAIR: If there was some change to the law to include a charge of manslaughter, or something similar, who should be the person charged—the employer, the foreman, the manager?

Mr HAMPSON: The owner of the company.

CHAIR: Go right to the top?

Mr HAMPSON: Right to the top. I do not think you can hold up a foreman or anyone in between that is responsible. On my job there was no supervisors, there was no foreman. The subcontractors I assumed had responsibility had no responsibility for us. I never saw my employer from week to week. I was lucky if I saw him once a month. Someone has to be responsible. It is certainly not anybody standing on any building site that I was ever on. I hold the builder, the owner of the company, responsible.

Ms BAXTER: At Joel's work apparently there was a man working there and he kept putting in complaints, written complaints. They were all just brushed aside and nothing was done about them. I know of him speaking to a supervisor at Australand and he just turned around and told him, "Don't tell me how to do my job".

The Hon. CATHERINE CUSACK: Are you able to tell us the name of the person who made the written complaints?

Ms BAXTER: I know the name but I can't think of it at the moment.

CHAIR: You can send it to us later if you think of it.

Ms BAXTER: Yes.

The Hon. DAVID CLARKE: What type of complaints were they?

Ms BAXTER: All about safety, all areas of safety. It wasn't just that. It was a whole heap, a long list of complaints of unsafe things. I know that Joel went up to get on top of the roof by a cherry picker and had to jump out of the cherry picker onto the roof. To a young boy they think that's fun, they don't see anything wrong in that.

Mr HAMPSON: I worked the bulk of my time in the cottage industry. Zero inspections, zero control over the site. On the larger building sites there is a very extensive OH and S system in place. These OH and S officers have the power to remove a subcontractor from site and they don't use that power. They write a lot of reports, they cover their arses but they don't remove the dangerous subcontractors from the site because they are employed by the mother company and the mother company stands to lose a lot of money if the subcontractor is removed from the site. So it is not done. They do have the power to do that, but they don't use it.

The Hon. CATHERINE CUSACK: Was there such an inspector on the site that you were injured at?

Mr HAMPSON: Each of the large major companies like Australand have their own OH and S officers. I must admit they are a very extensive organisation in these large companies, but they don't use the power given to them.

The Hon. CATHERINE CUSACK: Was there such a position at the work site that you were working on?

Mr HAMPSON: No, I was on a two-man job, which takes up the bulk of the industry. I rarely worked on a larger site and haven't since the mid-1980s.

CHAIR: You mentioned safety harnesses. Are there any other safety precautions that could have been taken, such as guard rails?

Mrs McGOLDRICK: There was no guard rails and there was no scaffold.

CHAIR: Sometimes you see them around buildings—

Mrs McGOLDRICK: Nothing.

CHAIR: —where the guttering is there is a type of little rail to stop people falling.

Mrs McGOLDRICK: Not a thing in place.

CHAIR: It would help if that was compulsory as well as a safety harness.

Mrs McGOLDRICK: Over a certain height it is law. The other thing, I would like to agree with Sue and Anthony about the industrial manslaughter. Reverend, you said who do we prosecute. If we prosecute the bosses the bosses have to train the supervisors, the supervisors have to mind the next man down. You cannot pick the fellow in the middle and make him responsible. The boss is the one making the money out of it and he should be training the staff.

The Hon. DAVID CLARKE: You are saying there are safeguards in place but they are not being enforced?

Mrs McGOLDRICK: There was no guard rails or anything on Dean's site. There was nothing, no perimeter rope, anything. The night Dean died this John Poleviak came to our house and said, "I told that foreman to run a rope around that roof". A rope 12 metres up?

The Hon. CATHERINE CUSACK: Mrs McGoldrick, you said Mr Poleviak had informed you that Dean would be wearing a safety harness. Was that before—

Mrs McGOLDRICK: It was before he started employment. I asked my husband to ring John Poleviak up and ask him. I said it will come better from a man than a woman. He asked him, "Will those boys be wearing harnesses?" and he said, "Yes".

Ms LEE RHIANNON: Mrs McGoldrick, Has the fine of \$20,000 that was imposed been paid?

Mrs McGOLDRICK: No.

Ms LEE RHIANNON: How did you find out that it had not been paid?

Mrs McGOLDRICK: I was speaking at a work safety rally on 27 October in the city. I asked Rita, the union solicitor, would she ring up for me and check and see if it was paid. She rang up and he had been given time to pay. He had paid \$1,800 of the fine. He was again asked to pay the fine and he was given to 9 December last year to pay the fine. He didn't pay the fine. Tim and I spoke with Bob Carr on 5 December. He said he would get John Della Bosca to look into it. I got a letter from

John Della Bosca to say that WorkCover inadvertently closed Dean's case when they misunderstood when John Poleviak paid his court costs that he had paid the fine. So the case was closed. Now he has not paid the fine and it is with the RTA.

Ms LEE RHIANNON: Was the State Debt Recovery Office involved at any stage.

Mrs McGOLDRICK: The State Debt Recovery Office gave him his last chance to pay up to 9 December last year after they reopened the case. He did not pay.

Ms LEE RHIANNON: Are you aware at what stage the State Debt Recovery Office became involved?

Mrs McGOLDRICK: Only recently I am aware. The State Debt Recovery Office were involved from the beginning when he failed to make his time payments. No, sorry, I have misunderstood the question. State Debt Recovery never carried on with it because they had closed the case. They weren't brought back into it until October last year.

Ms LEE RHIANNON: Had the office had an involvement with the case or was the case closed?

Mrs McGOLDRICK: The case was just closed.

Ms LEE RHIANNON: It never even came to its attention?

Mrs McGOLDRICK: No.

Ms LEE RHIANNON: It never got involved in it until—

Mrs McGOLDRICK: In October last year.

Ms LEE RHIANNON: —you hear and you take it up again?

Mrs McGOLDRICK: They reopened the case again in October last year.

Ms LEE RHIANNON: Because you took it up again?

Mrs McGOLDRICK: Because the union got onto them on my behalf and found out that the fine was not paid, along with \$1.7 million other fines.

Ms LEE RHIANNON: What was the other information you received?

Mrs McGOLDRICK: It is \$1.7 million—I haven't got the exact figure—outstanding from WorkCover fines. I can get you the figure.

Ms LEE RHIANNON: That would be useful.

CHAIR: I note in your opening statement you said the fine was a miserable fine. It is hard to understand how a fine can be so low for a fatal accident. An amount of \$20,000 is not a lot of money for a building firm to be fined.

Mrs McGOLDRICK: The court did not use what was available to it. The fine could have been a lot larger. It could have gone through a different court. The court system does not work either because the judges are not using what is open to them. They set it on a precedent from another case. Until they really start to set something that is going to work, it will keep happening. Joel should not have lost his life, Anthony should not be maimed. They should have dealt with it back then when we squealed and wanted something done when Dean fell. We are not the only three people affected. There are thousands of Australians out there affected from work accidents and deaths.

CHAIR: You feel that judges are treating it in a lenient manner?

Mrs McGOLDRICK: Yes, they are not using the full force of the law that they could.

CHAIR: Did you have an opportunity, such as occurs in criminal cases, to give a statement?

Mrs McGOLDRICK: I have misunderstood you.

CHAIR: Did you have an opportunity in the case to make a statement? In other cases, such as rape offences, before a judge makes his decision relatives can make statements to the court as to how they were affected by the offence. Did anyone ever ask you to participate or make a statement as to how the death affected you?

Mrs McGOLDRICK: No.

CHAIR: So that the judge would take it into account when imposing the fine.

Mrs McGOLDRICK: Reverend, what happened in that hearing, the day at the industrial magistrates court, the judge said he took into consideration that we were in the room, that my mum was in the room and that he was not meting out a fine to add up to the death. He said it was not about the death; it was about the laws that were broken in comparison to, I think, other cases and that the fine was in line with what he had done. The fine was not supposed to be imposed as a punishment for Dean's death. That is how he put it in words.

CHAIR: He put the death to one side?

Mrs McGOLDRICK: Yes.

CHAIR: And just looked at the technical offence of safety?

Mrs McGOLDRICK: Yes. May I go on?

CHAIR: Yes. Anything you say helps us because this is the first time there has been a parliamentary inquiry into this area. Your information will help the Committee in making its report and recommendations to the Parliament.

Mrs McGOLDRICK: Right from the onset of the inquiry with WorkCover, Brian Miller, a work safety officer we have since lost in February last year, supported me. He liaised with me all the way through it. I did not know anything about an autopsy. All I was sent was a thing from the Coroner's Office you get in the mail this is how a coronial inquiry works. They did not end up having a coronial inquiry. They said it was straight out multiple injuries, there was nothing to be gained by having a coronial inquiry. The Coroner actually said he was not really happy with the WorkCover report that had gone in. He made reference to a particular WorkCover report that had gone into the inquiry so there was never an inquest, there was nothing to be gained by an inquest. Brian Miller from the union kept in touch with me and gave me the number of Bill Clinton who was head of the legal department with WorkCover at the time. Bill Clinton was very short with me. It was like, "We are doing our job, get off our backs". That was fine. I was given Rosanna Parmiggiani, who was Dean's case manager at WorkCover. Rosanna was excellent, I'll give her that. Rosanna stayed in touch with me, I could ring her anytime if I needed to know anything.

The system takes a fair while to get dates. They had to get a report from WorkCover and a report from the Coroner. They then set prehearing dates before the industrial magistrates court. There was a lot of officialdom during this time. Rosanna Parmiggiani supported me all the way through. But the day of the industrial relations court hearing there was no Rosanna: there was a new solicitor that had not even worked on Dean's case and who did not even cross-examine Dean's boss. It was a walk. It was set before we got into the industrial relations court. That is how it appeared to us: They took a walk. The solicitor had not been on the case for the whole 12 months prior to the hearing. We were never informed that they had changed the legal representation on Dean's case.

CHAIR: When there is a fatality in the workplace do you think that there should be an automatic Coroner's inquiry into all the factors that caused the accident?

Mrs McGOLDRICK: There was a coronial inquiry but not an inquest.

CHAIR: But there should be.

Mrs McGOLDRICK: They should have done one. They wrote that I could have one if I wanted it. But at that stage you could not make those sorts of decisions.

CHAIR: It should be automatic so that all the evidence can be sorted out.

Mrs McGOLDRICK: I did not even want an autopsy—they are dreadful things. They rang me about the autopsy and I said to the Coroner, "Do I have to have an autopsy?", and he said, "Well, it will wipe out the employer blaming some other cause of death." They tried to do that any way by implying that Dean got dizzy from heights. None of that was true. They gave that report to the Coroner. It is in the Coroner's report that Mrs Poleviak had said that Dean suffered from dizziness all his life. That went into the report—hearsay from the boss's wife is in the report.

CHAIR: It was not true?

Mrs McGOLDRICK: No, it was not true.

CHAIR: They were trying to reverse the onus.

Mrs McGOLDRICK: Yes. As I said, I did not want an autopsy performed—they are not nice things—but we were advised to have an autopsy so that it could wipe out the employer's claim that he died from a cause other than the fall. So we agreed to the autopsy.

The Hon. IAN WEST: I have a couple of questions. First, was the fine imposed on the employer made against an individual or the company?

Mrs McGOLDRICK: The fine was imposed on the company. The judge said in court that if the fine was not paid by the company within 28 days it would revert straight to the employer personally.

The Hon. IAN WEST: So now that the company is bankrupt the employer is responsible individually for that fine irrespective of the fact that he is supposedly bankrupt and, as you have said, working in Tamworth. Is he working on roofing contracts?

Mrs McGOLDRICK: Yes, he is building two blocks of units. Everything is in his wife's name.

The Hon. IAN WEST: In terms of the evidence collected on the site at that time, do you believe the police should be involved in gathering that evidence?

Mrs McGOLDRICK: Definitely. There should be a police investigation from the word go. The employer should be taken to the police station like any other person who commits a crime until it is proven that no crime has been committed.

The Hon. IAN WEST: It should involve more than just WorkCover.

Mrs McGOLDRICK: Yes. I think the police should be involved from the word go.

Ms BAXTER: The police were involved in Joel's case.

The Hon. IAN WEST: Did they go to the site on the day and gather evidence?

Ms BAXTER: And came to the hospital.

The Hon. IAN WEST: If we are talking about a charge of industrial manslaughter I assume that there would be a greater degree of evidence and it would be important that more than WorkCover is involved.

Ms BAXTER: Definitely. Nobody wants to put somebody in gaol if they are innocent. People should be gaoled only if they are proven guilty of negligence. With any luck nobody will be put in gaol because if people are gaoled it means that somebody else has died.

The Hon. IAN WEST: Anthony, I understand that even as of today there has been no charge against your employer. Is that correct?

Mr HAMPSON: I have had no contact with WorkCover apart from the initial interview. That is all I have heard.

The Hon. IAN WEST: Are you aware of anything that is happening in that regard?

Mr HAMPSON: Nothing. I have no idea what is going on.

The Hon. KAYEE GRIFFIN: Mrs McGoldrick, I return to your comments about the Chief Industrial Magistrate's court and that the decision handed down was about safety issues rather than the death of your son in an industrial accident. Did the evidence given during the case relate more to safety issues rather than the fact that safety precautions were not taken and resulted in your son's death? Was the evidence more about the lack of safety rather than its result: the death of a young man?

Mrs McGOLDRICK: The evidence was about what John Poleviak has put in place after Dean's death—how he had started to train his staff and the changes he had made since the accident. It was not about Dean's accident; it was about how well he had done since then.

CHAIR: It was like a cover-up; he was covering his tracks.

Mrs McGOLDRICK: Yes, it was like, "Look at what he's doing now. He's put everything in place. He's learnt his lesson." His solicitor did a whole lot better than WorkCover's solicitor did on the day because he questioned him about what he had put in place and made him look good. He made him look remorseful—"I've fixed it all now; I was ignorant before." The case was about that rather than what had not happened before the accident.

The Hon. KAYEE GRIFFIN: As to the issues that go to the Chief Industrial Magistrate's court, do you believe cases involving a serious injury or an injury that could have been quite serious should go to a different court?

Mrs McGOLDRICK: I do not think it matters so much what court deals with it. It is a matter of using the guidelines that are set down. If the crime fits, impose the top fine. It does not matter so much which court the case goes to but the system should be used effectively so that the top notch of the law is used to bring people into line. There are too many discrepancies—Dean's life might be worth \$20,000 but what will Garry Denson be fined four years down the track? Until the courts start to use the top level of fines available to them I am not concerned what court the cases go to.

The Hon. KAYEE GRIFFIN: I ask that question because you commented earlier that at the hearing the person who heard the matter commented that the decision did not relate to the outcome for your son but was more about the safety issues. That is why I am asking whether you think it is appropriate for that court to hear a case such as this or whether we should consider dealing separately with safety issues on industrial sites.

Mrs McGOLDRICK: If a charge of industrial manslaughter is introduced matters will be dealt with in a different court. There were two courts at that time. The maximum fine in the industrial magistrate's court was \$55,000. WorkCover could have followed another line in another court where the fine was \$1 million.

CHAIR: Was that the Industrial Relations Court?

Mrs McGOLDRICK: Yes. At the time WorkCover rang me—

The Hon. PETER PRIMROSE: If you are talking about manslaughter it would be the District Court.

Mrs McGOLDRICK: No. There were two options at that time: two industrial relations courts. One had a maximum fine of \$55,000 and the other had a fine up around \$1 million. WorkCover rang me and said that if we went to the big court there was very little chance that he would get a great big fine. In addition, from my recollection at the time, they also made a deal with him that he would plead guilty to criminal negligence for his company but not for himself in order to stay in the court with the lesser fine.

CHAIR: And then have the company go bankrupt.

Mrs McGOLDRICK: He and WorkCover made a bargain at the time. I did not understand it.

CHAIR: He apparently still has personal assets; he is not bankrupt.

Mrs McGOLDRICK: I was sent an anonymous letter in the mail listing his assets, where he went on his last holiday and where he is building his three units. It said that he had bought another residence in that four years. The letter was sent by somebody who obviously does not feel too kindly towards him because they did not bother signing their name. He has a \$40,000 Harley-Davidson. The *Daily Telegraph* contacted me. It flew a journalist to Tamworth to interview him, and all of those assets are real. He still answers the phone to Advanced Roofing yet he claims he no longer has a company. The *Daily Telegraph* journalist rang him up and that is how he answered the phone.

Ms LEE RHIANNON: Ms McGoldrick, you spoke about the court case and how his legal team drew out evidence from him about what he is doing now. Do you believe that evidence was accurate?

Mrs McGOLDRICK: No.

Ms LEE RHIANNON: What do you base that answer on?

Mrs McGOLDRICK: He is still working when he said he was not working. I base that comment on what he has done in the past four years and what they have put me through on a personal level. They phoned me and harassed me until I had to get a court order.

Ms LEE RHIANNON: Who phoned you?

Mrs McGOLDRICK: John Poleviak's wife—Dean's boss's wife—phoned me and harassed me until I had to take out an apprehended violence order [AVO] against her.

Ms LEE RHIANNON: How many times did she phone you?

Mrs McGOLDRICK: She has phoned me numerous times. Since I took out the AVO she just sits on the end of the phone. I had an interim AVO. The first time she phoned me I went straight over and got an interim AVO because they wanted affidavits and there were going to be two more hearings. When the second hearing came up I rang the magistrate and said that I did not feel threatened by her any more. I get the phone calls but I do not know that it is her—the caller just sits on the end of the line and holds up my line.

CHAIR: So you are not sure whether it is her.

Mrs McGOLDRICK: It was her. She sent a solicitor to court who said that her client had acted out of character. I am not sure whether it is her now. But the first abusive call was from her because her solicitor said, "I am here to represent Mrs Poleviak. She acted out of character because she is under a lot of stress."

CHAIR: So they more or less apologised to you.

Mrs McGOLDRICK: They wanted to meet with me to sort it out but I told the judge that there was nothing to be gained by me sitting down with those people. I just did not want them to ring me.

CHAIR: We cannot go into too many of those details because it is a side issue to our inquiry.

The Hon. DAVID CLARKE: Mrs McGoldrick, have you considered going to the police and asking them to take criminal action against those individuals in the company who may have been responsible for the death of your son?

Mrs McGOLDRICK: I did not know that avenue was available to me.

The Hon. DAVID CLARKE: There is the offence of manslaughter. Do you think it might be worthwhile going to the police?

Mrs McGOLDRICK: Can you explain that in a little more depth? You have lost me. If it is not a police matter now how can it become a police matter?

The Hon. DAVID CLARKE: By someone going to the police and complaining to them. Why could not somebody in the company be responsible now for manslaughter?

Mrs McGOLDRICK: Even though the matter has already been heard in court?

The Hon. DAVID CLARKE: That case did not deal with the question of the death of your son. It dealt with whether the safety precautions were observed.

CHAIR: Mr Clarke is pointing out that there is a criminal offence of manslaughter and asking whether that could have been used. I do not think it has been used so far.

Mrs McGOLDRICK: So you are saying that the manslaughter charge is available but nobody has used it and it could be used in this situation?

The Hon. IAN WEST: I suggest that that might be a good question for a lawyer rather than for Mrs McGoldrick.

CHAIR: Yes. It is a fact that there is a penalty for manslaughter. We often hear that people have been found guilty of manslaughter but it has not been used in this case. It obviously did not occur to you. The union that assisted you would know that too.

The Hon. PETER PRIMROSE: I point out that all the witnesses have called for and endorsed the introduction of industrial manslaughter legislation in New South Wales, which would avail the Director of Public Prosecutions of that action. At the moment the understanding is that that action is not available, but that is something that this Committee needs to explore.

Mrs McGOLDRICK: Mr Clarke, with respect, are you saying that I have not used every avenue I could have used?

The Hon. DAVID CLARKE: No. I am suggesting that the circumstances may be so bad that there may be grounds in some situations to institute proceedings for manslaughter in any event.

Mrs McGOLDRICK: Even keeping in mind that an Industrial Relations Court has dealt with that matter and that is how the system works?

The Hon. DAVID CLARKE: No. It dealt with the failure to have a safe system of work.

The Hon. PETER PRIMROSE: May I intervene. My question was going to be in terms of the questions that you have suggested we ask WorkCover, because action in relation to manslaughter is taken by the State, not by individuals.

The Hon. DAVID CLARKE: I am not suggesting that you take action. What I am suggesting is that there may well have been authorities that could have taken that action. As a lay person, you would not be expected to know that. As I have said, there would be public bodies that should be aware of that, if it was available, and that is a question for WorkCover.

CHAIR: That is the grey area at the moment, as to whether it is available or not.

Ms LEE RHIANNON: Mr Hampson, you explained that you rarely had supervision when you were on the job and that when the accident occurred there were no approaches from people at the school. I understand that you were working for the Department of Public Works. Either on the day of the accident or after the accident, did anyone from Public Works approach you?

Mr HAMPSON: I was never approached or contacted in any way by anybody up until Andrew Ferguson took me to WorkCover's office late last year.

The Hon. IAN WEST: Has there been any indication from WorkCover that it is going to prosecute the employer for not notifying of the accident?

Mr HAMPSON: Yes, they mentioned they would subpoena me to appear at a possible prosecution. I did not know what it was about or who it was for; it was just an offhand remark just before he walked out.

CHAIR: Mrs Baxter, you said that the police were involved in your case. How did they get involved initially? Who informed the police?

Ms BAXTER: I am not quite sure. They came to my house to tell me about the accident, to go to the hospital.

CHAIR: Presumably someone on the worksite must have contacted the police?

Ms BAXTER: Yes. I am not sure how they found out.

CHAIR: I thank you for appearing as witnesses. As I said to you earlier, you are not on trial; you are here to assist us. We thank you for being here today and for your co-operation in what is a very difficult matter when it is so close to your heart. I am sure that what you have said today will help our inquiry and in the long term it is in your son's memory, and it will ensure that no other sons or daughters have to experience what your children have experienced.

(The witnesses withdrew)

STEPHEN HAUA KEENAN, Occupational Health and Safety Manager, Baseline Pty Ltd, sworn and examined:

CHAIR: I think you were present earlier when we started the inquiry and you heard me go through the matters dealing with privilege and so on?

Mr KEENAN: Yes.

CHAIR: I take it therefore that you understand that your evidence is protected by parliamentary privilege, but if you quote your evidence to a journalist they could make some mischief for you.

Mr KEENAN: Yes.

CHAIR: In what capacity are you appearing before the Committee? Argue a peering as a private individual or as a representative of an organisation or business?

Mr KEENAN: As a private individual.

CHAIR: I remind you also that if you consider at any stage during your evidence that certain evidence or documents you may wish to present should be seen or heard in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Council itself may subsequently publish the evidence if they decide that it may be in the public interest to do so. In other words, we can go into camera and only Committee members and staff would be present when you gave your evidence. You may request that at any stage during your evidence.

Mr KEENAN: Okay.

CHAIR: Do you wish to make a brief opening statement to the Committee?

Mr KEENAN: Yes, I would like to do that. I could not help but listen to the two women who were up here previously. I have played a role in the CFMEU as a safety officer and the role that I have played helped me investigate a number of fatal accidents. One of the accidents I investigated was that of Joel Exner. I would like to say that in all my experience—and I have been to 45 fatal accidents and investigated them—this accident was the worst in terms of negligence, in my view, from all parties; from the principal contractor to the subcontractor to the project management on the site.

Following through investigations there are a couple of things that I do: that is, take photographic evidence, do a number of notes and then have a look at the scene. On entering the site I noticed that the police were already there. I asked the police the reasons why they were there and they indicated that this accident could be a serious one. I then looked around and I noticed that there was a big hole in the roof and after further investigation, I had a look at the roof and it certainly left a lot to be desired in terms of workmanship, in terms of responsibility by all parties concerned.

A couple of things came to my attention. The first one was that the principal contractor had failed to follow through Occupational Health and Safety Regulation 2001 under clause 227 or section 8.3. That reads that all work method statements, risk assessments from subcontractors will be followed through by the principal contractor to ensure that there is full compliance. The second thing I noticed was that the chairman of the safety committee made it very clear to me that on a number of occasions they had brought safety issues forward in relation to working on roofs and other matters and that the project manager had failed to want to recognise them.

The good thing about the chairman of the safety committee and the safety committee is that they documented all the breaches and they also documented the response by the project manager. In relation to the Joel Exner issue, I would just like to indicate, as an opening statement, that if industrial manslaughter legislation is brought in, it should be in relation to negligence by principal contractors, contractors or other subcontractors and that they should be punished and not allowed to get away with a measly \$20,000 fine, of which they only pay off \$1,800.

This company, Australand, is a huge company that covers the whole of Australia. My understanding in talking with other union officials is that they failed to recognise their responsibilities right up until about two weeks ago. When I was doing the investigations none of the companies, the subcontracting companies on that site, complied. When I asked for the safe work method statements for Joel Exner, there were none. When I asked who was the first aider, he was not around. When I asked who had the tickets to operate the machines with Joel Exner's company, they could not find them. At the scene that company—the foreman or the supervisor of that company asked WorkCover if they could make the roof safe before they left it; before they finished up, and WorkCover allowed them to do it.

I intervened on behalf of the union and the workers and I indicated to WorkCover, "On what grounds have you inspectors allowed these blokes to go up in a machine to try and make the roof safe? Have you seen safe work method statements? Have you seen the tickets for the operator? Who is the first aider? Have you checked if there is a first aid box here?" They looked at me, both senior inspectors, and I said, "Now, if you are allowing these workers to get back up to make the area safe after they have just lost a worker, I am not going to be party to it."

The legislation, the law, is clear. In my view we have the best in Australia, if not in the world, yet we seem to be making flexible decisions instead of following through with the law. So, that is my opening statement. It is only just to pay respect to the Exner family, because it probably has not been privy to some of the information and the investigation that the union has made. In my opinion, as a safety officer, there is certain clear negligence.

My work history started on the docks, on the wharves, in New Zealand as a young Maori labourer. Times were hard and unsafe work practices were prevalent. If you complained over safety, you got sacked. I developed a passion at a young age for health and safety, particularly within the Maori culture and for other non-English-speaking workers. As Maoris, our heritage makes us believe—not all of us but a lot of us young fellows—that we do not die, that we do not get hurt in the workplace. What I want to pass around to you is a photograph of a young Maori who died on a building site. The first photograph I want to be passed around to you—and I have been privy to on number of occasions—is the reaction by family members when one of their members died on a building site. I have been with Brian Miller, who used to be the New South Wales safety co-ordinator, on some occasions to visit families to let them know that they have just lost a loved one. The first photograph I will hand around, and I ask if we can keep it just within ourselves, shows a father just being told that he has lost a son at a workplace.

CHAIR: Just to clarify that, you want the photograph to go back to you, to retain it?

Mr KEENAN: Yes. I just want it to go around. I have the acknowledgement from the family that I can use it.

CHAIR: That accident occurred in New Zealand, did it?

Mr KEENAN: No, it happened here in 1994.

CHAIR: Is the accident identified?

Mr KEENAN: Yes. It happened in 1994. My understanding is a fine was imposed on the builder and I understand that fine still has not been paid.

CHAIR: So, the date of that accident is when?

Mr KEENAN: It is on the back of the photograph. I will read what is on here. The worker was killed by a scaffolding collapse on Foley Street Darlinghurst, Thursday 31/3/94. I will just pass around the photograph.

CHAIR: We can photocopy this if you want us to have a copy within our records.

Mr KEENAN: I would like to maybe discuss it with the family, if you do not mind.

CHAIR: You have a personal reason?

Mr KEENAN: Yes. It is a traumatic exercise being with the family and I know at the Joel Exner investigation a couple of our officials, including me, were overwhelmed by the occasion even though I have been to a number of accidents prior. My understanding in the investigation of this accident is that up to date the fine by the builder has not been paid.

In Australia in 1994 I started working in the asbestos/demolition industry. This is a particularly hazardous industry with many workers from non-English speaking backgrounds. This industry involves working at heights, working on unstable surfaces, heavy plant and equipment, noise, dust, hazardous substances like asbestos and many more other risks. The atmosphere is dirty, dusty, dark and involves heavy manual labouring. Subsequently, some of the workers are employed as labourers, some with very little understanding of English or health and safety. Employers are very aware of this and some use it to their advantage. They fail to train or supervise their employees and expose them to risks to their health and safety on a daily basis.

During this time of employment I committed to assist employees to better understand the safety laws in New South Wales and therefore make the workplace a lot safer. I have done safety assessments in workplaces in China, Hong Kong, New Zealand and in all states of Australia. I firmly believe that New South Wales has the strongest occupational health and safety legislation in the world. The problem I see with it is that WorkCover does not adequately enforce it; nor does it penalise unsafe employers to the limit it has the mandate to. Employers' view of compliance to legislation is to ensure that they have the documentation on all legislation packed away on the shelf in the office instead of using it in the workplace.

In 2000 I left the asbestos/demolition industry and was employed by the Construction, Forestry, Mining and Energy Union as an organiser. I was placed under the arm of the State co-ordinator for safety, Brian Miller, now deceased. Brian was an expert in practical health and safety. While both an organiser and the New South Wales occupational health and safety co-ordinator for the CFMEU, I found that the safety issues regarding non-English-speaking background workers were growing all the time. The main area of concern was their lack of understanding of basic occupational health and safety. Principal contractors employed these people and did not ensure they were trained or supervised to ensure a safe workplace. The very culture of some non-English-speaking background people is not to complain or report for the fear of the sack. These people are exploited by unsafe bosses who continually fail to provide a safe workplace. I believe that WorkCover fails in these areas by not addressing the lack of training and supervision problems. Employers talk their way through issues, while organisers like me stay on the case until employers and WorkCover do the right thing.

While I held my position with the CFMEU, I was unfortunate to be involved with several workplace deaths and serious injuries. There were many times when I believe the performance of WorkCover in issuing the relevant notices could have been better. The prosecution of some of these matters, including the death of Dean McGoldrick aged 17, was pathetic. Persons who commit traffic offences during double demerit points times were being fine almost as much as employers who kill workers in their workplace. Grieving families suffer enough at the sudden and unnecessary deaths of their loved ones, and then do not receive natural justice through the legal system.

In my role as occupational health and safety manager for Baseline Constructions, I have continued to pursue my passion for safety. One of the first areas of concern identified as a safety problem was the number of non-English-speaking background workers who had been given a "green card" by a WorkCover-accredited trainer and who had no basic knowledge of English or occupational health and safety. These classes did not have an interpreter present. Simple safety issues like first aid and evacuation were not known to them. They could not speak English yet they got a "green card" and an induction into the construction industry. While site-specific areas are the responsibility of the principal contractor, employees are expected to have gained some basic construction-specific occupational health and safety information by attending a "green card" class. The whole "green card" area is an ongoing construction occupational health and safety problem, but it is with the non-English-speaking background employees where I am finding their lives can be threatened by their lack of occupational health and safety knowledge even though they have a WorkCover-accredited green card.

Occupational health and safety will always be a team effort between employers, employees, employer associations, unions and WorkCover. I have spent a lot of time organising occupational health and safety training sessions for all of the above. Last year I organised a bus to take 130 safety delegates to WorkCover head office at Gosford where WorkCover facilitated a full day's conference informing the safety delegates of the role of WorkCover. At the end of the day we had 130 very happy delegates because what WorkCover had stated it does sounds wonderful. Sadly, the happiness wore off quickly when they realised that a lot of what WorkCover said was lip service to safety, and in reality it was not happening in their workplaces. These delegates had been witness many times to me when I had to argue against WorkCover inspectors on their sites when I believed that WorkCover was not doing its job competently. Many times the problem required me to go to the head of WorkCover to resolve the issue, but I did and it was resolved most times. This is not how safety should be managed. Teamwork and consultation between all the players is how it will work. I found some inspectors were totally inexperienced in the construction field. This is not fair to the employer or the employees.

Last December Minister Della Bosca attended an OHS safety representatives day for the CFMEU, and he indicated that WorkCover would do its job competently. This is still not happening. On a daily basis we encounter conflict with WorkCover inspectors even on serving any notice, never mind what kind of notice. If this behaviour continues, employers will never learn to be accountable and responsible for ensuring a safe workplace. Deaths and injuries will continue and so will the heartbreak of many families. I believe there is a need for investigation of WorkCover prosecutions so as to ensure families receive justice. More importantly, tougher laws, including gaol sentences, are required.

CHAIR: Thank you very much for that statement, Stephen, you have covered it very comprehensively. I think members of the Committee want to ask you some questions now.

The Hon. PETER PRIMROSE: We are meeting with WorkCover tomorrow. What do you think are the two or three most critical questions we should put to them?

Mr KEENAN: First of all, before I go to that, I have got to indicate also that I have come across some very competent WorkCover inspectors. To say that there are a lot of incompetent WorkCover inspectors is correct but also I must give justice to those good inspectors who get out there and do their job. What should be asked of WorkCover is why do they push for the minimum? Why do they alter the law at times when the pressure is on, and the pressure comes on at the coalface in front of serious accidents and fatal accidents? What happens is inspectors come under pressure so they make decisions which in my view are contrary to the law, and the answer that comes from that is, "Steve, we've got to be flexible", yet we have laws out there indicating the do's and don'ts.

The other question is, we need more inspectors that come from the industry who have a better understanding and a knowledge of the industry. I myself, along with Brian Miller, have on many occasions taken some inspectors under our wing to educate them, to talk to them about certain aspects on a construction site. Many inspectors may have degrees. They have gone for this inspector that has come out of university or has got a background and degrees, and I have not got a problem with that, but the problem comes at the coalface when they cannot understand what a scaffold looks like, where they do not understand the basics on electrical issues, where last year, on my understanding, there were 15 fatal accidents on electricals. Yet I know they have got good inspectors there, senior inspectors, who have been around long time who, in my view, have been pushed to the side, whereas they should have been using them out on the coalface to educate the new inspectors. We have no problem in helping them but there are occasions where the same inspectors you are trying to educate and help about what you see on the coalface that when it comes to writing out the appropriate notices, they also are certainly incompetent in ensuring that the appropriate notice goes for the appropriate infringement.

Ms LEE RHIANNON: From listening to you it sounds as if you are exploring three areas: the need for WorkCover to prosecute more, for there to be more resources and more inspectors, and for there to be a change of culture within WorkCover. Would that summarise what you see needs to be changed?

Mr KEENAN: Yes, that is about it.

Ms LEE RHIANNON: Within those three areas what would you give most emphasis to? Where should WorkCover be giving its immediate attention? More prosecutions? Or is it these three things overall that need attention?

Mr KEENAN: Three things overall, but the prosecutions need to be not only just prosecutions or just paperwork, it needs to be followed through to ensure that it is completed. There are a number of prosecutions that go out but when we have a look at a photograph of a young boy in 1994 where a fine has not been paid we have got a problem.

Ms LEE RHIANNON: Do you have other examples? We have heard from Ms McGoldrick today about her situation and what happened with the fine there. You have told us of this case. Do you know of many other cases where the fines are not paid?

Mr KEENAN: I know there are a number of other cases. I am not in the union now, I am working for a company, but I would urge the union to bring those cases forward to ensure full compliance with whatever had to be handed out, that they are complied with.

CHAIR: Are there any other urgent questions members of the Committee wish to ask?

The Hon. CATHERINE CUSACK: You have investigated 45 fatal accidents I think you said, or attended the scene of 45 fatal accidents. Could you give us an idea of a typical workplace and a typical type of victim in a fatal accident?

Mr KEENAN: The majority of them have been from ethnic backgrounds. A lot of it comes from negligence and also negligence by the principal contractors and subcontractors.

The Hon. CATHERINE CUSACK: So are they smaller building companies or the larger building companies?

Mr KEENAN: Not necessarily. It is across-the-board.

The Hon. CATHERINE CUSACK: And in terms of the youth, we have heard from the mothers of two victims today, the victims were extremely young. Is it common to have very young boys being killed in these accidents? Are they more vulnerable in the industry?

Mr KEENAN: From my experience I have encountered right across-the-board. However, in relation to these it spells out very clearly the supervision and the principal contractor's negligence as opposed to being the age of the persons that are deceased.

The Hon. CATHERINE CUSACK: Do you see the culture of the building industry as being a culture that it is difficult for occupational health and safety to operate in? The construction industry seems to me to be a bloke's kind of job—a blokey industry, if you like, and blokes are more likely to maybe take risks or allow each other to take risks.

Mr KEENAN: I am not going to go back and blame the workers for taking the risks. The legislation is very clear and that puts the onus on the principal contractor and subcontractors to ensure that their management of workers' safety on the sites is in place. Everyone is going to make a mistake, we are all human beings, and the construction site is not only a blokey area, although it is easy to manage. I have just indicated to you that in my view the laws that we have are the best if not in Australia in the world. What we need to do is to get everybody to participate and use consultation to ensure that fatal or serious accidents do not occur.

There seems to be an element of culture in industry by subcontractors especially that come from the back of Liverpool, Wollongong, Gosford, who come into the big area of town and they want to maintain the type of work that they are used to, without compliance. Even when unions and WorkCover go onto the sites there starts off to be a confrontation with all parties because of their lack of understanding and knowledge of the legislation, yet builders who are engaging subcontractors know only too well that they have engaged the subcontractors because they are the lowest bidders and so therefore are not prepared to look at the responsibilities that go with it.

CHAIR: Thank you very much for what you have said to us today and for your statement, we appreciate it. We will certainly be following up all your recommendations and suggestions that the law is good but it has not been made to work, and that is the breakdown.

Mr KEENAN: I thank you for the opportunity. Just to round off: we all have an obligation, including yourselves. You want to come into the inquiry into the construction industry. Under occupational health and safety we are now bound by an obligation to ensure that we get it right. We owe it to the people who gave evidence before me and to ourselves. Thank you.

The Hon. IAN WEST: It is important also, just for the point of clarification, that I understand you to be saying that the occupational health and safety laws are good in Australia but they are deficient in the area of industrial manslaughter?

Mr KEENAN: You are right. In my view industrial manslaughter legislation will certainly assist in cleaning up a lot of improprieties in relation to the legislation, and also minimise the risk of having young boys killed in the industry. We all have a right to go to work; we all have a right to go home.

CHAIR: Thank you again, Stephen.

(The witness withdrew)

ROSALIE ANNE JARDINE, 52 Abuklea Road, Eastwood, New South Wales, Bookkeeper/Computer Operator, and

KATE MURRAY, Customer Services Co-ordinator, sworn and examined:

CHAIR: Mrs Jardine, if at any stage you would like to have us hear your evidence in camera we will clear the room of any members of the public. You have that right. Do you wish to present an opening statement to the Committee? I understand your daughter Kate has come along to give you assistance. Thank you, Kate, for being here with your mother.

Mrs JARDINE: I am not sure if you have got anything on the submission that I wrote. Do you have all that information?

CHAIR: Yes.

Mrs JARDINE: There is nothing too much more other than that. I have got a copy here that I have made of the Coroner's and WorkCover's statement which says that there were three serious breaches of the Safety Act and that there were forgery and lies that were told at the time of the accident; there were all these different contractors and subcontractors and all the things that they did wrong and did not have; that my husband was killed by a very very large excavator. He was only in with a small private guy he was working with, just as a daily labourer for him on the day because the fellow had hurt his leg so he said he would work for him. He was just helping with the sling, putting the trees in the sling and this excavator would take it up to where the fellow, who Geoff was working for, was chipping it.

Apparently there should have been a supporter because the driver cannot see anyone there and they were also working on a four-metre slope which made that more difficult as well. The driver was a 23-year-old driver who had been working on the site with one of those companies for several weeks but in his statement to WorkCover he said he had never worked with people like that, he had never done that sort of work, and they brought him in just as a clean-up thing on the day to remove these trees. So he had no previous experience. My husband and the other two workers that went to do this chipping— which was just a couple of hours chipping on this job as a clean-up because it was a big construction site that they were going to be building units, or whatever, on. They were brought in just for that time.

CHAIR: Mrs Jardine, you may refer to your statement to refresh your memory. Mrs Murray, you may help your mother.

Mrs MURRAY: When the contractor that my father was working for turned up at the site with this truck, they should have been treated as a new contractor and gone through the safety induction, occupational health and safety and work safety practices. That was never done. WorkCover recorded all this in its report. After the accident the project manager of the entire site came to the other contractors and asked them to come into the office and sign a declaration that they had attended the site induction course that morning; and also forged my father's signature on the document saying that he had attended as well, and spelt his name wrong. They also threw a hard hat down on the ground next to my dad's body, he had already died, to cover up that none of them had been issued with safety vests or hard hats.

The fact that not only were they not following the occupational health and safety regulations and the WorkCover safety laws, they flaunted it through this deception, immediately after somebody had been killed. That just made the offence more offensive. WorkCover has detailed this in its report. But the main issue now is that since the accident, at the beginning of July 2002, WorkCover has had no correspondence with our family about actions, procedures, where the case is, updates or information about how they process these cases. If there are to be prosecutions we do not know, or whether there have been any. Mum has been ringing them to get information, but with no response. Her phone calls are not returned.

Immediately after the accident and after quite a few phone calls they sent us a photocopy booklet about their immediate procedures with the Coroner and their reporting. That is all we got.

There was no covering letter or any individual details about our case. We just hit bureaucracy I suppose. Their report into the accident, which they submitted to the Coroner, seemed to be very good. It was very detailed and had all the interviews and photocopies of what they had done on site since the accident. Really there has been no other correspondence or communication at all.

Mrs JARDINE: The main thing they do not take into consideration is the enormous shock of something like this, let alone all this that we had to put up with. As we have heard from so many people, including a few today, WorkCover does not follow through. It is just a powder puff; it has to show these employers that it is serious because they just do not take any notice. I do not know how to do that, but definitely something has to be done. Geoff is the youngest in a family of nine, all his brothers and sisters are still alive. I come from a family of 10 and have three children and grandchildren. We are devastated by all of this. Yet, what does WorkCover know about us? Does it consider us? Is WorkCover going to do anything for us to get some justice from the three companies and umpteen people who have done the wrong thing and let Geoff down. Now WorkCover is going let him down.

CHAIR: It is a very sad situation. It sounds as though a lot of work was done after the accident, hopefully to reduce any penalty.

Mrs MURRAY: I think that was the main objective, yes.

CHAIR: That seems to be a pattern that has developed, to try to influence the final sentence or fine.

Mrs MURRAY: They did not succeed in this cover up, because it is acknowledged in the WorkCover report that the signature was forged and that the hard hat and vests were not supplied and that the induction course was not performed before the work started. I do not know whether that counts as some sort of offence as well as breaches to the safety Act. We do not understand the law. We thought forgery may be a criminal offence, but no-one has been charged and nothing has happened.

The Hon. PETER PRIMROSE: In your recommendation you say, first, that WorkCover needs to include victims' families in their internal processes and that communication should occur regularly with relevant updates. Clearly that has not happened in your case.

Mrs JARDINE: No. The only way I found out anything was because someone from WorkCover, and I had his name, wanted me to send him a specimen of Geoff's signature. Therefore we were aware of that. All he would ever tell me was that it was in the supervisor's hands and that it was in the legal department.

The Hon. PETER PRIMROSE: The second recommendation was that the time frame of reports and prosecutions needed to be improved dramatically.

Mrs JARDINE: Yes, it is 20 months and not much has happened.

The Hon. PETER PRIMROSE: Your third recommendation is that there should be a single point of contact within WorkCover for each individual case to make contact easier between victims' families and WorkCover. My guess is that you just rang the switch and tried to find someone.

Mrs JARDINE: I had that man's name and in the beginning my son rang the police, a few days afterwards, and found out the name of the WorkCover inspector on the site at the time. I rang him several times and never got a phone call back. Eventually I got him and that was when he sent us a photocopy of the book, but only because I had continued to ring. Otherwise I would not have heard anything.

Mrs MURRAY: Once the investigators have handled their part of the case it gets passed to a different department, so they are no longer dealing with it. That is what I can gather, just through guesswork, from what they have said. There are several other contact people, instead of one person who may have an overall look at the case and know the details so that every time I do not have to explain who I am and am able to get the answers that I want.

CHAIR: In those serious cases they should have one person to follow the case right through. You mentioned the WorkCover report, do you have a copy of it?

Mrs JARDINE: Yes, I do.

CHAIR: The Committee will be able to study that as part of its investigation.

Mrs JARDINE: It is just a summary of the report, the reports themselves are very thick. It is a summary by the Coroner, his recommendations. I am not sure whether it is the WorkCover report or just the Coroner's report.

WorkCover report tabled.

The Hon. KAYEE GRIFFIN: Earlier you mentioned three companies were involved. Your husband was working on a casual basis for the day, is that correct?

Mrs JARDINE: Yes, that is correct. He had found it hard to get work for the last nine months of his life. He had been working a grader machine for four years before that, and they had lost their contract. So he had been looking for a bit of work and someone was recommended by someone else who needed a labourer here and there.

The Hon. KAYEE GRIFFIN: Presumably the company he was working for on a casual basis had two subcontractors and a principal contractor?

Mrs JARDINE: No, he was just a sole trader and he had an apprentice with him. He just got my husband in for the day as a casual labourer.

Mrs MURRAY: The site was run by a contracting company, which was in charge of dealing with all the contractors. The site was owned by a company and it contracted the site to another company, and that site then subcontracted onto the company my father was working for. The gentleman, the young guy, driving the excavator worked for the subcontracting company. In that accident there was one contractor and two subcontractors.

The Hon. KAYEE GRIFFIN: And there was an ownership above that as well?

Mrs MURRAY: That is correct.

CHAIR: From the evidence it sounds as if the young man driving the excavator may not have been fully experienced, and had been working for only a few weeks.

Mrs JARDINE: He had been working with that company on that site, I do not know for how long, I know of a few weeks. He had been working on a site with no people involved. The WorkCover supervisor asked him about that, and he said he had never done that sort of work before and had never worked with people. So, I do not know whether he was aware that he needed a spotter. How do they get a licence, was the question I asked. He left the country within two weeks of this happening, and went back to Ireland.

CHAIR: You are not sure whether he was fully licensed?

Mrs JARDINE: Yes, he had a licence.

CHAIR: You do not know whether he had been adequately trained?

Mrs JARDINE: He should never have been given a licence for that machine, it is huge. The machine may have slipped down the site. They were almost finished the job, there was only 10 minutes more work to finish. Whether he lost sight of my husband I do not know.

Mrs MURRAY: In another interview it was stated that his dog was in the cabin at the time, which the main contractor denied, although he was not even on the scene.

CHAIR: We are very sorry at the loss of your husband, it was an accident that should not have occurred.

Ms LEE RHIANNON: Does the WorkCover report cover the training of that young man? If so, was it the correct training?

Mrs JARDINE: I do not know. As I said, there were lots of reports and I would not have known to look for that.

Ms LEE RHIANNON: That can be followed up.

Mrs JARDINE: He did have a licence. It is so important to have someone from WorkCover that is a bit, as you might say, compassionate. Someone who can understand the enormity of what someone goes through at a time like this. As I said, Geoff came from a large family and so do I. We are very family orientated. People want to know and people ask you, family ask you and you have nothing to tell them. There are no answers. We cannot get any sort of feeling that there is something being done about it. I think that is the main thing with everybody that you want to know there has been something done and it has not been for nothing.

Mrs MURRAY: That old cliché about preventing the accident happening again. When something like this happens it is very true.

CHAIR: Obviously there is a lack of understanding in what has happened to the family of the victims.

Mrs JARDINE: Yes.

CHAIR: It is happening in other areas, such as the victims of crime, but victims of industrial accidents seem to be forgotten. Those accidents are just as tragic. Your husband goes to work and does not come home that night.

Mrs JARDINE: I have lost my life as well, I have lost my life. What have I got now?

CHAIR: We share your grief. Thank you for appearing before us.

(The witnesses withdrew)

DENIS ARTHUR REES, Retired Boilermaker, and

SHARON MARGARET REES, Retired, sworn and examined:

CHAIR: Mr and Mrs Rees, are you appearing as private individuals?

Mr REES: Yes.

Mrs REES: Yes.

CHAIR: Thank you for your attendance and assistance today. Were you here earlier to hear my remarks about giving evidence under privilege?

Mrs REES: No.

CHAIR: The evidence you give to the Committee is covered by parliamentary privilege, but if you repeat it outside you are not covered. Be careful what you say. Sometimes people give evidence to the Committee and they are covered by privilege. Then they go outside and a journalist asks them question and someone could take action against what they say. We want to protect you from that happening. Would you like to make an opening statement or share anything with the Committee before we ask questions?

Mr REES: I have put my submission in. I would like to add we are appearing because of our son's death, Gregory John Rees, who was killed at the former Newcastle BHP site on 19 September 2002. This is still the subject of a coronial hearing. I don't know whether we can say too much on that. The thing that concerned us was after the accident some evidence or information was brought forward to me by a retired—actually, he was not retired at the time—WorkCover inspector, Mr Terry Perkins, who submitted to me a video of an accident that happened on 11 October 2001. It showed the No. 5 ore bridge at Newcastle BHP collapse suddenly, which almost resulted in a fatality. After viewing this the wife and I became very concerned. We started to take a few steps to find out some information. Terry Perkins also gave us some copies of emails that when he found out about it he sent the emails off to his prospective employer, WorkCover. They were sent in June 2002, three months before our son's accident. From what we can find out, when this ore bridge came down there was no action taken by WorkCover whatsoever as to an investigation and when the matter was raised in June 2002—I am getting a bit confused.

CHAIR: Take your time. We are here to assist you. If you have your statement you can refer to it.

Mr REES: I am referring to it. When this came forward in June 2002 and Terry sent these emails off to WorkCover one was never answered, one was answered. As far as we know, there was no action taken until September 2002. There was no investigation started until September 2002, which we were given no date, and our son's accident happened on 19 September. The investigation was completed on 1 October 2003, one month before the statutory period. What we are concerned with is why WorkCover did not take any stand to introduce their compliances on this matter and had they did it whether it would have helped.

CHAIR: Prevented the accident?

Mr REES: Helped our son's accident. I don't know whether I can talk on the brief of this accident. Am I permitted to do that? It looks like there is going to be charges laid there because the compliances were not adhered to. I'm lost. The thing that we raised the question about, there was a regional WorkCover inspector on the site. He was there when the ore bridge came down. Our son's accident he was not there, he was on leave at the time. The question we ask there: Was anyone supervising the site at that time from WorkCover?

CHAIR: You drafted some good questions on the last page of your submission. You can refer to those questions.

Mrs REES: And we do have some supplementary submissions.

Mr REES: We do have some supplementary submissions we would like to put in.

CHAIR: We would be pleased for you to incorporate that with your submission. Do you want to refer to it now?

Mr REES: I would. I have put in a prohibition notice that was served through my son's accident. This is what concerns me with the one with the ore bridge, whether there were any prohibition notices put on the ore bridge at the time it happened. The prohibition notice says that in the opinion of the inspector any activity which involves an immediate risk of health and safety to any person occurring at the workplace is the reason that they have issued this. Had this been issued on the ore bridge things might have been different on the BHP site. The other thing we raise is the measures taken: "Your attention is drawn to clause 246 to 255 of the Occupational Health and Safety Act." On the day of our son's accident, the day that the building came down—which was 31 metres tall and they said there was 1,000 tons of steel in it—the accident happened at approximately 11.30. On the Beaufort scale in the back of that additional report we put in, 28 to 30 knots per hour is a near gale. Under the Occupational Health and Safety Act, clause 255—which only relates to a chimney stack—any wind exceeding 20 knots work is stopped. Yet on this particular day they were still proceeding. What concerns us is whether there was a WorkCover inspector there to make sure that the compliances were adhered to or not.

CHAIR: That would certainly increase the risk of collapse.

Mr REES: It does. It was a suspended boiler which had a lot of weight at the top. They just started to do the preliminary work. When they do an induced drop of a building, it is just like dropping a tree where you take a wedge out at the front and you cut across the back and then they pull it down with mechanical means. They had only just started it when the building suddenly collapsed. That is the same thing I am referring back to the ore bridge that it was a near fatality. We did submit a CD on it which shows where the young boilermaker was almost killed. He was lucky to get out of it. As far we know the statement was that it came down according to plan, just sooner than it should have and that was it. It was around 1,000 tons of steel. The other thing that concerned us was that after that in the WorkCover "Watching For You" newsletter, issue 48 in March and May 2002, it says "Seven-storey ore bridges weighing 1,000 ton have been successfully collapsed using this method." If you view the video you will see that it was successful, it came down. That is the whole idea of induced demolition. They come down in one big lump. To state that it had come down successfully concerns us because our son's building came down sooner than expected. It came down successfully as well, but unfortunately he died. The whole idea is to get them on the ground.

CHAIR: Successful has to include safety, not just to get them on the ground.

Mr REES: That was the same with this ore bridge collapse. If you view the video you will see that it was not done in safety. There were men working under it while they working on it to drop it.

CHAIR: It seems as if the inspector, Mr Perkins, was seeking to assist you when he gave you the video.

Mr REES: Yes.

The Hon. CATHERINE CUSACK: Was he retired when he gave you the video?

Mr REES: Yes, he was retired. But he was still working for them at the time of the ore bridge accident.

The Hon. CATHERINE CUSACK: He came forward after he had retired from WorkCover to speak to you. Obviously he was concerned about what had occurred?

Mrs REES: Yes, he was.

The Hon. CATHERINE CUSACK: And he approached you?

Mr REES: Yes.

The Hon. CATHERINE CUSACK: When did he approach you?

Mr REES: It was in 2003, quite some time after our son's accident. It could have been nearly 12 months after.

Mrs REES: He was going to submit some material to the *Newcastle Herald* and he warned us that he was going to do that so that we would not be shocked when we read it in the paper.

The Hon. CATHERINE CUSACK: It sounds as though he felt unable to do anything whilst he was working for WorkCover in terms of speaking out about it.

Mrs REES: Yes.

The Hon. CATHERINE CUSACK: He has given you emails dated June 2002 where he expressed concerns about the safety of the work site and three months later your son has been killed in the accident.

Mrs REES: That is right.

Mrs REES: That is right.

The Hon. CATHERINE CUSACK: They were very serious allegations for WorkCover to deal with. He obviously feels that they were not—

Mrs REES: They were not listening to him.

The Hon. CATHERINE CUSACK: So he came forward to you.

Mr REES: That is what concerns us. He sent an email on 17 June when he raised the matter with his superior. He sent another one to a team leader and, according to his email, he has not heard back from her yet.

The Hon. CATHERINE CUSACK: This is a WorkCover employee who tried to initiate action within WorkCover. He was not listened to and then a fatality occurred.

Mrs REES: That is right.

The Hon. CATHERINE CUSACK: Have you received any response to the allegations from WorkCover?

Mr REES: No, we have not heard from WorkCover. This was just supplied to me by Terry Perkins. That was the briefing he gave us. But we have not heard anything whatsoever from WorkCover as to that.

CHAIR: What contact have you had with WorkCover?

Mr REES: WorkCover did not make any contact with us as parents. A friend of mine who lost a son some years ago—he was electrocuted—told us to go to WorkCover and get a book called *Fatality in the Workplace*. I went to the Toronto office. The girl saw another chap, who came back and said, "Has there been a death?" I said, "Yes, my son." He then asked, "Has WorkCover been in touch with you?" I said, "No." He said, "That's very strange because they are generally prompt." They then gave us the telephone number of an Alan Kemp in the Newcastle office, who my wife rang. We could not get him the first time because he was in a meeting. She got him the second time and he said that he would send some booklets to us. He sent one on fatality in the workplace and another about demolition—I do not know why we got that.

Mrs REES: Later I went to Toronto to get some information and I bought a copy of the occupational health and safety regulations 2001 for \$18 and they gave me a demolition booklet. So I knew what was going on.

CHAIR: But no-one spoke to you directly about the case.

Mrs REES: No, no-one knocked on our door.

Mr REES: Our son's partner vaguely thinks that they rang her after the accident to offer their condolences but she is not really sure about it. She was very upset at the time.

The Hon. CATHERINE CUSACK: So it is possible that WorkCover had a role in this accident but we must now rely on it to investigate it independently.

Mrs REES: How can WorkCover wear two hats?

Mr REES: This is it. This is what concerns me. When OH and S says that if injury can be caused or someone can be killed permits are withdrawn. To the best of our knowledge on the ore bridge demolition nothing was done. There was no investigation. Even Terry Perkins says in one of his emails—it is written as hearsay—that he spoke to the inspector and asked whether prosecution was considered regarding the incident. He simply said that the collapse was a bit sooner than expected, and that was it. We feel since that matter was raised with us there was something wrong on the site. Who was policing the compliance that had to be in place? It is the same with our son's accident. As I said, it looks as though criminal charges will be laid because the compliance did not occur. Who was policing it? Who was watching it? It was a major site. It is not as though it was construction; they were bringing buildings down in big lumps. It was unfortunate.

WorkCover's investigation into our son's case made a recommendation to the Coroner. We believe it does very little. It says, "As a result of the fatal accident of Gregory John Rees on Thursday 19th September 2002 at Selwyn Street, Port Waratah, Newcastle ... WorkCover New South Wales proposes the following recommendations to prevent a recurrence of this type of accident: one, the existing legislative requirements be followed by demolishers." That is fine but to us nothing has changed. It will be the same. It is all right to say that contractors will follow the letter of the law but they will not. There must be somebody to police it on these big jobs and big concerns. It is just not good enough.

CHAIR: Is that the main recommendation?

Mrs REES: There are more. But it is simply quoting the Act; there is nothing extra. It is sitting on the fence.

Mr REES: It quotes the Act and states that housekeeping measures employed on a demolition site be maintained in such a manner as not to expose persons to risk. That came out of the hospital implosion in Canberra when a young girl was killed. It is to stop material flying through the air when a building comes down.

CHAIR: Did WorkCover make any recommendations for any action against anybody?

Mrs REES: We do not know.

Mr REES: We do not know about that other than that we were told by the police prosecutor that criminal charges could be laid.

CHAIR: Did WorkCover make that recommendation or does it seem to be simply enforcing the legal requirements of the Act?

Mr REES: No, not as far as we know.

Mrs REES: We did not get hold of a brief until 14 months after our son's death and then we found out how he died.

The Hon. PETER PRIMROSE: I want to go back to a point that you raised to make it very clear. Point No. 5 of your submission says, "We raised questions as to why WorkCover did not respond to the concerns of the now-retired WorkCover specialist safety officer Terry Perkins in June 2002". Did you raise those questions in writing with someone or did someone else raise those questions?

Mr REES: No. We are raising the question: Why did that not happen?

CHAIR: You are raising the question with us.

Mrs REES: Yes.

The Hon. PETER PRIMROSE: That is very important. The other point I want to highlight is that Inspector Steve McMartin from WorkCover, who was supervising the demolition site, went on leave from 30 August 2002 to 23 September 2002.

Mr REES: That is correct; we found that out.

The Hon. PETER PRIMROSE: Do you know who replaced him?

Mr REES: No, we cannot find out whether there was another inspector on the site at the time.

The Hon. PETER PRIMROSE: Normal practice on such a large site would obviously be to have someone supervising. Is that your understanding?

Mr REES: We believe there should have been someone there for such a major job—dropping a building with more than 1,000 tonnes of steel. Someone should have been there to make sure that they were complying with the Act and doing it correctly.

CHAIR: Do you have any information that there was someone there?

Mr REES: No, we do not know.

CHAIR: It could appear that there was no-one there.

Mr REES: Let me tell you how hard it is. I rang the Maitland office of WorkCover to ask for the official date of the ore bridge collapse and I was told that I could not get it through the privacy Act. I would have to get a form, fill it out and submit it by the fourth. I could not even find out what date the ore bridge accident occurred. That is how hard it is to get information, let alone try to find out which inspector was on the job at the time of our son's accident. It is a brick wall.

The Hon. IAN WEST: To your knowledge, has there been any response to the questions and recommendations made by Dr Berger?

Mr REES: No. We got that from the union. As far as we know that was a press release from Dr Elsie Berger.

CHAIR: What was your son's role on the demolition site?

Mr REES: He was a leading hand ticketed demolition worker.

CHAIR: So he was quite experienced. Had he been on other demolition jobs?

Mr REES: Yes, he had been on other demolition jobs. He worked on one at Berrima but this was the most major job that he had worked on.

CHAIR: Did he express any concerns to you about this particular job?

Mr REES: No, not to his parents. He was always very tight lipped. The minute we raised something he would say, "That's it, I'm going." So you were not game to say anything. His partner told us that he was very concerned about too much weight at the top. That is all she could ever remember him saying.

CHAIR: From looking at the size of it?

Mr REES: Yes. He made a passing comment in conversation one afternoon. He said, "There's just too much weight at the top."

Mrs REES: The company did not have a work permit when it changed the drop to a different direction.

Mr REES: My wife will tell you about another matter that she found out about on the computer the other day.

Mrs REES: I look for industrial relations information on the computer—I do not know what I look for exactly, but I look for things. Two of the people that Greg worked with—one was a colleague and the other was an employer—were involved in an accident in 1999. It was not a fatality but an injury. Five weeks prior to Greg's death the judgement on that accident came down.

Mr REES: One was a director of the company and the other was a supervisor on the job.

CHAIR: Were they found guilty?

Mrs REES: Yes, they were. Here we go again and again.

CHAIR: This particular demolition would be very unusual; there would not be too many of these types of huge building being demolished.

Mr REES: No, not of that size.

CHAIR: It is not a common demolition, is it?

Mr REES: No.

The Hon. CATHERINE CUSACK: Is a representative of WorkCover present?

CHAIR: No, we will question them tomorrow.

The Hon. CATHERINE CUSACK: So they will be unaware of this evidence. I have a copy of the emails that were sent in June and that are referred to in the submission. I request that they be copied to all Committee members and to WorkCover.

Mrs REES: I think Mr Perkins rang to say that he was available to give evidence if he was needed.

Mr REES: He did not submit any evidence to the Committee but he said that he notified someone connected with the standing committee that, if required, he would make himself available at any time.

CHAIR: We will consider that when we discuss further witnesses.

The Hon. CATHERINE CUSACK: I think the WorkCover investigation of this matter throws up enormous issues in terms of its investigative abilities. I am happy to photocopy this information and make copies available tomorrow.

CHAIR: We will make copies.

Mr REES: That is what gets to my wife and me: If WorkCover was notified three months prior to our son's accident why was something not done? Why was it not looked into? Why was the whole site not looked at? It does not add up. It may not have prevented our son's accident. Nothing will ever bring him back.

CHAIR: But there was potential danger.

Mr REES: That is right. They could have put the brakes on the site and said, "Right, we're going through this." They could have dragged out the contractors and the companies and said, "This is the line we are taking. It's a hard line but we want you to comply with it." Why nothing was done I will never know unless you people can find out.

CHAIR: We will certainly do all we can to find out.

Mr REES: As a retired boilermaker, I agree with things that Terry Perkins said in his report. When I was on the tools we had to have competencies in certain things. Under WorkCover today you must be a competent person even to use an angle grinder or a chainsaw. It should be the same with inspectors. You cannot simply say, "He's a WorkCover inspector" and drop him on a site.

If they are going to be a competent person, they should have the full competencies of that particular job, which is demolition work. You would not expect an electrician to come out and say, "I can understand demolition work." I did not understand it until such time as the brief came through. My son had always said to me that they did three cuts on a column. I could never understand what they were doing until we got the brief, which illustrates it is just like felling a tree: you take a bird's mouth out at the front, you cut it at the back, and the tree falls in the direction you want it to go. That is what induced demolition is, but I did not know at the time and I was a boilermaker for 45 years.

CHAIR: No explosives are used?

Mr REES: No, it is just induced demolition, as they call it. They do three cuts, the first at the top. They cut the bird mouth out in the direction it is going to fall, they cut the next two out at the back, and then they attach slings to it which they attach to excavators, and the excavators then pull the building over, like a domino effect.

CHAIR: It would be a fairly dangerous procedure to make sure that every worker is a long way away from it.

Mr REES: That is right.

Ms LEE RHIANNON: Were any workers injured?

Mr REES: There was one chap, Tony Edwards, in the cherry picker with our son. When the collapse occurred, for some reason Tony just dropped to the bottom of the basket. They were on an elevated work platform. As the building pushed the cherry picker over, it appears that our son was thrown out of it because he was on the outside of it, and when the building came down Tony was lucky that he was just in a little alcove and he came out with just an injury to his leg. If you viewed the photograph, you would see that it is a massive building.

The Hon. CATHERINE CUSACK: How old was your son?

Mrs REES: Thirty-three.

The Hon. IAN WEST: Mrs Rees, earlier you said that they did not have a work permit, and I did not understand what you were referring to.

Mr REES: They did have a work permit. They were going to fell the building to the north, and they had a work permit which came through, I think, three days prior to the accident. They then changed their mind, because all the debris and everything was on the ground and they could not fell it to the north, so the engineer changed his mind and decided to fell it to the west. The brief, which is the WorkCover inspector's report, states that he was out of the office that day when he received the call,

and he said to the engineer he would be in the office the next day to review it, and on that day the accident occurred.

Mrs REES: They had to have another permit to fell it to the west, and they did not have it. That is what I was referring to.

CHAIR: The work permits specified which way it was to fall?

Mr REES: He had to put in all his calculations.

CHAIR: It had to be resubmitted and a new work permit issued, and that was not done?

Mr REES: That is right. Apparently they were doing preparatory work; they were not preparing to fell it because there were no slings or anything on it. They had done one cut on the column, which was the top cut. They came down to do the second cut, they did the second cut, and according to Tony, who was in the cherry picker with my son, the cut did not close up. When you do oxy-burning, sometimes there is so much weight on it that it will close. Tony said there was nothing. He said Greg just stopped the machine, and the next thing the whole building just popped. At that stage they had only done two cuts on the building.

CHAIR: Within seconds the whole building was on the ground?

Mr REES: That is right.

The Hon. KAYEE GRIFFIN: You said you had found information in relation to the same company that there had been previous industrial accidents?

Mr REES: No, it was not the same company. It was one of the directors of the company and the site supervisor working for another company at the time.

The Hon. KAYEE GRIFFIN: Was that accident a similar demolition job?

Mrs REES: No, they were working on a roof.

Mr REES: I think it was a demolition job, because they were moving asbestos and that, I think. I am not sure.

CHAIR: Thank you for appearing as witnesses. We know it is a very emotional situation when it involves your own son. We appreciate all the work you have done.

Mr REES: As I said, nothing will ever bring our son back, but we just hope that something will come out of it. As I said, with the last report, if you look at the Beaufort scale, our son's accident happened at around 11.30 on that day and the winds were up to around 28 to 30 knots, which they say was nearly a gale, which could have been a contributing factor, but a laymen we do not know. As I said, clause 255 only relates to a chimney stack and winds are not to exceed 20 knots, and this was a building weighing 1,000 tonnes

(The witnesses withdrew)

(The Committee adjourned at 5.21 p.m.)