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Official Report of Debates (Hansard)

Monday 11 April 2011

Journal des débats (Hansard)

Lundi 11 avril 2011

**Standing Committee on
Social Policy**

Occupational Health and Safety
Statute Law
Amendment Act, 2011

**Comité permanent de
la politique sociale**

Loi de 2011 modifiant des lois
en ce qui concerne la santé
et la sécurité au travail

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 11 April 2011

Lundi 11 avril 2011

The committee met at 1404 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Chers collègues, bienvenue et bonjour. Welcome to the members of the standing committee and members of the Ontario public who have come forward to testify today on behalf of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters.

Before we begin our presentations, I will invite a member of the committee to please enter into the record the subcommittee report, for which purpose I will call upon the honourable Paul Miller.

Mr. Paul Miller: Report of the subcommittee on committee business: Your subcommittee on committee business met on Friday, April 1, and Tuesday, April 5, 2011, to consider the method of proceeding on Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters, and recommends the following:

(1) That the committee meet in Toronto for the purpose of holding public hearings on April 11, 12 and 18, 2011.

(2) That the clerk of the committee, with the authority of the Chair, place an advertisement for one day regarding public hearings in the Globe and Mail (Ontario edition), the Toronto Star, the Hamilton Spectator, the Windsor Star, the Sudbury Star and L'Express (if possible).

(3) That the clerk of the committee post information regarding public hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 160 contact the clerk of the committee by Thursday, April 7, 2011, at 12 noon.

(5) That, in the event that all witnesses cannot be scheduled, the committee clerk provide the members of the subcommittee with a list of requests to appear.

(6) That the members of the subcommittee prioritize and return the list of requests to appear by 5 p.m. on Thursday, April 7, 2011.

(7) That groups and individuals be offered 10 minutes for their presentation. This time is to include questions from committee members.

(8) That legislative research provide background material to committee members.

(9) That the deadline for written submissions be Tuesday, April 18, 2011, at 5 p.m.

(10) That legislative research provide a summary of presentations.

(11) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Friday, April 29, 2011, at 3 p.m.

(12) That clause-by-clause consideration of the bill be scheduled for Tuesday, May 3, 2011.

(13) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That's the end of the subcommittee report.

The Chair (Mr. Shafiq Qaadri): Are there any comments, questions, queries? May I take it, then, that the subcommittee report is adopted as read?

Mr. Paul Miller: I'll move that.

The Chair (Mr. Shafiq Qaadri): Thank you. Adopted as read.

OCCUPATIONAL HEALTH AND SAFETY
STATUTE LAW
AMENDMENT ACT, 2011LOI DE 2011 MODIFIANT DES LOIS
EN CE QUI CONCERNE LA SANTÉ
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters / Projet de loi 160, Loi modifiant la Loi sur la santé et la sécurité au travail et la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail en ce qui concerne la santé et la sécurité au travail et d'autres questions.

The Chair (Mr. Shafiq Qaadri): I will now move immediately, then, to our presenters for the day. Just to remind everyone and to re-remind committee members, you'll have 10 minutes in which to make your presentation, and as is always the tradition here, that will be enforced with military precision. Any time remaining

within that will be distributed evenly amongst the parties for questions and comments.

CANADIAN AUTO WORKERS' UNION,
LOCAL 707

The Chair (Mr. Shafiq Qaadri): I now invite Mr. Mesic of the CAW health and safety committee. Mr. Mesic, your official time begins now.

Mr. Emil Mesic: Good afternoon, everyone. Thank you for allowing me to speak today. As indicated, my name is Emil Mesic; I am the CAW Local 707 union health and safety representative and joint health and safety committee co-chair at the Ford assembly plant in Oakville known as the Oakville Assembly Complex.

In the plant, I represent close to 3,000 workers, both production and skilled trades, and I am a full-time representative. I've been doing this job since 2002 in a full-time capacity and 1996 in a part-time capacity. I am also a workers' health and safety centre instructor and recently a CRSP.

The bill, as you know, has the potential to greatly affect workplace safety in Ontario as it amends the Occupational Health and Safety Act. There are a number of issues I'd like to briefly discuss that I think are important for us to hear about, at least for the committee to ponder upon and listen to for a little bit.

The first thing is the politicization of health and safety. This government has been known, I know, to build bridges through discussion. The Tony Dean report and hearings were a very good example of the government going around and listening to the concerns of the different workplace parties in Ontario. But we do know that governments can change. We have been witness to the changes that have happened over the last decade and a half or two decades, from an NDP to a Conservative to a Liberal government as we have today.

Mr. Ted McMeekin: Pretty scary.

Mr. Emil Mesic: Yes.

The truth is that the office of the chief prevention officer and that of the council should be independent because of the potential for governments to come into play that may not have the same focus of building bridges with the community as the one that we have today.

Mr. Paul Miller: Mr. Chair, just a comment.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, you are invited to comment afterward, if possible, please.

Mr. Paul Miller: Okay. A point of order: Can we just keep it to non-partisan? I'd appreciate that.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, that's not a point of order. The individuals of Ontario are allowed to say, within reason, almost anything that they would care to. In this day and age of other folks attempting to control debates and public access, I would invite us to be somewhat different.

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Please continue. I've just added 30 seconds to your time.

Mr. Emil Mesic: Thank you—that being my point on the politicization of the health and safety system.

As a workers' health and safety instructor—I have been one since 1996—I'd like to mention the concern regarding the independence of the Workers Health and Safety Centre and the importance of protecting this very important safe work association.

The Workers Health and Safety Centre is very important in that it provides services in a special way. It provides information specifically—it does to all parties, but specifically to workers. The format of the system, where workers are training workers, is an excellent resource for those worker members of joint health and safety committees who might not necessarily have the same access to information as other members who work for the employer.

Certainly in my days as an instructor for the workers centre, there have been many conferences and training that I have attended that give you a worker's perspective, because one could probably imagine that when it comes to an issue like workplace safety, there are many different avenues of approach to resolving issues. It's important that workers do have this availability, through the workers' centre, to have a voice and to have training done in a way that will help them do their job properly.

I can say that in my own respect, working for a large corporation with very significant and advanced safety systems in the plants that we work in at Ford in Oakville, for example, we don't always come from the same perspective. Quite often you'll have an issue where management's and the union's positions are diametrically opposed. Sometimes the hazard doesn't get looked at; the worker gets looked at.

Without getting into a huge diatribe as to the philosophy of resolving these issues, I must say that the Workers Health and Safety Centre is extremely important, and we need to make sure that it's protected within the new law that's coming up.

Also, just my final point—and I'll be brief, again. The notion of reprisal is one that's very important. I'm sure that other members today will be talking about reprisals. I don't think that the current legislation, as it's going to be presented, does enough to protect workers from reprisal. Again, coming from my own experience, we, on a daily basis, need to ensure that workers understand that they have one of these basic rights, which is the right to refuse unsafe work. Although this right is enshrined in our collective agreements, and there was some discussion about it being changed years ago, we still do have it today. But the truth of the matter is that many people are still afraid to invoke that right for fear of reprisal or retribution. Even in unionized environments this is the case, in some cases. We do investigate these cases from time to time in our own plant, and we have had the Ministry of Labour come in and do investigations on reprisals in our own plant, to the benefit of the worker, actually, through the investigation.

I think that we need to strengthen the law on reprisals and give inspectors the ability to make decisions without

having to refer them to the OLRB, which is a very time-consuming process.

Those would be my major points. I don't wish to discuss very many other things, other than I'd like to thank you for this opportunity, and if you have any questions, I'd be happy to answer them.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Mesic. We have about a minute per side, beginning with the PC caucus. Ms. Jones.

Ms. Sylvia Jones: Thank you, Mr. Mesic. You raised concerns about the thought that the committee may become politicized. Do you have an alternative proposal? Do you want it to stay the way it is? Do you have another alternative? Can you share your thoughts?

Mr. Emil Mesic: Yes. I think that it would be worthwhile to make sure that the chief prevention officer and the safety committee that comes across stay at arm's length from the minister in some sort of way so that it doesn't become—that it becomes a little insulated from the process.

Ms. Sylvia Jones: So a separate board.

Mr. Emil Mesic: Yes, something similar to that.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller.

Mr. Paul Miller: In reference to your politicized statement, you kind of indicated that you have a good rapport with the present government on safety and health, and that possibly the other two parties might not be as up front with you as possible. Is that what you were kind of—

Mr. Emil Mesic: No, sir. I didn't say I have a good relationship with the government. I said that the government, in my opinion, has been building bridges, and I thought the Tony Dean hearings that were going on across Ontario were a good indication of that. I didn't say that the other two wouldn't do a good job. I just indicated that things could change, the operative word being "could," based on different governments.

Mr. Paul Miller: Well, I'm not quite sure—it's kind of a shrouded message, but okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. To the government side. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: First of all, Mr. Mesic, thank you for appearing here today. Your comments are very important to us.

With respect to politicization, the bill requires that the minister is the ultimate person responsible. Any comments on the fact that that would be the way this would work?

Mr. Emil Mesic: I understand that the Minister of Labour is ultimately responsible for health and safety in Ontario, and I do respect that. That's the due process that we do have in the system.

I just think that we need to make sure that the rights are enshrined in such a way that they're more difficult to change, per se. The process being what it is, if there is due course, it has to happen to change the act. But I guess the message I want to get across is that we have to make sure that this chief prevention officer and those who work

with him on the council are protected and can work without having to look over their shoulders, per se, in terms of the work that needs to get done.

Mr. Lorenzo Berardinetti: Excellent point. Thank you.

The Chair (Mr. Shafiq Qaadri): Grazie, Señor Berardinetti. Thanks to you, Monsieur Mesic, for your deputation and deposition on behalf of the CAW.

Mr. Emil Mesic: Thank you.

NONVIOLENT OBLIGATION IN THE WORKPLACE FOUNDATION

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Ms. Lanspeary, the founder and CEO of the Nonviolent Obligation in the Workplace (NOW) Foundation. Welcome, Ms. Lanspeary. I'd invite you to please be seated and please officially begin now.

Ms. Janet Lanspeary: Good afternoon. My name is Janet Lanspeary. I'm the founding director of Nonviolent Obligation in the Workplace, from Windsor, Ontario.

On behalf of the Nonviolent Obligation in the Workplace Foundation, I would like to thank the Honourable C. Sousa, Minister of Labour; the expert panel established to provide recommendations on Bill 160; the Standing Committee on Social Policy; the victims of workplace violence; employers and unions; and everyone who has participated in the journey of Bill 160's creation of healthier Ontario workplaces.

I'd like to read an email that I received from an individual who was concerned about a friend who was currently going through workplace violence. The email read: "I am writing to you in order to find more information about NOW and see if you or your organization can assist in seeking rights for a new Canadian who has been the victim of several assaults by a co-worker and action taken by her company when she asked to be kept safe." This is just an example of what some Canadians go through on a daily basis, being in a situation where they're frightened, where they've gone to their employer, where they've asked to be kept safe. Unfortunately, they continue to be the victims of assaults by co-workers in the workplace. I've heard many similar stories like this. Oftentimes, these victims end up without any justice.

As founding director of NOW Foundation in 2008, and creator of the concept of a non-violent obligation in the workplace in 2005, I have a unique interest and expertise in non-violent governance within Ontario workplaces. I developed the concept of non-violent obligation in the workplace as a response to personally witnessing and experiencing workplace violence. As a result of my experience with workplace violence, I ended up with post-traumatic stress disorder.

Basically, I was battered in the workplace, and there was really, at that time, no recourse and no justice.

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I know I'm not alone in this. I've spoken to many professionals that have gone through the same thing, and this

is why NOW Foundation is so pleased that Bill 160 has come forward, that there are measures being put in place, that there are steps being taken; and we're very grateful for everyone who's participated in this process and bringing about this positive change.

One of the recommendations that I would like to make today to the Standing Committee on Social Policy is that Bill 160 include an integrated approach, one that focuses on education and prevention, not only for employers, employees and unions, but also for police services, hospital services, social services and the justice system as well, because essentially what happens is that when these service providers do not have the education, do not have the understanding, do not know what to do in these situations where they're dealing with survivors of workplace violence, what ends up happening is that the victims become revictimised over and over and over again throughout the system, much like the situation with sexual abuse.

Until people have the education, until people have the knowledge and are able to apply it, we're not really going to get the change that we need or that we want; and so I think we really need to take a comprehensive, integrative approach so the whole community is educated.

We've done a lot of work through conferences, through educational programs down in Windsor, and we'd like to see these programs brought throughout Ontario, of course; and I'm sure everybody else in the room would like to see that. Just this whole idea of working in an integrated fashion I think is extremely important.

The other recommendation that I would like to make is that Bill 160 include a committee of survivors of workplace violence so that they are given a strong voice in the development, implementation and ongoing workplace violence prevention programming associated with Bill 160.

NOW Foundation's heartfelt goal is to assist all Canadians in creating zero tolerance towards workplace violence. I'm grateful for this opportunity to speak with the standing committee today. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Lanspeary. We'll have about a minute or so per side, beginning with Mr. Miller.

Mr. Paul Miller: Hi. A very good presentation; I agree totally with you about harassment and bullying, and violence in the workplace should certainly be addressed. Are you aware that there's nothing in here, really, to address that? Section 50 is what covers harassment, and that they did nothing in section 50 is basically what you're talking about?

Ms. Janet Lanspeary: Right.

Mr. Paul Miller: Do you have any concerns that they have not addressed anything in section 50 which allows an inspector to actually fine for people that report incidents in the plant of safety problems, so there's no reprisals and things like that and threatening, violence and intimidation, that that is not strong enough in section 50 of the bill—

Ms. Janet Lanspeary: I agree.

Mr. Paul Miller: —and they have not addressed this. I'm a little confused; some of the stuff you're talking

about isn't actually in this. This is something which you'd like to see in it?

Ms. Janet Lanspeary: Some of the recommendations that I read did not—for example, even the advisory committee that was established now was—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller. Mr. Berardinetti.

Ms. Janet Lanspeary: Was there a group of survivors—I'll talk with you later.

Mr. Lorenzo Berardinetti: I'll let you continue that question, but I just wanted to mention that we recently passed Bill 168, which that deals with workplace violence, so that's in place pretty recently.

I guess the question that I wanted to ask you was, do you think that covers most of your concerns today and perhaps this bill will have regulations in place or something in place to deal with workplace violence as well?

Ms. Janet Lanspeary: I think that Bill 168 is a good beginning. I do not think it's comprehensive enough. I think it would be certainly advantageous to address this issue as well through this bill.

Mr. Lorenzo Berardinetti: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti. Ms. Jones.

Ms. Sylvia Jones: What role do you see the NOW Foundation playing under Bill 160?

Ms. Janet Lanspeary: Well, I think there's a very unique type of expertise that comes out of experiencing workplace violence, especially for professionals in the community. I think there's an analysis that goes on that just isn't possible for other people who haven't gone through that experience to have that knowledge base. I think this is a way that for survivors of workplace violence, Nonviolent Obligation in the Workplace, can play a role in making sure that there are as many things covered as possible to prevent these sorts of things in the future. Because it's a systemic problem within the workplace but also within society, that's why we have to reach in a very wide way to change this, to educate, to promote health—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones, and thanks to you, Ms. Lanspeary, for your deposition and deposition on behalf of the NOW Foundation.

WORKERS HEALTH AND SAFETY CENTRE

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter to please come forward: Mr. Killham, executive director of the Workers Health and Safety Centre, ably accompanied by Mr. Parkin, managing director.

Mr. Killham, please come forward. As well, just for the purpose of Hansard recording, I'd invite you to please introduce your colleagues. Please begin now.

Mr. David Killham: Absolutely. Thank you very much. With me to my left is Allan Pilkey, who's the director of administration at the Workers Health and Safety Centre; to my right is Loretta Michaud, who is the dir-

ector of information services; and to my far right is Mr. Parkin, whom you've already mentioned, the managing director at the Workers Health and Safety Centre.

Again, thank you very much for this opportunity to address the committee. Just to give you a brief on who the Workers Health and Safety Centre is, the Workers Health and Safety Centre has approximately 65 employees who research, develop, promote and coordinate training programs throughout Ontario for all sectors. Our training is worker-to-worker training, delivered using a network of our worker instructors who have completed our instructor training program, which we believe is the most flexible and cost-efficient training in the entire prevention system. We've delivered more than a million hours of training in the past 10 years. We operate an extensive education program for unions, but the vast majority of our training is bought and paid for by the employer community, and indeed the majority of that training is for non-union employers and non-union workers. Our mission is to deliver the highest-quality training anywhere that we can possibly deliver.

The evolution of the Workers Health and Safety Centre started off with, frankly, the Ham report back in the late 1970s. The Ham report, as many of you will know, found that workers had been denied effective participation in health and safety in the province of Ontario and that, in fact, what they needed was knowledge and contributive responsibility in occupational health and safety. Certainly with the struggle with the Steelworkers up in Elliot Lake, the Ham commission was put forward. Dr. Ham came out very strongly in terms of making sure that there was a need for self-education amongst workers.

Following the Ham commission was Burkett in 1981. Burkett had a general theme, and his theme was jointness—to ensure there should be jointness in everything in terms of health and safety. The mining community at that point in time was, again, the focus of the report. It was suggested that there should be a labour- and management-governed training organization for mines, but in fact labour at that point in time decided that's not what they wanted; what they would like to have seen is a labour organization by itself.

Labour, through the Ontario Federation of Labour, at that point in time started a project called the Workers Health and Safety Centre. Weiler reported in 1983 that he estimated that less than one fifteenth of all workplace-caused cancers were recognized by the WSIB at the time and recommended a formation of an occupational disease panel to research and identify the hazards in relationship to the disease. He also identified that joint health and safety committees were the centrepiece of the internal responsibility system.

As I stated, the vision of the OFL and, at that time, the president, Clifford Pilkey, was to ensure there was an ability for workers to get training by workers and for workers to do training that would help and benefit workers. That was his vision.

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With that, through the OFL, he created the Workers Health and Safety Centre. Originally, it was a project of

the OFL. Then in later years, under the Davis government, we got sustainable funding from the government.

What we did was we developed a base of skilled worker instructors and adult educators with the knowledge of work to deliver the training. In fact, we had trainers in the workplaces who came out of the workplaces or did the training inside their own workplace; who had the innate knowledge of what was happening, could recognize hazards and, indeed, worked with the hazards every day.

Recently, there was a Canadian HR Reporter-poll survey, January 17, 2011. In terms of Cliff's vision about making sure workers have their own voice and are able to get their own voice, this survey by the HR Reporter of January 17, 2011, said that 35% of employer representatives in an organization would tolerate just about any kind of bad behaviour, and I think this is an interesting—this isn't us saying that; this is the Reporter—and that 51% said that their organization would tolerate some misbehaviour, and if the act got too bad, then they would address it. The point being, unless workers have an opportunity to get training that's substantive and real for them, they are basically left to the devices of the workplace. That's the point, from our perspective.

WHSC accomplishments: As an independent and autonomous organization, which we have been for many, many years within the prevention system in Ontario, we've never had to worry much about the different directives. We are today, of course, facing many different directives, and we understand why. We certainly understand the reality of accountability and we certainly understand the reality of propriety, given all the things that have happened in the last little while. But what we've always been leaders on is training worker representatives in the link between workplace hazards and occupational disease; training that workplace violence is a matter for workplace parties, not just the police; supporting worker representatives' involvement in workplace toxic use reduction; promoting the adoption of hazard-based health and safety programs and internal responsibility; warning about enforcement initiatives that drive worker lost-time injury claims underground; warning of the destructive effects of individual responsibility; and addressing the declining training standards for joint health and safety committee certification, which I know has been a topic of discussion—maybe in this room—in the past. It certainly is a huge topic of discussion out there, given that we believe that there are so many workplaces in the province of Ontario that, indeed, are not compliant with the law when it comes to the reality of certification training.

I want to talk specifically about the value of the Workers Health and Safety Centre's independence and autonomy. Our board of directors—and I'm pleased to say that one of our board of directors is actually here today, Nancy Hutchison from the Steelworkers; I believe she'll be addressing you folks later. Our board of directors has discussed amongst themselves and is deeply concerned about the recent efforts which we perceive to be an attempt to erode our independence and our autonomy.

We don't see in this bill, at this point in time, any mechanisms that will give us the ability to speak on behalf of workers in the way our curriculum is developed; in the way that we pursue occupational health and safety training as a hazard-based reality more so than an individual-based reality or a worker behavioural reality.

From our perspective, we've had to fight back at times this IRS—not being the internal responsibility system, but the individual responsibility system—which is certainly at odds with what people in the past, such as Ham, Burkett and Weiler talked about, which is the joint health and safety committee centrepiece, in terms of internal responsibility.

We've seen efforts to curb some of our abilities to work in the north by one of the safe workplace associations. I won't go too far into that, but we have always been across the province of Ontario, effectively delivering health and safety training. We would certainly continue to do that and continue to do it in the way that we've always done it: effectively, efficiently and, frankly, at the lowest cost to all parties.

One of the things that we took umbrage with, and my board of directors certainly took umbrage with, were the comments from Mr. Dean about HSCs being realigned and that we all had to pull in one direction. I would just like to more or less focus on that just for a second. The reality of what we do is to try to be the alternative voice for workers when it comes to workers' health and safety training. I think, again, Dr. Ham, Mr. Burkett and Mr. Weiler tried to identify that as a real need for workers: to have a voice, to have an alternative voice from that of the boss or that of the government.

There was a recent study done—Shifting Gears, I understand it was called—and it talked about missions and results and not command and control. It came from the U of T School of Public Policy and Governance, and what it talked about—in fact, Mr. Dean was one of the primary contributors to the report. It talked about government entities being more innovative and bringing value so that—those organizations actually do a lot of the work that government does so that government doesn't have to do it. It doesn't have to all be on the back of government.

Bill 160's minister's powers do not serve the public, as far as we're concerned. At this point in time, the way we read the legislation, we believe it could potentially end the independent governance and operational autonomy of the Workers Health and Safety Centre. For 30 years we have understood, again, financial propriety. We've understood what it is to ensure that the money that's being spent is spent wisely, spent appropriately and spent for the reasons it was given to us for in the first place.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Killham, to you and your entourage, on behalf of the Workers Health and Safety Centre, as well as for your written deputation.

I would now respectfully invite our next presenter to please come forward: Ms. Diana O'Brien.

That is the full time. I do have digital support to back that up.

MS. DIANA O'BRIEN

The Chair (Mr. Shafiq Qadri): I would now invite Ms. O'Brien to please come forward, who I understand is coming to us in her capacity as a private citizen.

Thank you, Ms. O'Brien. I invite you to please officially begin now.

Ms. Diana O'Brien: Good afternoon. My name is Diana O'Brien, and I work at a Real Canadian Superstore in Milton. That is part of Loblaw Companies, and it's a grocery store. I am also a member of the United Food and Commercial Workers 1000A. I am a member of our joint health and safety committee, a certified worker and the co-chair. I am also an instructor, trained by the Workers Health and Safety Centre. I'd like to share with you an experience that happened to me as I became involved.

To become certified, I was sent to Toronto to take a course which lasted three days, two of which were so-called training; then, on the third day, we would write the test. When we finished our test, we were told not to put it in the envelope but rather to bring it to the instructor, at which point they would look it over, point out errors and direct you to choose the correct answer. You would have to erase your choices and then place your test into the envelope and seal it. This resulted in 100% of the participants passing the test. I left that course with little understanding or knowledge of health and safety or the act.

I completed part 2 of their certification back at my workplace. This was directed by my management. I then became a certified worker, and the store had met its requirements under the act. But as you can see for me, this was wrong, and I'm sure you'll agree.

I needed proper training. My union was able to provide this for me with a program that was provided through the Workers Health and Safety Centre. Since then, I have attended additional courses, training sessions and meetings.

I was able to take part in a session held at the Ontario Federation of Labour with Tony Dean and Vernon Edwards, who were part of the expert panel. We had discussions there, and I thought they were meaningful. I believe one of the themes or focuses of the expert panel was how it is intimidating for workers to rise up against health and safety issues and present these to their employers, especially when workers are non-union or temporary foreign workers.

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Yet Bill 160 now would have it so that either of the joint health and safety co-chairs could solely submit written recommendations to the employers. This process would discourage and intimidate me, as a co-chair, to raise legitimate health and safety concerns. It would be more difficult to make recommendations to the employer: the fear of the members on the joint health and safety committee to support or not support a recommendation, as this would become part of a unilateral recommendation presented by a co-chair.

Secondly, the council to be known as the prevention council does not include representatives of the labour

movement which, in my opinion, should be in equal numbers to those of the employers on such a council.

As I spoke to in the beginning, training is of great concern to me. We need to allow the Workers Health and Safety Centre to remain independent, to meet the needs of the workers, to be able to receive the grants and not be restricted in what and how programs are delivered. The training is to workers from workers, and workers should have a say in their training.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. O'Brien. We have a generous amount of time, about two minutes per side, beginning with Ms. Jones.

Ms. Sylvia Jones: Thank you for sharing your story. Your main concern with Bill 160 is the combination of the committees? You want it to stay status quo? Am I interpreting that correctly?

Ms. Diana O'Brien: The committee—I'm sorry? I'm not sure of the question.

Mr. Paul Miller: The joint committee.

Ms. Sylvia Jones: Yes. Currently, you have the workers' committee, and under 160, that would be combined into one. You don't support that change?

Ms. Diana O'Brien: What I'm concerned about is that the co-chairs can solely make recommendations to the employer, okay? Presently, we sit, discuss and come up with recommendations, which is a part of what we need to do to stop the hazards in the workplace. The intimidation that's going to be there by knowing that once we start that discussion, if members disagree or agree that has to be a part of a recommendation, should the co-chairs so choose to make a sole submission on their own. Presently, it would be a joint recommendation from the committee without them knowing so.

Ms. Sylvia Jones: Okay. Thanks, Diana.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller?

Mr. Paul Miller: I share your concerns about the joint committees submitting separate documents. A committee is a committee, and they decide as a whole.

I don't like an unbalance on the committee, too. I foresee problems if there are more company members on the committee than there are hourly workers. Hourly workers can identify their safety hazards a lot better. I know; I did it for over 30 years in a steel plant. They know what's safe and what isn't on the job. The administrators, or even the foreman, for that matter, are not familiar, a lot of times, with the things you face day to day. So I have grave concerns too, and I share your concern there.

As far as reprisals go, I'll let you know that under section 50 of the present bill—and there's nothing really to address reprisals. I think it's almost less than 1% of any fines that have ever gone out from the labour ministry on employers that have had intimidation problems, intimidating employees. They don't enforce their own rules.

I don't see any of that in here. I don't see any strengthening of that. I have great concerns, as you do, about

intimidation in the workplace. It's not being addressed in Bill 160.

Ms. Diana O'Brien: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Ms. O'Brien, on behalf of the government side, for showing up today. Excellent presentation. I just want to say thank you for your presentation. We are listening to what you have to say.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti, and thanks to you, Ms. O'Brien, for coming forward for your deputation today.

CANADIAN AUTO WORKERS' UNION

The Chair (Mr. Shafiq Qaadri): Now I invite Ms. Sairanen of the CAW, the national director of health and safety, to please come forward.

I invite you to please begin now.

Ms. Sari Sairanen: Thanks very much for the opportunity to submit our views and recommendations on Bill 160.

The CAW represents over 120,000 working men and women in Ontario. We represent workers in the auto manufacturing sector, aerospace, transportation, retail, hospitality, health care, mining, gaming and many others where our members face daily workplace hazards.

The world of work has changed, and it was welcomed when the Dean panel was established to review where we are with the infrastructure of health and safety and prevention in this province. When the recommendations came out, there was great optimism that meaningful change would be made in the prevention system. Our membership has experienced 53 fatalities: That's 53 members' families who have not had a loved one return home at the end of their workday, and thousands of others have experienced painful and often life-altering workplace injuries and, of course, occupational diseases.

The recommendations reflected in Bill 160, we feel, are not showing the clear intent and spirit of the Dean report. I have five key areas that I'd like to highlight to you, and they're also highlighted clearly in my submission, along with proposed changes to the bill. That's for late-night reading.

My first concern is with the extensive powers that are placed in the hands of the chief prevention officer appointment, as well as the prevention council appointment by politicians or a minister. We're deeply concerned about the potential that these powers are to be used in arbitrary ways or for partisan purpose. We are requiring that changes are made dramatically to empower the council—and it is the council that should be the foundation of the prevention system—to ensure that trade unions are represented on this council in at least equal numbers as employers and to protect the independence of the chief prevention officer to guarantee his or her acceptability by the council.

Number two—and you just heard from my colleagues from the Workers Health and Safety Centre as well as the Occupational Health Clinics for Ontario Workers. It is absolutely critical that these key organizations, the Workers Health and Safety Centre and the OHCOW clinics, are respected and that mechanisms are put in place to keep their independent governance and their ability to set their priorities, approaches and philosophy—and to develop the content, services and information that meet the needs of workers. We cannot support this legislation until such written assurances and mechanisms are in place.

The third item is the accumulation of power by senior Ministry of Labour bureaucrats to write law or legislation. We are deeply concerned about the section of the bill that gives directors of the ministry the authority, without any oversight, without any warning, to publish policies that have the force of law. We cannot accept any legislation that gives the government of the day these secret powers.

Number four: Failure to protect workers from reprisal. Vulnerable workers who are victims of reprisal for their attempt to protect their health and safety are not effectively protected by this bill. Workers have the right to participate, know and refuse, and these rights must be powerfully and swiftly enforced. We are particularly concerned that Bill 160 will place limitations on the ability of inspectors to appear before the OLRB and provide testimony and evidence to protect workers.

Finally, placing obstacles to joint health and safety committee co-chair recommendations. As written, Bill 160 provides no relief to worker members on a joint health and safety committee facing stonewalling tactics from the employer side of the joint committee. The power of a co-chair to send a recommendation to the employer must not be subject to restrictions.

These five areas are extremely important to us, to our members and to the opportunity to finally move forward; to preserve, enforce and elevate the health and safety prevention system in this province. Some 53 CAW members have already lost a loved one, and also the families on the Christmas Eve disaster of 2009 lost loved ones. We have a keen responsibility, all of us in this room, to ensure that those catastrophes do not happen again. It's time in history for us to make change, and we look forward to those changes and working with all parties to ensure that there is consistent and regular enforcement in our health and safety system. Thank you.

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The Chair (Mr. Shafiq Qadri): Thank you, Ms. Sairanen. About a minute and a half per side, beginning with Mr. Miller.

Mr. Paul Miller: Thank you for your presentation. I wrote down your concerns, and I share all of them with you. The one I found most fascinating was the 53 fatalities in the auto workers' situation and the lack of response by the government. The fines were minimal at best, and sometimes nothing.

I, in the steel industry, have seen lots of people killed in the steel industry, and there's been very little in the

way of fines or putting the companies in place like they should and making sure that those things don't happen again. A lot of times they're lackadaisical in actually imposing the corrections to the health and safety concerns that are brought forward by joint health and safety committees. That happens on a regular basis.

I, too, am concerned about the power that's put into the hands of the director and his ministerial comrades who will be working with him, along with the minister. The minister can overrule even their decision, so where do the actual workers and the worker committees come into play as far as having any say in the overall process? I'm very concerned also.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. Sairanen, for your presentation. Just one quick point: At the end of the day, with the new bill, accountability will rest now with the minister. So if anything is not working, instead of going through the other systems that are presently in place, the minister, at the end of the day, is where accountability will rest. Do you have any comment on that?

Ms. Sari Sairanen: Well, 53 families have lost their loved ones. So the minister has been responsible for enforcement. That is something that Bill 160 needs to address, to look at and to ensure that the legislation that is in place then is enforced in the workplaces, and that preventive measures are then put into place.

Now that prevention is coming into the Ministry of Labour, there is double the workload, if you want to say that, of ensuring that all workers go home at the end of their shift whole. The minister now gets additional responsibilities, so there's more pressure on that entity to ensure that no families are left without a loved one, without a breadwinner or a caregiver in the family.

That responsibility has already been there with the minister, and it hasn't proven very well. Now we have an opportunity to put the measures in place to ensure that the job is done correctly and that the support infrastructure that is in place is enforced.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti. Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. Just one quick question regarding your first point. You say, "Ensure that trade unions are represented on this council in at least equal numbers as employers." Do you see any opportunity or role for non-unionized labour in that—

Ms. Sari Sairanen: These are appointments, or a trade union, so that's what we enforce and want to see: a trade union being represented. As a trade union we also look after the unorganized to ensure that their role, their voice and their health and safety are protected as well.

Ms. Sylvia Jones: Correct me if I'm wrong: The December 24 deaths were non-unionized?

Ms. Sari Sairanen: Correct.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones. Thanks to you, Ms. Sairanen, for your deputation on behalf of the CAW.

MS. DIANE WINSBOROUGH

The Chair (Mr. Shafiq Qadri): I would invite our next presenter, Ms. Winsborough, who joins us via conference call. Are you there, Ms. Winsborough?

Ms. Diane Winsborough: Yes. My name is Diane Winsborough, and I'm with the Ontario English Catholic Teachers' Association. I'm presenting to you—

The Chair (Mr. Shafiq Qadri): Just before you begin, Ms. Winsborough, this is Dr. Qadri, Chair of the committee. Could you do something on your end with the volume, and maybe we can as well?

Ms. Diane Winsborough: Okay.

The Chair (Mr. Shafiq Qadri): Just introduce yourself as a test of sound quality here.

Ms. Diane Winsborough: Okay. Diane Winsborough.

The Chair (Mr. Shafiq Qadri): That's great. Please proceed. You have 10 minutes. Please begin.

Ms. Diane Winsborough: I'm with the Ontario English Catholic Teachers' Association.

The Liberal government in Ontario has made some great strides for workers and families alike over the years. However, there are some areas which are of concern to Ontarians. Bill 160, although well-intentioned, has some grey areas and inherent flaws which are alarming to activists in the occupational health and safety arena. I plan to list and discuss a few over the next 10 minutes.

The right of workers to choose who delivers their health and safety training is a never-ending struggle when dealing with management. As a member of our joint health and safety committee, we are consistently subjected to training through health and safety organizations which are biased and slanted in favour of management. Our recommendations for training through the Workers Health and Safety Centre are ignored, as management fears we will be trained too well and will be able to run circles around them.

In order to be trained properly, many of our members have opted to take training through the Workers Health and Safety Centre on their own time and without remuneration from our employers. Our union supports us and repays us any out-of-pocket expenses, as they see that this is crucial knowledge to be effective.

This topic of effectiveness brings me to my next point, which is how the proposed Bill 160 curtails the rights of the co-chairs and puts a great deal of power in the hands of the Ministry of Labour and other government bureaucrats. Can you please explain how this gives the worker any sort of empowerment at all? Is it not being aggressive, rather than progressive?

As an occasional teacher, our rights and recognition as professional workers are often challenged in our environment. Often, we are left out of training that is offered to full-time employees as our members fall through the cracks. Where is there any protection given to occasional or part-time employees under Bill 160? We need specific

mention, and I feel this is very important and relevant given that many new jobs being created in our current economy are either part-time or contractual.

I am fortunate enough to be part of a strong, unionized organization, and our joint health and safety committee often faces many roadblocks from management. What about workers who are non-unionized; vulnerable, new immigrant and young workers? How are they protected through Bill 160?

The Ontario Labour Relations Board is not a viable protection for these workers, as the process is convoluted, time-consuming and very expensive, such as trips to Toronto and hiring a lawyer. This is true especially if the worker has been dismissed from their job. Many are also unaware of how to contact an Ontario labour relations officer or that one even exists. How does the bill address this situation?

Workwell audits are also being done away with in Bill 160 and the responsibility going back to the Ministry of Labour. Why is this being done? Workwell audits were very effective. Specifically, how will the Ministry of Labour replace this type of audit?

This being said, many of the part-time and contractual workers are often hesitant to report injuries or any other infractions of health and safety on their worksite as they fear losing favour with the employer and a chance to become full-time or permanent employees. Workers are often blacklisted for being safety advocates, as they are classed as troublemakers by the employer or management.

We cannot allow our workplaces to return to the dark times of the Industrial Revolution, as is the case with many countries in the developing world right now. Being competitive in this economy means working smart and being safe and informed, and it's essential to being productive and competent workers.

I'm proud to say that I'm also an instructor with the Workers Health and Safety Centre and feel committed to education, knowledge and continued learning. I believe the Liberal government, under Dalton McGuinty, has proven that they are also committed to these areas, and this is why Bill 160 must be adjusted to keep the person, worker or family member at the forefront, and not a faceless, nameless bureaucracy.

Thank you for allowing me to speak my piece today.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Winsborough. About a minute and a half per side. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Ms. Winsborough, for your presentation today. I'm just going to ask you a quick question.

This bill in front of us today is just a first step. The government intends on consulting with stakeholders, like yourself, when any regulations are proposed. Do you have any comments on that?

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Ms. Diane Winsborough: How is this being done?

Mr. Lorenzo Berardinetti: Well, the act is not bringing in all of the recommendations from the Dean panel, but the key ones. The government plans to con-

tinue to consult with stakeholders like yourself. If you had to put any changes forward, what would they be?

Ms. Diane Winsborough: The main changes would be for—in my case, anyway—who delivers the health and safety training. It's not specifically mentioned in the bill that the workers have a choice, and even if it is, there's no teeth in there to make it happen. Management still reserves the right to choose who is training workers, and often this training is biased and in favour of management, so the workers are not really being trained effectively. Also, the powers are going to the council rather than the CPO.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti.

Ms. Winsborough, I'll now offer question period to Ms. Jones of the PC caucus.

Ms. Sylvia Jones: Thank you, Ms. Winsborough. I share your concern about how much of the details will end up being in regulation because, as you've touched on in your presentation, regulation can be changed with very little input from not only the public but even the government in power. It just takes a couple of signatures at a cabinet level. So I do raise the same concern you have with regulations.

The Workwell audits: You are the first presenter that has raised that. Do you have any theory as to why they would have been or they are planning to eliminate them under Bill 160?

Ms. Diane Winsborough: No; really, I don't know why they would be. It's been proven to be a very good process, very effective, and this is why I'm questioning why it's being taken out and going back to the Ministry of Labour's office.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones.

Now, to Ms. Winsborough, Mr. Miller of the NDP.

Mr. Paul Miller: Thank you for your submission. You hit on some key points. I'm not quite sure I share your comment about what a great job the government's done on this, but anyway.

The right to choose who delivers safety programs was one of your concerns; powers to the ministry and bureaucrats; Bill 160 doesn't cover part-time workers in offices, as well, and it also doesn't cover farm workers—I think those are some of the points you brought forward. I guess your main concern is the right to choose who delivers your safety programs. I think the new administrator and the person they're putting in ahead of this is going to have too much say. Would you agree with that?

Ms. Diane Winsborough: Yes, I do; definitely.

Mr. Paul Miller: So your suggestion would be that this bill should go back to the table and be re-examined?

I'm very concerned about enforcement. You can write anything you want into the details of the bill, but if you don't enforce your own legislation then it becomes irrelevant, wouldn't you say?

Ms. Diane Winsborough: Yes, definitely; that's very accurate.

Mr. Paul Miller: Thank you for your comments.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller of the NDP, Ms. Jones of the PC caucus and Mr. Berardinetti of the government caucus, and to you, Ms. Winsborough, for coming to us via conference call. That concludes our afternoon with you.

LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter to please come forward: Mr. Mannella of the Labourers' International Union of North America.

Welcome, Mr. Mannella. I invite you to please begin now.

Mr. Cosmo Mannella: Thank you very much. I represent 60,000 workers, primarily in the construction industry. In the interest of health and safety, given the temperatures in here, I will be very brief.

There are three things that I want to touch on:

(1) I think this is an opportunity to address, in very strong terms, the underground economy. Without getting into too many details, we all know the cost of the underground economy both in human lives, human loss, and in financial loss, both to the government and to the economy at large.

(2) I want to put in strong, strong support for labour management committees. The model of labour management co-operation in the province of Ontario is a model that the entire world looks to, in terms of working in the training and development of health and safety programs. Things like the IHSA and labour management training trust funds are a model that everyone looks to, and in fact were way ahead of their time, having been in existence for over 40 years, training workers not only in health and safety, but in the skills required to do their job.

(3) Finally, I want to talk about the mechanism for funding. In Bill 160, there's talk of training workers. We all know that training is the key to providing better health and safety and prevention, but that comes with a cost. We have to ensure that the training infrastructure that already exists through labour management committees' training trusts is supported with adequate funding to do the training and ensure that workers are protected.

Those are my comments.

The Chair (Mr. Shafiq Qadri): Thank you. There's a lot of time for questions, beginning with the PC caucus. Ms. Jones.

Ms. Sylvia Jones: I'm intrigued that you think Bill 160 is going to help remove or lessen the underground economy, because during the second reading debate, many of us raised how it wasn't. Please educate me.

Mr. Cosmo Mannella: I'm not suggesting that it will; I'm saying that it's an opportunity for us to address it in a meaningful way—

Ms. Sylvia Jones: But Bill 160 does not.

Mr. Cosmo Mannella: It does not address it currently. I'm making a pitch here, that in the regulations—in fact, we do have some ideas, which I will be presenting, hopefully, at a later date to the minister, but I left that for another day.

Ms. Sylvia Jones: But you raised the regulation issue again, and as an opposition member, I'm not keen on regulations. We don't have the opportunity that we're having today, with public input to review and look at regulations and try to tweak them to make them better. You think there is some opportunity in regulations. Bless you; you're more optimistic than I am.

Mr. Cosmo Mannella: Our industry will be making some very strong proposals around the underground economy, because our industry is one of the industries that is the most adversely affected by the underground economy.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Thanks for coming. I've had a couple of trades, so I'm well aware of construction. I know that there are things that go on out there, in reference to companies on work sites that, through subtle intimidation, have even gone to points where they've offered—for example, if you don't report an accident or you don't report any safety problems, there might be a Harley-Davidson raffled off at the end of the year. I've seen that happen. Do you feel that that goes on?

You're talking about the underground economy. We're also talking about underground intimidation on the work site. I'm sure you've run across that in your career—where there's a fishing trip up north, and if I report an accident and I'm working alongside you, it intimidates me a little bit if you say, "Well, Paul, it's not that bad. You'll get over it," then five years later I end up with knee problems. Have you ever seen any of that?

Mr. Cosmo Mannella: It does happen.

Let me just say this. The vast majority of unionized contractors with whom I work have an absolute commitment to health and safety and protecting the lives of their workers (1) because they're generally compassionate people and come from the trades themselves, by and large, and (2) because it's an issue of productivity. You spend a lot of time training a tradesperson, and the last thing you want to do is lose them through injury or death.

Mr. Paul Miller: That's good for a unionized situation, but you talked about the underground economy. There are a lot of job sites that aren't unionized, as you well know.

Mr. Cosmo Mannella: We're working on that through our organizing department.

Mr. Paul Miller: That could cause problems.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I just want to thank you for your presentation. The government is listening, and there will be further consultation on this.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Mannella, for your deputation on behalf of the Labourers' International Union of North America.

MR. TONY SISTI

The Chair (Mr. Shafiq Qaadri): I'd invite our next presenter to begin. Mr. Sisti, are you there on the conference call?

Mr. Tony Sisti: Hi. My name is Tony Sisti—

The Chair (Mr. Shafiq Qaadri): Just before you begin, we need to do a little sound quality enhancement, so maybe we can do that on both ends.

Mr. Tony Sisti: Okay.

The Chair (Mr. Shafiq Qaadri): That's great. I'm Dr. Qaadri, the Chair, and you're now before the Standing Committee on Social Policy in Parliament. I invite you to please begin now. You have 10 minutes, firm.

Mr. Tony Sisti: My name is Tony Sisti. I'm the owner of TRS Consultants, a business that I started to address the shortcomings of the health and safety act. In my years at General Motors, I began as a machine operator and eventually became an elected rep in my last 17 years. The General Motors transmission plant that I worked in is no longer in existence, so I had to find another field to get into. Health and safety has been my passion, so that's why I've chosen to become a health and safety consultant.

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I was trained by the Canadian Auto Workers, which I am very proud of, for the past seven years. Through my union, I was afforded the opportunity to be trained in health and safety through the training centre, which is the Workers Health and Safety Centre. I have instructed for them for the past 12 years. I've gained a tremendous amount of experience.

Through some of my experience, I've also sat through some management health and safety-associated programs. Let me tell you, those classes are nowhere near the quality of training—or they're not giving me the tools that I needed to do my job as a worker representative.

I believe that the information and the training provided by the Workers Health and Safety Centre better prepared me to do my job. They believe in prevention rather than reacting to issues.

Bill 160 does not address the reasons why those workers died on scaffolds Christmas Eve. The Tony Dean report addressed it, and Bill 160 did not. In my opinion, that's a shortcoming of this bill.

If we go back years ago, when Elie Martel went around the province to review health and safety, he introduced a report: Not Yet Healthy, Not Yet Safe. Three years later, he went back to see if there were any changes that had taken place and another report, Still Not Healthy, Still Not Safe, was given to the Legislature. Out of that, Ontarians got Bill 208. It addressed the training of workers and their representatives on joint health and safety committees. The next Conservative government, with the stroke of a pen, stripped workers of their rights. In essence, that bill was by far better for workers in the province.

I am really concerned about the shift in power also in this bill from the Workplace Safety and Insurance Board to the prevention council. This council and its appointed czar, the chief prevention officer, will be in charge of numerous parts of the act. Is this move supposed to be neutral or revenue neutral? That's my question. Will the Ministry of Labour's role now be to control the health and safety of workplaces? If you recall, the workers gave

up the right to sue for the current WSIB system that we have in place.

Employers are responsible for financing the WSIB. Taking that money out of the WSIB system and putting it into the MOL: Can you tell me how this will affect the benefits of injured workers? You say it'll be revenue neutral, but will the employers no longer fund this prevention part of the system? If so, will the shortfall come out of the pockets of the taxpayers?

Another concern about the prevention council is equal representation. Equal representation means equal workers. One worker vote on the council does not give appropriate representation or rights to workers. It should be an equal number of workers on that council, and workers are generally concerned about workers. That's why I stress workers should be on that council.

My concern as a safety consultant is that there is no mention of ensuring companies and making employers follow legislation. Simply look at the Lori Dupont Act, which went to [*inaudible*], if you remember, just this past June. On Saturday here in Windsor, we trained 20 workers from all over the city. I know in some of the workplaces, the act still means nothing because people are telling us that they are not getting the training in this act, nor are they seeing the postings of the policies that should be in place. Simply, people are not being trained, and employers are not following compliance.

This act means nothing because a lack of enforcement makes it simply irrelevant. With that, that's my conclusion.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Mr. Sisti. You have about a minute and a half or so per side, beginning with Mr. Miller.

Mr. Paul Miller: Thanks. Hi, Mr. Sisti. How are you?

Mr. Tony Sisti: I'm doing just great. You?

Mr. Paul Miller: Yeah, good. I, too, am very, very concerned about the lack of coverage in this bill for intimidation in the workplace, as well as appropriate fines.

Over the years in the steel industry, over 30 years, I've seen a lot of fatalities. These companies just get a slap on the hand, and a lot of times, they don't follow through on the recommendations of the labour ministry or the WSIB. How do you feel that this bill should be beefed up in section 50 to address the lack of enforcement? It's absolutely astounding, the amount of fines—how low the levels are. I think they've probably been introduced very rarely, if they've been fined, even when there's a fatality. How do you feel about that?

Mr. Tony Sisti: Unfortunately, health and safety law comes into effect after people have been maimed or killed and stuff like that. The enforcement isn't there. I think the MOL inspectors need more power to get the workers back to work. That's one of the things. Also, I think the employers, especially now that I'm doing safety consulting—I'm finding that a lot of them are ignorant of the fact that they have responsibilities. I think through the inspectors and through the Ministry of Labour or the WSIB or whoever it is—they need to contact each employer and explain to them their obligations and what

they're supposed to be doing, rather than just hoping that they don't have an injury or have WSIB deal with a lot of them in the workplace to find out—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Sisti, you're now with Mr. Berardinetti of the government caucus.

Mr. Lorenzo Berardinetti: Hi, Mr. Sisti. First of all, thank you for your presentation, on behalf of the government members here. You mentioned some key points earlier, and we're taking them into consideration, but I'll make one statement that we support health and safety associations such as yours. The bill in front of us today intends to continue to work with associations like yours. Associations like yours are very important to the system that is presently being set up. Thank you.

Mr. Tony Sisti: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Mr. Sisti, you're now with Ms. Jones of the PC caucus.

Ms. Sylvia Jones: Thank you for your presentation. I'm really pleased that you brought up Bill 168 because I was actually involved in that committee hearing as well. There were a number of presentations that talked about the lack of detail in the legislation itself. What I'm hearing from you is that, in fact, that it's now coming through as employers and employees try to figure out how to train for 168. I'm concerned that we're setting ourselves up with a similar situation in Bill 160, where too many details are going to end up being in regulation.

Mr. Tony Sisti: I agree with you.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Sisti, for coming to us via conference call.

UNITED STEELWORKERS, DISTRICT 6

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Mr. Scibetta and Ms. Hutchison of the United Steelworkers, District 6.

Welcome. I'd invite you to officially begin now, please.

Mr. Charlie Scibetta: Thank you very much, Mr. Chairman and fellow committee members. I just want to introduce Ms. Hutchison, to my left, who is our health and safety coordinator for District 6 for the United Steelworkers. On behalf of the United Steelworkers union, we thank you for the opportunity to provide our comments to the committee on Bill 160.

As you may be aware, our union's leadership and membership appeared before the Tony Dean expert panel on numerous occasions during the public consultation sessions that took place throughout the province. We appreciate the work done to date. However, we believe that this is a critical opportunity to improve the occupational health and safety system in Ontario, which is fundamental for workers and their families in keeping them protected from injury and disease.

The Steelworkers represent approximately 70,000 members in the province of Ontario. We represent mem-

bers in all sectors of employment, which include our traditional industries of steelmaking, mining, rubber and manufacturing. We also have thousands of members in sectors such as health care, financial, transportation, forestry, security, the service sector and post-secondary education, to name a few. All sectors and occupations in Ontario will be impacted by the outcome of this proposed legislation.

It is also important for the committee to know that this is personal for the Steelworkers, as it was our members, the miners in Elliot Lake, whose decision to strike on behalf of health and safety led to the James Ham royal commission. The miners discovered that the exposures the employer was subjecting them to—radiation, silica dust and other toxic substances—were causing their early deaths from cancer and other occupational diseases. Elliot Lake was a town full of widows.

It was the findings of the Ham commission that resulted in all workers in Ontario, and ultimately across Canada, being able to benefit when the Occupational Health and Safety Act was proclaimed law on October 1, 1979. The Occupational Health and Safety Act was then placed under the jurisdiction of one ministry, the Ministry of Labour.

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Our members sacrificed their lives for this act, and that's why we're here today. We must ensure the rights of workers are strengthened and not weakened. This is another critical time in history where we can all make a difference in workers' lives.

We will be providing comments on five critical areas of concern in Bill 160 that, if amended, would make a dramatic and positive impact on the health and safety system in Ontario and ultimately the quality of life of thousands of workers.

Our first area of concern is the exclusive powers of the minister. Bill 160 places extensive powers in the hands of politicians, specifically the Minister of Labour. This power will include appointing the chief prevention officer and prevention council. We are concerned about the potential for these powers to be used in arbitrary ways that will hurt workers or the organizations that we depend on. Specifically, we're speaking to sections 4 and 5 of the bill, as well as all of section 8(2). Those provisions of the bill dealing with powers of the minister need to be rewritten so it is the chief prevention officer who has those powers.

We require changes that dramatically empower the prevention council and that ensure trade unions are represented on the council in at least equal numbers as employers and other members. Worker members of the council must be from trade unions appointed through the Ontario Federation of Labour.

The proposed prevention council was viewed as a means for stakeholders to have a meaningful role in the prevention system and to be involved in such issues as development of priorities, prevention strategies, development of standards, and setting key performance indicators.

It was envisioned that the council was to work with the chief prevention officer on any proposed changes to the system design, funding and delivery. The role of the council must not be simply a token. However, by having the powers invested in the minister rather than the chief prevention officer, we feel this may be the case.

Our second area of concern is the failure to protect workers from reprisals by their employers. Workers who are victims of reprisal for their attempts to protect their health and safety are not effectively protected by this bill. Ontario workers have the right to participate, know and refuse, and these rights must be powerfully and swiftly enforced. The expert panel supported that. Currently, the Ministry of Labour inspectors have no role in the reprisal complaints process in section 50 of the act. All they are directed to do is hand the worker a pamphlet from the Ontario Labour Relations Board. They have been directed not to write orders or charge an employer for their actions against a worker under section 50. This is shameful.

The intent of the expert panel was to give workers a chance if they suffer from a reprisal for trying to exercise their rights under the act—a chance the four dead migrant construction workers would have liked to have on Christmas Eve 2009. Maybe if there had been a real section 50 in place with some teeth and some enforcement, they would be alive today. There must be a meaningful role for inspectors with a section 50 complaint. Give them the power to reinstate pending an investigation or hearing.

We are particularly concerned that Bill 160 will place limitations on the ability of inspectors to appear before the OLRB and provide testimony and evidence to protect workers. We ask that you remove the section in Bill 160 that would make an inspector not competent to be a witness at a hearing on a reprisal complaint. This completely undermines the intent of the expert panel on the issue of improving the reprisal protection for workers. You can't strengthen a system if workers have no voice when they fear for their jobs.

Number three, undermining the legal authority—the power of Ministry of Labour senior bureaucrats to write law: We are at a loss as to why the government is handing Ministry of Labour directors the ability to make law—directors being able to create legislation that bypasses the cabinet and Legislature. We're concerned that there's a serious hidden agenda here, and we cannot accept any legislation that gives the government of the day these secret powers. Try to realize how far-reaching this is. Directors of the ministry would have the authority, without any oversight or any warning, to publish policies that have the force of law. We are shocked that the government would allow bureaucrats to write law on their behalf. This section of the bill must be removed. It is setting a dangerous precedent for you and for workers.

A fourth area of concern is a lack of worker power when the internal responsibility system breaks down—placing obstacles to joint health and safety committee co-chairs' recommendations. As written, Bill 160 provides no relief to worker members on joint health and safety

committees facing stonewalling tactics by employers. In workplaces with 20 or more workers, employers are required to have a joint health and safety committee. In principle, the joint health and safety committee is to be an integral part of the internal responsibility system. The committee has the power to make recommendations on health and safety issues to reduce workplace injury and illness, yet many employers are determined to undermine the role of the joint health and safety committee and block recommendations from the committee that would keep workers safe and healthy.

The expert panel recognized this and recommended that the Occupational Health and Safety Act should be amended to allow a co-chair of the joint health and safety committee to submit a written recommendation where the employer has been blocking recommendations. Amazingly, the employer retains the right to say no.

Under this bill, these new requirements require the co-chair to write a comprehensive report in addition to the recommendation. This is unacceptable. These provisions can be found in section 7 of the bill. Subsection 19.2 must be deleted.

The vision of James Ham's internal responsibility system wasn't to make workers jump through hoops; it was to give workers a right to participate and a right to have worker representation while doing so. This piece of Bill 160 goes against the intent and spirit of what workers require: a collective voice without impediments.

Our fifth and final area of concern: the threat to the autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers. It is absolutely critical that these key organizations be respected and mechanisms put in place to protect their independent governance. They must retain the ability to set their priorities, approaches and philosophy, and to develop content, services and information that meet these needs and the needs of workers.

The expert panel recognized the current shortfalls in the act relating to training for both workers and employers. The Workers Health and Safety Centre has a history of providing comprehensive and strong training throughout Ontario. It has literally trained hundreds of thousands of workers and employer representatives during its existence. The success of the centre model and its programs must not be compromised. We will not accept or support a bill that will allow threats to the Workers Health and Safety Centre. The centre's work has prevented countless injuries and fatalities, and must continue to do so.

Finally, if our sick and dying miners in Elliot Lake had had an organization to go to like the Occupational Health Clinics for Ontario Workers, perhaps some of them would still be alive today. Tragically, thousands of workers still die every year from occupational disease and cancers. Prevention will be the key to the elimination of these slow and painful deaths. The OHCOW clinics play a monumental role in this and should be commended for the work they do with victims, their families and the joint health and safety committees.

Let us repeat that these organizations must be respected and protected to ensure their independent governance and ability to set their priorities, approaches and philosophy, and must remain strong and intact to meet the needs of workers and employers.

In closing, your government has a moment in history to make the positive change required to improve and save the lives of working people in Ontario. I hope you don't let this opportunity pass you by.

Thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Scibetta, for your precision timing on the remarks and for your presence today on behalf of the United Steelworkers.

MR. ROLLY MARENTETTE

The Chair (Mr. Shafiq Qaadri): I invite our next presenter, Rolly Marentette, who's coming to us via conference call.

Mr. Rolly Marentette: Yes, good day. My name is Rolly Marentette. I'm the chair of the Windsor and District Labour Council health and safety committee.

The Chair (Mr. Shafiq Qaadri): Thank you. You've got 10 minutes to present. Welcome to the social policy committee: Dr. Qaadri, Chair. Please begin.

Mr. Rolly Marentette: Before I begin, I would like to basically explain a little bit about my background. I spent 35½ years working for Chrysler Canada before retiring in 2004.

During my working life, I did many jobs. In 1968, when I was first hired, I worked in the maintenance department, cleaning offices and the nooks and crannies of the assembly plant. I worked in areas that contained asbestos, and worked with slow-stripping chemicals that took the skin off my hands. At the time, I wasn't told what they were, and the employer didn't have to tell me.

I soon transferred to the engine plant, where I worked in machining, and I operated grinders, boring and drilling machines that used cutting fluids or honing oil. This produced a curtain of foul air hanging in my breathing zone and covered me from head to toe. The air was so full of smoke, mist and oil, it was difficult to see.

I also spent time on the assembly line in jobs that forced one to bend like a pretzel or work in other contorted positions that continue to cause me physical pain to this day.

This was my experience before 1979, when the Occupational Health and Safety Act was enacted, and before 1988, when WHMIS became a reality. This was also before I had any health and safety training.

I became a full-time CAW health and safety trainer at Chrysler in 1992, and spent many hours instructing workers. I also volunteered to train in health and safety in high schools in the community in Windsor-Essex. Since retiring, I've been doing the health and safety class for the unemployment centre here in Windsor the second Friday of every month.

As the chair of the health and safety committee, along with members of the committee, we provide training for

many union and non-union workers on a continuing basis. As recently as this past Saturday, we trained 20 participants in workplace violence training for workers whose employers are not providing it or addressing their complaints in their workplaces.

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My last four years, from 2000 to 2004, I was a regional ergonomic representative for all Windsor Chrysler Canada operations. My responsibility was to work with engineers to design new products and with vendors who made the parts used in assembly. The ergonomic committee at Chrysler allowed us to make workstations adjustable and worker-friendly. We saw a dramatic decrease in injuries because we were eliminating the hazards of bad work design instead of blaming it on poor work habits.

In Ontario, over 40% of reported injuries are soft tissue injuries. Imagine if we had legislation that made joint ergonomic committees mandatory and they had to address the hazards.

My experiences as a trainer and ergonomic representative afforded me the opportunity to speak directly with the people most affected by the hazards on the job: front-line workers and supervisors. In fact, because these responsibilities carried with them a need for certain expertise, this meant I also spent many hours taking training.

Through the years of training I've received, this has been a mixed bag. The ones that have given me the best tools to do my job were those who encouraged discussion and used examples of real-life work experiences, worker to worker. The least effective were the videos with true or false questionnaires. I couldn't imagine using smart phones, Twitter or other impersonal training methods.

As an instructor with the workers' centre and a frequent user of the Occupational Health Clinics for Ontario Workers, I have access to research that explains the hazards and effective means to deal with them. The worker-centred courses are designed with input from workers who have experience dealing with particular hazards, which are then shared with workers across the province.

When Dr. James Ham presented the idea of the internal responsibility system, he saw this as a crucial step for major change in Ontario workplaces. He saw the benefit for both workers and employers in giving workers the opportunity to use the knowledge gained from many years of on-the-job experience. He also saw the fairness of those exposed to these hazards having a strong voice at the table. To share the vision of Dr. Ham, it's imperative that worker representatives have access to the best available resources.

I'm concerned that the workers' centre and the occupational health clinic's ability to provide us with those resources could be jeopardized unless their autonomy is ensured and strengthened through Bill 160. All joint health and safety committee members must have standardized certification training with annual renewals. Workers must also have the choice of the training organization enshrined in the act. Training criteria for workers

must be defined in the legislation as to content, delivery method and length, with regular reviews and updates.

Too many employers promote behaviour-based training; that is, the worker's bad habits, poor lifting techniques, carelessness, not paying attention, accident proneness, and bad luck are part of this belief. Well, bad luck might be an excuse when you don't win the lottery, but it's not the reality. Contests and other workplace programs that discourage injury reporting should be outlawed and punishable by escalating fines for each subsequent charge.

Supervisor training should be mandatory; imagine, many of the union representatives speaking up for supervisors. Through the years, I've met many supervisors who had not had any training in their duties under the act. For those who have, they are often caught in the middle of trying to comply with the legislation and keeping upper management happy when trying to do the right thing. They don't know about section 50. Even if they did, section 50 of the act, which speaks about reprisals, has no teeth. Workers roll their eyes and laugh when this is mentioned. Worker after worker reads stories of threats, suspensions or layoffs after work refusals, or firing after reporting an injury. Going to the Ontario Labour Relations Board is a long process and most workers give up before completion. Driving to Toronto for hearings, taking time off from their new employment, and lack of representation for non-union workers are a deterrent. Giving ministry inspectors more powers to address these issues would make more sense.

The makeup of the advisory council is troubling to me. Dr. Ham respected the workers of Ontario enough to ensure that they had the right to participate through joint health and safety committees. He not only had respect in mind, but also the wisdom to guarantee that workers would have representation on those committees. Why would the advisory council be any different? The most effective workplace health and safety committees have proven that this is a winning formula for workers. Isn't this about workers? Isn't this about progress?

Under Bill 208, the Peterson government in 1990 established the agency, which had an employer chair, a workers' chair and was 50-50 in composition. Bill 208 also emphasized accreditation, which is based on best practices of prevention instead of being driven by statistics, as we are now. Why not use this experience as a model?

In closing, although the fatalities of the workers in December 2009 were the precursor of the Dean report, I didn't need this as a wake-up call. It was with dismay that I sat and listened to the debate in the Legislature during the first and second reading of Bill 160. Speaker after speaker stood up and boasted about Ontario's great record of health and safety. Obviously, a lot of this is based on statistical information and not personal experience. Since 1990, I've chaired the local National Day of Mourning committee and dealt with many survivors. I remember the family of Jamie Barker, who died as a result of a scaffolding malfunction on the Ambassador Bridge here in Windsor. I remember Brenda Dietrich,

whose 18-year-old son was crushed to death in a conveyor system as a result of employer neglect on his third day on the job. I remember Cindy Libby, a single mother who was crushed and killed by a roll of steel. I remember Claudio Cardoso, who was killed when a steel racking system collapsed on top of him. Claudio's wife, Veronica, must now raise two little boys on her own. Recently, Ed Madigan, another Windsor worker, was killed when pinned by a forklift, and his family will be laying the wreath at this year's National Day of Mourning ceremony. These and other victims cry out for justice.

This is the first comprehensive review of the Occupational Health and Safety Act in 32 years. By God, let's get it right.

Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Marentette. I've got 20 seconds a side. Ms. Jones.

Ms. Sylvia Jones: I'll just thank you for your presentation, Rolly.

The Chair (Mr. Shafiq Qadri): Mr. Miller?

Mr. Paul Miller: I feel like I know you personally. That was a good presentation, and I agree with you.

The Chair (Mr. Shafiq Qadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Mr. Marentette, thank you for your excellent presentation. We've taken notes and appreciate your comments today.

Mr. Rolly Marentette: Thank you.

The Chair (Mr. Shafiq Qadri): And thanks to you, Mr. Marentette, for talking to us. Thank you very much.

ONTARIO NURSES' ASSOCIATION

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter to please come forward: Ms. McKenna and Mr. Walter of the Ontario Nurses' Association. Welcome. I'd invite you to please begin now.

Ms. Vicki McKenna: Thank you, and good afternoon. My name is Vicki McKenna. I am a registered nurse and the first vice-president of the Ontario Nurses' Association. With me today, to my left, is Lawrence Walter, and he's ONA's government relations officer.

ONA is Canada's largest nursing union. We represent over 55,000 registered nurses and allied health professionals, along with 12,000 nursing student affiliates who provide quality care each and every day in hospitals, long-term-care homes, our public health units, the community, clinics and in industry.

I want to acknowledge the government's success in driving significant occupational health and safety progress in the health care workplaces in Ontario, with examples such as safe needle legislation, violence prevention and a special health care safety unit in the Ministry of Labour. We have seen enhanced enforcement in the health care sector, demonstrated by increased orders and prosecutions affecting general and specific deterrents, that has raised health and safety consciousness in our sector.

While ONA acknowledges this progress, it's not perfection. Our members still suffer violent attacks

causing serious injury, and unprotected tuberculosis and other exposures, causing disease that workers bring home to their families. Employers still do not report critical injuries, and there are unprotected exposures to health care toxins, examples of which include chemotherapeutic agents, drugs and anaesthetic gases.

The expert panel followed an outcry for enhanced enforcement after tragic workplace fatalities. Hard work by stakeholders produced a consensus report with recommendations that ONA endorsed.

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The major accomplishment of the expert panel was the broad consensus that prevention be moved from the Workplace Safety and Insurance Board and a new entity, the chief prevention officer and chief prevention council, be set up in the Ministry of Labour. This consensus was hard-won.

In the spirit of progressing to safe and healthy workplaces, labour made concessions which included abandoning its call for an independent, stand-alone prevention agency on the understanding that the new entity would be semi-autonomous. Labour argued that increased worker power is needed to make workplaces safer and healthier, but in the spirit of progress, settled for what was offered: a new power for the joint health and safety committee co-chair to send written recommendations to the employers.

We are pleased that the bill set up the new CPO and CPC, and provided for the Office of the Worker Adviser representation for unorganized workers. However, parts of the bill actually contradict the quality and the spirit of the expert panel's recommendations and threaten to undermine the consensus won by stakeholders.

ONA has five main concerns with Bill 160 as written, and we have outlined them in our written submission. I will summarize those today.

First is our concern related to the accumulation of power by senior Ministry of Labour bureaucrats to write law. We are deeply concerned about section 3 in the bill that gives directors in the ministry the authority, without any oversight or warning, to publish policies that have the force of law. We cannot accept any legislation that gives the government of the day these unnecessary powers.

Second, we identify the failure to protect workers from reprisal under section 13 in the bill. Vulnerable workers who are victims of reprisal for their attempts to protect their health and safety are not effectively protected by Bill 160. There was broad consensus that the reprisal section of the act needed to be enforced, but the bill actually accomplishes the opposite, establishing blatant barriers to investigation and enforcement of violations. The interim prevention council's suggestion to allow inspectors to testify only if they have direct evidence of an offence does not resolve our concerns.

Third, we believe that Bill 160 places obstacles to joint health and safety committee co-chair recommendations. The Dean report called for expanded powers to write recommendations, yet the bill establishes additional restrictions on a co-chair to send a recommendation to the employer.

Fourth, the health and safety system is politicized by placing extensive powers in the hands of politicians, not protecting the political independence we expect of a new CPO and not ensuring trade union representation, as promised by the Dean report.

Fifth, we are concerned about the threat to the autonomy of the Workers Health and Safety Centre and the Ontario health clinics for Ontario workers. Mechanisms are needed to protect their independent governance and operation.

Finally, it is ONA's members' workplaces which are decades behind in health and safety practice. There is so much at stake that our members paid the ultimate price that underscored the need for the precautionary principle in occupational health and safety. As Justice Campbell so eloquently explained, health care is "dangerous ... like mines and factories."

Until the Campbell commission report and the government's subsequent actions, there was little attention paid to occupational health and safety in our health sector. Now it appears that Bill 160 is being used as an opportunity to open up the act to accomplish other than what the expert panel recommended. As we approach what would have been Justice Campbell's 69th birthday, it would be more fitting if we were going to reach beyond the panel's recommendations to use this opportunity to pay tribute to him, to honour his legacy and to ensure that, as he suggested, "the precautionary principle, which states that action to reduce risk need not await scientific certainty, be expressly adopted ... by way of inclusion, through preamble, statement ... or otherwise, in the Occupational Health and Safety Act" itself.

We do not believe that the provisions of Bill 160 that we have identified reflect the government's otherwise demonstrated commitment to Justice Campbell's legacy and to worker health and safety. We urge the standing committee to consider amending the bill, as we have highlighted.

We've come a long way in the health care sector. Now is not the time to reverse any progress.

The Chair (Mr. Shafiq Qadri): We have about a minute per side, beginning with Mr. Miller.

Mr. Paul Miller: That was an excellent presentation. I just want to ask you: Obviously, in the medical field, the inspectors who are assigned to come in and look at safety and health problems in the hospitals or long-term-care facilities—do you feel that they are qualified? Do they come from a medical background or are they just reading a handbook? How do you feel about that?

Ms. Vicki McKenna: What we know is that there has been some additional training to support some of the inspectors coming into the health sector. The health sector is like brand new ground for many inspectors, and the background is not there. That's why we were so encouraged when there was actually a division or a sector set up within the Ministry of Labour and that there was some progress being made.

Mr. Paul Miller: Because it's a new field, you probably are going to end up feeling the same frustration

I have for 30 years: that they lack meat when they do come.

Ms. Vicki McKenna: Yes.

Mr. Paul Miller: Sometimes they get overridden, and the reports that they put in somehow don't end up resulting in fines or any positive actions taken. I hope you don't have that—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. McKenna, for your presentation today.

Mr. Paul Miller: He cut you guys off that quick.

The Chair (Mr. Shafiq Qadri): Mr. Miller, I'd respectfully ask for less intimidation in the workplace.

Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I just want to thank Ms. McKenna and Mr. Walter for appearing here in front of the committee. We are taking notes, and you made a very thorough presentation. We thank you for that and, on behalf of the government side, we thank you for being here today.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti. Ms. Jones?

Ms. Sylvia Jones: Thank you for your presentation. You are the first presenter who has brought up the precautionary principle, which I find intriguing. Are you aware of any other legislation where the precautionary principle has been inserted?

Ms. Vicki McKenna: Well, the Health Protection—what are you saying, Lawrence? Sorry?

Interjection.

Ms. Vicki McKenna: The Health Protection and Promotion Act, yes, but we need it here too.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qadri): You have concluded, Ms. Jones?

Ms. Sylvia Jones: That was my question.

The Chair (Mr. Shafiq Qadri): Thank you very much to the committee members, and to you, Ms. McKenna and Mr. Walter, for coming forward on behalf of the Ontario Nurses' Association.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair (Mr. Shafiq Qadri): I understand our next presenter is available. Mr. Chera, are you available? Yes. I invite Mr. Chera to come forward on behalf of the Canadian Federation of Independent Business and invite you to please begin now.

Mr. Satinder Chera: Thank you, Mr. Chair. My name is Satinder Chera. I'm the vice-president with the Canadian Federation of Independent Business. I appreciate this opportunity to appear before the committee today in respect of Bill 160.

Let me first start off by saying that we agree in principle with the direction that the government is headed in with Bill 160. One of the concerns that we raised with Mr. Dean during his deliberations last year was the fact

that the current occupational health and safety system is so disjointed that no one really knows where it begins and where it ends. Certainly the small businesses that I represent have often made the point that, one, they're not quite sure where they are supposed to go to get the information that they require, and even when the information is brought to them, it's not very clear or issue-specific or business-specific. In fact, on the right side of the kits that are before you, the presentation we gave to Mr. Dean certainly talked about the challenges that small businesses face with the Occupational Health and Safety Act.

One of the areas that we have also raised—and this was something that Mr. Dean picked up on—is providing support to businesses in terms of the training cost. There's often this myth out there that small businesses don't train. Well, in fact, a study that we did a number of years ago concluded that small firms spend about \$18 billion a year in Canada on training their employees, and they do that for obvious reasons. One is to grow their staff, health and safety, and to retain them.

But of course, costs continue to rise, and one area that Mr. Dean certainly noted in his recommendations that government should take note of is to potentially provide a tax credit to businesses in terms of helping to offset some of the costs that are associated with the Occupational Health and Safety Act. We think this is very much something that the government should be looking at in terms of moving forward on Bill 160. We hope that, in your final report, you'll strongly recommend that at the very least the Minister of Labour review this recommendation. It would certainly go a long way in helping small firms.

The other area that we're worried about, of course, is the regulatory burden this places on businesses. I fully appreciate the fact that a lot of the nuts and bolts will be ironed out as part of the regulations that will accompany this legislation, should it pass in the future. But we would ask the committee to again take note of the fact that the government, through its Open for Business initiative, has made some strong progress in terms of reducing the burden on small firms—not alleviating them of their health and safety obligations, but certainly allowing them to run their businesses in a way that doesn't overburden them but allows them to support their employees.

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One of the areas that we would strongly recommend you also take note of is that, as part of the changes that are being contemplated, it not add an additional burden on small firms. Again, as I read through the legislation, there are various areas that are noted specifically with respect to training and ensuring that employees are fully trained when they get to the business. I guess it obviously brings up the concern that employees come and go. How would businesses track, how would they report and what would be the cost associated with this? There are virtually millions of Ontarians right now who are working. How would we ever track that? How would we get that system up and running?

Thirdly, system costs: It has again been noted by the Minister of Labour that as a result of these changes, the

obligations that employers currently have to the system under the WSIB, their costs will not go up. Certainly, this is very encouraging, but, going forward, it is something that we'll be watching very carefully because, with the addition of the prevention officer, we are worried. Is this going to turn into another bureaucratic nightmare, one that's going to eat up a lot of the funds that businesses provide to the WSIB, which are now going to be used by the Ministry of Labour in terms of prevention activities? It is our full expectation that each and every cent that comes over from the WSIB will be spent on the prevention front and prevention support to businesses, which they pay for through their WSIB premiums.

Finally, I would say that one of the areas that Mr. Dean talked about as part of his report was viewing this area, occupational health and safety, through a small-business lens. Again, it was very encouraging to hear that there is recognition that there is no one-size-fits-all, that businesses do differ: big, small, they are very different in terms of their expectations, their capacities, the costs that they're able to manage. We would hope, as part of the committee's final recommendations and final report, that the committee pick up on that very sensible note that Mr. Dean noted in his report, which is that a small firm certainly will require additional support, additional help.

Mr. Chair, with that, I would be happy to take any questions the committee might have.

The Chair (Mr. Shafiq Qaadri): Thank you. About a minute and a half per side, beginning with Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Mr. Chera, for your presentation.

The expert panel has recommended the creation of a section 21 committee for small businesses. This will directly support the needs of small businesses. Can you just expand, in the short time that we have, on any other ways that we can support small businesses?

Mr. Satinder Chera: Thank you for raising that point. We have some members that are part of section 21 committees, in the construction area, for example. Certainly, their initial response is somewhat cautious. How is this new section 21 committee on small business going to affect the work that other committees are currently undertaking; for example, small business representation on those committees, and will they now come over to this new committee? Will small firms still be a part of those committees? Is this going to be another layer of duplication? There are a lot of unknowns right now in terms of how this new section 21 committee would work and operate.

As I say, the early feedback we've received from some of our members is cautious, because they're not quite sure how it's going to replace the current ones.

Mr. Lorenzo Berardinetti: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Jones, please.

Ms. Sylvia Jones: You are not the first person who has raised with me the tax break for businesses that do the training. The chambers of commerce that operate in my communities have raised it a number of times. I'm

wondering if there are examples that you could leave with the committee of other jurisdictions that have approached the tax break for businesses that do that training.

Mr. Satinder Chera: Certainly in Canada there is no such tax feature in place, but I would note that there are other jurisdictions, and we're witnessing as part of the federal election campaign each party having their own form of tax credit that they're providing to businesses, whether it be hiring full-time employees or hiring youth, for example, in their business, in terms of offsetting their EI premiums for at least a year, to get young people and others into the workplace. I think that might be a nice way to at least look at how a potential structure might work. That certainly has come up before—how we would potentially manage that sort of a tax credit. And I would argue that there are other examples.

In the mid-1990s, the federal government very successfully put in place an EI hirer's credit, which—

The Chair (Mr. Shafiq Qadri): Thank you. To Mr. Miller, please.

Mr. Paul Miller: No questions.

The Chair (Mr. Shafiq Qadri): Thanks to you, Mr. Chera, for your deputation on behalf of the Canadian Federation of Independent Business.

CANADIAN AUTO WORKERS, LOCAL 88

The Chair (Mr. Shafiq Qadri): We have one conference call that is unavailable. Therefore we'll move to our later presenters, if they are available: Mr. Borthwick and Mr. Wright of the Canadian Auto Workers, Local 88. Thanks, gentlemen, for coming forward earlier than scheduled. I'd invite you to please begin now.

Mr. Jamie Wright: Thank you for the opportunity to present to the social policy committee on Bill 160. My name is Jamie Wright. With me, to my left, is Dan Borthwick, who is the president of CAW Local 88. I am a worker member and a certified worker member of the joint health and safety committee at the CAMI assembly plant in Ingersoll, Ontario. We represent close to 2,700 workers. I also chair the health and safety committee for the CAW. At the CAW, we represent over 120,000 workers in the province of Ontario.

We have some concerns about Bill 160 and the way it is laid out. We don't believe that it addresses all of the root causes of the December 24 injury, or the almost 500 other workplace fatalities that have been reported in Ontario last year. I join with the majority of other concerned workers in the province of Ontario, who expressed some similar concerns to Bill 160 that we've heard today: (1) the politicization of the health and safety system; (2) the threat to the autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers, known as OHCOW; (3) the accumulation of power by senior MOL bureaucrats to write law; (4) a failure to protect workers from reprisals; and (5) placing obstacles to joint health and safety committee chairpersons' recommendations.

Keeping those five points in mind, I'd like to focus most of my presentation today on number four, the failure of Bill 160 to protect workers from reprisals, in reference to recommendations 33 and 35 of the Dean report.

We know that workers' health and safety training, developed and trained by workers—we know that as peer-to-peer training. I'm proud to say that I'm also a certified instructor with the Workers Health and Safety Centre. They've given me the knowledge over the last 20 years to be a health and safety rep in my plant for that period of time. We know the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers have been key to the success, and it's crucial that they maintain their present autonomy and be able to function and represent workers in the province of Ontario.

I have an issue in my plant over a material safety data sheet, and I was able to send that information to the OHCOW clinic. While I was sitting here, they sent me back a technical response on the exposures of the workers I represent. If they weren't here, who would I call? Who would I get a non-biased worker perspective from if that didn't happen?

This foundation is only as strong as the enforcement. Without strong enforcement, the foundation will sooner or later crumble under the pressures. This is true for workers we see who have received education and training in health and safety but are unable to exercise that educated right for a safe workplace.

Let's consider for a moment a worker or a worker member of a joint health and safety committee who is under constant threat of losing their employment, being intimidated, threatened or coerced for identifying safety issues. Let's be blunt: Employers will threaten a worker's livelihood for raising a safety issue in the workplace, effectively silencing those workers until it's too late and they're silenced forever. This happens on a daily basis in the province of Ontario.

Section 50 of the Occupational Health and Safety Act is supposed to provide us that protection as workers on the shop floor. We have two options: We can file a grievance if we unionize, or we can file a complaint to the Ontario Labour Relations Board. Let me say, in the strongest terms: I would suggest, at present, that this section of this act is the least effective piece of legislation in the Occupational Health and Safety Act as it sits today. I would suggest that either filing a grievance or filing a complaint through the Ontario Labour Relations Board is not enough of a deterrent to the employer. This is further compounded if it involves a young worker, an immigrant worker, a precarious worker; they do not have the resources to file a complaint with the Ontario Labour Relations Board.

1600

A Ministry of Labour inspector cannot issue any type of order under this section or prosecute under this section. In my 20 years of experience, I did find one inspector who tried to prosecute under section 50, only to

be turned down by the Ministry of Labour, and it was thrown out of court. On the last day of appeal, the NDP critic stood up in the House upstairs, challenged the Minister of Labour at that time, and she only said that it was an employee relations matter and the issue was thrown out of court. I disagree with that approach.

I don't know if anybody in this room has tried to file an application with the Ontario Labour Relations Board, but if you go on their website, you look for the OLRB unlawful reprisal application under section 50. It's described in information bulletin number 14 under "filing the application." It describes in explicit details the need to provide copies, timelines to be followed, and what has to be delivered to the different parties, including the Ontario Labour Relations Board. It's a very legalized process, and the average worker, I would submit, does not have that available to them to follow that process. A very simplified process needs to be developed that is user-friendly. Presently, the process puts most of the responsibility for filing a complaint on the worker. The responsibility for defence and proof needs to be placed on the employer, not the worker.

Finding the above documents on the Ontario Labour Relations Board website was a task. I would suggest that the ministry look at putting links to simplify that process on their own website. The application process could be made electronically so that all parties are notified. This would save the worker the cost of copying and the postage, which they have to pay for themselves, not to mention that the process is only conducted in Toronto and this is an unreasonable expectation and deterrent for a worker making an average wage who has most likely just lost their job. How can they afford to file the complaint and see the process through? This deters workers from seeing the process go through.

The hearing process needs to be more accessible to the workers throughout the province of Ontario. The hearings officer needs to be accessible to the various communities other than Toronto. Previous practice for health and safety appeals—they did come into your community and it was easily accessible; and again, the use of some technology and some video conferencing.

If the government is to be serious about revising the protection of workers' rights, section 50 needs to be changed forthwith and internal policies need to be adopted within the ministry. Bill 160 does not go far enough in protecting workers from reprisals.

I come here today also with a proposed solution. If you want to turn to page five of my submission, you'll see there's a flowchart. I just want to quickly walk through that flowchart. A worker is reprisal against. They should be able to call the Ministry of Labour to come and investigate. The Ministry of Labour should be able to rule if the reprisal took place, and if in fact the reprisal took place, the Ministry of Labour should be able to write orders ordering compensation for the worker or order the worker back to work. They should also be able to apply administrative penalties or prosecutions. That's what should happen in the province of Ontario.

If by no means there's no reprisal, then there still would be an avenue open for the worker to continue on their own to the Ontario Labour Relations Board. If the employer felt aggrieved by the orders, then at that point in time the employer should file the application to the Ontario Labour Relations Board. During that process, the Ministry of Labour should become the respondent party to the employer's complaint. The worker with assistance from the worker adviser is party to the application and procedure, and it is outlined in Bill 160 that that process would be in place.

In conclusion, workers have had the legal right to a safe and healthy workplace but not a practical right to a safe, healthy workplace. Section 50 of the Occupational Health and Safety Act does not protect the young workers, migrant workers, precarious workers or most of the workers in the province of Ontario. I live in the White Oaks community of London, Ontario. It's a blue-collar community consisting of young workers, migrant workers and precarious workers. These are the very individuals who need the practical protection of the Occupational Health and Safety Act. These are the workers who go to work in fear of losing their jobs for expressing a health and safety concern at the workplace. We have an opportunity here to add a true layer of protection from employers who don't care about health and safety and have been getting away with reprisals against workers who do care about health and safety.

Workers need a third party that will act on their behalf without a bias and in a timely manner. That is the role of the inspectorate of the Ministry of Labour. They have to be able to enforce the foundation.

Until workers feel truly protected from reprisals, they will always be hesitant to raise health and safety issues. They won't get involved in joint health and safety committees or challenge a less-than-safe employer. If changes are not made to Bill 160, as each and every day passes, there will continue to be a number of critically injured workers and another worker will die on the job in the province of Ontario. Is this acceptable to you? It's not to me. We need to change Bill 160.

Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Borthwick and Mr. Wright. In the 10 seconds remaining, I think I'll just take it on my behalf to thank you, on behalf of the committee, for coming forward and for your deposition, which has been distributed to all committee members.

MR. CHRIS MASON

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter to please come forward: Mr. Mason, who is joining us via conference call. Mr. Mason, are you there?

Mr. Chris Mason: Yes, I am.

The Chair (Mr. Shafiq Qadri): That's great. We invite you to please begin. You're in front of the social policy committee. You have 10 minutes. Please begin now.

Mr. Chris Mason: Thank you. I'd like to start by introducing myself. My name is Chris Mason, and I have been an advocate of health and safety since 2003, not only in my workplace but in my community as well. I've been elected as a health and safety rep, sat as a member of a joint health and safety committee, held a full-time position as health and safety co-chair, and have also had the benefit of being a health and safety instructor, not only in my own workplace but in many other workplaces as well.

I can tell you, from my experiences in the past, that there are many challenges still out there today that face us in our workplaces when we talk about health and safety. As a member of a joint health and safety committee or representing workers as a full-time health and safety co-chair, there have been many circumstances where I was pressured by my employer for bringing up safety concerns in the workplace.

I can remember being called into meetings where it was just myself for the workers, and the employer would have up to five managers there, all disputing the concern that I had brought forward, trying to intimidate me into changing my point of view. I can remember being in a joint health and safety committee meeting where the employer's side of the committee refused to sign their names to a 21-day letter on a concern that had reappeared in the workplace that in the past they have had an order from the Ministry of Labour to correct. They wouldn't sign, knowing that it was a contravention of the act, because they feared to have their names seen by upper management.

The reason I have asked to speak on this new bill is not only for the workers who were killed on December 29, 2009, but for all workers, because some of the challenges we still face in our workplaces today are unacceptable. As an instructor, I have had the privilege lately to do a lot of training in adjustment centres across southwestern Ontario, and I have had the opportunity to meet many people who are having a difficult time improving health and safety in their own workplaces.

Also, I've asked to speak on this new bill, as I am concerned greatly with the autonomy of the organization that has made a huge impact on my ability to represent workers' health and safety to the fullest.

The Workers Health and Safety Centre has been able to help workers across Ontario with training that is delivered by workers who have lived and experienced the hazards they face. Workers have the ability to have input and participate fully, unlike sitting in front of a computer or using an iPhone. The Workers Health and Safety Centre has helped resist behaviour-based safety programs that blame workers, which I believe was the original idea of Dr. James Ham with the introduction of the Occupational Health and Safety Act.

As an instructor with the workers' centre, I have had the ability to train all different types of workers, including unionized, non-unionized, supervisors and even managers. I can remember many times that supervisors came to me, asking questions because they didn't realize the

responsibility they had under section 27 of the Occupational Health and Safety Act. I can recall lift truck drivers who had been driving for 20-plus years, taking the workers' centre's lift truck course for the first time and coming to me afterwards and informing me that they'd learned more that day than in all the other times they were trained, combined. Why? Because of the way they were trained. They had the ability to participate, ask questions and hear real-life examples that workers face in everyday life.

I know that there has been discussion within the government that the Workers Health and Safety Centre does not always follow the same ideas as those in the health and safety associations, but I do have to say that I believe the direction the Workers Health and Safety Centre is taking is what is in the best interests of workers in Ontario. I believe that the workers today need the Workers Health and Safety Centre more than ever, and its autonomy must be protected.

1610

My fear of Bill 160 is that the powers will be placed in the hands of the politicians, which I do not believe was the intention from the Dean report. The Dean report, I believe, was clear in the arrangement of powers between the minister and the proposed chief prevention officer, the prevention council and the health and safety associations, but after reading it in the new bill, it seems that all the power is in the ministry's hands, with no powers to the prevention council and only some duties to the chief prevention officer. It sounds like the minister gets to appoint the CPO and the PC.

Now, will our input into health and safety depend on what government we elect? Will labour have an opportunity to be part of that? If we look into the past, I believe that most of the major changes to health and safety in Ontario have been because of the result of the labour movement, not an individual politician.

One of the major surprises I've seen in this new bill is the lack of real worker reprisal protection. It seems that victims of a reprisal for the responsibility to protect their health and safety are not effectively protected in this new bill. It seems that Bill 160 will place limitations on the ability of inspectors to participate in the Ontario Labour Relations Board hearing and provide input and evidence to protect the worker. I believe that this new bill should reflect a procedure that will help workers to a fair and timely resolution process when a reprisal has taken place.

Many workers can't afford to wait the time it takes to go through the process of an Ontario Labour Relations Board hearing, and also, most workers do not even understand the process. The average worker can't afford to be unemployed for a long period of time, let alone hire somebody, such as a lawyer, to help them through the process.

I'd like to close by asking the committee to please review the recommendation that was made in the Dean report and how it was translated into the new bill, and make sure it was the intent of Mr. Dean when he had developed these recommendations.

The advances that workers have been able to make in the past should not be threatened in the future to follow a path we've been down before that was not in the best interests of the working people in Ontario. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Mason. We have about a minute and a half or so per side, beginning with Mr. Miller.

Mr. Paul Miller: Hi, Chris. Good job; your presentation was great.

Personally, I don't get too excited when I sit on committee, because great amendments come in from all kinds of different parties and probably 99.9% of them never get accepted. So don't hold your breath on this committee passing any amendments that we put forward, because they usually don't, unless it comes from the government side. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Mr. Mason, for your presentation. I just wanted to mention that we've heard from a number of presenters, including yourself, on respecting the autonomy of health and safety associations. I also want to mention that the Ministry of Labour values the work that these committees do, and the bill is intended to integrate a system and work together with health and safety associations. So I thank you again, on behalf of the government, for your presentation today.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Ms. Jones?

Ms. Sylvia Jones: Mr. Mason, are there particular items in the Dean report that you would have liked to have seen included in Bill 160? The reason I ask that is, during second reading debate, there were a number of comparisons made to the Dean report and what's actually in the proposed legislation—and lots of holes. Are there particular ones that you would have liked to have seen incorporated into Bill 160?

Mr. Chris Mason: I guess the biggest thing that I had noticed is that it seems like before, when it came to the ministry—I know they've indicated now that their plan is to have only one director to carry out, as far as making legislation changes and stuff, from what I understand, for writing interpretations or policies, where before it seemed like the Ministry of Labour had a few people who would oversee that when they were making a policy or procedure up.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Mason, for coming to us via conference call.

CANADIAN UNION OF PUBLIC
EMPLOYEES, LOCAL 5200

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Ms. Newman of the Canadian Union of Public Employees, CUPE Local 5200, and her colleague. I invite you to please introduce yourselves and please begin now.

Ms. Tracey Newman: Hi. This is Blain Morin. He is the national representative for CUPE for health and safety in Ontario. I'm sure that you'll be hearing a more complete report from him in future weeks to come.

Committee members, I am the president of the CUPE local which represents approximately 500 educational assistants and designated early childhood educators in a school board that has approximately 50 different sites. You may have noticed that I have not named the board that I work for or the local that I represent. That is for one very deliberate reason: the fear of repercussions for both myself and my members.

I certainly do applaud the efforts of the many people and organizations that have spent countless hours and have dedicated much effort to introducing Bill 160, and I am hopeful that it will prove to be a great step in ensuring that issues of health and safety in the workplace will be more efficiently identified and addressed, not only for the members that I represent but for the many workers across our province for whom safety in the workplace continues to be an issue. That being said, I firmly believe that until there are changes made to Bill 160, the health and safety of many workers in our province will remain at risk unnecessarily.

I feel an overwhelming obligation to present these issues, as I also believe that the government of Ontario, the honourable Minister of Labour and all members of provincial Parliament who sit on the standing committee regarding Bill 160 have a responsibility and a duty to truly listen to the concerns that are being expressed and to give each and every one, whether it be from a vulnerable worker or a union leader, careful consideration.

At the school board where I am employed, we use the single-site health and safety committee system. There is little communication between the different sites and even less communication with the representatives of the different unions who have members in each building. In addition, incident forms and WSIB claims are often not filled in, in what I believe is an attempt to appear without incident or issue. This is often done in a manner where employees are left in fear of repercussions.

I would like to list two examples for you. On October 27, 2009, I attended a health and safety meeting which was facilitated by another local. During this meeting, the health and safety officer for the employer stated that one quarter of its 4,000 employees were not WHMIS-trained. She also stated that our board could be considered in a position of non-compliance with the ministry because committee reports were not completed and filed.

I raised this issue with the health and safety officer, who in turn referred me to the senior administrator of human resources services, who in turn did not respond to my emails. When I raised this as an issue at our next labour-management meeting, I was told that the board was present at the meeting to simply encourage compliance. I was then loosely told, in a term—and I will use it very loosely. I was "advised" that my members who were in the untrained group could be faced with disciplinary action should I choose to further my concerns. I, as the

president of that local, felt very threatened by that statement.

On Wednesday, November 4, 2009, an employee was struck by a student. She notified the vice-principal and then left work to seek immediate medical attention. She did not return to work the next day. I have yet to receive a WSIB form 7 or an incident hazard report, which should have been completed by that vice-principal, who, incidentally, does sit on the joint health and safety committee at the site.

As this scenario was repetitive, and in fact this particular student had sent two other employees to seek medical attention that week alone, the Ministry of Labour was called. A meeting was called by the principal on November 9, 2009, in which the employees were told the following statements:

“We are confident the Ministry of Labour will not find anything wrong.”

“You can complain to the school board all you like but the response you will get is that this is your job and it’s part of it.”

“You signed up for this and you get paid for this.”

“If you don’t like it, the board will tell you to find another job.”

These statements were confirmed by three employees, none of whom would make a complaint with the inspector because they were scared of repercussions and retaliations. The employee who initiated involvement with her union has since been transferred to a different location—a clear reprisal, considering her job still exists and is being performed today by a temporary employee. This has sent a strong and loud message to other employees: Complain and you face reprisal. In case you are wondering what subsequent action that original employee took: None. She was too afraid of further reprisal from her employer.

I am sharing these examples with you to illustrate that vulnerable workers also include my members: women who rely on a specific site to coordinate child care in order to be able to work; women who are sometimes single parents and would not be able to clothe, house or feed their families without their incomes; and workers who, through a relatively low income of approximately \$32,000 annually, fear risking dramatic increases to their budgets and travelling expenses after facing the reprisals of being transferred.

I am hopeful that this will illustrate the fear that employers can and do levy on their employees on a regular basis through intimidation and other tactics, turning workers into victims.

1620

Bill 160, as proposed, does not follow the recommendations of Mr. Dean in protecting vulnerable workers, whether in a union or not. Bill 160 must enable workers to more confidently report and testify. This can be accomplished by removing limitations on the ability of the inspectors to appear before the Ontario Labour Relations Board to provide testimony and evidence to

protect workers, especially those who fear using their own voice.

Bill 160 needs to do more to protect our vulnerable workers, which includes all workers, unionized or not. Minor changes to the Ontario health and safety act can help to direct this change, and Bill 160 is an opportune time to do so. A simple amendment to section 50 of the current act could include penalties that are regularly enforced in cases of interference and intimidation by employers.

Changes to section 51 would allow trade unions or a safety representative the right to a copy of an accident report, thus adding a voice and support for workers who fear taking action. This is even more important, as many unionized workers are not considered to be vulnerable due to the representation that they receive from their unions. I can clearly tell you that many of my members do not report instances of concern to their union for fear of reprisal, and there is a fundamental disconnect between the unions and my employer. As the president of my local, I am seldom, if ever, advised of safety concerns, and I cannot act on instances that I am deliberately kept unaware of by my employer.

It is the responsibility of you, the elected officials who represent the thousands of workers in each of your ridings, to ensure that Bill 160 is effectively changed to protect your constituents. In saying that, I am deeply troubled by and concerned with the extensive powers that are placed in the hands of elected officials with what appears to be little room for disclosure, debate or recourse. In this democratic society that I truly love and that I support through my hard-earned tax dollars, I am alarmed that Bill 160 gives the directors of the ministry the authority, without any warning or debate, to publish policies that in fact have force that is equal to law. Without debate on the floor of our provincial Parliament, this in fact removes the voice of our elected government, politicians who have been elected to represent the people of this province. Governments need reminding that they are there, in fact, to carry our concerns and our voices and not to create policies secretly and without consultation or debate.

To further this concern, Bill 160, as proposed, places extensive powers solely in the hands of politicians by including the power to appoint the chief prevention officer and the prevention council. In a democratic society, this is not correct. The council could be appointed, but it needs to include equal representation from all stakeholders, including employers, unions and activists. An election from within that council to appoint a CPO would then ensure political independence of the CPO and ensure his or her accountability to the council and to the people of Ontario.

In conclusion, Bill 160 must recognize that the ultimate responsibility for the health and safety of workers in this province lies firmly in their ability to exercise their rights to a safe workplace. By holding those in senior positions responsible and liable in a system where they are regularly receiving fines for blatantly threatening or

coercing employees; by insisting that there be communication with all parties concerned, which includes trade unions; and by placing power in an unbiased council and with politicians who are seeking input and debate, we can all play a part in sending workers home to their families in one piece at night. I know that I never want a call telling me that one of my loved ones is never going to come home again, such as those families received on December 24. Through Bill 160, with further assurances for workers and increased enforcement, we can make sure together that this does not happen again.

I thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Newman, and to your colleague for your deputation and presence on behalf of CUPE Local 5200.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Cunningham of the Council of Ontario Construction Associations. Welcome, Mr. Cunningham, and please officially begin now.

Mr. Ian Cunningham: Good afternoon, Chairman and members of the Standing Committee on Social Policy. My name is Ian Cunningham. I'm the president of the Council of Ontario Construction Associations, better known as COCA. COCA is a federation of 31 construction associations whose more than 10,000 member contractors operate in all regions of the province in the industrial, commercial, institutional and heavy civil side of the construction industry, and we serve as their voice on matters of provincial public policy.

COCA was well engaged in the work of Tony Dean and his expert panel as they developed their landmark report, with its recommendations for improvement to Ontario's occupational health and safety system. We were extremely pleased when our first vice-chair, Domenic Mattina, was appointed to serve as one of only three employer representatives on the expert panel. We were present at the construction labour-management health and safety committee meeting when then-Minister Fonseca announced the review. We provided advice to Mr. Dean as the review progressed; we were present when Mr. Dean presented his report to the minister; and we were present when Minister Sousa announced that Dean's recommendations would be implemented. We strongly support the implementation of the Dean report, and our continuing interest is to ensure it's implemented in the spirit in which it was intended.

Bill 160, if passed, will enable the establishment of a prevention entity within the Ministry of Labour, provide for a chief prevention officer to serve as its senior executive, allow the creation of a prevention council to advise the chief prevention officer, and facilitate the transfer of the responsibility for prevention programs and services from the Workplace Safety and Insurance Board to the new prevention entity within the Ministry of La-

bour. All of this is consistent with Dean's recommendations.

With regard to some changes, we recommend the following:

The powers and authorities of the CPO, we believe, should be more clearly spelled out in the bill so that he or she is in a position to lead the new prevention entity effectively. Lines of accountability between the CPO and the minister and the CPO and the deputy minister should be clearly articulated in the bill.

The bill should require the minister to consult with the CPO when he intends to make significant changes to the prevention system, in the same way the bill obliges the CPO to consult with the prevention council when he or she intends to make changes.

Section 22.3(4) of the bill obliges the CPO to create a provincial occupational health and safety plan. It should be clarified that this is a plan for the provision of prevention programs and services and does not include a plan for enforcement. While the plan developed by the CPO should be coordinated with the enforcement plan, it should be separate.

The size and composition of the prevention council should be defined in the bill. There should be an equal number of employer and worker representatives on the council, and not more than one third of the membership of the council should be "other" or at-large members, academics or public members.

Prevention council members should be required to consult regularly with the constituencies they represent on the council, much as the expert panel members did through the review process. Keeping stakeholders informed and engaged is critical to the success of the new prevention entity.

The Office of the Employer Adviser is paid for by all employers who pay WSIB premiums. Under its existing mandate, the OEA is intended to serve employers that do not have resources to access their own legal counsel. While there is no correlation between the number of employees and available resources, currently the OEA is mandated to serve firms with approximately 100 employees, plus or minus, and generally steps up in cases where important legal precedent could be set. Bill 160 expands the mandate of the OEA to support employers in cases dealing with alleged worker reprisals, and the threshold for offering these new services should remain the same as it currently is in the bill, consistent with the OEA's threshold for its current mandate. I suggest that because I think others have suggested reducing that threshold to 50.

Every construction workplace is different, and section 12 of the bill encourages employers to identify safety practices that work best in their workplace. It allows for approved codes of practice but does not require employers to follow codes of practice. The language in section 12 that states, "A failure to comply with the approved code of practice is not, in itself, a breach of the legal requirement" should be changed to "Choosing not to comply with the approved code of practice," etc.

Clearly, choosing not to comply is not “a failure.” We believe that this was simply an inadvertent or poor choice of words by the drafters and should be changed.

1630

Foremost among our other concerns regarding the transfer of the responsibility for prevention services and programs from the WSIB to the Ministry of Labour, which may not specifically relate to Bill 160, is financial accountability. Our members are concerned that there may be no financial accountability for the prevention component of their WSIB premiums. Should Bill 160 be passed, employers will continue to pay premiums to the WSIB, and part of that premium will be an amount to fund prevention programs and services. It's our understanding that the WSIB will forward the prevention component from employers' premiums to the Ministry of Finance and that the Ministry of Finance will then forward those monies to the Ministry of Labour. With all of these hand-offs and commingling of funds intended for prevention with other funds along the way, there seems to be a strong possibility that some of the employers' investments intended for prevention could be put to other uses. A clear accounting trail of prevention monies paid to the WSIB by employers that flow eventually to the new prevention entity within the Ministry of Labour must be created annually and reported to employers.

Thank you for the opportunity to appear today, and I'd welcome your questions, if there's time.

The Chair (Mr. Shafiq Qadri): About a minute or so per side. Ms. Jones.

Ms. Sylvia Jones: Yes, thank you for your presentation. I'm glad you raised this point, that there may be no financial accountability for the prevention component of the WSIB premiums. I've spoken to a number of employees who, when I raise Bill 160, say that part of the motivation of decreasing your WSIB premiums is to try to improve your practices internally. Their concern is that by separating, you're not then going to be able to try to lower your WSIB premiums. Are you seeing any of that with you—

Mr. Ian Cunningham: No. Of course, the Arthurs review is ongoing, looking at the funding of the workers' comp system. It's my understanding that if Bill 160 is passed, employers will continue to pay a component of their premium for insurance, a component for prevention and other legislative—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones. Mr. Miller.

Mr. Paul Miller: I've got two quick questions. You don't see any room for confusion by the prevention officer when he can be overruled by the minister and he could take a different direction under government mandate? I don't see that mentioned here. The other quick question is, I'm quite surprised that, from a construction association, there's nothing on section 50, which is intimidation in the workplace. That's a huge factor, and I don't see it anywhere in your submission, so I'm a little concerned about that.

Mr. Ian Cunningham: I may have missed—

Mr. Paul Miller: Okay, the first one: Are you concerned about the chief prevention officer reporting directly to the minister and the minister can overrule him on his decisions? Do you feel that there could be some confusion and safety and health organizations could be adversely affected?

Mr. Ian Cunningham: Ministers of Labour that I have known over the years have a genuine interest in health and safety. I'm not seriously concerned over that. I understand that the chief prevention officer will be likely to be both management and a person with health and—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Mr. Cunningham, for coming here today. Just a quick question on your final point about financial accountability: At the end of the day, the ministers, whether it be the Minister of Finance or Minister of Labour, are accountable to the Legislature for any financial matters. You mentioned here that you want a clear accounting trail of prevention monies paid by the employers. Can you just elaborate on that a little bit?

Mr. Ian Cunningham: Currently, the WSIB is accountable for those monies because they deliver prevention. Some of the monies that employers pay currently go to the Ministry of Labour for enforcement services. In that regard, there is a reluctance for the Ministry of Labour to be held accountable to employers or the WSIB for delivering on enforcement. There is the potential for commingling of those funds—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti, and thanks to you, Mr. Cunningham, for your deputation on behalf of the Council of Ontario Construction Associations.

TORONTO WORKERS' HEALTH AND SAFETY LEGAL CLINIC

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenters, slightly out of order: Mr. Bartolomeo and Ms. Vannucci, on behalf of the Toronto Workers' Health and Safety Legal Clinic. Welcome, and I officially invite you to please begin now.

Ms. Linda Vannucci: Thank you for the opportunity to speak to you today. I'm Linda Vannucci. I'm the director of Toronto Workers' Health and Safety Legal Clinic. With me is John Bartolomeo, the staff lawyer. I will begin.

We are a specialized legal aid clinic, and our field is occupational health and safety. We're one of nearly 80 legal aid clinics in the province. We provide information about health and safety hazards that workers can face in their employment. We provide them with, primarily, legal advice about their rights under the law and with legal representation, where required, primarily before the Ontario Labour Relations Board. Our clients are non-union workers. We do this advocacy, and we also have a public legal education and outreach program. We have

one person dedicated to that work, aimed at immigrant workers and aimed at law reform. Our activities are controlled by a board of directors.

Our clients are the vulnerable workers. They're very low-wage workers. They earn \$16 an hour, for someone who has a family with four children, or usually less than \$12 an hour, and are typically minimum-wage workers. This is potentially a very large segment of Ontario society—non-union, low-wage workers—that we represent.

Our experience, in 20 years of the clinic, has been that when these people complain about health and safety or try to get improvements in health and safety or avoid injury at work, they get fired. Our frustration has been that often, these people who get fired have a great deal of difficulty finding us to represent them at the labour relations board, so they're often without recourse, the result being that there's a lot of silence at the workplace. I think people are put in a position where they have to choose either their job or their health, and they choose their job. Primarily, these low-wage workers are in a particularly precarious situation, because if they do go on unemployment insurance, they're getting 55% to 60% of their wages, and these are very low wages. They can't live on that money, so they're one step from welfare.

We looked at Bill 160 and we asked ourselves: What does Bill 160 achieve for our clients, for non-union workers? How does it help those who complain about a lack of help with their reprisals? I think if our clients read the bill, they wouldn't see much in it for them. Would people like the survivors and family members of those five newcomers to Canada who fell from the scaffold see much for themselves or people in their situation in Bill 160? These are the questions that really trouble me.

I can say a few positive things about the bill. I think standardized training is a good thing. I think entry-level training for all workers is a great thing, and fall-protection training is as well. We can't argue with this. But the devil will be in the details, in how this training is implemented, what the content of it is and whether it really does constitute training.

I think that even the most rigorous, uniform training on hazards and on legal rights, such as the right to refuse unsafe work, will not be used if people are fired as a result. This fear of reprisal, like I said, keeps people quiet.

Our brief to the expert panel was based on the fact that there would be limited resources available, so what we wanted was increased enforcement. We wanted action; we wanted more inspectors on the ground so that workers wouldn't have to risk their jobs in order to have health and safety improved at the workplace. We felt that it's a good thing to have the transfer from the WSIB to the Ministry of Labour, for greater accountability, but we wanted the money dedicated to the front-line inspectorate: to move away from the complaint-based system that currently exists, where people have to risk their jobs.

Secondly, we didn't want them to have to stick their necks out, as I said. We like the idea of the referral by the

inspector to the OLRB, but we also wanted them to be referred for legal help as well.

The act has a provision for the Office of the Worker Adviser and Office of the Employer Adviser to act for both parties. I think, with respect, that employers do not require free legal help on reprisals before the Ontario Labour Relations Board. Their poverty level, or their need, does not come anywhere near that of the workers we represent, so we just don't like that provision.

Now my colleague is going to speak about a suggested amendment.

Mr. John Bartolomeo: With respect to section 13, the proposed amendments to section 50 of the Occupational Health and Safety Act: While we applaud the ability for inspectors to refer matters to the Ontario Labour Relations Board, the foreclosure of the ability to actually participate at the hearing is troubling. Where the inspector, in a case where the inspector is making the referral, sees that the worker isn't aware of their rights, sees that the recourse is at the labour relations board and sees that the labour relations board needs to address this matter, they may very well be the only witness to the events that give rise to the reprisal. To restrain them from being able to participate at the hearing effectively forecloses or limits the possible benefits of that referral.

1640

With respect, if the inspector is going to make the referral, the inspector's voice should be heard because, clearly, this is a circumstance where the worker's voice can't. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you very much for your presentation. We have about a minute or so per side, beginning with Mr. Miller.

Mr. Paul Miller: I get the drift that a lot of people are obviously not aware of their rights. They're intimidated in the workplace and have nowhere to turn, except they may go to a legal clinic for advice because they're afraid to bring it up in their place of employment and they may have been dealt a financial and psychological blow.

I share your opinion that inspectors should have more ability to actually make decisions on the job site and give fines. I also believe, as you said, that they should be able to appear at appeals or hearings to give the full scope of the story. Would you agree that workers aren't able to communicate as well? It could be a language barrier, it could be intimidation, or they're afraid. Does that happen?

Ms. Linda Vannucci: I think there's a perception that inspectors have credibility. They're objective third party witnesses, and so that would be helpful to the worker side.

Mr. Paul Miller: Of course we'd want to make sure that inspectors are fully trained and learned in their inspections and the workplace that they take care of. Some inspectors may take care of steel mills; some may take care of forestry; whatever. If they're schooled in their area of expertise, that certainly would help, too. Would you agree?

Ms. Linda Vannucci: That would help. It would help if there were more of them.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I just want to thank Mr. Bartolomeo and Ms. Vannucci for their presentations today. We've taken notes. It's a very good presentation. On behalf of the government members, I want to thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti. To Ms. Jones.

Ms. Sylvia Jones: Quick question: Can you tell me how your clinic differs from referring someone to the Office of the Worker Adviser?

Ms. Linda Vannucci: We have income limits on who we can take, so we cannot represent people who fall outside our income criteria and we can only represent non-union people. I think the Office of the Worker Adviser does not have financial eligibility criteria.

Ms. Sylvia Jones: But you would offer similar advice?

Ms. Linda Vannucci: If they begin to be empowered to do these matters, yes, we would offer similar advice.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones, and thanks to you, Ms. Vannucci, and to you, Mr. Bartolomeo, for your deputation on behalf of the Toronto Workers' Health and Safety Legal Clinic.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 254

The Chair (Mr. Shafiq Qadri): I'd invite our next presenter to please come forward, Ms. Marion of CUPE, Local 254, and colleague. Welcome, and please begin.

Ms. Lisa Marion: Good afternoon. I'd like to introduce Blain Morin, who's the national representative for health and safety for CUPE national. My name is Lisa Marion. I thank you for the efforts with Bill 160, but I do see some big downfalls. I am an instructor for the Workers Health and Safety Centre, and my concern is that the Workers Health and Safety Centre and OHCOW both need to remain autonomous.

Some of the roles that I've played in health and safety: I've been co-chair for a joint health and safety committee. I currently work for the department of environmental health and safety for Queen's University. I personally have experienced some of the backlash of bringing hazards to the employer. There's definitely still a mentality out there that, "We don't want to address hazards; we want to punish the worker who brings the hazards to the attention of the employer."

I've worked hard to reduce and eliminate hazards. Some of the hazards that are present in my current workplace: We have physical hazards; we have chemical hazards. Today, before I left the workplace, I checked, and we currently have 4,887 chemicals in my workplace. In addition to chemical hazards, we have biological hazards, we have radioactive hazards, ergonomic, and now we even have nanotechnology coming into the

workplace. These are all things that we need to be addressing from a hazard-based perspective.

Why am I here today? I'm here because we can't allow what's happening in our society to continue. We have two deaths in the workplace every single workday.

I'm concerned about the independence and autonomy of the Workers Health and Safety Centre, which I consider to be the only place that's providing proper training to workers: where workers are able to understand and identify hazards in their workplace, assess those hazards and recommend controls to be put in place to eliminate those hazards in their own workplace.

The Workers Health and Safety Centre programs teach people how to research the hazards, and the programs are designed to encourage input from workers. That's really key, because then workers can go back into the workplace and apply what they've learned in the course that they've just taken.

Some of the things I've seen in these courses is, some workers enter and they don't even understand that they have one hour of prep time before their joint health and safety committee meetings, and they're so thrilled to hear that they have this one right. When you get to see that, something that clicks for the workers, that they know they can take back into their workplace and put into play, then that's everything.

We have to keep away from computer-based training, because computer-based training is nothing more than—I've even seen the programs where, if you click on the wrong answer, it won't allow you to advance to the next page; you have to stay on that page until you hit the right answer.

The advantage with the Workers Health and Safety Centre's training is that there's an instructor in the course, and it's a hazard-based approach. It's giving the workers the ability to (a) ask questions, but (b) you're able to tell that they've understood what you've said.

My fear about Bill 160 is that this bill gives the minister and bureaucracy powers to use directives on literally anything. Some have said that these powers are just to protect taxpayers from possible financial misuse, but there have always been rules around appropriateness. In 25 years, the Workers Health and Safety Centre has never had a problem meeting the rules. Financial appropriateness is not the issue. The issue is that these powers go far beyond ensuring financial accountability.

My request today is that you'll please consider amending this bill to restrict the government power over the Workers Health and Safety Centre and OHCOW to what it should be. The Workers Health and Safety Centre and OHCOW must remain independent and autonomous, and they must serve our training participants well, as they have in the past.

Thank you for your time.

The Chair (Mr. Shafiq Qadri): Thank you very much. We have about a minute and a half per side, beginning with Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you for your presentation today. A quick question, just on the issue of

politicizing the system: In your presentation, you mentioned that; many presenters have mentioned that as well. My only answer to that would be, the minister is accountable to the Legislature, so anything that is done within the Ministry of Labour, the minister is responsible for at the end of the day. Do you still think there's a fault with that change, or can you suggest anything that would strengthen that even more?

Mr. Blain Morin: We're worried about the politicization of the system. In particular, we looked at the Ontario Safe Drinking Water Act, and I believe that in that legislation, just like in other legislation in the province, there's that administrative power of the act, but it's not that on-the-ground activity from the ministry. That's what we're really concerned about: the partisanship. Other legislation—I'm thinking that the chief medical officer, for example, has those powers like the CPO would, for example. So our question is, why does the minister have to be right at that administrative level?

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

1650

Ms. Sylvia Jones: It's really just a point of clarification: In your presentation, I think you made an inadvertent error by saying two people die each day from a workplace incident. In your written submission, you say two people each week. So can you clarify which one is—

Ms. Lisa Marion: Oh; work week, sorry.

Ms. Sylvia Jones: Work week?

Ms. Lisa Marion: Five-day work week.

Ms. Sylvia Jones: Okay. But that doesn't match with the next statement of 365 each year.

Mr. Blain Morin: I believe that the 365 was an average. We were trying to say that that's the average yearly. This year was exceptionally high. The numbers have gone up.

We are talking about a work week of five days, and I believe those numbers were based from the WSIB. I do apologize. I think we're looking at them in three different ways and I think it may be confusing.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. To Mr. Miller.

Mr. Paul Miller: A direct question: Do you think that the newly formed situation with the minister, the administrative powers of the minister and the interference of the chief prevention officer will weaken the position of the Workers Health and Safety Centre in any way?

Ms. Lisa Marion: Absolutely. Our concern is that the Workers Health and Safety Centre will no longer remain autonomous. Right now, they have control over the content. It's a worker-based organization that's directed to workers. It's workers training workers. I think that the chief prevention officer will have too much control over the content of the material that's allowed into the training.

Mr. Paul Miller: So in the training program at the health and safety centre, they have WHMIS programs and they have updated programs on all hazardous materials, I'm sure, that come into your workplace in booklet

form. You can post them in your shop or your workplace. Do you feel that the health and safety centres have done an above-average job in providing you with the necessary material to get to your membership?

Ms. Lisa Marion: Oh my goodness, yes—and they provide it for free. That's really the key thing. Even if it's just the list of who's on the joint health and safety committee, those are all free from the Workers Health and Safety Centre.

Mr. Paul Miller: So they've done a good job and they don't need any additional bureaucratic levels.

Ms. Lisa Marion: Absolutely.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thank you to you, Ms. Marion, for your deputation on behalf of CUPE Local 254, and to your colleague Mr. Morin.

COMMUNICATIONS, ENERGY AND PAPER WORKERS UNION OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward. I understand you'll be the final presenters for the day: Mr. McMillan and Mr. Moffat for the Communications, Energy and Paper Workers Union of Canada.

Welcome, gentlemen. I'd invite you to please just introduce yourselves for the purpose of Hansard recording and officially begin now.

Mr. Dave Moffat: My name is Dave Moffat, administrative vice-president of the Communications, Energy and Paper Workers Union.

Mr. Keith McMillan: My name's Keith McMillan, staff representative and national representative of the Communications, Energy and Paper Workers Union.

The Chair (Mr. Shafiq Qaadri): Please begin.

Mr. Dave Moffat: The CEP would like to thank the committee for the opportunity to comment on Bill 160, a bill to enable the recommendations of the expert panel on health and safety in Ontario.

The Communications, Energy and Paper Workers Union of Canada was formed in 1992 by a merger of three major Canadian unions, with locals from coast to coast. CEP represents 150,000 workers across Canada, with approximately 50,000 women and men in almost 500 bargaining units. We're one of the largest private sector unions in Ontario. This bill is vitally important to CEP members, and we thank you for the opportunity to submit our comments.

We have deep concerns regarding Bill 160. This bill is not in keeping with the spirit and intent of the expert panel report, which was applauded by CEP. However, the improvements in workplace health and safety contemplated by Tony Dean and his panel can possibly be saved with some key amendments.

Mr. Keith McMillan: Microphone, please? Thank you.

We have assembled our concerns and recommendations into five key issues and reserve our support for the

bill contingent upon all of these issues being addressed appropriately.

Number one, politicization of the prevention system. There is a need for an amendment to depoliticize the proposed legislation. There exists far too much power in the hands of one minister. The resulting potential for partisan decisions to be made in an arbitrary way could ultimately increase worker injury and death.

This problem could be alleviated by vesting the proposed CPO and council with powers and duties over training standards and designated health and safety delivery organizations, in conjunction with an amendment to ensure labour is represented on the council in at least equal numbers as employers. Labour input to the prevention system with equal standing among all parties is essential to CEP.

Secondly, the threat to the autonomy and labour governance of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers: These organizations are vitally important to CEP and our members. No other organizations in the prevention system can deliver on the needs of workers in a way that CEP trusts and respects. These organizations are unique and essential for workers to advance health and safety in the workplace and to represent themselves and their members on equal footing at WSIB. Unions such as CEP have no access to the Office of the Worker Adviser and are expected to defend their members at the joint health and safety committee and WSIB tables, and the expertise needed to defend our members resides at the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers.

Their independent governance and autonomy are an absolute requirement for CEP to support Bill 160. The solution in this case may be to amend Bill 160 to establish mechanisms that protect worker governance of the Workers Health and Safety Centre and OHCOW, including authority over priorities, content, philosophy, approaches and programs.

Third point: There is a lack of real powers in the bill when the internal responsibility system breaks down. This bill needs to level the playing field in the workplace. Employers are free to stall and obfuscate affairs, often to the point that health and safety hazards are not addressed in a timely fashion. There is a need to provide an unfettered right for a joint health and safety co-chair to unilaterally make a recommendation to the employer at any time that the joint health and safety committee reaches an impasse.

In order to maintain the required strength of this section, the current legal employer obligations for responding in writing within 21 days would need to remain intact. I speak on this one from personal experience. I've seen more joint health and safety committees get stalled at the table than you can imagine.

Point four: the undermining of the legal authority of the Ministry of Labour inspectorate. On this point, the bill allows a director to establish written policies on the interpretation, administration and enforcement of the act.

It also makes a legal requirement that an inspector follow these policies. This provision has nothing to do with the recommendations of the expert panel report.

CEP feels very strongly that this is an attempt to allow a director to write law, bypassing the Legislature and the cabinet. CEP experience has been that WSIB, which also has power to write policy, has at times done so in a manner that is in contradiction to the Workplace Safety and Insurance Act. Of course, then, this section is of no benefit to workers in any way, and we see it as a detriment to enforcement and therefore to worker safety. Inspectors need to enforce the law and need to be unhindered in how they do so. CEP views this section as an avenue for civil servants to directly undermine many recommendations of the expert panel which are meant to be implemented.

Our fifth point is the lack of real worker reprisal protection. One of the main thrusts of the expert panel report is to strengthen reprisal protections so that workers are protected when they raise health and safety issues. It is well understood and the subject of many conversations at the panel hearings that the workers who died falling from a swing stage on December 24, 2009, were vulnerable workers. This bill does not increase this protection in any way.

Think about their circumstances—those workers—and now think about whether or not these workers would have been so bold as to raise a health and safety issue even with this bill as it's tabled today. We submit to you that they would not. They would not have confidence in this bill today, to be able to speak up against their employer. It would not increase worker confidence against reprisals. This bill needs to ensure and recognize that inspectors should be compellable and competent at Ontario Labour Relations Board hearings regarding reprisals that they have investigated under the act.

There are other weaknesses in the bill, as described quite ably by the NDP at second reading. However, in our short time here, this concludes our submission regarding Bill 160. CEP thanks the committee for this opportunity.

The Chair (Mr. Shafiq Qadri): Thank you, gentlemen. About 30 seconds or so, maybe a minute or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I don't have any questions. Thank you for your submission.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones. Mr. Miller?

Mr. Paul Miller: I can see that there's a reoccurring theme here today: section 50, enforcement and intimidation.

Mr. Keith McMillan: Yes.

Mr. Paul Miller: It seems like every group that has presented, including yourself, who represent a huge part of our population, had concerns about this. This government has not dealt with section 50. They've made a couple of comments about it. It's very weak, and I think everybody that has been in this room today has pushed that issue. In your humble opinion, or my humble

opinion, do you feel that this section has not been dealt with? Certainly, over the years, I've seen hardly any enforcement at all; I've seen no follow-up or fines that are serious and get people's attention. Would that be a fair statement?

Mr. Keith McMillan: Yes, it would be absolutely a fair statement. There's no mechanism in there that provides it at any strength whatsoever.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I want to thank Mr. Moffat and Mr. McMillan for appearing here today. I just have a quick question. The Ministry of Labour has heard from a lot of stakeholders—both today and we will hear from more of them tomorrow—on both labour and employer sides, regarding the issue of consistency and how this needs to be improved. You mentioned some—

Mr. Keith McMillan: On how, I'm sorry?

Mr. Lorenzo Berardinetti: How certain inconsistencies need to be improved in the system, especially with regard to the inspectors and how the reporting

system works. The reporting system: Can you provide any kind of suggestion on how this could be improved?

Mr. Keith McMillan: From my point of view, inspectors need to enforce the law. So, when they enter into a workplace, they need to be looking at the law and the regulations and not the policies that may be driven from some central office. You might find an inspector having to weigh whether they're going to enforce the law or they're going to support a policy. That's inconsistent to begin with. As far as procedures within the ministry—I'm not sure if that's what you're driving at.

Mr. Lorenzo Berardinetti: No, I think the point that you got to—I'm just thinking of any other inconsistencies—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Berardinetti, and thanks to you, Mr. McMillan and Mr. Moffat, for your deputation on behalf of the Communications, Energy and Paper Workers Union of Canada.

Just to re-inform committee members, committee is adjourned until 4 p.m. in this room tomorrow for continued hearings. Thank you.

The committee adjourned at 1702.

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